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Anti-money laundering and counter-terrorist financing measures

Kuwait

Mutual Evaluation Report

October 2024





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Executive Summary

1. This report summarises the AML/CFT measures in place in Kuwait as at the date of the on-site visit 5-23 November 2023. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Kuwait's AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

1. Kuwait has a basic understanding of Money Laundering (ML) risk at a national level and a low understanding of terrorist financing (TF) risk. Kuwait identified and assessed its ML/TF risk through two National Risk Assessment (NRA) exercises, the most recent covering the period of 2016 – 2020. Money Laundering threat levels were determined largely based on prosecution and conviction data and other significant inputs were not incorporated. Kuwait's understanding of TF risk is less developed and has likely led to an under assessment of the overall TF risks the country faces. In addition, there has been no assessment of the vulnerabilities of the abuse of legal persons, or a comprehensive assessment of the virtual asset service providers (VASP) and non-profit organisation (NPO) sectors. The objectives and activities of law enforcement agencies (LEAs) and supervisors are generally in line with national anti-money laundering and countering the financing of terrorism (AML/CFT) policies, although weaknesses in the identification of risk may mean some predicate ML and TF offences are not being investigated.
2. Kuwait authorities have access to a wide range of financial information sources and intelligence to assist financial investigations. The Kuwait Financial Intelligence Unit (KwFIU) provides information to launch ML inquiries and investigations. This information is utilised to a lesser extent during the course of investigations as LEAs obtain information mostly through direct requests to obliged entities. Regarding the use of financial intelligence in TF investigations, most cases are identified through foreign intelligence. Strategic analysis is produced only to a limited extent.
3. Kuwait has increased the number of ML cases investigations over the reporting period demonstrating enhancements in identifying and investigating ML. Competent authorities investigate and prosecute ML related to the main crimes identified in the NRA (corruption, fraud and forgery), but there is a lack of ML investigations and prosecutions for other predicate offences that pose an ML threat. The authorities face challenges in securing an ML conviction without proving the underlying predicate

- offence and most ML cases that led to prosecutions relate to simple cases of self-laundering.
4. Kuwait pursues the confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective to some extent. LEAs have been able to confiscate various types of assets of important value which were instrumentalities or proceeds of crime, including properties and assets located abroad. However, LEAs are not systematically pursuing the proceeds of crime when there is no ML element and are resorting to provisional measures to a lesser extent. Despite significant amounts of cash transiting through Kuwait, competent authorities did not identify any cross-border movement in relation to ML or TF.
 5. Kuwait detects, investigates and prosecutes TF to a limited extent, which does not appear in line with the country's risk profile. Prosecutorial authorities face challenges to achieving TF convictions and this has led to several TF cases being acquitted at trial. All TF cases identified and investigated during the reporting period relate to individuals recognising their allegiance to a terrorist organisation who have been collecting and who have been collecting and moving of funds to foreign terrorist organisations. There is no identification of internal TF channels that could lead to terrorist activities in Kuwait or conducted by Kuwaiti nationals.
 6. Kuwait has a legal framework to implement TF and proliferation financing (PF) targeted financial sanctions (TFS), but its actions to implement TFS are not based in the legal framework, and therefore, lack a legal basis and enforceability. Despite this lack of legal basis, TF and PF TFS are implemented in Kuwait informally and financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) scan relevant lists to some degree to ensure that they are not doing business with individuals or entities that should be designated. Authorised, legal freezing and prohibition measures are limited, but are applied informally in a more complete way in practice, which has resulted in multi-millions of EUR of asset freezes taken without a legal basis. The lack of complete and reliable beneficial ownership (BO) information, low level of intelligence and information sharing between the authorities, and uneven awareness among FIs and DNFBPs about TFS, may frustrate the detection of assets used in or intended for TF or PF.
 7. Kuwait has identified its NPO population and conducted a risk assessment based on limited factors, focusing on the jurisdictional risk of the NPOs' projects. The Kuwaiti authorities have implemented licensing measures and ongoing requirements for all NPOs that serve as a barrier to entry and discourage prospective NPOs from entering the sector. Measures put in place on the NPO sector are not responsive to the level of TF risk and have been shown to actually disrupt legitimate NPO activity.
 8. Banks and larger FIs in Kuwait have a good understanding of their ML risks and obligations. Understanding of ML risks and obligations are lower and variable amongst other FIs and DNFBPs. Understanding of TF risk is low across all sectors. Customer due diligence (CDD) measures are generally implemented but there remain compliance deficiencies found in a large proportion of onsite inspections. All obliged entities struggle with their obligations with respect to ascertaining and verifying BOs. Suspicious transaction reports (STR) reporting in banks are increasing but reporting remains low in some sectors and some sector participants demonstrated a higher reporting threshold than 'reasonable grounds to suspect'.

9. Kuwait has a fairly robust licensing framework for FI and quality licensing framework for DNFBP sectors, however, all supervisors have issues identifying BOs as part of this process. The Central Bank of Kuwait (CBK), Capital Markets Authority (CMA) and Insurance Regulation Unit (IRU) have a good understanding of ML/TF risk and the Ministry of Commerce and Industry's (MOCI) understanding of risk is developing. CBK and CMA conduct risk-based supervision that features a very significant coverage of the sectors they supervise. Risk informs frequency, but it is not clear that intensity of supervisory coverage is driven by risk. Supervision of DNFBPs is event driven rather than risk based.
10. Kuwait relies on the availability of basic information, fit and proper tests, requirement to hold a bank account (and thus be subject to CDD) and restrictions on foreign ownership and management functions to mitigate the misuse of legal persons/arrangements. These measures, however, are not responsive to the extent to which legal persons can be misused for ML/TF given the lack of an ML/TF vulnerability assessment of legal persons/arrangements in Kuwait. Basic information for legal persons in Kuwait is readily available to competent authorities. Beneficial ownership information is available through FIs/DNFBPs, but a lack of understanding of the concept of BO has led this information to be an unreliable representation of BO and as a result, complete and reliable BO information is not available in Kuwait. Kuwait has begun the creation of a BO database that was due to be fully filled by Summer 2023. This is a positive step, but it remained <5% populated as of the time of the onsite in November 2023. Basic and BO information is available for legal arrangements in Kuwait in a timely manner. There are no sanctions available for non-compliance with basic and BO information requirements for legal persons that are not FIs or DNFBPs.
11. Kuwait has a partial legal basis for Mutual Legal Assistance (MLA) and extradition in relation to ML/TF and associated predicate offences. This legal basis applies only to countries with which Kuwait has bilateral or multilateral agreements. For countries without such agreements, Kuwait relies on the principle of reciprocity for cooperation. Kuwait generally responds to requests for MLA and extradition in a constructive and timely manner. Feedback from FATF global network has been mainly positive in this regard. However, Kuwait does not currently solicit feedback on its MLA, extradition, and international cooperation processes.

Risks and General Situation

2. Kuwait is a small country but classified as a high-income country by the World Bank Group (ranked 58th out of major economies for GDP per capita¹), based on its strong, largely petroleum-based economy. Kuwait has a relatively diversified financial sector, which includes 22 commercial banks, which include five Islamic banks and branches of foreign banks. Kuwait is generally a safe and law-abiding country. It has a low level of violent crime and is ranked as the 35th most peaceful country in the world by the 2023 Global Peace Index². Nevertheless, it is exposed to a range of ML risks. While Kuwait has some threat from domestic acts of terrorism, the country faces a distinct risk from TF related to terrorist acts and terrorist groups operating outside of the country.

¹ [US 53.76 thousand per capita GDP](#)

² wto.org/library/events/event_resources/tfp_2007202313/233_819.pdf

3. Kuwait has produced two NRAs, the first covering the period from 2013 to 2016 and the second from 2016 – 2020. The most recent assessment determined that Kuwait has a medium level of residual ML risk, based on a medium ML threat exposure and medium ML vulnerabilities. According to its NRA, the main proceeds generating predicate offences in Kuwait are forgery, fraud and embezzlement, usury and corruption and bribery. Robbery is also stated as significant proceeds generating crime, but there is a lack of statistics to fully verify the extent of this crime. The assessment of these main proceeds generating predicate offences is based on a review of convictions. The banking and securities sectors in Kuwait are rated as medium risk based on materiality and risk. The exchange companies' sector, real estate sector and dealers in gold, precious metals and stones and seen as the most risky sectors (medium high risk). TF is rated as low risk by the Kuwaiti authorities. The Assessment Team view that the risk of human trafficking and TF are higher than stated. In addition, the real estate sector may present a lower risk, due to some of the controls the authorities have put in place.

Overall Level of Compliance and Effectiveness

Assessment of risk, coordination and policy setting (Chapter 2; 10.1, R.1, 2, 33 & 34)

4. Kuwait's key authorities understand ML risk at a national level to some extent and TF to a lesser extent. The most recent NRA was finalised in 2022 covering the period 2016-2020. The exercise was well organised and involved most relevant government agencies, but supervisors were not involved in key aspects of the process.

5. Convictions were relied on to a large extent to determine ML/TF threat levels in the NRA. Other significant inputs such as strategic analysis, credible and reliable open-source information, and other operational activities conducted by LEAs which did not result in convictions were not considered. As a result, some predicate offence risks may not be properly assessed, including human trafficking which is often cited in reports by reliable and credible sources as being a significant issue for Kuwait³. The authorities primarily pursue cases related to corruption, fraud and forgery.

6. The Assessment Team considers Kuwait's understanding of TF risk to be less developed. The limited sources used in the assessment process (convictions), has likely led to an under assessment of the overall TF risks the country faces.

7. Kuwait's assessment of cross border threats, NPOs and VASPs does not appear to be based on robust analysis and there has been no assessment to date of the risk of different types of legal persons and arrangements.

8. Kuwait has a solid institutional framework for coordinating national ML/TF policies and strategies. The National AML/CFT Committee (NAMLC) is responsible for coordinating and monitoring implementation of Kuwait's AML/CFT National Strategy and Action Plan. Although the Committee reports that many of the actions on Kuwait's National Strategy and Action Plan are complete, which is a positive achievement, some of the actions marked as complete are still being implemented. When part of the National Strategy and Action Plan, the objectives and activities of

³ See for example: [Criminality in Kuwait - The Organized Crime Index \(ocindex.net\)](#); [Report of the Special Rapporteur on trafficking in persons, especially women and children, on her mission to Kuwait | Refworld](#)

competent authorities appear risk-based, however those activities are less risk sensitive when left to the competent authorities themselves.

Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29–32)

Financial intelligence (Immediate outcome 6)

9. Competent authorities generally access and use financial intelligence and other relevant information in their operational activities. The sources of financial intelligence are diverse and generally originate from the KwFIU and FIs. The KwFIU receives STRs and disseminates financial intelligence to LEAs to some extent. However, the authorities have a limited view on the role of the KwFIU in undertaking operational activities and the KwFIU is not used as a systematic tool to initiate and progress financial investigations, especially with regard to TF. Based on incomplete criteria for prioritisation of the STRs, the KwFIU reports and conducts in depth analysis on a limited number of STRs. This impedes the use of financial intelligence in operational activities. Furthermore, the paper-based system for receiving STRs and the internal approval process impact the timeliness of dissemination to LEAs.

10. Competent authorities have access to a range of financial information both directly and indirectly and make use of this in carrying out their activities. The Public Prosecutors Office (PPO) can obtain any information it deems necessary to conduct a criminal investigation. Investigative authorities, especially the Ministry of Interior (MOI), are authorised by the PPO to access a wide range of intelligence, such as direct information from reporting entities and individuals. The PPO also receives financial information directly from these sources.

11. The KwFIU creates limited strategic analysis products. Two specific reports have been produced to date: reducing the use of cash to mitigate ML/TF and ML/TF risks related to virtual assets. These reports appear to be based on limited analysis of STRs and are mainly developed on information held by the supervisory authorities and reporting entities. Reporting entities appreciate the indicators provided by the KwFIU and the feedback they receive, which contributed to an increase of STRs over the reporting period.

ML offence (Immediate Outcome 7)

12. Kuwait has a dual investigative system. Preliminary inquiries are conducted by various LEAs (MOI, KwFIU, Nazaha), while criminal investigations are the sole competency of the PPO for all felonies and some misdemeanours. Nonetheless, the PPO can instruct the other LEAs to undertake additional investigative activities. LEAs are well resourced to identify and investigate ML cases in quick and effective manner. Thanks to the combined efforts of competent authorities, there has been an increase in ML convictions during the reporting period.

13. Competent authorities investigate and prosecute ML related to the main crimes identified in the NRA (corruption, fraud and forgery), to a large extent. In many cases of fraud and forgery this occurs as it is easier to prove such predicate offences. Investigations and prosecutions of fraud and forgery are also resorted to as a way to offset the obstacles in prosecuting other crimes such as drug and human trafficking. This may result in ML activities not being investigated and prosecuted fully in line with the risks identified by the assessment team.

14. Parallel financial investigations are regularly conducted by competent authorities when there is a clear financial nexus and are designed to support ML investigations.

15. Kuwait has a legal framework that provides it with an adequate basis to prosecute ML activities. However, the authorities face challenges in securing an ML conviction without proving the underlying predicate offence. Most ML cases relate to self-laundering, whereas foreign

predicate offence, third-party ML and stand-alone ML are rarely taken forward. In addition, there is in practice, limited criminal liability of legal persons, which is not in line with the risk profile or operational findings showing that legal persons are widely used in ML cases. Sanctions applied to natural persons are effective, proportionate and dissuasive.

Confiscation (Immediate outcome 8)

16. Kuwait pursues seizure and confiscation as a policy objective to some extent. Seizures are implemented through Kuwait's PPO and are facilitated by the information provided by the MOI, KwFIU and Nazaha. The legal framework allows for the freezing, seizure and confiscation of a range of assets, yet in practice provisional measures are resorted to in a limited extent especially in non-ML cases. In corruption cases related to the misuse of public funds, restitution can and has been achieved.

17. Kuwait has been able to confiscate significant amounts of funds and a wide range of assets, including some that were located abroad in a few cases. The PPO has a basic mechanism for managing and disposing of seized assets on a case-by-case basis. The absence of a comprehensive system for managing those is a concern, especially in light of the potential high value of confiscated assets.

18. Kuwait has implemented a declaration system for cash and BNIs and the GAC has applied penalties failure to respect this requirement. Despite significant amounts of cash transiting through Kuwait, competent authorities did not identify any cross-border movement in relation to ML or TF which does not appear in line with the country risk profile.

Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5–8, 30, 31 & 39.)

Terrorist financing investigations (Immediate Outcome 9)

19. The classification of TF as low risk broadly aligns with the view of most competent authorities, which highlights their limited understanding of the TF threats faced. The State Security Department (SSD) as the competent authority specifically mandated to deal with terrorism and TF has a solid understanding of the risks associated with TF both domestically and abroad. However, this understanding is not disseminated across other competent authorities. TF activities are identified and investigated by the SSD in cooperation and coordination with international counterparts, when dealing with international terrorist suspects. Kuwait has investigated and prosecuted a limited number of TF cases within the reporting period. Kuwait has effective and dissuasive sanctions for TF at its disposal, when convictions are secured. However, prosecutorial authorities face serious challenges in achieving TF convictions resulting in a low conviction rate for TF which does not appear to be in line with the Assessment Team's understanding of the country's TF risk profile.

20. All TF cases identified relate to the collection and movement of funds to be used abroad. There are no cases relating to use of funds or other assets within Kuwait, despite the presence of designated persons in Kuwait and other TF risk indicators. Kuwait has a range of alternative measures to disrupt TF activities in cases where it is not practicable to secure a TF conviction, but it is unclear the extent to which they are employed.

Preventing terrorist from raising, moving and using funds (Immediate Outcome 10)

21. Kuwait has technical and practical deficiencies that prevent the implementation of TF TFS without delay. Kuwait's Counter Terrorism Committee (CTC) is empowered to take all decisions

required to implement TF TFS issued under UNSCR 1267 and successor resolutions without delay. In practice, the CTC has never taken any such decision using its mandated decision process to implement TF TFS in Kuwait, nor does it proactively use TF designations as a means to deprive terrorists of assets. Further, Kuwait's legal framework for the implementation of TFS is not in line with the FATF Standards. It has a limited freezing obligation and limited general prohibition. Despite these fundamental shortcomings, Kuwait has taken measures to implement TF TFS informally, including the freezing of assets of individuals and entities that should be designated.

22. Kuwait has a limited understanding of TF risk in the NPO sector, as its risk assessment focused on jurisdictional risks, misclassifying the TF risk exposure of the sector, and on an NPO-specific basis. Kuwait has implemented stringent licensing requirements that serve as a barrier to entry and discourages entering the NPO sector. Mitigating measures put in place on the NPO sector are not responsive to the level of TF risk and have been shown to actually disrupt legitimate NPO activity.

23. Kuwait has deprived terrorists, terrorist organisations, and terrorist financiers of assets and instrumentalities related to TF activities to some extent through sanctions-related freezing measures and confiscation in some cases.

Proliferation financing (Immediate Outcome 11).

24. Kuwait has technical and practical deficiencies that prevent the implementation of PF TFS without delay. Kuwait's CTC is empowered to take all decisions required to implement PF TFS issued under UNSCR 1718 without delay. In practice, the CTC does not take and has never taken any such decision using its mandated decision process to implement PF TFS in Kuwait. Further, Kuwait's legal framework for the implementation of PF TFS is not in line with the FATF Standards. It has a limited freezing obligation and no general prohibition.

25. Even though the regime is implemented informally, some FIs and DNFBPs have a good understanding of the implementation of TFS. There are a significant number of TFS-related compliance deficiencies found by supervisors. This has resulted in some delay in implementation by some FIs and DNFBPs. Kuwaiti supervisors routinely inspect compliance with TFS obligations in their supervisory activities. TFS-scoped supervisory activities cover virtually the entire population of obliged entities. The supervisors have shown an ability to detect non-compliance with TFS obligations.

26. Funds or other assets could be detected in Kuwait when directly owned by a listed natural or legal person. The lack of available beneficial ownership information and poor awareness among FIs and DNFBPs about PF (except in some larger FIs), may frustrate the detection of assets used in or intended for PF and the pursuit of potential sanctions evasion.

Preventive measures (Chapter 5; IO.4; R.9-23)

27. Kuwait's obliged entities have an uneven understanding of the ML/TF risks they're exposed to. While FIs, except for currency exchange organisations, have a sound understanding of ML risks and their AML obligations, DNFBPs have a very limited understanding. Obligated entities have a lower understanding of their TF risks than ML risks.

28. Internal controls and procedures are somewhat understood, administered, and implemented. Customer due diligence and record keeping measures, with the exception of measures to ascertain beneficial ownership, are fairly well understood and applied. Knowledge and application of these measures is better amongst the CBK and the CMA supervised entities, while DNFBPs have a very limited understanding and uneven application.

29. FIs generally have a good understanding of when to apply enhanced and specific measures, although there are some issues in implementing TF TFS requirements. DNFBPs have a limited understanding of when to apply enhanced and specific measures.

30. Only two sectors, banks and exchange companies, report material numbers of STRs and those that do report have a high reporting threshold. Volume and quality of STRs have improved in recent years. However, further improvements are still required, particularly relating to detection and submission of STRs relating to terrorist financing.

Supervision (Chapter 6; 10.3; R.14, R.26–28, 34, 35)

31. Kuwait takes measures to ensure that criminals are not the owners or holding management functions in FIs and DNFBPs. Technical shortcomings in market entry requirements are largely remedied through more stringent operational procedures. However, there remains issues in ascertaining and verifying beneficial owners. VASPs are prohibited, and Kuwait takes some measures to prevent unlicensed VASPs activity within the country.

32. Understanding of ML and TF risks is uneven across FIs and DNFBPs supervisors. For CBK, in particular, and other FIs supervisors to a lesser extent, there is a much more robust and detailed understanding of their entity level risks than what is reflected in the NRA. Financial institutions supervisors generally conduct risk-based supervision in line with their understanding of risks and dedicate their significant resources to extensive coverage and intensity. The insurance sector has not been subject to supervision for at least 3 years. A new supervisor, the Insurance Regulatory Unit (IRU) was put in place in 2021 but is yet to implement a full supervisory programme for the sector. The Ministry of Commerce and Industry (MOCI), the DNFBP supervisor and supervisor of currency exchange organisations (a financial institution), is in the process of implementing risk-based supervision.

33. Remedial actions and sanctions are frequent and have an impact on reporting entity-specific deficiencies, but do not seem to significantly impact obliged entities' compliance behaviour in general. Supervisors undertake significant outreach and training efforts to assist most FIs, and to a lesser degree DNFBPs, in understanding and complying with their obligations.

Transparency and beneficial ownership (Chapter 7; 10.5; R.24, 25)

34. Kuwait has not conducted a vulnerability assessment of the misuse of legal persons and Waqfs, which are the only legal arrangements available in the country, in the context of a legal persons/arrangements environment that has seen significant changes over the time considered for the evaluation. Kuwait has strong identification, business and commercial registry requirements that form a foundation for mitigation measures to be put in place. These measures, even though not necessarily ML/TF risk responsive, include the availability of high-quality basic information that is available to competent authorities in a timely manner. Beneficial ownership information is available in a timely manner through FIs/DNFBPs, but a lack of understanding of the concept of BO has led this information to be an unreliable representation of BO. Accordingly, complete and reliable BO information is not available in Kuwait through FIs/DNFBPs, Kuwait's primary method to access such information.

35. Kuwait has implemented few AML/CFT specific mitigation measures to prevent the misuse of legal persons, but it has recently introduced a BO register. All legal persons in Kuwait had a deadline of June 2023 to provide the BO information required. However, the register was less than 5% populated at the time of the onsite visit in November 2023. This is a positive step towards the goal of making such information available but could not be considered a source of BO by the Assessment Team at this time.

36. Regarding Waqfs, adequate, accurate and current BO information is available in a timely manner in most cases.

37. There have been no sanctions imposed for failure to comply with information requirements, including for businesses that failed to provide BO information within the mandated June 2023 deadline.

International cooperation (Chapter 8; IO.2; R.36–40)

38. Kuwait provides mutual legal assistance in relation to ML, TF and associated predicate offences to countries with which it has bilateral and/or multilateral agreements, or on the principle of reciprocity. The assistance provided on the principle of reciprocity does not have a legal basis, but this has not been an obstacle, generally, in providing assistance.

39. The PPO and MOI seek legal assistance in relation to domestic ML and TF cases which have a transnational element. The MOI can also swiftly access intelligence from a range of international sources. However, in cases where the principle of reciprocity has to be relied on, in the absence of bilateral agreements, requests can be delayed due to need to go through diplomatic channels. The KwFIU requests international cooperation to a limited extent and supervisory authorities engage with foreign counterparts regularly on supervisory visits to branches of international banks.

40. PPO is responsible for formal requests and has good cooperation with some foreign counterparts. Kuwait generally responds to requests for MLA and extradition in a timely manner and feedback from international partners is generally positive. The MOI has good links with international counterparts and can quickly respond to requests for law enforcement information. Supervisory authorities generally respond to incoming requests, particularly in relation to licensing information.

41. Kuwait has achieved positive results in some high-profile cases through MLA and extradition.

Priority Actions

1. Kuwait should update its risk assessment, particularly in relation to TF threats and vulnerabilities. The updated risk assessment should include reliance on a wider range of factors for the assessment of ML and TF threats, not limited to convictions; a comprehensive assessment of risks relating to the misuse of different types of legal persons; proper analysis of cross border risks; and consider a wider range of ML/TF methods and typologies and how they may be being adopted in Kuwait.
2. Kuwait should investigate and prosecute the different types of TF activities in line with the country's risk profile to ensure TF risks are mitigated and all terrorist financing activities are detected. Efforts should also be increased to detect and identify potential TF activities related to cross border movements of currency and Bearer negotiable instruments (BNIs).
3. Kuwait should ensure the legal implementation of TFS without delay by addressing technical deficiencies in the legal framework. Kuwait should implement and make use of a domestic process to identify targets for designation, ensure that third party requests are followed-up upon in a meaningful and timely fashion, proactively utilise TFS as a means to deprive terrorists of their assets and publish a full list of those subject to TFS measures to ensure complete implementation.
4. Kuwait should conduct a comprehensive TF risk assessment of the NPO sector. Based on this assessment, Kuwait should adapt accordingly the mitigating measures so that they are proportional with the TF risks identified and targeted to mitigate those risks. Based on the results of this updated risk assessment, Kuwait should take steps to evaluate whether other existing measures mitigate risks, and reconsider and remove unnecessary barriers to entry that discourage NPOs and measures which disrupt the legitimate activities of NPOs.
5. Kuwait should take steps to deepen its understanding of proceeds generating offences for ML and implement measures to better detect and proactively investigate ML from a wide range of predicate offences beyond fraud, corruption, forgery and usury including foreign predicate, stand-alone and third-party ML.
6. Kuwait should ensure that both supervisory authorities and obliged entities have a robust understanding of the concept of BO and ensure that competent authorities have a timely access to adequate, accurate and current BO information on legal persons, for example by ensuring the BO registry is populated as a matter of priority.

Effectiveness & Technical Compliance Ratings

Table 1. Effectiveness Ratings

IO.1 - Risk, policy and co-ordination	IO.2 - International co-operation	IO.3 - Supervision	IO.4 - Preventive measures	IO.5 - Legal persons and arrangements	IO.6 - Financial intelligence
Moderate	Moderate	Moderate	Moderate	Low	Moderate
IO.7 - ML investigation & prosecution	IO.8 - Confiscation	IO.9 - TF investigation & prosecution	IO.10 - TF preventive measures & financial sanctions	IO.11 - PF financial sanctions	
Moderate	Moderate	Low	Low	Low	

Note: Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low – LE, level of effectiveness.

Table 2. Technical Compliance Ratings

R.1 - assessing risk & applying risk-based approach	R.2 - national co-operation and co-ordination	R.3 - money laundering offence	R.4 - confiscation & provisional measures	R.5 - terrorist financing offence	R.6 - targeted financial sanctions – terrorism & terrorist financing
LC	LC	LC	LC	LC	NC
R.7 - targeted financial sanctions - proliferation	R.8 - non-profit organisations	R.9 – financial institution secrecy laws	R.10 – Customer due diligence	R.11 – Record keeping	R.12 – Politically exposed persons
NC	PC	C	LC	LC	LC
R.13 – Correspondent banking	R.14 – Money or value transfer services	R.15 –New technologies	R.16 –Wire transfers	R.17 – Reliance on third parties	R.18 – Internal controls and foreign branches and subsidiaries
C	C	PC	LC	PC	PC
R.19 – Higher-risk countries	R.20 – Reporting of suspicious transactions	R.21 – Tipping-off and confidentiality	R.22 - DNFBPs: Customer due diligence	R.23 – DNFBPs: Other measures	R.24 – Transparency & BO of legal persons
PC	C	LC	LC	LC	PC
R.25 - Transparency & BO of legal arrangements	R.26 – Regulation and supervision of financial institutions	R.27 – Powers of supervision	R.28 – Regulation and supervision of DNFBPs	R.29 – Financial intelligence units	R.30 – Responsibilities of law enforcement and investigative authorities
LC	PC	C	PC	LC	LC
R.31 – Powers of law enforcement and investigative authorities	R.32 – Cash couriers	R.33 – Statistics	R.34 – Guidance and feedback	R.35 – Sanctions	R.36 – International instruments
C	C	C	C	LC	LC
R.37 – Mutual legal assistance	R.38 – Mutual legal assistance: freezing and confiscation	R.39 – Extradition	R.40 – Other forms of international co-operation		
LC	PC	LC	LC		

Note: Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

MUTUAL EVALUATION REPORT

Preface

This report summarises the AML/CFT measures in place as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from 5 – 22 November 2023.

The evaluation was conducted by an assessment team consisting of:

- Lida Tsagkaraki, Ministry of Finance, Greece (financial expert)
- Elina Rantakokko, Ministry of Finance, Finland (legal expert)
- Zaib Rasool, Treasury Department, United States of America (financial expert)
- Amr Sayed, Financial Intelligence Unit, Egypt (law enforcement expert)
- Andreas Pavlidis, Federal Ministry of Justice, Germany (legal expert)

with the support from the FATF Secretariat (of Mr Ben Aldersey, Mr Florent-Babacar Dieng and Mr Michael Fowler,) and the MENAFATF Secretariat (Ms Jehan Alansari). The report was reviewed by Mr Birgir Jónasson (Iceland), Evren Selturk (Türkiye) and Lesley Clayton (United Kingdom).

Kuwait previously underwent a FATF Mutual Evaluation in 2011, conducted according to the 2004 FATF Methodology. The 2011 evaluation has been published and is available at www.fatf-gafi.org/en/publications/Mutualevaluations/Mutualevaluationofthestateofkuwait.html

That Mutual Evaluation concluded that the country was compliant with 1 Recommendation; largely compliant with 9; partially compliant with 12; and non-compliant with 18.⁴ Kuwait was rated compliant or largely compliant with 6 of the 16 Core and Key Recommendations.

Kuwait exited the follow up process in June 2015 on the basis of a level of compliance equivalent to a largely compliant in all Core and Key Recommendations.

⁴ Recommendation 34 (Legal arrangements – beneficial ownership) was deemed not applicable in Kuwait's 3rd Round MER.

Chapter 1. ML/TF RISKS AND CONTEXT

42. The State of Kuwait is located in the northeast of the Arabian Peninsula. The population at the start of 2023 was 4,793,568 people, of whom 1,517,076 were Kuwaiti nationals. Kuwait has one of the highest proportion of expatriates in its population (3,276,717) and workforce in the world. Kuwait is a small state of approximately 17,820 square kilometres. It borders Iraq to the North and Northwest and Saudi Arabia to the South and Southwest. It also shares a maritime border with Iran. Kuwait's territory also includes nine islands.

43. Kuwait achieved its independence in 1961. On August 2, 1990, Kuwait was invaded by Iraq over a period of seven months and finally liberated by a coalition of international forces that restored its sovereignty on February 26, 1991. Kuwait is a constitutional monarchy and has the oldest directly elected parliament in the Persian Gulf region. The current head of state is the His Highness Sheikh Mishal Al-Ahmed Al-Jaber Al-Sabah. The executive power in Kuwait consists of the Council of Ministers, also known as cabinet ministers. The Prime Minister is appointed directly by the Sheik and cabinet members are appointed by the Sheik upon recommendation by the Prime Minister. Kuwait also has a fifty-member National Assembly (parliament) which is appointed by popular vote. All cabinet ministers are answerable to the National Assembly, which has the power to dismiss the Prime Minister or any member of cabinet through a series of constitutional procedures.

44. Kuwait is a member of the Gulf Cooperation Council (GCC), a political and economic alliance of six Gulf countries with likeminded economic, cultural and religious profiles. The GCC also includes the Kingdom of Bahrain, State of Qatar, the United Arab Emirates (UAE), Sultanate of Oman, and Kingdom of Saudi Arabia. Kuwait is also a member of the League of Arab States, the United Nations (UN), the Organisation of the Islamic Conference (OIC), the Non-Aligned Movement, and the World Trade Organisation (WTO), among other regional and international organisations.

45. Kuwait is a largely petroleum-based economy with 85-90% of the country's total public revenues derived from the sale of petroleum products. Currently the country is undertaking efforts to diversify and modernise its economy through national vehicles to gradually shift away from a petroleum dependent economy. In addition to petroleum, the petrochemical and chemical industries and steel manufacturing are also notable industries in Kuwait.

ML/TF Risks and Scoping of Higher Risk Issues

Overview of ML/TF Risks

46. Kuwait rates its domestic money laundering (ML) threat as medium considers its external threat as medium-low. Kuwait's main domestic ML threats relate to corruption crimes (e.g., bribery, embezzlement of public funds) fraud, forgery, usury, breach of trust and trafficking of narcotics. Reports from reliable and credible sources also suggest that human trafficking is an issue, but the authorities do not see this as a significant threat.

47. Kuwait has not carried out a comprehensive assessment of external threats but identifies smuggling and arms trafficking and cross-border smuggling of narcotics as ML risks in Kuwait that originate from abroad. The large proportion of foreign workers and widespread use of remittance

and payment systems also likely contributes to cross-border risks. Kuwait assesses the ML risks in the financial sector to be highest in relation to banking, exchange companies and securities. The real estate sector (rated as medium high risk in the NRA) and dealers in precious metals and stones (DPMS) sector (rated medium risk in the NRA) present the main risks in terms of designated non-financial businesses and professions (DNFBPs).

48. Kuwait assesses its terrorist financing (TF) risk as low and there have been no terrorist incidents in the country since 2015. There have been a small number of TF cases between 2018 and 2023 and there are currently eight individuals on the UN consolidated sanctions list that either have Kuwait as a place of birth or a national identity document from Kuwait. In addition, Kuwait's border with Iraq, one of the countries in the world most affected by terrorism, increases Kuwait's overall TF risk.

Country's Risk Assessment & Scoping of Higher Risk Issues

49. Kuwait's National Committee for AML/CFT (NAMLC) is responsible for assessing and maintaining Kuwait's understanding of ML/TF risks, which it does through its National Risk Assessment (NRA) process. Kuwait has assessed its ML/TF risks through two NRAs, which were both produced by the NAMLC. The first NRA was adopted in 2018 and covered a review period of 2013-2016, and the second NRA was adopted in 2023 and covers the period from 2016 to 2020.

50. Both NRAs were carried out based on the World Bank methodology and assessed national threats, vulnerabilities and sector risks in the financial and some DNFBP sectors. The first NRA was limited in scope and relied heavily on qualitative information and interviews. The process was also limited by the fact the key agencies including the MOF were not involved in the process and certain sectors including currency exchange companies were not assessed. The main predicate offences identified in the first NRA were drug and alcohol trafficking, forgery, counterfeiting of goods, fraud, usury and theft.

51. The second NRA was developed based on the World Bank's updated methodology and followed an improved process. The process involved a significant number of meetings with public sector stakeholders and some meetings with the private sector. Information was also gathered by questionnaire responses from obliged entities. The main predicate offences were determined based on a review of ML convictions and these are identified as the main national threats. The main vulnerabilities were identified across the financial and DNFBP sectors based on an analysis of the robustness of the legal framework and regulatory controls. A range of qualitative and quantitative information sources were used as part of the development of second NRA. Qualitative data included international reports, expert opinions and academic publications. However, there were a number of limitations in terms of quantitative data, which are highlighted below.

52. Quantitative data included statistics, such as ML cases investigated and prosecuted, suspicious transaction reports (STRs) received, supervision inspections and cross-border cash declarations. However, the NAMLC faced several challenges with the quality of quantitative information used, including lack of comprehensive supervisory data for DNFBP sectors, a lack of data on proceeds of crime for archived cases and those under investigation, and timely access to information from the relevant authorities and information held in different formats.

53. Significant inputs such as comprehensive strategic analysis, credible and reliable open-source information, and other operational activities conducted by law enforcement agencies (LEAs), which did not result in prosecutions, were not comprehensively considered as part of the NRA process.

54. Mostly, the main risks ML risks identified in the NRA are reasonable and in line with international feedback received from FATF and FATF style regional bodies (FSRB) countries. Competent authorities investigate and prosecute ML related to the main crimes identified in the

NRA (corruption, fraud and forgery), to a large extent, as it is easier to prove such predicate offences. This may be at the expense of pursuing other crimes, such as drug and human trafficking. In addition, the human trafficking risk may be under assessed and details on cross-border threats do not seem to be fully understood or analysed. The highest risk sectors identified in the NRA are banking, real estate securities and DPMS.

55. Kuwait's assessment of TF follows the same methodology as for ML and is based on threats derived from TF convictions. As with the ML analysis, both qualitative and quantitative information were considered. The main threats relate to fundraising and movement of funds abroad, including through informal hawala. Kuwait rated its overall TF risk as low. This appears to be modest, given Kuwait's geographical position, the cross-border threats it is subject to, the known number of TF cases in Kuwait, and the number of Kuwaitis subject to international sanctions.

56. In deciding the issues to prioritise for increased focus, the Assessment Team reviewed the material provided by Kuwait, on their national ML/TF risks, inputs provided by FATF and FSRB delegations and information from reliable third-party sources (e.g., reports from other international organisations and non-governmental organisations (NGOs)). The Assessment Team focussed on the following priority issues.

57. **Corruption:** There have been a number of recent high profile corruption cases in Kuwait, including some involving politically exposed persons. Kuwait is currently 77th on Transparency International's Corruption Perception Index in 2022, and placement in the 53rd percentile of all countries in the World Bank's Control of Corruption Indicator in 2021. Kuwait's latest NRA shows that money laundering from corruption-related crimes has resulted in the second most convictions of all predicate crimes over the time relevant for the NRA. A study conducted by Kuwait's Nazaha agency, in cooperation with the Kuwait Institute for Scientific Research, concluded that bribery was prevalent amongst interviewed officials operating in the public sector.

58. The Assessment Team explored the degree to which, corruption undermines the implementation of an effective AML/CFT system in Kuwait and whether there was appropriate ability to detect the laundering of the proceeds of corruption-related offences, as well as an ability to investigate, prosecute and recover assets in ML cases related to corruption.

59. **Human trafficking:** Kuwait has one of the highest levels of expatriate workers compared to its domestic workforce in the world. The proportional presence of expatriate workers provides potential cover for human trafficking. Kuwait's latest NRA acknowledges the lack of statistics to appropriately consider the ML threat level from activity. The Global Organised Crime Index identifies Kuwait as tied for the 12th country in the world most exposed to human trafficking and identifies human trafficking as the number one criminal risk faced by the country of the crimes they rate. The Assessment Team considered Kuwait's ability to detect the laundering of the proceeds of human trafficking, the degree to which Kuwait prosecutes money laundering from human trafficking and recovers illicit gain derived from human trafficking.

60. **Money transfer including Money or Value Transfer Services (MVTs) hawala and other similar services:** The Assessment Team considered the AML/CFT compliance programmes of banks and exchange companies (the only entity types in Kuwait able to provide MVTs) as higher risk clients may be driven to conduct financial transactions through these entities, and about 35% of all suspicious transactions in Kuwait are submitted by banks and exchange companies. The Assessment Team also considered the authorities' ability to detect, investigate and mitigate underground MVTs and hawala to launder the proceeds of crime.

61. **Terrorist financing:** There have been no terrorist attacks on Kuwaiti soil during the time relevant for this evaluation, but there have been terrorist attacks in the recent past. Kuwait has a number of TF risk factors that the Assessment Team considered:

1. TF risk associated with neighbouring jurisdictions (i.e., cross border risk).
 2. Between 2018 and mid-2023, Kuwait prosecuted 10 cases of terrorist financing involving 41 people.
 3. 8 individuals on the UN's consolidated sanctions list have either a place of birth of Kuwait or a national identity document from Kuwait.
 4. Kuwait shares one of its two land borders with Iraq, one of the countries in the world most affected by terrorism. Kuwait has also indicated in its NRA that this border's geographical features increase the risk of cash smuggling.
 5. Kuwait has, informally, frozen multi-million in assets of individuals and entities that ought to be designated.
62. The Assessment Team considered whether Kuwait's risk rating given to terrorist financing was appropriate, and whether appropriate mitigation measures have been put in place in line with the level of terrorist financing in Kuwait. In addition, the Assessment Team considered whether the measures applied to NPOs are disrupting or discouraging legitimate NPO activities.
63. **Real estate:** There are numerous risk issues surrounding the real estate sector in Kuwait. The NRA acknowledges a general lack of familiarity of real estate brokers with their AML/CFT obligations. Further, the NRA indicates that there is less than optimal AML/CFT supervision of the sector. This has resulted in a very low amount of STRs reported by the obliged entities engaged in real estate activity. The NRA attributes a risk rating of medium-high to the real estate sector, the highest rating of any sector.
64. The Assessment Team considered the degree to which real estate brokers understand their AML/CFT obligations, whether appropriate guidance and feedback is given to the sector and how well the sector is supervised. They also considered Kuwait's effectiveness in detecting money laundering through real estate and their ability to confiscate real estate as proceeds of crime.
65. The Assessment Team explored whether lawyers, or other professionals, are enabling, passively or actively, money laundering through the real estate sector. They also examined whether banks are appropriately monitoring cash transactions by real estate brokers.
66. **The banking sector:** Kuwait's banking sector is its largest financial sector with approximately 83 billion Kuwaiti Dinars (KWD) (268 billion USD) assets under management at the end of 2022. Kuwait's banking sector is responsible for well over half of the suspicious transaction reports reported to Kuwait's FIU. Further, during the period considered by its latest NRA (April 2016 to September 2020), Kuwaiti banks appeared in 150 investigations involving potential money laundering, 101 of which were considered by the Courts, resulting in convictions in 46 cases. Due to its importance to the Kuwait financial system, the Assessment Team considered whether banks adequately apply AML/CFT preventive measures commensurate with their risks and the degree to which the Central Bank of Kuwait supervises banks for compliance with their AML/CFT requirements commensurate with their risks.
67. **Laundering the proceeds of drug trafficking:** the trafficking in narcotic drugs is one of the most common offences investigated by competent authorities in Kuwait, and the NRA indicates that there has been over 2600 people convicted of this offence in the time period covered by the NRA. Most convictions relate to possession of the drugs rather than trafficking of the drugs themselves. During that same time, only six individuals were convicted of laundering the proceeds of drug trafficking. The NRA identifies that trafficking in narcotic drugs is a low-level ML threat in Kuwait. The Assessment Team considered whether competent authorities are appropriately investigating the laundering of the proceeds of trafficking in narcotic drugs. The Assessment Team also considered whether financial investigations are used to potentially identify larger scale

operations trafficking in narcotic drugs and/or laundering the proceeds of these larger scale operations. Lastly, the Assessment Team considered the extent to which that DPMS are being used as a method to launder the proceeds of drug trafficking and other predicate crimes.

Areas of lower ML and TF risks and focus

68. The Assessment Team considered the following areas of less risk importance and subsequently spent less time determining effectiveness in these areas:

- **Casinos AML/CFT Regimes** – Casinos cannot legally operate in Kuwait.
- **Notaries AML/CFT Regimes** – All notaries in Kuwait are employed by the government and exempt from AML/CFT obligations.
- **Transparency of Legal Arrangements** – Trusts and similar legal arrangements cannot be established in Kuwait and trusts formed outside of Kuwait cannot be party to financial transactions within Kuwait. Waqfs can be created but are small in number and are generally created for narrow use cases, which present low ML/TF risk.
- **Laundering the Proceeds of Domestic Tax Evasion and Tax Fraud** – There is no tax in Kuwait on corporate income, personal income, wealth, capital gains, withholding, or inheritance.
- **Violent Crimes and Criminality that Constitute Designated Offences** - Kuwait has a very low rate of violent crime and does not have any publicly available information that shows any allegations of violent transnational organised crime operating within Kuwait.
- **Finance Companies' and Securities companies' AML/CFT Regimes** – These financial institutions have significantly lower materiality than other financial institutions. They have rarely been used by suspected money launderers in Kuwaiti ML investigations and combine to submit less than 0.4% of STRs in Kuwait.
- **Laundering the Proceeds of Environmental Crime** – Open-source information have identified this predicate crime to be of lower risk in Kuwait while the Kuwaiti NRA did not give a rating for the risk level of this predicate crime as there were so few instances.

Materiality

69. Kuwait is a comparatively small high-income country with a land area of 17,820 square kilometres. The administrative, economic, financial and cultural centre is Kuwait City. Kuwait has a GDP of 159.69 billion USD in 2023, translating to approximately 49,280 billion KWD. Approximately 85-90% of the country's total public revenues are derived from the sale of petroleum products. Kuwait is undertaking efforts to diversify and modernise its economy through national vehicles to gradually shift away from a petroleum dependent economy. Kuwait exports to a wide number of countries, the main ones being United Arab Emirates (1.3%), Saudi Arabia, China, India and Iraq. Kuwait's largest suppliers are China (18%), the UAE (11.9%), the United States (8%), and Japan (with 5.8%). The main export products are crude oil and refined petroleum products.

70. Kuwait has a diverse financial sector. There are 22 banks in Kuwait (including Islamic banks and foreign branches). The largest bank is the National Bank of Kuwait (NBK). A feature of the Kuwaiti financial structure is government ownership and control, at least in part. All except

one of the Kuwaiti commercial banks are partly owned by the government. Kuwait also has approximately 248 billion KWD (\$803 billion) in assets under management by the Kuwait Investment Authority sovereign wealth fund. Kuwait has a sizable exchange company sector (32 institutions), which conducts approximately 27.7 million transactions amounting to 7.6 billion KWD (approximately 24.7 million USD) annually. The exchange company sector provides the only MVTs other than banks and serves the large number of foreign nationals employed in the country. Cash remains the dominant payment mechanism in Kuwait, although credit and charge cards have grown in popularity in recent years.

71. Real estate agents and brokers make up a significant part of the non-financial sector (4191) followed by DPMS (1283). All real estate purchases need to be approved by the MOSI, and there is a strong gold market in Kuwait. There are 317 - NPOs in Kuwait. These are charities, professional associations and foundations (also called “Mabarrah”). Kuwaitis have a history and culture of providing charity domestically and overseas.

Structural Elements

72. Kuwait has all the key structural elements required for an effective AML/CFT system including political and institutional stability, governmental accountability, rule of law, and a professional and independent legal profession and judiciary.

Background and Other Contextual Factors

73. Kuwait introduced its current AML/CFT law in 2013, with the adoption of Law 106 of 2013 Anti-Money Laundering and Combating the Financing of Terrorism. This replaced the previous AML Law from 2002. Law 106 (2013) is accompanied by the Executive Regulation for the Anti-Money Laundering and Combating Terrorism Financing (2013).

74. Corruption was rated as having a medium level of threat in the NRA and Kuwait is ranked 77th out of 188 countries in the Transparency International Corruption Perception Index. Kuwait established the Anti-Corruption Authority (Nazaha) in 2016 and has investigated a number of corruption cases since its establishment. There have recently been some high-profile cases involving public officials and Kuwait is clearly focussed on addressing this issue.

75. Kuwait’s geographic proximity to countries destabilised by conflict or terrorism, as well as the presence of individuals subject to recent UN sanctions, present additional inherent vulnerabilities relating to ML/TF/PF.

AML/CFT strategy

76. The National AML/CFT Policy is articulated in the National AML/CFT Strategy 2022-2027 and is implemented through the National Action Plan that also runs through this period. The Strategy sets out 11 strategic measures, which are part of 16 strategic procedures that are prioritised from high to low and include items such as implementing risk-based supervision and increasing domestic cooperation. The Strategy is designed to ensure Kuwait is “... relentlessly seeking to consolidate the foundations and rule of law and to apply the best international practices in the field of regulating and protecting the work of the Financial Sector against the risks it may be exposed to”.

Legal & institutional framework

77. Kuwait is a unitary parliamentary constitutional elective monarchy. The Emir is the Head of State (executive powers) and as such the Emir is also the Commander-in-Chief of the armed forces and represents the country internally, externally and in all international relations. The Emir is assisted by a Council of Ministers as prescribed in the Constitution. The executive power in

Kuwait consists of the Council of Ministers, ministries, governmental authorities, institutions as well as a number of other government organs. The Prime Minister presides over the sessions of the Council of Ministers, manages its deliberations, and supervises the coordination of work among various ministries.

78. The Kuwaiti Constitution established the judicial authority, carried out by the Courts in the name of the Emir in accordance with the Constitution, which stipulates its independence. There is no authority that oversees judges in the performance of their duties. The judicial system in Kuwait operates in accordance with Emiri Decree 19 of 1959. Courts are classified by categories and arranged in a hierarchical order with three levels: District Courts (Courts of first instance), the Court of Appeal, and the Court of Cassation.

79. Article 2 of the Kuwait Constitution decrees that Sharia law is the main source of legislation. Sharia law gets its main principles from the Koran, and it is a legal system instead of a prescribed set of laws. However, most criminal and commercial matters within the State are resolved within a civil law framework.

80. Kuwait's main AML/CFT legislation (Law 106 (2013)) criminalises ML/TF and sets out the main AML/CFT obligations for the FIs and DNFBPs. AML/CFT obligations for FIs and DNFBPs are set out in more detail through circulars and instructions issued by the Kuwaiti supervisory authorities.

81. Kuwait' relevant criminal law framework is set out in two primary laws. Laws 16 of 1960 (the Penal Code) and Law 17 of 1960 (the Penal Proceedings and Trials Code). The Penal Proceedings and Trials Code, sets out Kuwaiti criminal procedure, the scope of searches, seizures and arrest powers for investigators and the jurisdiction, operation and procedure of the Courts. The Penal Code sets out criminal offences and accompanying penalties. Felonies are those crimes punishable by death, life imprisonment or terms of imprisonment exceeding three years. Misdemeanors are those offences punishable by incarceration not exceeding three years and a fine or both penalties. The law also provides for ancillary or secondary penalties, such as asset confiscation and deportation.

82. Terrorism offences are defined under Article 1 in Law 106 (2013). There are no special legislations for terrorist acts, but the perpetrators are rather charged with the underlying offence in the terrorist act. For example, if the terrorist act results in the death of individuals, the defendant would be charged with murder pursuant to Articles 149 to 151 of the Penal Code. Multiple results of the terrorist act would lead to corresponding multiple charges to the defendant.

AML/CFT Institutions

83. Kuwait's institutional framework for AML/CFT involves a range of authorities. There are two main coordinating bodies.

- a) Kuwait's AML/CFT framework is overseen by the NAMLC which is the national AML/CFT co-ordination body for Kuwait and facilitates the establishment of national AML/CFT policies. The NAMLC is responsible for assessing ML/TF/PF risk, including the NRA, as well as the national strategy for ML, TF and PF. The NAMLC is also responsible for ensuring interagency co-operation and coordination, information exchange and policymaking at a horizontal level. The Acting President of the KwFIU chairs the NAMLC. Participants in NAMLC include representatives from 13 participating authorities and

ministries.⁵ The NAMLC is supported by a permanent Secretariat, which comprises three full time staff.

- b) The Counter Terrorism Committee (CTC) is the national body for implementing targeted financial sanctions (TFS) and coordinates operational tasks related to TFS. The Committee is made up of 13 representatives⁶ and is also responsible for overseeing and administering Kuwait's National List, Kuwait's domestic sanctions list.

84. Kuwait's main institutional framework for AML/CFT also encompasses the following ministries and institutions: budget.

- c) The **KwFIU** is the national centre responsible for receiving and analysing suspicious transaction reports (STRs) from FIs and DNFBPs and other information related to ML/TF and associated predicate offences. It is also responsible for disseminating the results of that analysis to competent authorities. The KwFIU is an independent administrative FIU with its own legal personality and a budget affiliated to the State's public budget.
- d) The **MOI** is the main public security and law enforcement body of Kuwait, which oversees policing, the collection of evidence and gathering of information in criminal inquiries, traffic control, issuance of passports, and border security. Major directorates include the State Security Department (SSD) and AML/CFT Department (responsible for collecting evidence and gathering information in ML/TF crimes), which sits within the SSD.
- e) The **GAC** is responsible for checking and clearing all travelers and goods that enter or leave the country. GAC enforces Kuwait's cross-border cash BNI and precious metal and stones reporting regime. GAC can also collect evidence and gather information in relation to ML/TF, but typically refers such action to MOI.
- f) The **PPO** undertakes judicial investigations and prosecution of crimes in Kuwait, including ML/TF cases referred by competent authorities. The PPO is also the lead agency for asset recovery and can seize and confiscate the proceeds and instrumentalities of crime in coordination with Kuwait's LEAs, and the central authority for mutual legal assistance (MLA) and extradition. The PPO cannot conduct police type actions when investigating a case and relies on the MOI to carry out those activities as part of PPO's criminal investigations.

85. There are three major Courts in Kuwait. These are the **Court of First Instance**, the **Court of Appeal** and the **Court of Cassation**. The Court of First Instance is the lowest court and is where crimes assessed as felonies and misdemeanors are heard. There are two separate Courts in this tier: the Misdemeanors Court and the Felonies Court. The Court of Appeal hears appeals against verdicts from the Court of First Instance. Appeals are heard by a panel of three senior judges. Decisions from the Court of Appeal can further be appealed to the Court of Cassation, which is the

⁵ KwFIU, the CBK, the MOCI, CMA, IRU PPO, MOJ, the Ministry of Finance, MOI, MOFA, MOSA, the GAC and Nazaha.

⁶ Deputy Assistant Foreign Minister for Development and International Cooperation, MoJ, KwFIU, CBK, MOI, Ministry of Defence, PPO, MOSA, MOCI, GAC, CMA, Directorate General of Civil Aviation, IRU.

highest court in the ordinary judiciary in the State of Kuwait. Cases referred to the Court of Cassation are heard by a panel of five judges (legal advisors). This court only rules on points of law, rather than on the relative merits of the evidence in the trial, but cases overturned by the court of appeal can be themselves overturned by the court of cassation.

86. Kuwait has four AML/CFT supervisors. CBK, the CMA, the IRU and the MOCI, which supervises all DNFBP obliged entities. The MOSA is responsible for approving and supervising NPOs.

Financial sector, DNFBPs and VASPs

87. This section gives general information on the size and make-up of the FI and DNFBP sectors in Kuwait. Not all the sectors are of equal importance, given the specific risks and context of the Kuwaiti system. The level and types of ML/TF risks affecting individual obliged entities vary greatly, as do the ML/TF risks facing particular sectors.

88. The assessors ranked the sectors based on their relative importance in Kuwait's context given their respective materiality and level of ML/TF risks. The assessors used these rankings to inform their conclusions throughout this report, weighting positive and negative implementation issues more heavily for important sectors than for less important sectors. This approach applies throughout the report but is most evident in Chapter 6 on IO.3 and Chapter 5 on IO.4.

- a) The **banking** sector is weighted the most heavily as being the most important sector in Kuwait, based on its materiality and risk. Kuwait's banking system is well-connected to the global financial system and can act as a conduit for the proceeds of foreign predicate offences or a way through which other institutions access the global financial system. There are 22 commercial banks operating in Kuwait. Six of these are conventional banks, five are Islamic banks and there are 11 branches of foreign banks. Kuwait's banking sector represents the largest part of the financial sector with approximately KWD 84,964 million assets (268 million USD) under management monthly).
- b) The **exchange company** sector is also weighted heavily based on materiality and risk. There are 32 exchange companies in Kuwait that administer remittances to numerous countries in order to meet the needs of the large number of foreign workers in Kuwait. The volume of transactions to countries of origin of foreign labour is dominated by India, Pakistan and the Philippines.
- c) The **real estate sector** is weighted moderately in terms of importance based on its materiality and risk. There are currently 4191 real estate agents and brokers in Kuwait. The NRA rates the real estate sector as medium-high risk.
- d) The **currency exchange organisation** sector, comprised of 250 entities, is rated medium importance based on its risk and materiality.
- e) The **securities sector** is moderately weighted based on its materiality and risk. There are 63 entities licensed and supervised in the securities sector, which provide a range of investment and brokerage services. The approximate value of assets in the sector is currently at KWD 4,392 million (approx. USD 14,2M). The securities sector was rated medium in the NRA.
- f) There are currently 1283 **DPMS** in Kuwait. Kuwait is a major participant in the gold trade The DPMS sector is rated moderately in terms of importance based on its risk and materiality. The DPMS sector was rated as medium risk in the NRA.

- g) There are two institutions that make up the **finance company sector**. These institutions typically provide Sharia-compliant services to residents, including services such as loans and individual finance. The sector is rated low in terms of its risk and materiality. The finance company sector was not specifically covered by the NRA.
- h) There are currently 12 e-payments companies in Kuwait. The **e-payments sector** is rated as low in terms of importance based on its risk and materiality. The e-payments sector was not specifically assessed as part of the NRA.
- i) The **insurance sector** is weighted as low in terms of importance, based on its risk and materiality. There are currently 34 insurance companies (general and life insurance) and brokers in Kuwait. The NRA rates the insurance sector as low risk.

89. There are no casinos in Kuwait, notaries are civil servants and lawyers and other legal professions, accountants and auditors do not carry out activities that would subject them to the FATF Standards. There are no trust and company services providers in Kuwait and VASPs are prohibited from operating within the country.

Preventive measures

90. There are no casinos in Kuwait, notaries are civil servants and lawyers and other legal professions, accountants and auditors do not carry out activities that would subject them to the FATF Standards. There are no trust and company services providers in Kuwait and VASPs are prohibited from operating within the country.

Legal persons and arrangements

91. The MOCI is responsible for managing the company formation and registration in Kuwait. In addition, the Kuwait Direct Investment Promotion Authority (KDIPA), is responsible for approving foreign shareholders and investors, in Kuwait. Kuwaiti law permits the creation of sole traders, one-person companies, general and limited partnerships, joint stock companies and limited liability companies. Approximately 83% of the total of legal entities, are owned 100% by Kuwaiti or GCC nationals.

Table 1.1. Legal Persons and Arrangements in Kuwait

Authority	Type of Legal Person or Arrangement	Number
MOCI	General Partnership	13 454
	Limited Partnership	1 272
	Limited Liability Company	121 531
	Joint Stock Company	4 400
	One-person Company	69 551
	Sole Proprietorship	146 068
Total Legal Persons (November 2023)		365 276
MoJ	Public/Charitable-purpose Waqfs	353
	Private/Family-purpose Waqfs	573
	Joint-purpose Waqfs	79
	General Waqfs	426
Waqf Authority	Public/Charitable-purpose Waqfs	1 071
	Private/Family-purpose Waqfs	96
	Joint-purpose Waqfs	65
Total Legal Arrangements (June 2023)		2 663

92. A Waqf is the only form of legal arrangement that can be created in Kuwait. It is a sharia-compliant inalienable endowment. Law on Endowment enables the creation of Waqf. A Waqf may be created for the purpose of (1) a charitable endowment where the benefits are dedicated to a charitable cause, (2) a family endowment is that in which the endowment is for the endower or another person(s), and (3) a joint endowment for both a charitable cause and a family may be privately or publicly (by Kuwait's Waqf Authority) managed. All Waqfs must be approved by the MOJ. There are 2,663 Waqfs in Kuwait.

Supervisory arrangements

93. There are four AML/CFT supervisors in Kuwait.
1. **CBK** supervises banks and non-bank FIs in the State of Kuwait except for the securities sector and currency exchange organisation sector. The CBK grants initial approval for banks and non-bank FIs to operate (the MOCI issues the formal licenses) and supervises the 68 state-based obliged entities.
 2. **CMA** supervises the securities sector and capital markets activities in Kuwait (63 financial service providers).
 3. **IRU** supervises the insurance sector (34 insurance companies).
 4. **MOCI** is the AML/CFT supervisor for currency exchange organisations, real estate agents and brokers and DPMS (5724 entities). MOCI is the AML/CFT supervisor for auditors, TCSPs and DPMSs in the State of Qatar. TCSP activities can also be undertaken by lawyers. In this case, there is joint supervision between MOCI and MOJ.

Table 1.2. Number of FIs and DNFBPs by Supervisor

Supervisor	Type of Obligated Entity	Number
CBK	Banks	22
CBK	Exchange Companies	32
CBK	Finance Companies	2
CBK	E-Payment Companies	12
Total CBK		68
CMA	Investment Companies	42
CMA	Brokerage Companies	12
CMA	Other Companies	9
Total CMA		63
IRU	Insurance Companies	18 ⁷
Total IRU		18
MOCI	Currency Exchange Organisations	250
MOCI	Real Estate Agents and Brokers	4 191
MOCI	DPMS	1 283
Total MOCI		5 724

International cooperation

94. Due to the structure and materiality of its economy, Kuwait is exposed to transnational ML/TF and PF risks. Kuwait has a sizeable expat population and is an important regional trade and finance centre, and it is an important source of remittances for its majority (70%) foreign-labour workforce. Kuwait's high per-capita GDP, and the particularly high income of Kuwaiti nationals also makes it an attractive target for foreign predicate offences or international fraud schemes, including in real estate.

95. Kuwait conducts international cooperation on the basis of bilateral and multi-lateral treaties and based on the principle of reciprocity. The PPO is the central coordinating authority for formal MLA in judicial matters, including extradition.

96. Kuwait also engages in various forms of informal international cooperation, including providing and seeking spontaneous information exchanges between relevant authorities. Competent authorities also participate in various international AML/CFT fora and networks.

⁷ Thirty-four insurance companies total, of which 18 offer life insurance products.

Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key findings

1. Overall, Kuwait has a basic understanding of ML risk and a low understanding of TF risk at a national level. The NRA incorporates quantitative and qualitative information. Although most relevant government stakeholders participated in the NRA process in general, participation by supervisors was limited to the later stages of the process and they were not involved in the national ML threat and vulnerability assessment and to the TF risk assessment groups. Furthermore, private sector participation was also limited and the majority of DNFBP sectors were not involved at all. In addition, there is no assessment of the vulnerabilities of the abuse of legal persons, or comprehensive assessments of the VASP and NPO sectors and there is a lack of understanding of different threats and vulnerabilities (e.g., how ML of drug offences differs from ML for fraud), and which sectors are most vulnerable for abuse by different types of criminals.
2. Money laundering threat levels were determined based largely on prosecution and conviction data; other significant inputs such as comprehensive strategic analysis, credible and reliable open-source information, and other operational activities conducted by law enforcement agencies (LEAs), which did not result in prosecutions, were not considered. As a result, certain ML risks from some predicate offences may not have been properly assessed.
3. Kuwait's understanding of TF risk is less developed and shortcomings in the NRA process may have led to an under assessment of the overall TF risks the country faces. This includes in relation to cross border threats.
4. Kuwait's National AML/CFT Strategy and Action Plan aims to address Kuwait's identified ML risks, particularly in relation to sector vulnerabilities. A large number of actions have been completed and are leading to positive changes, including increases in resources and a ban of cash for real estate purchases. However, many of the actions are not far reaching and some marked as complete are still being implemented. Although not included in the National Strategy or Action Plan, the establishment of the IRU in 2019 and the recent introduction of the Beneficial Ownership Register are welcome examples of national policy changes that will help to address ML/TF risk at a national level.

5. The objectives and activities of LEAs and supervisors are generally in line with national AML/CFT policies, although weaknesses in the identification of risk may mean TF, ML and some predicate offences are not being investigated. However, where the National Action Plan lacks detail, this leads to weaker implementation at an operational level. For example, the action plan does not address the types of cases that LEAs should prioritise, and they are, as a result, not pursued on a risk basis.
6. In general, interagency coordination at an operational level is ad hoc and is not effective in addressing national priorities. The NAMLC provides a good platform for interagency coordination at the policy level and there is some good operational bilateral coordination between authorities, such as the MOI and PPO. While the NAMLC has the ability to initiate the establishment of joint action teams on operational issues, it has not done so to date.
7. Kuwait has taken some limited steps to disseminate the results of the NRA to FIs, DNFBPs and NPOs, through a series of workshops. These workshops were limited to specific sector risk, depending on sector attendees, and did not cover broader national risks. With the exception of larger FIs, obliged entities are not able to demonstrate a good understanding of ML/TF risks.

Recommended Actions

1. Kuwait should develop and enhance its understanding of current and emerging ML and, in particular TF risks, by updating its risk assessment. This should include:
 - i. collecting and utilising a wider range of data and information on threats that goes beyond the analysis of the prosecution and conviction of predicate offences,
 - ii. involving fully all relevant stakeholders (including private sector participants) as part of the process, including in terms of identifying national threats and vulnerabilities,
 - iii. conducting proper analysis of the cross-border ML/TF risks it faces, including analysis on the purpose of seized cash,
 - iv. carrying out a comprehensive assessment of risks relating to the NPO sector, and the use of virtual assets and misuse of different types of legal persons,
 - v. considering a wider range of ML/TF methods and typologies and how they may be being adopted in Kuwait.
2. The NAMLC should:
 - i. update the National Action Plan to ensure that the actions within it are commensurate with the risks identified following the updated risk assessment, and guide authorities to address all risks, including TF,

- ii. establish a proper oversight mechanism to ensure that actions are being completed by competent authorities in line with the National Strategy and Action Plan and NAMLC expectations,
 - iii. support interagency coordination mechanisms, aimed at implementing coordinated risk-based mitigation measures, including by establishing joint action teams on specific issues.
3. Competent authorities should put in place risk-based objectives, consistent with the National AML/CFT Strategy and Action Plan which are subject to demonstrable and effective monitoring.
 4. Kuwait should ensure all relevant authorities and obliged entities are aware of the overarching national ML/TF risks identified in the NRA.

97. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1, 2, 33 and 34, and elements of R.15.

Immediate Outcome 1 (Risk, Policy and Coordination)

Country's understanding of its ML/TF risks

98. Kuwait has a basic understanding of its ML risk and a low understanding of its TF risk. This understanding is primarily derived from the two NRA exercises it has undertaken. The Assessment Team based this conclusion on a review of the second NRA and interviews with authorities and private sector representatives (including representatives from the non-profit sector).

99. Kuwait completed its first NRA in 2016 and published the results of this in 2018. The first NRA covered the period from 2013-2016 and was based on the World Bank Methodology. The overall ML risk in Kuwait was rated as medium and drug and alcohol trafficking, forgery, counterfeiting of goods, fraud, usury and theft were identified as the main predicate offences. Terrorist financing risk was also rated as medium with the main risk being related to a domestic terrorist attack in 2015 and Kuwaiti banks dealing with customers from high-risk countries, such as Iraq. The Assessment Team did not see a copy of the first NRA and no information was given on the extent to which it identified common typologies or methodologies, or which quantitative and qualitative information was considered.

100. Kuwait's second NRA covered the period from 2016 – 2020 and was finalised in 2023. The second NRA assessed ML and TF threats and vulnerabilities based on the updated World Bank NRA Methodology. Eight working groups were formed to cover ML/TF threats and vulnerabilities and specific sector vulnerabilities. Four of the working groups focussed on the main financial sectors (banking, other FIs, insurance and securities) and one group focussed on DNFBPs. These working groups considered the abilities of relevant authorities in combatting ML through measures such as AML policies and strategies, legal framework comprehensiveness, level of training, employee integrity, available capabilities and resources and cooperation among stakeholders. The three other working groups focussed on ML threats, ML vulnerabilities and TF threats and vulnerabilities. These groups were tasked with focussing on domestic and external threats and vulnerabilities at the national level. Although most relevant agencies were involved in

the process, the supervisory authorities were not part of the ML threat assessment or vulnerability assessment group at national level or the threat and vulnerabilities assessment group for the financing of terrorism. This appears to weaken the strength of these three groups and the NRA's conclusions on broader ML/TF risks.

101. Kuwait's current risk assessment incorporates both quantitative and qualitative sources. Quantitative information largely related to data provided by the relevant competent authorities and a limited number of surveys sent to the private sector. However, qualitative information, such as expert opinions, and reports by local organisations and communication with the private sector, were relied on more heavily and the authorities reported various issues in the collection of data for the overall exercise. The Kuwaiti authorities noted data collection difficulties during the process, particularly the absence of some required information, not being given timely access to data requested from the various authorities, receiving data in the different formats and being unable to finalise data work during the Covid 19 Pandemic. The authorities were not able to explain what impact the data collection issues had on the outcome of the NRA. Incidentally, the need to build up and improve the data retention systems in all sectors was a finding in the first NRA and still has not been fully addressed.

102. The threat analysis in the NRA is largely based on the number of prosecutions and convictions and therefore does not identify wider threats, which are not being prosecuted by the authorities. Other significant inputs such as strategic analysis, credible and reliable open-source information, and other operational activities conducted by law enforcement agencies (LEAs), which did not result in prosecutions, were not considered in the analysis to any significant extent. This may have led to some higher risk predicate offences not being focussed on to a significant extent.

103. Kuwait has not carried out an assessment of the vulnerabilities, and the extent to which legal persons created in the country can or are being misused for ML/TF. Competent authorities were not able to identify the vulnerabilities presented by legal persons in Kuwait or identify which type of legal person presents the greatest ML/TF vulnerability. Furthermore, there is no analysis in the NRA on how complex structures could be used to facilitate ML and the authorities generally see the Commercial Companies Law requiring all legal persons to have at least 51% Kuwaiti participation as mitigating this type of risk. In addition, a comprehensive assessment of the NPO sector hasn't been conducted to date. This is a concern given the number of significant obligations placed across the sector, which the Assessment Team assesses as disrupting and discouraging legitimate NPO activity.

104. A significant weakness in the overall risk assessment, is the lack of focus on international threats. The 187-page NRA focusses just three paragraphs of the report on cross border ML threats. In summary, the cross-border ML risk in Kuwait is seen as relating to high-risk countries and individuals from those countries. A list of states constituting a threat to Kuwait regarding ML has been developed through data collection, including the number of MLA requests and number of information exchanges with the KwFIU and its counterparts. Similarly, there is little analysis of cross-border risks relating to TF, however, the NRA does mention issues such as geographical borders and demographics as risk factors. Any future NRA exercise would benefit greatly from an increased focus on domestic and cross-border TF risk, including examination of cross-border currency declarations, other customs declarations (cash import/export), analysis of border movements to neighbouring countries and further analysis of the riskiest border points. Although the GAC is part of the NAMLC, and was involved in the NRA process, they were not able to provide any details on this type of activity during the onsite.

105. In terms of monitoring ongoing risk, there is no specific process in Kuwait for this. Members of the National Committee can table agenda items to discuss risks they see emerging. Based on the agendas of the NAMLC, this rarely happens in practice. As there is no process for

monitoring ongoing risk, Kuwait's understanding of ML/TF risk is already based on data more than three years old and that may be out of date as a result. National policies to address identified ML/TF risks.

Money laundering

106. The key threats in the second risk assessment are identified as the main domestic proceeds-generating predicate offences: fraud, forgery usury, and corruption (bribery, seizure, embezzlement of public funds). Corruption was not included in the main predicates in the first NRA but is now seen as a major profit-generating predicate offence. Alcohol trafficking is no longer considered as a key threat as the authorities no longer see this as predicate offence generating significant profit. Although the main proceeds-generating predicate offences identified in the NRA are being focused on in terms of investigations, other threats, such as human trafficking, do not appear significantly high up in the list of threats, despite credible and reliable sources identifying this as an issue in Kuwait. The Assessment Team addressed this issue in discussions – including with the private sector, but it was clear that it is not seen by the authorities as a risk in Kuwait. The Kuwait authorities also report that robbery ranks amongst the most significant domestic proceeds generating crimes in terms of absolute number of crimes recorded, but because of lack of statistics there is no way to substantiate the level of this risk.

107. At a sectoral level, exchange companies and the real estate sector were found to have medium high ML risk due to their vulnerabilities. These included ineffective supervision by the MOCI for the real estate sector and lack of compliance officers and weaknesses for reporting STRs in the real estate and exchange company sectors. Banks, the securities sector and DPMS are rated as having a medium level of risk. Insurance, exchange institutions, lawyers and VASPs were seen as having medium-low level of risk. Issues relating to identification and submission of STRs appears as a vulnerability in all of these sectors.

108. Again, the Assessment Team generally agree with the vulnerabilities identified in the NRA. However, there appears to be confusion in relation to ML through the real estate sector. Most of the cases relating to real estate described by the authorities involve scams attracting investment in fake property overseas and only one case where proceeds of human trafficking were directly used to purchase a house. Furthermore, the authorities were not able to provide examples or typologies of how money is laundered through the real estate sector in Kuwait. The NRA makes some reference to fictitious sales, but there have been no cases of this to date.

109. More broadly, the NRA contains little detail on how money is or could potentially be laundered and it is not clear that all authorities fully understand the different channels and typologies that criminals could or are utilising. Overall, the authorities were not able to link the different threats and vulnerabilities (e.g., how ML of drug offences differs from ML for fraud) or explain what vulnerable sectors are most likely to be abused by different types of criminals.

Terrorist financing

110. Kuwait has assessed its TF risk to be low, primarily on the basis of the low number of TF prosecutions and convictions in Kuwait. As described above, this methodology lacks the consideration of significant information to properly inform Kuwait's assessment of TF risk. Amongst these factors include the presence of eight individuals with Kuwaiti nationality or identification on the UN consolidated list and sharing a large land border with Iraq, one of the countries most affected by terrorism in the world. As a result of the limited data and information considered, the Assessment Team is of the view that Kuwait has ascribed a lower risk rating to TF than is actually present in the country.

111. The small number of TF cases identified in Kuwait and used to inform the NRA relate to the collection and movement of funds to be used abroad. The Kuwaiti authorities deem the domestic threat of TF to be low and cite the main threats to be associated with dealings with high-risk countries, and extremist persons/entities. Based on the number of TF cases, the main sectors identified by the authorities as vulnerable to TF risk are the banking sector, general trading sector, unlicensed NPOs and exchange companies. In addition, the Assessment Team heard examples of alternative hawala, and cash being taken across the border to large religious events as other TF typologies which present threats given Kuwait's geographical position. Despite the undeveloped nature of the TF assessment, it was clear from discussions that the competent authorities specifically mandated to deal with terrorism and TF, have a much more informed understanding of the risks associated with TF both domestically and abroad. Although this is reassuring, it highlights disparities between understanding of risk nationally and understanding at an operational level and further highlights weaknesses in the overall process.

112. The latest NRA was drafted in a coordinated manner with most relevant authorities participating in the process. The National Risk Assessment Team within the National AML/CFT Committee Secretariat led the process and reported into the National Committee with the final report and recommendations.

113. The private sector was not formally part of the working groups but did contribute to some extent, particularly through a consultative role later in the process. This representation was largely through the banking sector and some DNFBP sectors had very limited or no participation.

National policies to address identified ML/TF risks

114. In general, Kuwait has taken some measures at the national level to address identified ML/TF risks. The Assessment Team based this conclusion on a review of the available AML/CFT Strategy and Action Plan and discussions with relevant authorities.

115. The National AML/CFT Committee is responsible for identifying and addressing national ML/TF risks on an ongoing basis and ensuring the implementation of policies and strategies to address identified risks. The Committee is chaired by the head of the KwFIU and comprises 13 member agencies.

116. Kuwait's main tools for addressing ML/TF risks at a national level are the AML/CFT Strategy and integrated Action Plan. The Strategy covers the period of 2022-2027 and sets out specific items for delivery by the authorities represented on the Committee.

117. The National Strategy contains sixteen "strategic procedures", which are aimed broadly at addressing capacity issues within the authorities (including introducing and reviewing legislation, training, IT solutions and introducing a risk-based approach), addressing identified threats (including limiting the use of cash and addressing the other main predicate offences identified in the NRA, e.g., corruption), improving domestic and international cooperation and increasing preventative measures (including increasing awareness and guidance). The procedures/priorities are consistent with the Assessment Team's views of activities, which will contribute to improving the effectiveness of Kuwait's AML/CFT framework. However, eleven of the sixteen procedures are categorised as high priority and it is unclear on what basis each procedure has been prioritised.

118. Within the Strategy is the National Action Plan. The Action Plan contains deliverables, main procedures and implementation mechanism for the deliverables and the level of priority for each deliverable. The actions set out in the action plan are generally specific and detailed enough to provide tangible results. There are some clear examples of specific policies to address risk, e.g., a ban on purchasing real estate in cash (except for the downpayment) and providing the authorities with more resources. However, generally the actions are modest and not far-reaching.

Box 1. Examples of national policies to address AML/CFT issues (not part of the National Action Plan)

Establishment of the Insurance Regulation Unit

The IRU is a new independent supervisor that was established in 2019 following a restructuring of the Kuwait AML/CFT framework. As part of this decision, the insurance industry is now supervised by an independent supervisory authority. Previously supervision was mandated to the MOCI. The objective of the institutional restructuring was to enhance the supervisory framework and align the Kuwaiti regulatory framework with the best international standards.

Introduction of the beneficial ownership register

In 2023 Kuwait created beneficial ownership register to enable competent authorities to quickly obtain beneficial ownership information on legal entities. The register is not publicly available but can be accessed by competent authorities also based on the provisions of the AML/CFT Law, and by the company itself upon request. The MOCI is currently considering making the BO Register fully available to the public. At the end of the onsite, the Register was only less than 5% populated.

119. Furthermore, it is not clear that all actions in the Action Plan warrant being in a National Action plan to address ML/TF. For example, one action that extends to most authorities is to prepare for the FATF Mutual Evaluation. Other actions could benefit from greater specificity as a way to monitor effective delivery. For example, the MOCI is tasked with: “establishing a mechanism to detect fraud and alternative transfer practices”. There is no additional information on what this could entail. Furthermore, the majority of the actions within the Plan appear aimed at addressing threats and vulnerabilities relating to ML and predicate offences. There are no specific deliverables relating to mitigating the risk of TF, which is a serious shortcoming and probably a reflection of the misclassification of TF risk in Kuwait.

120. Both the strategic procedures and deliverables of the Action Plan were prepared by the NRA Team of the NAMLC and approved by the National Committee. Deliverables do not appear to have been extensively developed in consultation with the relevant competent authorities. This may impact the level of completion and the extent to which the actions are fully achievable. The NRA Team is responsible for monitoring the delivery of the Action Plan and updates the Committee on progress. However, updates are done on a self-assessment basis and the authorities reported that 70% of the Action Plan was complete at the time of the onsite. This appears to be a significant accomplishment, given the Action Plan runs through to 2027. Nevertheless, discussions with relevant authorities indicated that in some of the areas marked as complete were not fully complete and, in some cases, initiation of the action was seen as actual delivery. It is notable that many of the authorities had the same deliverable of applying a risk-based approach. In many cases, this was marked as complete, although in practice many of the authorities are at a different stage of implementation.

121. In terms of overall governance of the process, the National AML/CFT Committee is responsible for developing and approving the National AML/CFT Strategy and Action Plan and coordinating the delivery of procedures by National Committee members. The authorities confirmed that there is no mechanism for oversight of the authorities that fail to implement designated deliverables. This is an issue and having oversight of delivery at a higher level (i.e.,

high level political accountability) may provide higher profile to the Strategy and Action Plan and ensure effective and full implementation of the deliverables in a consistent manner.

122. Although not part of the Action Plan, the establishment of the IRU in 2019 and the recent introduction of the Beneficial Ownership Register are welcome examples of policy changes that will help to address ML/TF risk at a national level.

Exemptions, enhanced and simplified measures

123. Kuwait does not have any exemptions for FIs or DNFBPs in their application of AML/CFT measures.

124. FIs and DNFBPs can apply simplified due diligence (SDD) where the risk is lower and there is no suspicion of ML/TF. However, there is no broad criteria of when this is acceptable, e.g., based on lower risk areas identified in the NRA or the entities own risk assessment. The only narrow qualification relates to banks, which can only apply SDD when they have assessed risk being low through a risk assessment study, and provided that they receive the prior approval of the CBK. The absence of any qualification likely leads to a lack of application of SDD and is therefore not in line with the NRA or the adoption of a risk-based approach.

125. Where higher ML/TF risks are identified, FIs and DNFBPs must perform enhanced due diligence (EDD). Specifically, FIs and DNFBPs must also undertake EDD for customers from higher risk countries, for politically exposed persons (PEPs) and correspondent banking relationships. Most obliged entities consider higher risk countries to be those on the FATF black or grey lists.

Objectives and activities of competent authorities

126. The objectives and activities of competent authorities broadly align with the identified ML/TF risks and are consistent with the National AML/CFT Strategy. Law enforcement agencies (LEAs) demonstrated a good understanding of the NRA and agree with the results outlined. Supervisory authorities demonstrated a good understanding of sectoral risks but were not able to confidently articulate risks at a national level. Lack of participation by some agencies in the process (e.g., supervisors were not involved in the ML threats and vulnerabilities working groups or the TF risk component of the assessment) and the shortcomings identified above, may impact some competent authorities' ability to combat ML/TF in Kuwait. Furthermore, the weaknesses outlined above in relation to the identification of ML/TF risk as part of the NRA process, mean that authorities are not always pursuing the most important risks facing Kuwait.

127. The KwFIU, MOI, PPO and Nazaha demonstrated a willingness to pursue ML/TF consistent with their respective remits. Many of the specific deliverables in the National Action Plan allocated to these organisations have been implemented or are being implemented. These include investment in substantive resources into improving their capability to target ML/TF, such as the establishment of specific ML/TF units, investment in training for officers, and the development of IT systems. For example, the MOI has significantly increased the number of investigators working on ML and TF cases in the past few years to progress preliminary inquiries and the PPO has created a specialised ML department with approximately 12 trained prosecutors. However, the FIU still heavily relies on manual systems, despite having a high priority action to move to automated systems. This limits the FIU's ability to support investigations and prosecutions and is alarming given it was identified as a priority area in the first NRA and has still not been addressed. In addition, despite improvements at the investigation phase, Kuwait faces challenges in securing convictions for ML (particularly third-party ML and standalone) and TF, which suggests that the Kuwaiti judicial system lags behind in adopting Kuwait's strategic approach to address ML/TF.

128. Limitations in Kuwait's understanding of risk also appear to impact the LEAs ability to address the range of risks the country faces. The main crimes identified in the NRA (fraud, forgery

and corruption), are prosecuted to a large extent as it is easier to prove such predicate offences rather than crimes such as drug and human trafficking.

129. The competent authorities generally agree with the national threats and vulnerabilities identified in the NRA. Financial supervisors broadly agree with the NRA findings in terms of sectors identified as the highest risk and supervisory activity generally takes place in line with the risk profiles of these sectors. The CBK and CMA have taken efforts to ensure a risk-based approach can be applied, including through the development of risk matrixes for entity level supervision. However, specific sector risk assessments have not been completed and although now operational, the IRU has not begun supervision, meaning the insurance sector hasn't been subject to supervision for several years. All financial supervisors are undertaking activities to ensure their obliged entities are aware of sector risks identified in the NRA and are able to implement preventative measures.

130. The MOCI is also committed to implementing measures to address AML/CFT risks at a national level. In particular, it has increased its resources and is keen to add AML/CFT expertise and continue to ensure existing staff are well trained. However, at the time of the onsite, risk-based supervision was not being applied by the MOCI and understanding of sector specific risk is much less developed compared to the other supervisors.

National coordination and cooperation

131. Kuwait has a good framework for cooperation and coordination at a policy level, however, cooperation at the operational level is less effective. The NAMLC leads national AML/CFT policy development in Kuwait and is also the main coordination and cooperation body on ML/TF issues. Since 2021, the Committee has met ten times to discuss issues ranging from exchanging expertise between NAMLC members through case studies, to the NRA Strategy and Action Plan. While the NAMLC has the mandate and ability to establish joint investigation teams on particular issues, none have been established to date. The Committee is located within the KwFIU and has a permanent secretariat of three people. Coordination at policy level also occurs through the CTC, which is responsible for the Implementation of Security Council resolutions under Chapter VII of the United Nations Charter on combating terrorism and the financing of the proliferation of weapons of mass destruction (WMD). Membership of the CTC incorporates members of the NAMLC plus the Civil Aviation Agency. However, the committee does not represent a forum for cooperation at the operational or strategic level and is not mandated to issue policies or create working or joint investigation teams.

132. Cooperation at an operational level is largely underpinned by bilateral MoUs. There are some good bilateral relationships, for example between the PPO and MOI with formal and informal mechanisms to exchange information on specific cases and broader trends and issues. However, this type of coordination is not universal. For example, cooperation between the KwFIU, MOI and PPO seems more ad hoc and the extent to which the FIU is fully integrated into the process for identifying, investigating and prosecuting cases is not clear.

133. Cooperation at the supervisory level appears generally ad hoc. Some processes for sharing information have been put in place, but these largely relate to NPOs. There are no specific forums or meetings for regular cooperation and coordination and the authorities were not able to give examples of things such as supervisory strategies to set common principles of AML/CFT supervision on common risks or practices across different sectors, despite there being obvious areas where these could add value.

Box 2. Examples of domestic coordination

Cooperation between the MOSA and MOI on associations or charitable foundations.

The MOSA established an electronic link with the MOI to inquire about the criminal status of all founding members of the association or charitable foundation as well as new members. Through the link the MOSA can make inquiries about the criminal records of workers and employees in the association. This is seen as one of the basic controls and conditions required ahead of establishing an association or charitable foundation. Employees must not have been previously convicted of a criminal penalty or a crime involving breach of honour or trust, unless they have been rehabilitated.

Private sector's awareness of risks

134. Kuwait has taken some limited steps to raise awareness among the private sector of the confidential findings of the NRA. This assessment is based on information provided by the authorities and discussions with the private sector and supervisors.

135. In total, the National Committee's held the following seven sector meetings between July 2022 and June 2023 to raise awareness of the NRA:

- a) NRA II findings regarding the banking sector & information about the Mutual Evaluation of Kuwait
- b) NRA II findings regarding the exchange companies' sector & information about the Mutual Evaluation of Kuwait
- c) NRA II findings regarding the NPOs sector & information about the Mutual Evaluation of Kuwait
- d) NRA II findings regarding the insurance sector & information about the Mutual Evaluation of Kuwait
- e) NRA II findings regarding the financial securities sector
- f) NRA II findings regarding the lawyers' sector & information about the Mutual Evaluation of Kuwait
- g) NRA II findings regarding the exchange institutions' & DNFBPs sectors & information about the Mutual Evaluation of Kuwait

136. These meetings were limited to focussing on sectoral risks only and did not cover information on the wider national ML/TF risks faced by Kuwait. Furthermore, the participation of obliged entities as a percentage of the total number of entities per sector is not known, so it is not possible to know how sufficient these meetings have been.

137. Supervisory authorities have also taken some steps to raise awareness of ML/TF risks within their supervised entities, through discussions and feedback during supervisory meetings. Most larger financial institutions participated in relevant workshops, but some smaller financial institutions and DNFBPs were not able to share their understanding of ML/TF risks related to their sector or at a national level. Based on discussions with the private sector, it is clear that further outreach is needed, particularly in relation to smaller DNFBPs.

Overall conclusions on IO.1

Kuwait's understanding of ML risk is basic and understanding of TF risk is low. This is largely due to analysis of limited sources of information as part of the NRA (largely convictions data), a lack of comprehensive analysis in relation to the NPO, VASP sectors and no analysis on how legal persons are vulnerable to abuse for ML/TF purposes. It is concerning that the authorities are not able to link the different threats and vulnerabilities (e.g., how ML of drug offences differs from ML for fraud) or explain what vulnerable sectors are most likely to be abused by different types of criminals. Analysis of cross-border threats is not included significantly as part of the risk assessment process and it is likely that the risks associated with some predicate offences, such as human trafficking are not fully understood. In addition, the assessed risk of TF in Kuwait as a low risk does not reflect the reality of Kuwait's risk and context.

Kuwait has a solid institutional framework for coordination at a national policy level and there are examples of policy changes to address ML/TF risk, such as the introduction of the BO register, which was partially complete at the time on the onsite (see chapter 7 Legal Persons and arrangements), and establishment of the IRU. However, it is not clear that these changes were driven by an assessment of risk.

The objectives and activities of competent authorities broadly align with the identified ML/TF risks and are consistent with the national AML/CFT strategy. However, weaknesses in the risk assessment process may mean that certain predicate offences are not being identified and investigated and the judicial process does not seem to be in line with Kuwait's overall strategy, based on the level of convictions for all types of ML/TF.

Kuwait has undertaken some limited activity to ensure obliged entities are aware of the outcomes of the NRA. However, activities tend to focus on sector risk and more needs to be done to articulate national risks in all sectors. Greater participation by the private sector in the next risk assessment will not only enhance the outcome of the exercise, but also help in raising obliged entities awareness of national ML/TF risks.

Kuwait is rated as having a **moderate** level of effectiveness for IO.1.

Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

1. Authorities have access to a wide range of financial information sources and intelligence to assist financial investigations. Financial intelligence and other relevant information are accessed and used to varying degrees among relevant LEAs to support investigations into ML/TF, and trace and seize assets.
2. Regarding the use of financial intelligence in TF investigations, most cases are identified through foreign intelligence. Once a TF case is initiated, the SSD can request financial information from obliged entities, but financial intelligence (while accessed) does not play a central role in TF investigations.
3. KwFIU receives, to some extent, STRs that contain relevant and accurate information that assist LEAs. STRs are almost exclusively sent by banks and exchange companies. During the reporting period, the overall number of STRs sent by exchange companies remained steady which is a concern given the risks associated with this sector. The lack of reporting by other non-bank financial institutions and DNFBPs (especially real estate and DPMS) limits the financial intelligence available in relation to high-risk sectors in Kuwait. The negligible number of STRs related to TF is a significant concern, particularly given some obliged entities operate in high-risk jurisdictions.
4. The KwFIU provides information to launch ML inquiries and investigations to some extent and replies to specific requests for information from LEAs. However, KwFIU has an overall low rate of disseminations, mainly due to its STR prioritisation system. LEAs resort to KwFIU for information to a lesser extent during the course of an investigation and conduct their own financial analysis, especially on more complex cases. They also often obtain information through direct requests to obliged entities. Proactive disseminations by the KwFIU are limited and strategic analysis is barely being produced.
5. Overall, there is close cooperation between relevant LEAs once the ML element of a case has been identified, but less so in the case of TF. KwFIU and LEAs exchange information and feedback on a regular basis, but the

paper format of some the exchanges as well as STRs raise confidentiality concerns.

3

Immediate Outcome 7

1. Kuwait has a legal framework that provides with an adequate basis to identify, investigate and prosecute ML activities. LEAs have invested in the development of specialised AML/CFT Department within their agencies and are well resourced to detect ML activities.
2. The number of ML cases investigated in Kuwait has increased over the reporting period. This demonstrates that there have been enhancements in identifying and investigating ML. However, the overall low number of parallel financial investigations and the number of ML preliminary inquiries not taken forward, suggests there are still obstacles when it comes to the identification and prioritisation of ML cases. Competent authorities investigate and prosecute ML related to the main crimes identified in the NRA (corruption, fraud and forgery), to a large extent. Investigations and prosecutions of fraud and forgery are also resorted to as a way to offset the obstacles in prosecuting other crimes.
3. There is a lack of ML investigations and prosecutions for other predicate offences that pose an ML threat, such as drug and human trafficking, as well as for more complex cases such as third-party ML and foreign predicate offences. While Kuwait increased its investigations for ML overall, the only predicate offence driving this increase is fraud while others remained steady. Except for fraud, the number of ML investigation remains stable in relation to most predicate offences and, as such, cases have not increased in line with investigations for predicate offences.
4. The threshold to secure an ML conviction without proving the underlying predicate offence is challenging. Most ML cases that led to prosecutions relate to simple cases of self-laundering. Cases involving professional ML enablers or other third parties not involved in the commission of the predicate offence are rarely investigated.
5. Sanctions applied for ML against natural persons in Kuwait are effective, proportionate and dissuasive. Despite Kuwait's legal framework providing for the sanctions of legal persons, in practice there is a lack of criminal liability against legal persons. This is a concern considering the number of ML cases involving legal persons.
6. While Kuwait can pursue alternative criminal justice outcomes, such as prosecution for the predicate offence and deportation of foreign criminals, there is no evidence that this has happened in ML cases in practice.
7. Kuwait's does not detect, investigate and prosecute ML activities related to falsely and not declared cross border movements of currency.

Immediate Outcome 8

1. Kuwait pursues the confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective to some extent, but confiscation in all criminal cases is not prioritised at a national level. Kuwait has enhanced its efforts regarding confiscation, especially in ML and corruption cases while confiscation in non-ML cases remains more limited. Kuwait seized and confiscated assets of significant values, including assets located abroad in a few cases. Those are managed on a case-by-case basis as Kuwait does not have a comprehensive system for managing and disposing of such assets.
2. LEAs have been able to confiscate various types of assets which were instrumentalities or proceeds of crime, including properties. However, LEAs are not systematically pursuing the proceeds of crime when there is no ML element in a case which could limit their ability to confiscate proceeds.
3. Kuwait has implemented a declaration system for cash and BNIs and the GAC has applied penalties failure to respect this requirement. Despite significant amounts of cash transiting through Kuwait, competent authorities did not identify any cross-border movement in relation to ML or TF which is not in line with the country risk profile.

Recommended Actions

Immediate Outcome 6

1. Kuwait should ensure that financial intelligence is being developed and used in terrorism and TF cases across all LEAs.
2. KwFIU should improve its system for receipt and dissemination of information in order to ensure timeliness and confidentiality. This could be achieved through the proper use of an automated software.
3. Competent authorities should raise awareness of obliged entities to increase both the quality and quantity of STR reporting, especially to non-bank FIs and DNFBPs (real estate and DPMS in particular).
4. KwFIU should increase its expertise in order to produce and disseminate strategic analysis reports to support LEAs operational needs, especially in relation to areas that have been identified as significant risks (e.g., informal hawala, fraud).
5. KwFIU should enhance its prioritisation system for receiving STRs, leading in an increased number of STRs being analysed in-depth, and streamlining its dissemination process.

Immediate Outcome 7

1. Kuwait should take steps to deepen its understanding of proceeds generating offences for ML and implement measures to better detect and proactively investigate ML from a wide range of predicate offences beyond fraud, corruption, forgery and usury including foreign predicate, stand-alone and third-party ML.
2. Kuwait should focus more on investigating the role of legal persons in ML cases and ensure they are held criminally liable in cases where they are found to have participated in the facilitation of ML. In such cases the full range of available sanctions should be applied.
3. Kuwait should enhance cooperation between all competent authorities involved in ML identification, preliminary inquiries and prosecution (reminder: FIU, MOI, PPO, GAC, Nazaha), especially to increase the effectiveness of investigations related to PEPs, and the ML elements of drug and human trafficking cases.
4. Kuwait should strengthen the judiciary's understanding of ML activities, including on cases where ML can be substantiated without proving elements of the predicate offence. This could be achieved through outreach, training and circulars.
5. Kuwait should detect, investigate and prosecute ML activities related to falsely and not declared cross border movements of currency and BNIs.

Immediate Outcome 8

1. Kuwait should freeze and seize assets at all stages of investigations, where warranted, including assets outside of Kuwait, and not limited to ML and corruption investigations.
2. Kuwait should enhance confiscation of funds, assets and instrumentalities, and ensure that confiscation is applied to all serious predicate offences.
3. Kuwait should strengthen its understanding of ML and TF risks related to falsely and not declared cross border movements of currency and BNIs, including by strengthening controls and monitoring at all entry points.
4. Kuwait should take steps to more systematically retrieve assets when confiscation orders have been issued.
5. Kuwait should enhance its efforts to manage assets frozen, seized and confiscated and preserve their value. This could be achieved by introducing an asset management system.

138. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R. 3, R.4 and R.29-32 and elements of R.2, 8, 9, 15, 30, 31, 34, 37, 38, 39 and 40.

Immediate Outcome 6 (Financial Intelligence ML/TF)

139. In Kuwait, the KwFIU is an administrative entity responsible for providing relevant LEAs with analysis and information either spontaneously or upon request. Kuwait's LEAs, which include the MOI, GAC, Nazaha and the PPO, conduct investigations into ML and TF (and all offences). Investigations in Kuwait are generally divided into two phases: (i) the preliminary inquiries and collection of evidence phase, followed by (ii) the criminal judicial investigation phase. The first phase is generally undertaken by the MOI for ML and predicate offences. Nazaha can also conduct inquiries when there are suspicions of corruption of a public official. Although GAC has established an AML/CFT Unit, it does not carry out ML investigations and all cases are passed to the MOI. Terrorist financing and terrorism preliminary inquiries are generally conducted by the SSD, which is part of the MOI (see Chapter 4). Criminal investigation is the sole competency of the PPO. Financial investigations are initiated because of ongoing inquiries or investigations into underlying predicate offences or can be opened in response to a competent authority dissemination or a victim complaint.

Use of financial intelligence and other information

140. In Kuwait, the LEAs can use financial intelligence and other information to support ML and TF investigations. As the two main investigating authorities, the MOI and PPO have access to a range of information and databases (see table 3.1) and intelligence to detect suspicious activities and transactions, or to strengthen ongoing investigations.

141. Financial intelligence and other relevant information are accessed and used to varying degrees among relevant LEAs to support investigations into ML/TF, and trace and seize assets. LEAs obtain information from KwFIU analysis, either from spontaneous dissemination, or upon request. LEAs also have their own access to several government databases and can conduct their own queries and analysis of relevant information to develop cases and identify potential cases of ML and TF and predicate offences. In practice, the MOI receives information from the KwFIU to develop evidence and trace criminal assets but can also obtain intelligence through a large number of other sources (see below table). In addition, the MOI often seeks authorisation from the PPO to directly access financial information held by obliged entities, without asking the KwFIU to conduct the analysis. Regarding the use of financial intelligence in TF investigations, case studies and data show that SSD rarely uses financial intelligence and disseminations from the KwFIU. Most TF cases investigated by the SSD result from terrorism cases identified through foreign intelligence. Once a TF case is initiated, the SSD can request financial information from obliged entities, but financial intelligence (while accessed) does not generally play a central role in TF investigations.

Table 3.1 KwFIU, MOI and PPO access to databases

Database	Owner	KwFIU	MOI	PPO
Declarations of cash	GAC	Indirect	Indirect	Indirect
Commercial registration	MOCI	Direct	Direct	Indirect
Charitable institutions	MOSA	Direct	Indirect	Indirect
Real estate properties	MOJ	Indirect	Indirect	Indirect
Ownership of shares of listed and unlisted companies on the Kuwait Stock Exchange	KCC	Indirect	Indirect	Indirect
List of Politically Exposed Persons	Nazaha	Indirect	Indirect	Indirect
Persons included on the counter terrorism sanctions list	UNCTC	Direct	Direct	Indirect
Criminal recording	MOI	Indirect	Direct	Indirect
Entry/Exit to the State of Kuwait	MOI	Indirect	Direct	Indirect
STRs	KwFIU	Direct	Indirect	Indirect
Registration of companies on the stock exchange	Capital Market Authority	Indirect	Indirect	Indirect
Banks and Exchange Companies database	Central Bank	Indirect	Indirect	Indirect
Insurance companies database	Insurance regulatory unit	Indirect	Indirect	Indirect
Land and Property	Ministry of Finance	Indirect	Indirect	Indirect

Table 3.2. Access to databases to produce financial intelligence

	2018 -2019	2019 -2020	2020 - 2021	2021-2022	2022 - 2023	Average
KwFIU						
Total access to databases	663	635	196	849	699	608
MOI	148	186	73	219	217	169
MOJ	101	112	42	174	125	111
KCC	113	101	13	148	114	98
MOCI	184	131	46	189	143	139
GAC	117	105	22	119	100	93
Requests to obliged entities*			8 456	13 850	11 829	11 378
MOI						
Access to databases (ML & predicate offences)	2 249	1 610	1 423	2 348	2 896	2 105
Access to databases on TF	0	20	20	4	12	11
PPO						
Access to databases (ML & predicate offences)	553	457	628	371	424	487
Access to databases on TF	0	19	16	0	9	9
Requests to obliged entities*	334	225	239	174	176	230

* Note: KwFIU requests are almost exclusively sent to Banks and Exchange companies. PPO requests have been exclusively sent to Banks.

KwFIU

142. KwFIU is an administrative FIU with no investigating authority. In investigations, KwFIU's role is to support LEAs to develop evidence and trace criminal proceeds. The KwFIU is also the national centre for the receipt and analysis of suspicious transaction reports (see TC Annex). The KwFIU analyses and disseminates financial intelligence and information stemming from STRs to competent authorities either spontaneously or upon request. KwFIU is the main source for the initiation of preliminary inquiries by the MOI and the second source for the launch of criminal investigations by the PPO (see table 3.10).

143. KwFIU accesses information on a regular basis in order to enrich its analysis and produce financial intelligence that would support LEAs needs. KwFIU has access to a wide range of information in order to carry its analysis function and support investigative authorities. KwFIU has direct and indirect access to numerous databases containing financial, administrative and law enforcement information. KwFIU has a direct access to a set of databases, including MOCI commercial registration, MOSA list of Charitable Institutions and Nazaha list of PEPs. KwFIU also indirectly accesses information held by other authorities, such as the MOI, and hence cannot directly access criminal records which can impede timeliness of its analysis. As set out below, the KwFIU consults databases on average 600 times per year, while carrying out in depth analysis on approximately 500 STRs a year (see table 3.8).

144. The KwFIU is also authorised by law to request information directly from obliged entities and has been doing so extensively over the past two years, with more than 11 000 annual requests. There is no legal requirement for obliged entities to reply to a KwFIU additional request for information. However, case studies and exchanges with the authorities indicate that timely access to such information is not an issue for the KwFIU.

145. In relation to TF, the access to financial intelligence is limited. The KwFIU only disseminated one report to the PPO, which is in line with the challenges faced by competent authorities to identify and investigate TF cases (see Chapter 4). This is a significant concern and does not align with Kuwait's risk profile.

Table 3.3. Investigations and prosecutions from KwFIU spontaneous disseminations

	2018 -2019	2019 -2020	2020 - 2021	2021 - 2022	2022 - 2023	Total
ML						
Reports disseminated to MOI	100	57	27	23	11	218
Of which referred to the PPO	33	29	69	54	29	214
Of which referred to the court for ML	19	8	12	3	0	42
Of which referred to court for predicate offence	0	1	0	2	0	3
Under investigation	2	2	3	8	16	31
TF						
Reports disseminated to both MOI and PPO	0	0	1	0	0	1

Note: This table includes disseminations made by QFIU to MOI (ECCC and other departments) during 2016 and 2017. Starting from 2018, all dissemination were made to ECCCC only.

MOI

146. The MOI conducts preliminary inquiries into potential ML, TF and associated predicate offences. It is also responsible for the identification and tracing of criminal proceeds. The MOI refers cases to the PPO when sufficient evidence, intelligence and information has been gathered

to justify the commencement of a formal criminal investigation. Following referral, cases may be taken forward solely by the PPO or by the MOI acting under the authority of a prosecutor.

147. The MOI accesses financial intelligence and other relevant information in the course of its inquiries and has direct and indirect access to a wide range of sources (see tables 3.1. and 3.2). On average, the MOI has accessed databases more than 2 000 times annually, while conducting approximately 360 ML preliminary inquiries. The MOI has consulted databases approximately 10 times per year for inquiries in TF cases, which although low, is in line with the low level of understanding of TF risk and identification of TF cases in Kuwait. In addition, the MOI has written procedures for investigating ML and TF, which specifically mandate officers to consult various databases to enrich its inquiries. The MOI does not directly seek information from obliged entities, as these requests are made exclusively by the PPO or KwFIU (albeit the request may have originated with the MOI).

PPO

148. The PPO is the authority with the sole responsibility of launching and conducting criminal investigations and has access to the widest range of information and financial intelligence needed to perform its duties. The PPO only has indirect access to databases. However, it is a legal requirement for any competent authority to provide the PPO with the information it requests. In addition, the PPO can also obtain direct information from any obliged entity or individual in Kuwait, as the person is legally required to provide any information deemed necessary by the PPO.

149. The PPO uses financial intelligence in the course of its criminal investigations to a large extent. In order for the PPO to bring a case to Court, it needs to gather evidence directly from various sources. On top of the dissemination reports received from the KwFIU and intelligence from the MOI, the PPO may also need witness testimony in order to secure a prosecution. To this end, during the course of its investigations the PPO will always forward requests to obliged entities, so that they can provide information without delay. While conducting an average of 80 ML criminal investigations per year, the PPO accesses databases approximately 500 times a year and makes 230 requests to obliged entities. In practice, all requests to obliged entities by the PPO have been sent to banks, which provide the information rapidly, within days and in some cases even a few hours.

150. The PPO's indirect access to information results in a de facto enhanced cooperation with the MOI. All criminal investigations are conducted by the PPO. The PPO gathers evidence using the investigative powers available at its disposal, for instance collecting witness testimony, analysing financial documents, interrogating suspects, etc. The PPO can also instruct the MOI to conduct specific police-type activity to gather further evidence in a case.

Box 3.1. Example of financial information accessed to investigate ML and trace proceeds.

Case Study – MOI access to information and provisional measures.

The case originated in early 2023 with information received from a confidential source that the five suspects were involved in the purchase and resale of banned medicinal products. A

preliminary enquiry was started by the MOI AML/CFT Department. Following the compilation of a case strategy, the case officer then searched the following databases:

The AML/CFT department system – to establish if the suspects were already known to the MOI and if there were any existing cases outstanding against them:

- MOI’s internal systems (Criminal Record database, Civil ID database and Mobile phone databases)
- The Public Institution of Social Security, to establish if the suspects were in receipt of state benefits.
- The Ministry of Information, to identify any information in state media about the subjects.
- Open sources and social media, to establish if there was any information on the profiles of the suspects indicating involvement in the alleged offences.

Based on the results of the preliminary inquiries, the PPO opened a formal criminal investigation and seized illegal medicines, cash counting machines, vehicles and high value watches.

Case Study – KwFIU access to information

See Box 3.4, case study 1.

STRs received and requested by competent authorities

151. KwFIU receives STRs, cross-border currencies and bearer negotiable instrument reports (declarations) and intelligence from other LEAs and international counterparts. Despite receiving 5 577 cash declarations over the reporting period, including relating to significant amounts, no ML related investigations or prosecutions have been launched based on this information.

152. KwFIU is also the national centre for the receipt of STRs from FIs and DNFBPs in Kuwait. It is a legal requirement for obliged entities to submit STRs without delay when they have reasonable grounds to suspect that a transaction involves proceeds of crime or funds related, linked to or to be used for ML or TF (see Recommendation 20). KwFIU has published a guide to proper completion and submission of an STR on its website to ensure that STRs are reported in line with requirements. This guidance includes information on the expected level of detail required in respect to the identity of individuals, the kind of explanations required when describing suspicion, and what action has been taken by the obliged entity following the submission of the STR.

153. STRs are currently submitted to the KwFIU on paper, as GoAML was still being implemented at the time of the onsite visit. The paper-based reporting of STRs in a country like Kuwait is a major weakness that impacts the confidentiality and timeliness of the overall receipt of intelligence and the analytical process.

Table 3.4. Received STRs, breakdown by obliged entities (2018-2023)

	2018-2019	2019 -2020	2020 - 2021	2021 - 2022	2022 - 2023	Total
FIs	1 664	1 059	2 413	2 316	2 237	9 689 (99,7%)
Banks	996	713	1 623	1 440	1 583	6 355 (65,7%)
Financing companies	1	0	0	1	0	2 (0,02%)
Exchange companies	659	338	776	870	640	3 283 (34%)
Insurance companies	0	0	0	0	0	0
Others	8	8	14	5	14	49
DNFBPs	23	0	0	4	4	31 (0,3%)
DPMS	5	0	0	4	4	13 (0,1%)
Real Estate	18	0	0	0	0	18 (0,2%)
Total	1 687	1 059	2 413	2 320	2 241	9 720

Lawyers, accountants and TCSPs are not included in the table as they do not conduct activities in Kuwait that are captured by the FATF Standards.

Others include financial securities companies and electronic payment agents.

154. STRs are almost exclusively received from FIs. As table 3.4 highlights, 99,7% of the STRs received over the reporting period are coming from FIs. This is concerning in light of the risks associated with some other sectors, such as DPMS and real estate and highlights that the authorities have not done enough to raise awareness of risks identified in the NRA. The absence of any reporting by the real estate sector since 2019 is of most concern, as Kuwait provided a case study demonstrating that real estate was purchased with criminal proceeds.

155. Overall, the number of STRs received during the reporting period increased by approximately 33%, from 1,687 STRs in 2018/2019 to more than 2,000 in 2022/2023. This increase is supported by a significant 60% increase in reporting from banks. However, in light of the risks associated with the exchange companies' sector, which is considered as higher risk than the banking sector in the NRA, it is a concern that the level of reporting from those institutions barely increased over the reporting period. Authorities should do much more to ensure non-bank FIs, including insurance and financing companies, are aware of their reporting obligations given the negligible number of STRs over the reporting period.

Table 3.5. Number of STRs broken down by predicate offences (2018-2023)

	2018 -2019	2019 -2020	2020 - 2021	2021 - 2022	2022 - 2023	Total
ML	1 643	1 016	2 152	2 136	2 136	9 083 (93%)
Terrorism / TF	0	0	7	0	0	7 (0,1%)
Fraud	6	18	102	67	64	257 (3%)
Drug Trafficking	0	0	0	0	2	2 (0,02%)
Usury	28	22	141	111	33	335 (3,5%)
Corruption	10	3	10	6	6	35 (0,4%)
Embezzlement	0	0	1	0	0	1 (0,01%)
Human trafficking	0	0	0	0	0	0
Environmental crime	0	0	0	0	0	0
Total	1687	1059	2413	2320	2241	9 720

156. In the above table, STRs are classified as they were reported by obliged entities and what they were suspecting based on their preliminary analysis. Hence, more than 90% of the STRs

relate to ML while the other predicate offences (fraud and usury) are identified to some extent (3% each). Corruption and drug trafficking are identified to a lesser extent. Most obliged entities do not identify the underlying predicate offence at the time of reporting. Therefore, added analysis by the KwFIU and MOI is vital for prosecution success given that identifying and determining the underlying predicate offences is a requirement to prosecute ML cases in Kuwait (see IO7).

157. In terms of TF, there were only seven STRs reported in 2020/2021 and none for the rest of the reporting period. However, banks and exchange companies, operate transfers with high-risk jurisdictions for terrorism and TF. The very low number of STRs related to TF is a concern that is likely a result of insufficient understanding of TF risks by obliged entities. During discussions at the onsite, the KwFIU explained that any STR related to TF is prioritised. However, if STRs are not properly referred to the KwFIU initially, this impacts Kuwait's ability to identify potential TF cases.

158. As shown in the below table, authorities also indicated they have been receiving an increased number of STRs related to VAs, from four in 2020/2021 to 50 in 2022/2023. Some of these were submitted to LEAs as part of dissemination reports for further investigations. This highlights that despite the ban on VASPs in Kuwait, VAs are being accessed and used.

Table 3.6. STRs related to Virtual Assets

	2020 - 2021	2021 - 2022	2022 - 2023	Total
Number of STRs related to Virtual Assets	4	39	50	93

159. In terms of quality, STRs received are often single-layered and involve only deposits and transfers locally and internationally with almost no reporting on other banking products and services. The quality of STRs received also appears low as a significant percentage of STRs are not taken forward for in-depth analysis (see table 3.8). From exchanges with the authorities, it appears that the KwFIU initiates in-depth inquiries when several STRs have been reported on a case, hence the quality of single STRs may not allow the KwFIU to properly identify suspicious activities. On this basis, more needs to be done to enhance both the quantity and quality of STRs submitted by obliged entities.

Table 3.7. Cash and BNIs declarations sent to KwFIU by GAC (2018-2023)

	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	Total
Overall number of cash and BNIs declarations	293	780	159	1 991	3 560	6 783
Number of cash and BNIs declarations sent to the KwFIU	117	105	22	119	100	463 (7%)

160. Competent authorities are not receiving or accessing reports on currency and BNIs to any significant extent, despite Kuwait's risk profile related to the use of cash and cross-border movements. KwFIU, MOI and PPO do not have a direct access to GAC database related to declarations of cash and BNI but can access this information after notifying GAC. In addition, KwFIU receives some declarations reports on cash and BNIs, over the reporting period 8% were sent to the KwFIU. It is unclear on what basis the GAC would disseminate a report to the KwFIU. It is also unclear how these cases unfolded and whether they were sent to the PPO or used in the financial analysis products within the FIU. This suggests that information from cash and BNIs declarations is not used to identify and detect potential ML cases.

161. From exchanges with the authorities during the onsite, it appears that there is no focus on analysing further cash and BNI reports for ML and TF purposes, despite the significant amounts of cash coming in and out of Kuwait, the predominant use of cash in the economy and the large number of cash remittances undertaken by foreign residents. As highlighted under IO7, this is coupled with a lack of investigative efforts on the potential ML/TF elements of non/false declarations. The low level of currency and BNI reports received and requested by LEAs is a concern in the context of Kuwait, as case studies have shown that cash is used in both ML and TF activities.

Operational needs supported by FIU analysis and dissemination

162. KwFIU produces financial intelligence products which are disseminated domestically and abroad and assists the operational needs of the LEAs to some extent.

163. KwFIU was established following Kuwait's adoption of its AML/CFT Law in 2013. KwFIU has sufficient human and financial resources to conduct its missions. At the time of the onsite, KwFIU had 65 full time employees and was in the process of recruiting additional staff to strengthen the financial analysis and legal affairs departments. KwFIU staff attend training, mostly via international workshops. However, more focused targeted, internal training for the members of the financial analysis department would be beneficial. KwFIU's annual budget for fiscal year 2023/2024 was KWD 4,9 million (approx. USD 16 million) which cover its operational needs. At the time of the onsite visit, KwFIU had not fully implemented GoAML, which is necessary to enhance its analytical capabilities.

164. KwFIU is headed by an Executive Committee, comprised of the KwFIU President, Vice-President and Heads of the Legal Affairs, Financial Analysis, Financial and Administrative, Security and IT departments. The President of the KwFIU is appointed by the Minister of Finance upon approval of the Ministerial Cabinet. The Head of KwFIU is also the head of the NAMLC. Both roles are currently occupied by the acting President of the FIU. At the time of the onsite, the position of KwFIU Vice-President had also been vacant since December 2022 and the reason for the delayed appointments of both the President and Vice President were not clear.

165. Due to issues relating to the prioritisation of STRs, KwFIU reports and conducts in depth analysis on a limited number of STRs. This impedes the use of financial intelligence in operational activities. KwFIU has recently adopted a risk-based system to prioritise STRs which is leading to a number of STRs not-being analysed in depth. The system is a risk matrix, based on a spreadsheet, which allocates rating to various elements within an STRs such as: i) presence of a previous related STR; ii) unknown source of funds; iii) total amount of suspect proceeds; iv) if the report concerns a PEP, etc. Every STR received on-paper is entered manually into the computer system and summarised by the FIU's STR Receipt and Information Gathering Division, which does not conduct in-depth analysis. Then, every STR is allocated a global score in light of the different criteria of the risk matrix, which have their own weighting in the final score allocated. Following their review in accordance with the risk matrix, STRs are categorised as follow:

- Low priority: 0 to 30% score.
- Low to Medium priority: 35-45%.
- Medium priority: 50% to 65%.
- Medium to High priority: 70% to 80%
- High priority: 85% and above.

166. The categorisation of STRs into low/medium/high priority does not automatically affect how an STR is then used. The below table highlights that at the beginning of the reporting period, there were a higher number of STRs analysed in-depth than of high priority STRs. This trend has shifted since 2020/2021 with a lower number of STRs analysed in-depth than the numbers of high priority STRs. The KwFIU was not able to explain the reason for this.

Table 3.8. Categorisation of STRs over the reporting (2018 - 2023)

	2018 -2019	2019 -2020	2020 - 2021	2021 - 2022	2022 - 2023	Total
Total number of STRs received	1 687	1 059	2413	2 320	2 241	9 720
Classified as High priority	366 (22%)	257 (24%)	858 (35%)	729 (31%)	810 (36%)	3 020 (31%)
Classified as Medium priority	308	186	731	610	981	2816 (29%)
Classified as Low priority	1 013 (60%)	616 (58%)	824 (34%)	981 (42%)	450 (20%)	3 884 (40%)
Number of STRs analysed in-depth	524 (31%)	483 (45%)	468 (19%)	556 (24%)	205 (9%)	2 236 (23%)
Number of STRs not analysed in-depth	1 163 (69%)	576 (54%)	1 945 (81%)	1 764 (76%)	2 036 (91%)	7 484 (77%)

167. As described in the table above, over the reporting period only 23% of STRs received were subject to in-depth analysis. This figure is within the context of a relatively low number of STRs received annually by the KwFIU (approximately 2,325 STRs annually). In 2022/2023, 90% of STRs received were not analysed in-depth. As indicated above, these figures raise significant concern on the quality of the STRs received. In addition, the main criteria in the risk matrix, which accounts for 40% of the score given to an STR, is the existence of a related STR received previously by the FIU. Hence, an STR that would be reported on a huge amount of funds, or that could potentially be linked to TF without being identified as such by the obliged entity, is very likely not to be analysed in-depth unless another linked STR has already been received. In light of the relative low number of STRs received yearly, and the resources available to the KwFIU, in-depth analysis of STRs should significantly increase in order to enhance chances of identifying criminal activities and to better support LEAs operational needs.

168. KwFIU has a bureaucratic internal approval process for agreeing on the dissemination of STRs. This significantly impacts the timeliness of disseminations to LEAs. Once an STR has been analysed in-depth, it does not automatically lead to its dissemination to LEAs (see box 3.3). Every STR analysed in-depth must be reviewed by the Executive Committee of the KwFIU⁸. After review, the Executive Committee will decide either to disseminate the STR as part of a report to LEAs, ask for further analysis from the Financial Analysis Department, or archive the STR. There is no set frequency for the Executive Committee to meet and it was explained that it meets as necessary. Exchanges with LEAs during the onsite indicated that the timeliness of dissemination of reports from the KwFIU should be improved, in particular to assist in the freezing and seizing of assets. The internal process for STR dissemination should be enhanced to avoid delays in reporting to competent authorities.

⁸ KwFIU President, Vice-President and Heads of the four Departments of the KwFIU, namely Legal Affairs, Financial Analysis, Financial and Administrative, Security and IT.

Table 3.9. Outcome of dissemination reports

	2018 -2019	2019 -2020	2020 - 2021	2021 - 2022	2022 - 2023	Total
Overall number of STRs received	1687	1059	2413	2320	2241	9 720
Number of STRs considered high priority after pre-screening	366 (22%)	257 (24%)	858 (35%)	729 (31%)	810 (36%)	3 020 (31%)
STRs analysed In-depth	524	483	468	556	205	2 236 (23%)
STRs archived	199	171	15	88	48	521 (5%)
Dissemination reports referred to MOI	100	57	27	23	11	218
Dissemination reports referred to PPO	33	29	69	54	29	214 (2%)
PPO direct requests to RE (Banks and Exchange companies)	334	225	239	174	176	1 148
PPO investigations based on dissemination reports from KwFIU*	28	29	59	31	20	167 (2%)
PPO referral to court based on dissemination reports from KwFIU	19	8	12	3	0	42
PPO referral to court based on KwFIU report for predicate offence solely	0	1	0	2	0	3 (0,03%)
Archiving by PPO following dissemination reports from KwFIU	7	18	44	18	4	91 (1%)

Note: the number of KwFIU dissemination reports is sometimes larger than the number of investigations since certain dissemination reports concern the same offence and incident and are therefore merged and integrated into one criminal investigation by the PPO.

169. Over the reporting period, KwFIU has disseminated 218 reports to the MOI for further information or launching preliminary inquiries. Out of those, 214 were referred to the PPO for further investigations. In turn, the PPO has referred to Court 45 cases coming from KwFIU dissemination while 31 cases are under investigations. While KwFIU is the second biggest source of information for the launch of criminal investigation (see 3.2), the number of disseminations to the PPO appears low in comparison to the overall number of STRs received (see table 3.9) and has only resulted in a somewhat limited number of cases referred to the Courts over the reporting period (see table 3.9).

170. As shown in table 3.9, the proportion of STRs analysed and subsequently disseminated is low compared with the overall number of STRs. In the above table, one dissemination report can contain several STRs. As mentioned previously, for STRs to be regarded as high risk, the main factor is the pre-existence of a related STR. Therefore, most STRs analysed and then disseminated are groups of STRs rather than single STR. The KwFIU has sent 218 dissemination reports to the MOI for preliminary inquiries out of which 214 were forwarded to the PPO for criminal investigations. Out of these disseminations, the PPO referred 42 criminal investigations to the Courts (i.e., only 19% of disseminations resulted in a referral by the PPO to the Courts). More concerning is the fact that PPO referral to Court on the basis of KwFIU dissemination reports has been in sharp decline over the reporting period, while the number of PPO investigations has remained constant.

171. Despite a relatively low proportion of dissemination to LEAs, the KwFIU remains the primary source for MOI preliminary inquiries and the second for the launch of criminal investigations (see 3.2). This highlights the relative importance of the KwFIU role in assisting LEAs to detect and identify cases. In the course of investigations, KwFIU is resorted to a lesser extent by LEAs who conduct their own financial analysis on cases and obtain information mostly through direct requests to obliged entities. Competent authorities indicated that the level of information

provided by KwFIU was satisfactory, yet they would encourage further in-depth analysis to help them better identify the underlying criminal activities in cases.

172. KwFIU produces financial intelligence relating to TF to a very limited extent, which is in line with the overall low understanding and identification of TF at a national level (see Chapter 1 ML/TF Risks and Context and Chapter 4 Terrorist Financing and Financing of Proliferation). KwFIU has been involved in providing financial intelligence in only one TF case over the reporting period. Ordinarily in TF cases, the SSD and the PPO gather intelligence from foreign counterparts and access directly domestic financial intelligence needed to carry out their investigations.

173. KwFIU creates limited strategic analysis products. The department in charge of strategic analysis within the KwFIU has been newly created and currently has three employees. Two specific reports have been produced to date: reducing the use of cash to mitigate ML/TF and ML/TF risks related to virtual assets. These reports appear to be based on limited analysis of STRs and are mainly developed on information held by the supervisory authorities, obliged entities and to a lesser extent research and open sources. The reports have to some extent raised awareness of these issues at a national level and contribute to policy development but have not assisted LEAs in their operational activities.

Box 3.2. KwFIU phases and departments for examining and processing STRs

Phase 1: STR Receipt & Information Gathering Division

1. Receive the STRs and enter them manually into the system.
2. Summarise every STRs received.
3. Identify if the STR has connections with previous ones.
4. Determine the STR level of importance through the risk matrix.
5. Disseminate high priority STRs to the Technical Analysis Division. High priority STRs can be STRs that would initially be low priority but because it is related to previous STRs, or linked to a specific typology (TF, PEPs...) it would be disseminated.
6. Low and medium priority STRs are inserted into the database.

Phase 2: Technical Analysis Division

1. Prepare financial analysis reports with enriched information. Liaise with the Legal Affairs Department to ensure that the reports are in line with LEAs requirements.
2. Present financial analysis reports to the Executive Committee after approval of the reports by the Financial Analysis Department Manager (who oversees the both the STR Receipt and Technical Analysis Divisions)

Phase 3: Executive Committee

1. The Executive Committee meets regularly to discuss financial analysis reports.
 - i. The Executive Committee decides either to
 - ii. Disseminate the financial report.

- iii. Archive the report and the related STRs.
- iv. Send the report back to the Technical Analysis Division for further information.

Provides feedback to the Risk Management Division to update the risk matrix in accordance with decisions taken on financial reports.

Phase 4: National & International Cooperation Division

1. Disseminate financial reports to LEAs
2. Send and receive requests for international cooperation

Example – Case study on STR classification

In 2023 a bank reported an STR to the KwFIU. The STR concerned an individual working in the Private sector, in the position of an administrative employee, with a salary of KWD 300 per month whose accounts showed, during the period of suspicion (May 2022 to March 2023), credit movements of KWD 24,169 (approx. USD 78 392) and debit movement of KWD 24,172 (approx. USD 78 402).

The STR was classified as high priority since there were 2 previous STRs on the individual and 37 STRs on associated persons.

The credit movements were in the form of incoming transfers by electronic links and incoming transfers from several parties; there is no information on the real source of funds and the purpose of the transactions. The speed of the turnover of money in the account is also suspicious, the suspect receives the incoming transfers, and then on the same day withdraws the money through electronic payment links and outgoing transfers, indicating that the account is used as a temporary deposit station for transferring funds.

Research and investigation conducted by the obliged entity identified that there was a complaint from other customers about being victims of fraud, and when tracking the money, it was found that the subject of the STR had received payments from the victims and transferred them to other people. The case is ongoing.

Operational needs supported by FIU analysis and dissemination

174. Overall, there is cooperation between relevant LEAs on ML and predicate offences. KwFIU and other agencies exchange and use financial intelligence on a regular basis and authorities meet on a regular basis. KwFIU has signed MoU with several agencies (MOI, MOCI, Nazaha, CBK, CMA and GAC) to formalise the process of information sharing, as KwFIU frequently needs to request information from other government agencies in order to carry out its analysis and its dissemination functions. In addition to requesting information from other public agencies within Kuwait, KwFIU also receives requests to provide information to other agencies to assist them in the performance of their functions. For example, KwFIU has received requests from Nazaha to obtain information from foreign counterparts to assist them in conducting their inquiries. Despite Kuwait's NAMLC being chaired by the KwFIU, there is no sub working group on operational matters in Kuwait.

175. The agencies with whom KwFIU interacts and shares information most frequently are the MOI and the PPO. Most communication between the KwFIU and these two agencies takes the form of letters, reports, emails and meetings to discuss operational issues, to share STR material and

its analysis and dissemination, and to discuss the progress of cases and any additional measures. However, case studies and exchanges during the onsite demonstrated that the MOI and PPO have a limited view on the role of the KwFIU in undertaking operational activities and that KwFIU is used to a lesser extent to progress financial investigations than to initiate those (see 3.2.3). Once an investigation has been launched, the MOI and PPO carry their own financial analysis to a large extent by requesting further information directly from obliged entities rather than asking the KwFIU for undertaking additional analysis on cases.

176. It is unclear from exchanges with authorities and case studies if the cooperation between authorities and exchange of information on financial intelligence in relation to TF happens in practice. Terrorism and TF cases are dealt primarily by the SSD (see Chapter 4 Terrorist Financing and Financing of Proliferation) which will liaise with the PPO to undertake criminal investigations. However other authorities' involvement and cooperation on such cases seem rather limited. Most of the financial intelligence in those cases appear to be obtained from foreign counterparts of the SSD.

Confidentiality of information exchanged

177. KwFIU ensures physical security of access to its premises as well as security of its databases and IT systems. KwFIU is located in an independent section of a building equipped with CCTV cameras 24/7, and security. Access to KwFIU's facilities is restricted to prior authorisation and an access pass. There are various levels of authorisation and access to different parts of the building, and all analysis offices and workrooms have a secure pass card, which is restricted to authorised employees. Confidentiality of information is ensured in the KwFIU through security protocols and clear requirements on its staff (see Recommendation 29). Access to information is strictly limited, even within KwFIU and only authorised personnel can access sensitive data as well as storage rooms where STRs are archived.

178. The paper-based receipt of STRs is still a major concern in relation to KwFIU's ability to protect sensitive information. At the time of the onsite, KwFIU was developing electronic system for the transmission of STRs in order to offset this shortcoming. Exchange of formal information with the PPO for all authorities is undertaken through paper letters, which is also a concern.

Overall conclusions on IO.6

3

Kuwait's LEAs have access to a wide range of financial information sources and intelligence, which are accessed and used to varying degrees to support investigations into ML, and trace and seize assets. LEAs obtain information from KwFIU analysis, either from spontaneous disseminations, or upon request. Once a case has been initiated, the role of the KwFIU appears more limited as competent authorities often access financial intelligence directly and conduct their own analysis.

Financial intelligence in TF investigations, almost exclusively emanates from foreign intelligence. Financial intelligence is also not used to a large extent to investigate terrorism and TF cases and the KwFIU is not resorted to in such cases.

The number of STRs has increased over the reporting period, mainly driven by further reporting from banks. However, the lack of reporting by non-bank FIs and DNFBPs (DPMS and real estate) raises significant concerns in light of Kuwait's risk profile. The negligible number of STRs related to TF is a shortcoming, especially since several entities operate transfers with high-risk jurisdictions for terrorism and TF.

KwFIU supports operational authorities involved in ML investigations to some extent, especially to detect and identify ML cases. KwFIU proactive disseminations process is burdensome which can impact the quality and timeliness of the support provided to LEAs. KwFIU produced strategic analysis to a limited extent over the reporting period.

Kuwait is rated as having a **moderate** level of effectiveness for IO.6.

Immediate Outcome 7 (ML investigation and prosecution)

179. Kuwait has a comprehensive legal and institutional framework, to investigate and prosecute ML effectively. In practice Kuwait relies on the establishment of a predicate offence to prosecute ML.

180. Investigations in ML crimes in Kuwait are pursued through two phases:

- **Phase one – Inquiries and gathering of evidence.** Inquiries, also referred as preliminary investigations, in order to detect and gather evidence related to criminal activities, identify proceeds and instrumentalities of crime prior to their seizure. The written records of these activities are sent to the PPO to be considered as part of any criminal investigation that subsequently takes place.
- **Phase two – Criminal investigation.** The PPO performs criminal investigations. The PPO can launch a formal criminal investigation once a case has been reported to it. The purpose of the criminal investigation is to gather all necessary evidence and prepare the case file for trial when there are criminal grounds and sufficient evidence to believe that the offender has committed the crime.

181. Preliminary investigations are conducted by the MOI which is responsible for all aspects of internal security in Kuwait. The MOI is responsible for conducting inquiries in ML cases and

this is done through its dedicated AML/CFT Department. Nazaha can also conduct preliminary inquiries on corruption cases and related ML for offences related to public officials or institutions. Unlike the MOI, once a case has been referred to the PPO, Nazaha has no further role in the criminal investigation.

182. The PPO is responsible for criminal investigation and prosecution of ML and predicate offences in Kuwait. The PPO cannot initiate a case itself and is only able to launch a criminal investigation once it has received a referral from another agency or a complaint from an individual. Once a criminal investigation is initiated, the PPO conducts the investigation, it can instruct the MOI to gather further evidence and conduct additional inquiries when needed. The PPO has a dedicated AML/CFT Department responsible for ML cases.

ML identification and investigation

183. Kuwait's LEAs have necessary powers and adequate financial, human, and technical resources to identify and investigate ML. The PPO has twelve prosecutors in its AML/CFT team which sits within the Public Funds Unit. There are a further fourteen prosecutors dealing with financial predicate offences such as corruption, embezzlement, fraud, bribery and usury. On average, each prosecutor of the AML Section handles eight cases at a time. Not all ML cases are investigated by the AML/CFT department, as some can be dealt with by other prosecutors when linked directly to a predicate offence. For example, a case could be handled by a prosecutor specialising in drugs or fraud.

184. The PPO and the MOI have specific financial investigations procedures relating to ML cases. Those procedures constitute clear guidelines on how each authority should cooperate and conduct investigations on cases. The procedures also clearly highlight the wide range of investigative techniques to be used in the course of those investigations.

185. The PPO is the sole authority that conducts criminal investigations. The PPO may utilise information and evidence gathered by the MOI in preliminary investigations when conducting its own criminal investigations. It also commences a criminal investigation when it receives a formal complaint. The PPO gathers evidence using the investigative powers available at its disposal, for instance collecting witness testimony, analysing financial documents, interrogating suspects, etc. The PPO can resort to the MOI to conduct specific police-type activity to gather further evidence in a case. Those elements are then documented in an intelligence report submitted by the MOI officer who is ultimately interviewed by the PPO as a witness in the case.

Preliminary inquiries

186. ML cases are identified via a wide range of sources and preliminary inquiries are conducted by the MOI (see table 3.10). Over the reporting period, there have been 1,835 ML preliminary inquiries launched by MOI. The sources for these inquiries vary but are most commonly identified through disseminations from the KwFIU, where suspicious activity has been identified and further information is required. Identification of potential ML cases are also achieved through parallel financial investigations and, to a lesser extent, open sources.

187. The MOI gathers intelligence and inquiries on its own initiative, on incidents not under investigation by the PPO, as per its mandate. During this intelligence and inquiry gathering process, the MOI cooperates with the PPO and reviews its findings to determine whether further intelligence, inquiries or evidence is required to refer a case to the PPO. The final decision relies with the MOI to refer its findings to the PPO.

Criminal investigations

188. Once a case is referred to the PPO, it will automatically launch a criminal investigation. From exchanges with the authorities as well as case studies, the main reason for the PPO to dismiss a case, after conducting a criminal investigation, is a lack of sufficient evidence on the predicate offence or on the ML part of the case. The need to prove in practice a predicate offence to secure a successful ML prosecution impedes the authorities' ability to identify and investigate ML activities, especially as stand-alone or third-party ML.

189. Criminal investigations are also launched from a wide range of sources (see table 3.10). The most common sources of information for the initiation of an ML investigation are direct complaints by victims and third parties to the PPO (more than 45% of ML criminal investigations are launched following an individual reporting a crime him/herself to the PPO) as well as reports from the KwFIU. The high percentage of ML criminal investigations stemming from such sources raises questions on the ability of the competent authorities to detect ML crimes without victims' complaints. KwFIU reports are the second source for the initiation of an ML criminal investigation in Kuwait. These reports have often been enriched by MOI preliminary inquiries ahead of referral to the PPO.

Box 3.3. Identification of ML through different sources**Case study 1 – ML identification from KwFIU**

In 2021, the KwFIU sent a report to the PPO about suspicious activities in the bank accounts of a company. Those were related to huge cash deposits using ATM machines and were followed by transfers issued to the account of an exchange company, either on the day of the deposits or the days following, indicating that the company's accounts were being used as a carrier of funds and to disguise their source.

After investigation led by the PPO with the assistance of the MOI, it was found that the 6 defendants worked as an organised group that forged bank documents to falsely prove that the suspected company made financial transfers for commercial purposes. They also forged the invoices for importing goods from abroad attributed to foreign companies, in partnership with one of the defendants who works in an exchange company licensed to transfer funds.

Final judgement was issued in December 2022 sentencing the 6 defendants to imprisonment for a period of fifteen years on charges of money laundering, forgery in bank documents and other charges. The defendants and the three companies used were additionally fined for a cumulative **amount of KWD 120,686,596 (approx. USD 392M)**.

Case study 2 – ML identification from MOI parallel financial investigation

The case began in 2022 with an investigation by the anti-drugs department in MOI into the activities of an individual relating to drug offences in Kuwait. The officers of the anti-drugs department had arrested the drug dealer and referred the case to PPO. The PPO requested the AML/CFT department of the MOI to conduct a parallel financial investigation; it was discovered that the individual sold drugs in Kuwait and collected the proceeds in cash, after which he used ATM machines to deposit the money into a bank account.

Following the deposits, the subject transferred the money by using the bank's mobile banking application to a person who, the investigation revealed, was unaware of the real source of the money.

The case is still pending a final ruling from the Court of Cassation.

Case study 3 – ML identification from victim complaint

This case was initiated through several victims' complaints on fraudulent selling of fake real estate and hotel properties in Kuwait and another jurisdiction. The KwFIU helped identify six suspects, including a former Member of Parliament (MP) that had unexplained amounts transiting through their accounts. The defendants are suspected of committing ML crimes using their personal accounts as well as the account of a company for the purpose of concealing the money obtained through fraud.

While some of the defendants were convicted for ML offence, the former MP was acquitted by the Court of Appeal in October 2023. The PPO appealed this decision and the case is ongoing.

190. There has been an increase in the number of ML cases investigated by the PPO over the reporting period, from 63 in 2018/2019 to 95 ML cases in 2022/2023. Overall, there have been 396 ML investigations in total during the reporting period. This highlights the enhanced efforts made by the authorities since 2018 to identify and investigate ML. Notwithstanding this, only approximately 20% of preliminary inquiries conducted by the MOI resulted in actual ML criminal investigations. Authorities indicated that because the MOI is constantly inquiring about suspicious activity it will therefore naturally result in inquiring into numerous legitimate activities, that may have initially seemed suspicious. An absence of criminal evidence is the main reason for dropping cases at the preliminary inquiry stage. It is unclear if there is common understanding across competent authorities on what would represent sufficient elements to submit a case for a criminal investigation. The low number of preliminary investigations that are converted to criminal investigations is a concern and suggests there may be a lack of ability to gather criminal evidence at the preliminary inquiry stage.

191. Nazaha plays a particular role in the fight against the corruption of public officials and PEPs in Kuwait. Preliminary investigations into corruption can be initiated based on referrals from Nazaha to LEAs. Corruption cases can also be initiated through direct reports to the PPO. However, as seen in table 3.10, no ML inquiries or criminal investigations have been initiated based on a report from Nazaha. This suggests that information from Nazaha is not effectively being used to open parallel ML cases related to corruption.

192. More broadly, the overall number of parallel financial investigations resulting in an ML investigation is low. This raises questions around cooperation between LEAs on the different types of crimes. Due to its all-crimes approach (see Rec. 3), ML parallel financial investigations can potentially be launched in all criminal cases in Kuwait. If ML activity is identified, a financial investigation is launched. However, parallel financial investigations only represent 6% of the sources for ML criminal investigations, whereas they account for 32% of the ML preliminary inquiries. In practice, it appears that parallel investigations are only initiated for certain predicate offences, particularly those with a financial nexus, where it is easier to prove ML as part of the case (e.g., such as corruption, fraud or usury).

193. Through case studies and exchanges with the authorities, it appears that there is good cooperation between the AML/CFT Departments of the MOI and PPO. However, predicate offence

cases without a financial nexus are investigated by other departments. There is no clear evidence that in those cases a parallel financial investigation is being systematically undertaken. For instance, over the reporting period there were ten ML investigations related to a human trafficking predicate offence and eight ML investigations related to a drug trafficking predicate. Over the same period, there were respectively 103 and 1,600 investigations for these predicate offences which were unrelated to an ML offence according to the authorities. The explanation given by the authorities was that in most cases human trafficking and drug trafficking do not generate significant proceeds in Kuwait. This does not align with established and recognised typologies of this type of offence, and the low number of parallel investigations is a concern.

194. There is generally a higher focus on prosecuting ML in cases where the perpetrator of the predicate offence is also directly involved in the money laundering activity. Despite Kuwait having adopted an all-crimes approach, competent authorities need to specify the predicate offence from which the proceeds were generated, in order to prosecute ML activity and bring these cases to court (see 3.2.2).

195. The length of time for cases, from identification through investigation to prosecution, varies considerably. This depends on factors such as the complexity of the case, the number of subjects, the number of witnesses that need to be interviewed, the extent of the financial intelligence that needs to be acquired and analysed, the length of time that the alleged offending was carried out, etc. Through case studies, it appears that some ML investigations can be expedited and completed within a couple of months, whereas more complex cases can take several years. Based on discussions with the Kuwaiti authorities, it appears that the ability to identify and investigate ML would be strengthened if competent authorities referred cases to the PPO more quickly. Since the PPO cannot bring a case itself, the timeliness of the referral of the cases to the PPO is key to ensure that it is possible to identify the ML component of the cases as well as the assets involved that could be subject to seizing and freezing (see 3.4.2).

Table 3.10. MOI preliminary inquiries and PPO criminal investigations by sources, 2018-2023

Sources	2018 -2019		2019 -2020		2020 - 2021		2021 - 2022		2022 - 2023		Total	
	MOI Inquiries	Investigations PPO	MOI Inquiries	Investigations PPO	MOI Inquiries	Investigations PPO	MOI Inquiries	Investigations PPO	MOI Inquiries	Investigations PPO	MOI Inquiries	Investigations PPO
FIU*	257	28	223	29	58	59	154	31	80	20	772	160
Parallel Financial Investigations	187	4	53	3	48	6	102	2	196	8	586	24
Open Source	45	-	48	-	56	-	25	-	38	-	212	-
PPO Referral	60	-	39	-	35	-	61	-	67	-	262	-
Others	-	-	2	-	-	-	-	-	1	-	3	-
Notification by foreign authority	-	-	-	-	-	-	-	-	-	3	-	3
Complaint by victim	-	26	-	41	-	14	-	39	-	59	-	179
Report by other Authorities**	-	5	-	4	-	4	-	6	-	5	-	24
Total	549	63	363	77	199	83	342	78	382	95	1 835	396

Note: * all figures related to “FIU” in “MOI inquiries” columns do not correspond to preliminary inquiries, they can also be related to request for additional information sent by the KwFIU to the MOI. ** includes reports from MOI, MOJ, MOCI, MOSA, Kuwait Municipality, Kuwait Port Authority, Zakat House, Public Authority for Housing Welfare, Ministry of Health, Kuwait Fire Force, Kuwait Petroleum International, Public Institute for Social Security.

Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

196. Kuwait investigates and prosecutes ML activities in line with the findings of its NRA. Most of the ML investigations and prosecutions are related to fraud, corruption and usury as predicate offences (see Table 3.11). The steady increase of ML criminal investigations over the reporting period is mainly driven by an increase in the investigations related to fraud predicate offences which demonstrates an enhanced focus on this area identified as high risk. This aligns with the National AML/CFT Strategy, which tasks the LEAs to enhance combating the predicate offences that pose an ML threat to Kuwait, including fraud.

197. However, due to weaknesses in the NRA process, namely the sole reliance on prosecutions figures in the NRA, authorities have an incomplete overview on the types of predicate offences representing the main proceeds generating predicate offences for ML. Authorities continue to focus on offences where they have a high probability on securing a successful conviction in Court. This means other important threats where prosecutions haven't been initiated are not seen as risks. This generates a circular approach where new risks may not be identified and prosecuted accordingly. For example, over the reporting period, drug trafficking represents 8% of the secured ML convictions, making it the third predicate for ML in terms of conviction while representing less than 2% of the ML investigations and being rated as a lower risk in the NRA. While Kuwait has steadily increased its ML investigations during the reporting period, this increase is mainly driven by fraud related cases (see table 3.2) which is considered as one of the highest profit generating

predicate offence in the NRA, while investigations have remained constant in relation to other predicate offences. Overall Kuwait has enhanced its efforts to identify and investigate ML in relation to fraud but not for the other predicate offences.

198. Kuwait mainly prosecutes cases where there is a high probability of securing a conviction, which is a common prosecutorial strategy. From discussions with the authorities and as described above, providing tangible elements of the predicate offence is a prerequisite in order to secure an ML conviction in Kuwait, with the accused being in most cases the direct perpetrators of the predicate offence. Therefore, in cases where the predicate offence has a clear financial nexus, such as fraud, corruption and usury, competent authorities are able to secure much higher conviction rates than for other predicate offences. In addition, despite PEPs being identified as a risk in the NRA, there have been a limited number of ML investigations related to domestic PEPs, despite a wider range of investigations related to corruption as an ML predicate. It does not appear that sufficient efforts are being undertaken to identify and investigate cases related to PEPs, given the risk attached to them.

Table 3.11. Investigations by Predicate Offences for non-ML cases

	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	Total
Fraud	1 580	1 390	980	1 444	1 895	7 289
Usury	19	29	12	10	7	77
Public Funds, Bribery and Forgery*	1 570	1 677	1 691	1 667	2 728	9 333
Private Embezzlement / Breach of Trust	2 615	2 529	1 653	2 057	2 185	11 039
Human Trafficking	29	33	39	2	0	103
Drug/Psychotropic Substance Trafficking*	487	326	245	268	274	1 600
Theft/Burglary*	5 984	6 699	5 699	6 017	6 547	30 946
Gambling	0	0	0	1	1	2
Alcohol Trafficking	1	0	1	3	2	7
Damage National Interests	0	0	0	0	0	0
Commerce Misdemeanors*	4 180	4 016	6 632	7 456	7 579	29 863
Public Co-operations Offence	36	44	12	24	32	148
Capital Markets Offence	24	23	32	54	97	230
Foreign Predicate Offence	0	0	0	0	0	0

Note: The figures above represent investigations in predicate offences that were not connected to an ML offence. For the offences marked with (*), the authorities considered that a significant sum of funds related to the offence or the elements of an ML offence were not present, thus defendants were not charged with an ML offence. Commerce misdemeanours are usually petty crimes that might not involve any criminal proceeds at all.

199. Table 3.11 provides the number of non-ML related criminal investigations launched by predicate offences. When comparing those figures with the number of ML criminal investigations by predicate offence, it appears that despite having conducted preliminary inquiries, in some cases, the competent authorities considered that the elements of an ML offence were not present and decided not to launch an ML criminal investigation. For instance, 1,600 cases of drug trafficking, 103 cases of human trafficking and 230 capital markets offences cases did not lead to an ML criminal investigation. According to the authorities, in such cases a significant amount of the funds related to the offence, or the elements of an ML offence were not present, thus defendants were not charged with an ML offence. Again, it is not credible that these types of offence generate no or low amounts of proceeds in Kuwait. Efforts to identify the ML component in such cases should be strengthened.

200. Kuwait mainly prosecutes ML cases with fraud, corruption and usury as the main predicate offences which is in line with the findings of the NRA. It is also to be noted that ninety percent or more of ML investigations in human and drug trafficking cases led to prosecutions. This confirms that, following criminal investigations, prosecutorial authorities consider in almost all cases that there is enough evidence that those offences can generate ML. When the authorities identify an ML nexus in a human or drug trafficking case, they are effective to a certain extent in progressing the case to prosecution.

201. Kuwait secures successful prosecutions for ML cases related to predicate offences identified as presenting the highest risks in the NRA (fraud, corruption and usury) (see table 3.12). Seventy five percent of the ML convictions in Kuwait relate to fraud, corruption and usury as predicate offences. However, except for usury, there are only a very limited number of ML convictions in light of the overall number of convictions for the predicate offence. For fraud, only 3% of cases had an ML conviction related to the predicate offence and only 1.45% of corruption cases (see table 3.13). While in some cases this can be attributed to low amounts of generated proceeds, the figures highlight the challenges faced by competent authorities in securing a conviction for ML, even where the predicate offence is identified as high-risk in the NRA. For other predicate offences, an ML conviction is rarely achieved. For instance, a negligible number of ML convictions has been secured in relation to drug trafficking and no ML conviction in human trafficking cases despite those offences being prosecuted.

Table 3.12. ML Investigations, Prosecutions and Convictions by type of crime

	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	Total
ML Investigations						
Suspicious activity (report by the FIU where the offence is not identified at the time of investigation)	7	36	45	28	30	146 (37%)
Fraud	19	26	12	34	43	134 (34%)
Usury	19	2	4	1	4	30 (7,6%)
Corruption	7	6	8	8	9	38 (9,6%)
Private Embezzlement and Breach of Trust	4	4		1	4	13 (3,3%)
Human Trafficking			10			10 (2,5%)
Drug Trafficking/Psychotropic Substance Trafficking	3	2		1	1	7 (1,8%)
Alcohol Trafficking				1	1	2 (0,5%)
Foreign Predicate Offence			1			1 (0,3%)
Others	4	1	3	4	2	14 (3,5%)
Total	63	77	83	78	94	395 (100%)
ML Prosecutions						
Fraud	15	17	8	19	14	73
Usury	18	2	4	1	3	28
Corruption	5	5	4	4	3	21
Private Embezzlement and Breach of Trust	2	4	-	-	1	7
Human Trafficking	-	-	9	-	-	9
Drug Trafficking/Psychotropic Substance Trafficking	3	2	-	1	-	6
Alcohol Trafficking	-	-	-	1	-	1
Foreign Predicate Offence	-	-	1	-	-	1
Others	1	1	-	3	-	5
Total	44	31	26	29	21	151
ML Convictions						
Fraud	5	7	14	13	7	46 (45%)
Usury	2	1	1	2	1	7 (7%)
Corruption		2	7	6	8	23 (22,5%)
Private Embezzlement and Breach of Trust		2		2	2	6 (6%)
Human Trafficking						0
Drug Trafficking/Psychotropic Substance Trafficking		2	3	2	1	8 (8%)
Alcohol Trafficking					2	2 (2%)
Foreign Predicate Offence					1	1 (1%)
Others	1	1	1	1	5	9 (9%)
Total	8	15	26	26	27	102 (100%)

Note: the following offences are covered under the category "Others": Theft/Burglary, Gambling, Damage National Interests, Commerce Misdemeanours, Illegal Entry of Electronic system, Public Cooperation, Capital Markets, Customs Offences (smuggling), Firearm Trafficking.

Figures under "ML prosecutions" correspond to the year when the case was initiated, not when the prosecution or conviction was secured, this explains why for some years and offences the overall number of convictions is higher than the number of prosecutions.

Table 3.13. Convictions by Predicate Offence – ML and non-ML

	2018 -2019		2019 -2020		2020 - 2021		2021 - 2022		2022 - 2023		Total	
	Non-ML	ML	Non-ML	ML	Non-ML	ML	Non-ML	ML	Non-ML	ML	Non-ML	ML
Fraud	264	5	246	7	184	14	263	13	416	7	1 373	46 (3,2%)
Usury	1	2	0	1	2	1	7	2	4	1	14	7 (33%)
Corruption*	312		351	2	280	7	279	6	340	8	1 562	23 (1,45%)
Private Embezzlement and Breach of Trust	547		439	2	395		634	2	711	2	2 726	6 (0,2%)
Human Trafficking	0		1		1		1		1		4	0
Drug Trafficking/Psychotropic Substance Trafficking	229		328	2	295	3	251	2	229	1	1 332	8 (0,6%)
Theft/Burglary	761		938	1	839		1 167		1 554	1	5 259	2 (0,03%)
Gambling	0		0		1		0		0		1	0
Alcohol Trafficking	2		4		0		2		0	2	8	2 (20%)
Damage National Interests	1		0		0		0		0	3	1	3 (75%)
Commerce Misdemeanors	1 611		2 286		2 906		4 517		8 046		19 366	0
Public Cooperation	0		4		6	1	6		5		21	1(4,5%)
Capital Markets	6		10		6		6		35		63	0
Foreign Predicate Offence	0		0		0		0		0	1	0	1 (100%)
Customs Offence (Smuggling)								1		1		2
Firearm Trafficking		1										1
Total	3 734	8	4 607	15	4 915	26	7 133	26	11 341	27	31 730	102 (0,32 %)

Note: In the table, “Corruption” includes Public Funds offence, Bribery and Forgery. In the table, all “Convictions” are final convictions secured not pending final ruling.

Box 3.4. Human trafficking case study

The case was initiated in June 2020 following complaints by foreign workers. A former foreign MP as well as two Kuwaiti high-level officials from the MOI were convicted in a first case on charges of fraud and bribery. Between 2015 to 2020, the two Kuwaiti accepted bribes from the foreign MP to illegally deliver entrance and working permits to foreign workers.

A second case was opened to deal with the ML elements of the first case. The two Kuwaiti nationals are also charged with laundering the proceeds of the bribes through commercial companies and part of the funds were used to buy real estate properties. In October 2023, the two Kuwaiti defendants were convicted on ML charges and sentenced by the Court of Appeal to 5 years imprisonment and a fine of KWD 500,000 (approx. USD 1,6 million) for each defendant and confiscations equivalent of KWD 860,000 (approx. USD 2,8 million). The ML case is still pending final ruling by the Court of Cassation.

Types of ML cases pursued

202. As previously described, although Kuwait has a legal framework that provides it with an adequate basis to prosecute all ML activities, in practice it is challenging to secure an ML conviction without proving the underlying predicate offence is challenging. Hence, most ML cases where prosecutions were put forward relate to self-laundering (134), and to a lesser extent third-party ML (28) and stand-alone ML in one case. Similarly, ML convictions were achieved in 102 cases. Out of these cases 84% related to self-laundering and 15% to third-party laundering (see table 3.14).

203. Over the reporting period there was a slight increase in the number of cases of third-party laundering where ML convictions were secured and one conviction for a stand-alone ML was also achieved. This reflects that Kuwait has been pursuing more ML investigations of increased complexity over the reporting period. Kuwait has also secured more convictions, with a significant and steady increase from eight ML convictions in 2018 to 27 in 2023. In addition, Kuwait was able to demonstrate good results in some cases that featured sophisticated and complex fraud schemes, as well as in some cases related to corruption (see box 3.5). This demonstrates that the authorities are able to identify and demonstrate in a more effective manner evidence relating to the commission of an ML offence.

Table 3.14. Prosecutions, Convictions and Acquittals by types of ML.

	2018 -2019		2019 -2020		2020 - 2021		2021 - 2022		2022 - 2023		Total	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
<i>Self-laundering</i>												
Prosecutions	38	54	26	58	25	84	29	82	16	28	134	306
Convictions	8	10	14	29	22	53	22	32	20	47	86	171
<i>Third-party ML</i>												
Prosecutions	8	17	6	11	2	3	7	17	5	10	28	58
Convictions	0	0	1	1	4	5	4	6	6	11	15	23
<i>Stand-alone</i>												
Prosecutions	0	0	0	0	1*	5	0	0	0	0	1	5
Convictions	0	0	0	0	0	0	0	0	1*	5	1	5
<i>Foreign Predicate Offence</i>												
Prosecutions	0	0	0	0	0	0	0	0	0	0	0	0
Convictions	0	0	0	0	0	0	0	0	0*	0	0	0
Total Prosecutions	46	71	32	69	28	92	36	99	21	38	163	369
Overall number of convictions secured during the reporting period	8	10	15	30	26	58	26	38	27	63	102	199
Overall number of convictions secured from cases prosecuted during the reporting period											56	
Overall number of Acquittals	4	10	13	22	25	47	19	62	38	76	99	217

Note: the figures mentioned above reflect the prosecutions for the criminal investigation cases that were initiated in the corresponding year. For example, a case initiated in 2019/2020 that was prosecuted in December 2021 will be reflected under the column (2019/2020). Convictions correspond to the number of convictions secured within one fiscal year. The date of the conviction is not related to the date where the prosecution was initiated. Hence, for some years, there are more conviction cases than cases prosecuted because some of the cases where a conviction was secured within a year were prosecuted on a previous year.

* The 2020/2021 stand-alone case is also a foreign predicate offence.

204. Notwithstanding the slight increase in the number of cases of third-party laundering, most ML activities investigated and prosecuted in Kuwait relate to self-laundering activities. The involvement of professional ML enablers or other third parties not involved in the commission of the predicate offence is investigated to a lesser extent. This is confirmed by the fact that about half of ML cases are initiated by report of victims or other agencies regarding the suspicion of a predicate offence (see table 3.10). In such cases, ML may be added by an investigative or prosecutorial authority as a further suspicion. Furthermore, in most third-party money laundering cases presented by the authorities, there was a clear connection to the perpetrator of

the predicate offence (e.g., a close family relationship). This is concerning, given that case studies highlight that criminals are conducting complex ML activities within the jurisdiction. This includes ML activity involving lawyers, the use of strawmen/women and shell companies, forged invoices, bribery of foreign government officials to facilitate concealment, the use of alternative hawala systems and bona fide third parties.

205. Kuwait has enhanced its efforts to pursue ML to some extent. Yet, those efforts are limited by challenges in securing ML convictions. Kuwait secured 102 ML convictions, covering 369 defendants over the reporting period. Out of those, 56 relate to cases investigated and prosecuted during the reporting period while 46 convictions were secured in relation to cases investigated and prosecuted before the reporting period. At the time of the onsite visit, the conviction rate in Kuwait for the 163 cases prosecuted during the reporting period is 34%. It is to be noted that some of those cases are still pending final judgements which would impact the conviction rate. In parallel, over the reporting period there were 99 acquittals (in separate or similar cases) pronounced as final judgements, covering 217 defendants.

206. During discussions with the authorities and based on cases studies presented, several challenges in securing an ML conviction in Kuwait were highlighted:

- When there is no direct link between the accused and the commitment of the predicate offence or when there are no sufficient tangible elements proving the predicate offence, a conviction is very unlikely.
- the Courts also have a strict approach when it comes to assessing the intent and knowledge elements of the ML offence. In some instances, the Courts may convict for the predicate offence but not for the ML part because of doubts over the intent of the defendant to launder the proceed. The threshold applied by the Courts to determine whether a defendant is aware that the funds are proceeds of a crime is high. In parallel, Courts tend to automatically pronounce an acquittal for the ML element of the case if the defendant is acquitted for the predicate offence.

207. Due to some of the challenges highlighted above, Kuwait has only secured one conviction in relation to both a stand-alone ML and a foreign predicate offence. Without improvements to Kuwait's international co-operation framework to address low rates of extradition or MLA response rates (see IO.2 in Chapter 8), Kuwait will continue to face important challenges in its ability to deter and punish ML for a wide range of offences. Those obstacles may also derive from more limited expertise at Court level in relation to ML cases than to other criminal cases.

208. Kuwait's legal framework allows for the conviction of legal persons, without prejudice to the penal liability of a natural person. However, in practice there is a limited criminal liability of legal persons, which is not in line with the risk profile or operational findings showing that legal persons are widely used in ML cases. Case studies presented by the authorities indicate that when a legal person is being used to pursue ML activity, if the owner or the director, in the case of companies, is not involved directly in the commission of the ML offence, an investigation against the legal person is not pursued. There are numerous cases of legal persons being used for ML activities, yet a conviction was not secured as it was considered that the legal persons and their owner did not know about the activity and the employees were acting alone. In several of these cases presented, it is difficult to understand how this argument could be credible defence. This also raises questions on the overall understanding of authorities regarding the criminal liability of legal persons for ML purposes, despite 14 ML convictions achieved towards legal persons over the reporting period (see table 3.18).

Table 3.15. ML investigations, Referrals and Convictions from the corresponding fiscal year

	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	Total
Total cases investigated	63	77	83	78	95	396
Referred to Court	44	31	26	29	21	151
Convictions	19	16	12	6	3	56

Note: some of the cases that were referred to Court are still being examined by the Courts.

Box 3.5. Case studies for different types of ML activities

Case study 1 – Foreign Predicate offence

Significant amounts of funds were embezzled from a foreign government's development fund and sent to various countries. In Kuwait, the case involved both foreign predicate offences and stand-alone money laundering as the defendants charged with ML offences in Kuwait were not involved in the theft of the funds from the foreign government's development fund. In this international case, Kuwait was the first country to secure ML conviction and confiscation of the proceeds of crime that are still to be confirmed pending final ruling. All five defendants in Kuwait were convicted of ML, including 2 in absentia. The case has been appealed to the Court of Cassation.

The investigations were jointly conducted in several jurisdictions, including Kuwait where the case was initiated through a report from KwFIU to the PPO on a suspicious transaction of KWD 343,7 million (approx. USD 1,1 billion) sent by the foreign development fund to the account one of a number of companies that was fully owned by the first defendant, allegedly for the purpose of settling consultancy contracts and contracting works. Documents purporting to justify the reason for the transactions had been falsified by the second and third defendants; no such consulting contracts or works had ever been carried out.

On receipt of the funds, the first defendant transmitted the amounts to his personal account and conducted several transfers to companies outside the State of Kuwait to disguise the illegitimate source of the funds while also retaining KWD 15,6 million (approx. USD 50,5 million) for himself. None of the defendants in the Kuwait case had any involvement, but all worked together with one of the defendants to incorporate shell companies and falsify documents in an attempt to legitimise the funds in order to satisfy the banks concerned. One of defendant was a lawyer who used its position to forge legal documents and was also the acting director of shell companies used to disguise the true beneficial owner of the companies receiving the funds.

Case study 2 – Third-party ML

The case was initiated in 2018 by an intelligence report from the MOI indicating that, as a continuation of the investigations and inquiries that took place regarding the offenses of misappropriating public funds of a government entity for which a final judgement of conviction was already rendered. The funds subject of the predicate crime (KWD 4,5 million, approx. USD 14,5 million) went through a number of financial transactions in several accounts and banks inside and outside the State of Kuwait controlled by relatives of the first defendant in a scheme to disguise and obscure the true nature of those funds.

The investigations revealed that the first defendant had intentionally issued transfer orders from the government entity's account to the bank accounts of several companies. This was followed by transfers issued by the owners of those companies into the trading account of the first defendant's brother in the foreign jurisdiction. This person kept a part of the sum in his trading account and transferred a part back into his bank account in the State of Kuwait. Then, within a short period, he redistributed that amount to the accounts of companies and individuals with whom he has family relations, including the wife of the first defendant and who in turn transferred most of these funds abroad to bank accounts in the European Union.

Five of the six defendants in this case were convicted of ML offence, including one in absentia, by the Court of Appeal. The case is currently being reviewed by the Court of Cassation.

Effectiveness, proportionality and dissuasiveness of sanctions

209. Money laundering in Kuwait is a felony, which carries a minimum imprisonment sentence of 3 years and a maximum of 10 years. The monetary penalty for both natural and legal persons is a fine of no less than half and up to the full value of the funds that were the objects of the offence. In cases where aggravating factors are met, the penalties can go up to 20 years imprisonment and a fine twice the amounts of the funds. Sanctions for ML are also stronger than for several predicate offences such as corruption, fraud, usury, private embezzlement. The below table summarises the range of sanctions for different offences in Kuwait.

Table 3.16. Range of sanctions for different offences, including ML and TF

Offence	Prison Sanctions (aggravating circumstances)	Fines (aggravating circumstances)
ML	10 years imprisonment (20 years imprisonment)	Not less than half the ML amount (double the amount)
TF	15 years imprisonment (20 years imprisonment)	Not less than the TF amount (double the amount)
Fraud	3 years imprisonment	Not more than 225 KWD
Usury	1 year imprisonment	75 KWD
Corruption Offenses (Public Funds)	5 years imprisonment (life imprisonment)	Double the misappropriated amount
Private Embezzlement and Breach of Trust	3 years imprisonment	225 KWD
Human Trafficking	15 years (capital punishment)	-
Drug Trafficking	Life imprisonment (capital punishment)	-
Theft and Burglary	2 years imprisonment (up to life imprisonment)	150 KWD (1,125 KWD)
Gambling	3 months imprisonment (2 years imprisonment)	37.500 KWD (150 KWD)
Alcohol Trafficking	10 years imprisonment	-
Damage of National Interests	15 years imprisonment, not less than 3	-
Bribery	10 years imprisonment	Double the amount of the bribe
Psychotropics Trafficking	10 years imprisonment (15 years imprisonment)	10,000 KWD
Joining a prohibited organisation	10 years imprisonment (15 years imprisonment)	-

210. Kuwait's ability to successfully prosecute and apply effective, proportionate, and dissuasive sanctions in ML cases has increased over the reporting period and is significant.

Sanctions for ML in Kuwait against natural persons are effective, proportionate and dissuasive. Prison sentences have been applied in 91 ML cases over the reporting period with sentences of more than 5 years handed down in 90% of these cases. Prison sentences have increased in line with the number of ML convictions during this period. Fines have been applied in 107 ML cases over the reporting period, with 64% of those fines being above KWD 100 000 (approx. USD 322 000). Similarly, the number of fines allocated during the reporting period follows a similar trend as the increasing in the number of ML convictions. At the same time, the number of suspended sentences remained steady over the reporting period.

Table 3.17. ML convictions – sentences imposed

ML conviction sentence	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	Total
<i>Fines</i>						
Up to KWD 100,000 (approx. USD 322 000)	5	6	9	6	13	39
> KWD 100,000 and up to KWD 500,000 (approx. USD 1,6M)	2	2	3	10	11	28
> KWD 500,000 and up to KWD 1,500,000 (approx. USD 4,8M)	1	3	1	6	2	13
> KWD 1,500,000 (approx. USD 4,8M)	0	1	14	1	11	27
Total	8	12	27	23	37	107
<i>Imprisonment sentences</i>						
3 to 5 years	2	0	4	6	3	15
5 to 7 years	2	5	10	7	13	37
10 years	4	7	4	9	11	35
More than 10 years	0	1	6	0	3	10
Suspended sentence	1	1	2	0	2	6
Total imprisonment sentences	9	14	26	22	32	103

Note: some of the cases that were referred to Court are still being examined by the Courts.

211. When prosecutions against legal persons are secured, the sanctions are effective, proportionate and dissuasive. As indicated in the below case (box 3.6), significant fines have been applied against legal persons convicted for ML in addition to ordering their liquidation in some cases.

Table 3.18. ML convictions of legal persons (2018-2023)

Type of legal Persons	2018 -2019		2019 -2020		2020 - 2021		2021 - 2022		2022 - 2023		Total	
	Prosecuted	Convicted	Prosecuted	Convicted	Prosecuted	Convicted	Prosecuted	Convicted	Prosecuted	Convicted	Prosecuted	Convicted
Company Association	3	0	0	1	0	3	8	0	1	4	12	8
Associations	6	0	0	0	0	0	0	0	0	6	6	6

Note: some of the cases that were referred to Court are still being examined by the Courts.

Box 3.6. Sanctions against legal persons convicted for ML in 2022/2023

In fiscal year 2022/2023, 10 legal persons were convicted for ML in three different cases. Below is a summary of the sanctions imposed against those legal persons.

Case 1: The court ordered the permanent prohibition from practicing commercial activities and office closures for all six legal persons. In addition, two of the legal persons were respectively fined KWD 1,000,000 KWD (approx. USD 3,2 million) and KWD 1,970,911 (approx. USD 6,4 million).

Case 2: The court fined three legal persons collectively with five natural persons a total sum of KWD 120,668,569 (approx. USD 389 million) and also order the permanent prohibition from practicing commercial activities for the three legal persons.

Case 3: The court fined the legal person a sum of KWD 375,450 (approx. USD 1,2 million) and ordered the liquidation of the legal person.

Use of alternative measures

212. Kuwait authorities indicated that when the accused is not a Kuwaiti national and an ML conviction cannot be secured, alternative measure such as deportation of the offender can be taken but are not routinely adopted.

Overall conclusions on IO.7

LEAs are well resourced to identify and investigate ML. However, identifying ML cases through parallel financial investigations is limited and the number of parallel financial investigations is low, possibly due to a lack of coordination among LEAs on the different types of predicate offences. While Kuwait has overall increased its investigations for ML, the only predicate offence driving this increase is fraud while others remained steady. Except for fraud, the number of ML investigation remains steady in relation to most predicate offences and, as such, cases have not increased in line with investigations for predicate offences.

Kuwait mainly prosecutes simple ML cases where there is a high probability of securing a conviction, namely cases where the predicate offence has a clear financial nexus, such as fraud, corruption and usury. However, due to shortcomings in relation to the assessment of risk, Kuwait is not investigating and prosecuting ML fully in line with its risk profile.

Kuwait's efforts to pursue ML are limited by challenges in securing ML convictions. Kuwait has secured 56 ML convictions during the reporting period this figure is low in comparison to convictions for other offences predicate offences and most ML cases relate to simple cases of self-laundering. Limited cases involving professional ML enablers or other third parties not involved in the commission of the predicate offence are not being prosecuted to an appropriate extent.

Kuwait applies dissuasive, proportionate, and effective sanctions against natural persons, but in practice there is a lack of criminal liability against legal persons. Furthermore, Kuwait does not apply alternative measures in a significant way when prosecutions cannot be secured.

Kuwait is rated as having a **moderate** level of effectiveness for IO.7.

Immediate Outcome 8 (Confiscation)

213. The AML/CFT Law (Law 106/2013) makes confiscation of funds a mandatory penalty in the event of a conviction for ML/TF. Confiscation extends to funds and instrumentalities that are proceeds of crime and to proceeds and instrumentalities intended for use in ML or predicate offences (see Recommendation 4). The law also allows for non-conviction-based confiscation when the perpetrator of the offence is deceased.

214. In Kuwait, the PPO is the sole authority in charge of implementing confiscation orders as well as of taking provisional measures in relation to seizing and freezing of assets. There is no legal provision enabling other competent authorities to identify, trace and evaluate property that is subject to confiscation. However, in practice MOI, KwFIU, Nazaha and GAC can, in the course of their inquiries, assist the PPO in identifying funds and assets that could be subject to provisional measures and/or confiscation. These authorities can also request that the PPO initiates freezing action but cannot undertake freezing actions themselves. For example, in the case of a suspicious transaction notified to KwFIU in the form of an STR, the FIU would need to ask the PPO initiate freezing of the asset.

Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

215. Kuwait pursues the confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective to some extent. Confiscation is not a focus of Kuwait's AML/CFT National Strategy and Action Plan (2022-2027) and although prioritised to some degree at a national level, enhancing confiscation is not identified as a strategic priority in the National Strategy and there are no actions in the Action Plan aimed at increasing confiscation, despite the low levels of funds seized. There is one action on coordinating domestic cooperation to provide assistance to foreign countries on recovering funds and assets related to foreign predicate offences.

216. Competent authorities do not have a specific written policy concerning the identification, tracing, freezing and seizure of proceeds and instrumentalities of crime. This is acknowledged as an area requiring improvement and the authorities are currently working to address this. However, competent authorities have guidelines on how to conduct operational activities in relation to the identification of assets in the course of a financial investigation. The PPO's ML Financial Investigations Procedures, although not a policy, does set out the need to identify assets owned by domestic suspects during a criminal investigation. This involves liaising with the MOJ for real estate properties, the MOI for vehicles and the CMA on securities and shares ownership. The procedures do not provide any instructions on investigating assets that could be located abroad. In its guidelines for Combating ML/TF, the MOI has a procedure on how to deal with a decision from the PPO on the seizing of funds.

217. LEAs pursue identification of assets to be seized and/ frozen in the course of their investigations as a general principle. Once the PPO has issued a freezing or seizing order, this is circulated to all stakeholders, relevant authorities and obliged entities who must freeze the funds or assets and notify the PPO. Freezing orders are not bound by a timeline, and the PPO has the complete discretion to rescind or amend an order at any time. Concerned parties may file an appeal against the freezing or seizing to the competent court within one month from the date on which the order was issued. The court must decide on the appeal promptly, either by rejecting it or by cancelling or amending the order and establishing the necessary guarantees if necessary. An appeal may not be made again until three months from the date of the decision on the first complaint.

Table 3.19. Statistics on criminal cases, judicial decisions on seizures (provisional measures) and confiscations (2018-2023)

Year	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	Total
Total number of criminal cases investigated	16 588	16 843	17 079	19 081	21 442	91 033
Total number of cases where conviction was secured	3 751	4 640	4 979	7 199	11 424	31 993
Number of cases issued with provisional measures	9	2	28	5	8	52
Number of confiscation orders in ML cases	1	10	11	12	19	53
Number of confiscation orders in non-ML cases	701	737	546	698	679	3 361

218. Kuwait issued 3 414 confiscation orders over the reporting period, which represents an average of 683 confiscation orders per year (see table 3.19). Those figures indicate that Kuwait pursue confiscation as a policy objective to some extent. When read in conjunction with the amounts recovered, it appears that confiscation is pursued as a policy objective in relation to ML cases and to a lesser extent for non-ML cases. Some of those cases only generate marginal criminal proceeds, which would not lead to confiscation measures being considered. During the reporting period, Kuwait has been able to confiscate and recover over KWD 167 million (approx. USD 541 million) which represents a significant amount (see table 3.21). In ML cases, Kuwait issued 53 confiscation orders for an amount of more than KWD 521 million (approx. USD 1,6 billion), which represent an average of KWD 9,8 million (approx. USD 29,5 million) per confiscation order. This represents a significant amount and highlights that Kuwait pursues confiscation in those cases. In non-ML cases, Kuwait issues 3 361 confiscation orders for an amount of KWD 22,3 million (approx. USD 67,2 million), which represent an average of KWD 6 600 (approx. USD 20 000) per confiscation order. Despite the significant number of confiscation orders issued, the amounts involved in non-ML cases are less important but still represent an achievement. The results of confiscation should be taken in the context of the wealth of Kuwait.

Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad

219. Despite Kuwait having an appropriate legal framework to pursue confiscation (see Recommendation 4), discussions with the authorities highlighted that most confiscation is undertaken when cases relate to ML or corruption of public officials. Even though Kuwait's LEAs have seized and confiscated funds and assets of suspects and accused persons that represent important amounts, Kuwait's restrictive approach to confiscation has limited the range of offences where confiscation is applied. Furthermore, Kuwait's challenges in securing ML convictions (see 3.3) greatly impact competent authorities' ability to secure confiscation in all criminal cases.

Table 3.20. Value of assets seized and confiscated in cases that do not include an ML offence (2018-2023)

Year	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	Total
Value of assets seized (KWD)	9 598 845	1 395 467	3 241 557	1 852 330	2 105 231	18 193 430
Value of assets confiscated (KWD)	260 497	1 204 565	18 458 836	1 067 076	1 352 046	22 343 020
Number of confiscation orders	701	737	546	698	679	3 361

220. As previously highlighted, not all crimes generating significant financial proceeds are considered to have an ML component in Kuwait. Despite Kuwait's all-crime approach, with all

offences considered as ML predicate offences, competent authorities are mostly limited to ML and public corruption cases when it comes to provisional measures while confiscation has been pursued to a wider extent in other cases.

221. Case studies indicate that when the Courts overturn an ML conviction, even if the defendant is convicted for the predicate offence, confiscation is not likely to be pursued. On average, Kuwait confiscated approximately KWD 1 million per year in cases that do not include an ML offence, with the noticeable exception of 2020/2021 where more than KWD 18 million was confiscated (see table 3.20). Kuwait has issued confiscation orders in ML cases for an overall amount of approx. KWD 520 million (see table 3.21), while confiscating approximately KWD 22,3 million in non-ML cases. Hence, Kuwait has demonstrated its ability to secure confiscation in both ML and non-ML cases. Yet, confiscation in non-ML case remains lower and Kuwait is to a lesser extent depriving criminals of funds and assets acquired through illegal activities outside of ML

Table 3.21. Total value of funds frozen, seized, confiscated and returned (2018-2023)

	2018/2019	2019/2020 2020/2021 2021/2022 2022/2023	Total									
			ML cases	Non-ML cases	ML cases	Non-ML cases	ML cases	Non-ML cases	ML cases	Non-ML cases	ML cases	Non-ML cases
Frozen and seized (KWD)	24 361 753 + 6 real estates	9 598 845	1 000	1 395 467	30 106 429 + 21 real estate + 64 vehicles + 1 boat	3 241 557	6 180 508	1 852 330	126 236	2 105 231	60 775 926 + 27 real estate + 64 vehicles + 1 boat	27 739 435
Confiscation orders	1 800 + 2 vehicles	260 497	28 280 444 + 37 real estate + 6 vehicles	1 204 565	114 782 773	18 458 836	6 784 045	1 067 076	370 324 616	1 352 046	520 173 678 + 37 real estate + 8 vehicles	22 343 020
Actual confiscation (recovered)			136 102 079		1 542 753		47 023		29 643 392		167 335 247	
Returned to defendant (appeal or acquitted)	1 322 975		0		18 532 374		0		0		19 855 349 + 16 real estate + 52 vehicles + 1 boat	

222. Kuwait issued confiscation orders for more than KWD 520 million (approx. USD 1,7billion) and 32% of this amount (KWD 167 million, approximately USD 518 million) was actually recovered during the reporting period. Over the reporting period, Kuwait has steadily increased its efforts to pursue confiscation when achievable. Nineteen confiscation orders were issued in 2022/2023 against one in 2018/2019, highlighting enhanced efforts by the authorities. As indicated under IO7, the overall number of ML convictions secured during the reporting period is 102, while 53 confiscation orders were issued. This means that for ML cases where a conviction was achieved, a confiscation order was issued in approximately half these cases. The reasons for confiscation not being pursued post-conviction in an ML cases relates to the absence of criminal proceeds held by the defendant or the preservation of bona fide third parties.

223. In addition to bank account assets, Kuwait confiscates a wide range of criminal property, including cash, vehicles, real estate, and shares in companies (see table 3.21). Kuwait has also confiscated instrumentalities of crimes, in the form of drugs, mobile phones and forged documents. During the onsite, the authorities also mentioned that in an ongoing case they will be seeking confiscation of virtual assets once the final judgement has been rendered.

224. Confiscation against legal persons/entities is the exception in ML cases, despite most of the presented cases illustrating the important involvement of such entities in complex ML schemes. In some rare cases, fines are ordered against legal persons, however, these cannot be considered as an adequate replacement for confiscation orders themselves.

225. The PPO is responsible for managing assets that have been seized, frozen and confiscated. Even though it has a basic mechanism for registering seized and confiscated assets on a case-by case basis, there is no comprehensive system for managing and disposing of them, which raises concern in light of the country's profile and the value of such assets. From discussions with the authorities, the PPO is working on the creation of a specific unit dedicated to the management of seized assets. Currently, in the absence of a comprehensive system, the PPO has to safeguard the value of the assets seized on a case-by-case basis, for both movable and immovable assets such as cars, boats and real estate. Hence, it is challenging for the authorities to provide statistics on the value of the immovable assets seized and confiscated which is only determined upon the sale of the assets, as reflected in table 3.21.

Table 3.22. Number and value of reimbursement orders in public funds cases (2018-2023)

Year	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	Total
Number of reimbursement orders	5	5	13	13	24	60
Value of reimbursement orders (KWD)	159 709	426 798	6 222 391	2 651 030	91 193 576	100 653 504
Value of reimbursement secured (KWD)	11 567 181	155 323	742 193	10 435 579	27 155 181	50 055 457

Note: the value reimbursement secured might exceed the value of reimbursement order. The authorities indicated that in many cases the defendants return the amount seized to the victim - the public authority that had its funds embezzled - in public funds cases before the court renders its judgement. In such cases, and as the full amount was reimbursed by the defendant before the judgement, the Court would not issue a reimbursement order and would highlight that the defendant had reimbursed the sum embezzled. Therefore, a reimbursement order was not needed.

226. The Public Funds Protection Act (Law 1/1993) in Kuwait specifically deals with the misappropriation and misuse of public funds. Offenders under this law are subject to "restitution"

(i.e., the recovery of embezzled funds) in addition to any fine allocated.⁹ Although not a confiscation measure, the practical effect of the measure is still to recover the proceeds of the crime following an order by the court. The Public Funds Protection Act also allows a Court to order restitution from the family of an offender, even if the offender himself cannot be prosecuted because of the expiry of the statute of limitations of the crime. Over the reporting period, 60 reimbursement orders were issued amounting to more than KWD 100 million, with an important increase on both the number of reimbursement orders and their value. While this is an important measure, the significant importance of this alternative mechanism also raises questions on the ability of Kuwait competent authorities to secure confiscation in public funds cases. In addition, the fact that there are more reimbursement orders (60) for public fund cases than confiscation orders (53) for all criminal cases, further emphasises the challenges faced by the authorities to secure confiscation in non-public funds criminal cases.

Box 3.7. Case Study – Restitution case

Case Study – Hospitality Case

In 2018, the MOI reported to the PPO the findings of their budget auditing by the State Audit Bureau. Concerns were raised on the “hospitality clause” in the MOI’s budget. After investigations, it was found that a high-level official within the MOI misappropriated the ministry’s funds through agreements with different hotels to forge invoices stating, contrary to the truth, that the amounts mentioned in them are payments made for accommodation and hotel services in return for 40 % of the amounts in the invoices.

The investigation revealed that the main defendant (MOI official) used the sums allocated for him to purchase real estate in the State of Kuwait after completing a number of transactions to conceal and disguise the true nature of the funds.

The Court of Cassation rendered its final judgement in 2023. Sixteen of the seventeen defendants were convicted, including nine for ML. Restitution was ordered for cumulative amounts of KWD 32,3 million (approx. USD 104,6 million).

No confiscation order was issued in this case.

Provisional measures

227. Once competent authorities have identified the predicate offence and additionally started an ML investigation, they are able to expeditiously obtain freezing orders. They also have the available tools to identify and trace the assets targeted for such orders, especially in domestic cases. All assets owned by suspects can be initially frozen and seized without having to prove that they are directly derived from their criminal acts.

228. Kuwait demonstrated that it seizes a range of assets including cash, bank account assets, real estate, precious stones/metals, watches, vehicles (including boats), safe boxes and shares. However, the value of assets that were returned to defendants is significant. Out of the KWD 60 million seized during the reporting period, 33% (over KWD 19 million) were returned to

⁹ By law, the fine corresponds to “twice the value of what was embezzled, seized or facilitated”.

defendants, in addition to 81% of the vehicles and the only boat that was seized which was also returned. While in some cases the return of assets is justified by the fact that the individuals were acquitted in other cases confiscation order could not be pursued, for example, because the assets were considered not to be part of the offence.

229. Kuwait's competent authorities have resorted to provisional measures to some extent in ML-cases but are limited in their ability to apply provisional measures in non-ML cases. Kuwait's law provides for the freezing or seizing of funds or instrumentalities when they are related to a ML, TF or predicate offence. Despite Kuwait's all crime approach, competent authorities indicated that implementation of provisional measures prove to be more challenging in cases not directly related to ML or TF. Funds and/or assets were seized or frozen in only 52 cases that had an ML nexus. This figure has not increased over the reporting period despite the steady increase in the number of ML investigations (see table 3.12). Even if provisional measures are mostly restricted to ML cases, the 52 seizing orders appear low in comparison with the 395 ML investigations that were launched during the evaluation period.

230. The lower number of provisional measures (52) than confiscation orders (53) in ML cases over the reporting period also highlights the obstacles authorities are facing when identifying funds and assets in criminal cases. According to the authorities, although prosecutors seek to seize or freeze funds in every case they examine, this is not always possible as in many cases criminals will have taken steps to conceal, dissipate or dispose of assets before the offence for which they are being prosecuted is discovered. They argue that funds may also have been transferred abroad, in which case a process of international liaison needs to be followed before a freezing order could have effect, something that could take many years to achieve. In addition, authorities mentioned that the timeliness for competent authorities to refer a case to the PPO has an impact on the ability to freeze and seize assets. It is unclear if the authorities have taken steps over the reporting period to offset the obstacles identified.

Confiscation related to foreign predicate offences and proceeds of crime moved to other countries

Table 3.23. Value of assets confiscated located abroad, for all crimes (2018-2023)

Year	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	Total
Value of assets confiscated (KWD)	0	0	0	968 250	75 617 020	76 585 270

231. As outlined by the authorities through cases studies and discussions and described above, Kuwait faces a sizeable risk from proceeds of crime moved and dissipated to other countries. This is a particular risk for ML cases because proceeds may be laundered using schemes involving legal persons or individuals acquiring high-value assets such as real estate or holding accounts in foreign jurisdictions as illustrated through case studies. To some extent, case studies also indicate that Kuwait may be used to launder proceeds from foreign predicate offences.

232. Requests to overseas authorities to trace, freeze and recover assets are the most common type of MLA requests sent. Sixty-four requests have been made to trace and freeze assets in the assessment period and eight have been made to recover assets at the completion of the criminal prosecution process. For foreign predicate offences, Kuwait is limited in its ability to rapidly investigate and initiate confiscation due to difficulties in securing international cooperation (see IO2). However, in three cases, the PPO successfully recovered assets located abroad: in July 2018, from the UAE; in May 2021 from Switzerland (USD 3,135,394 million) and in November 2022 from

Bahrain (an amount of KWD 30,088,646.894, approx. USD 98 million). Kuwait was able to secure confiscation of assets located abroad in one significant case (see box 3.6 above, case study 1). However, this case has been appealed and is at the level of the Court of Cassation. Apart from this case, Kuwait was able to confiscate assets located abroad in 2021/2022 for an amount of KWD 968 250 (approx. USD 3,1 million).

Box 3.8. Provisional measures and confiscation Case Studies

Case study 1 – Confiscation in fraud and money laundering case

The case was initiated in 2018 by the MOI indicating that an inmate in the Central Prison serving his sentence is using communication devices which he entered to his cell illegally to create fake accounts on social media websites in order to falsely impersonate individuals from the ruling family and business personalities. The accused lured victims and defrauded them of their funds by offering investing opportunities relating to buying and selling luxury watches and jewelry using the help of eight accomplices who, with prior knowledge of the criminal scheme, acted as his representatives in order to acquire the victims' funds. They acquired through that scheme a total amount of KWD 2,593,399 (approx. USD 8,2 million) victims in cash, monetary transfers, and luxury watches.

Final judgement was rendered by the Court of Cassation in 2021 convicting all defendants and sentencing the first defendant to ten years in prison and his accomplices to four years and a fine in the amount of 1,500,000 KWD (one million and five-hundred thousand Kuwaiti dinars) and confiscating property of the equivalent value in the total amount of KWD 2,593,399.

Case study 2 – Seizure and freezing of cash related to alternative hawala.

In 2023, the KwFIU sent a report to the PPO based on an STR received from a bank indicating that the defendant received within a single year KWD 1,6M (approx. USD 5,2 million) from different individuals despite having a pension of KWD 1 500 (approx. USD 4 890) as his only source of income. Most of those funds were withdrawn in cash while others were transferred to relatives of the defendant.

The PPO issued a freezing order for all the assets in the defendant's name except the monthly pension he receives. The investigation is still ongoing.

Confiscation of falsely or undeclared cross-border transaction of currency/BNI

233. Cash remains a dominant method of payment in Kuwait's economy. Since 2022, exchange companies in Kuwait have been importing more than KWD 1,3bn (approx. USD 4,3bn) in cash to meet with foreign currency demands for nationals and Kuwait's large expatriate population. Kuwait is located close to several high-risk and unstable jurisdictions in the Middle East such as Syria and Yemen, shares a land border with Iraq and also shares a sea border and has significant trade links with Iran. Every year, millions of passengers and significant amounts of goods enter and leave Kuwait which presents an elevated risk environment for cash being falsely declared and moved into, through and out of the country.

234. Kuwait has the necessary powers to seize falsely or non-declared cash couriers which are required to declare the value of currency or BNIs exceeding KWD 3 000 (approx. USD 9 714), see Recommendation 32.

3

Table 3.24. Currency disclosures and declarations in Kuwait (2018 – 2023)

	2018	2019	2020	2021	2022	2023	Total
Arriving passengers	10 720 287	10 772 566	2 743 365	2 426 021	8 795 884	9 132 379	44 590 502
Arrivals declarations / disclosures	126	110	25	26	213	50	550
Value (KWD)	669 685	560 140	661 096	1 012 843	6 356 995	1 122 589	10 383 348
Departing passengers	10 641 116	10 789 686	2 897 464	2 686 481	8 458 757	8 975 490	44 448 994
Departure declarations/disclosures	202	592	198	291	1 084	335	2 702
Value (KWD)	1 557 729	2 634 387	975 653	4 824 325	17 267 381	4 986 446	32 245 921

Note: Figures for 2023 are until April 30

235. As noted under Chapter 2 (National AML/CFT Policies and Coordination), although the GAC is part of the NAMLC, and was involved in the NRA process, it was not able to provide any details on significant risks or the type of cross-border activities during the onsite. When asked, GAC indicated that officers at the borders pro-actively monitor passengers and search for cases of non-declaration, especially for passengers coming from high-risk jurisdictions. However, no information was provided to the Assessment Team in relation to which jurisdiction would be regarded as high-risks, or the types of measures that are undertaken to mitigate risks stemming from cross-border movements. This raises significant concerns over competent authorities' understanding of ML/TF risks in relation to cross-border movements and the capacity of the GAC to identify ML/TF.

236. GAC's role in detecting and investigating ML/TF in Kuwait is limited. GAC has an AML/CFT Department comprising 98 officers spread across all entries point for the approximately 44 million travellers departing and arriving in Kuwait over the past 5 years. GAC is in charge of overseeing and maintaining the cash declaration system, conducting searches on the GAC's internal IT systems in respect of cash declarations, monitoring the travel of certain individuals suspected of involvement in criminal offences, receiving and managing cases of non and false declarations, and conducting preliminary inquiries in these cases. However, GAC's role mainly consist of determining whether or not there is a case of false or non-declaration. If subsequent inquiries are needed, the MOI will take over the case as it also stations officers at each point of entries in order to liaise with and assist GAC officers. There is no MoU between GAC and the MOI which could potentially better help detect ML/TF cases stemming from cross-border movements of cash.

Table 3.25. Cross-border declarations of cash and BNIs by Exchange Companies (2022 – 2023)

	2022		2023		Total	
	Incoming	Outgoing	Incoming	Outgoing	Incoming	Outgoing
Number of cash declarations	1 807	187	650	127	2 457	314
Value of cash declarations (KWD)	1 010 200 832	88 091 281	349 963 631	52 481 499	1 360 164 463	140 572 780
Number of non/false declarations	0	0	0	0	0	0

237. Massive amounts of cash are physically imported by exchange companies in Kuwait since 2022, as shown in the above table. GAC has measures in place to monitor those import and export of cash by exchange companies. Authorities reported that imported and exported cash for exchange companies is of legitimate sources and authorities never encountered a situation where the declaration that accompanied the cash was found to be inaccurate. Case studies have shown that exchange companies are often used in both ML and TF cases either to launder or move proceeds. More than KWD 1,3bn (approx. USD 4,3bn) has been imported in cash by exchange companies in Kuwait and more than KWD 140 million has been exported over the past two years. Those significant volumes coupled with the persistent compliance deficiencies related to the exchange company sector (see Chapters 5 Preventative Measures and 6 Supervision) raises concern that proceeds of crime could be transferred in a large scale via cross-border movements of cash.

Table 3.26. Non / False cash declarations

	2018	2019	2020	2021	2022	2023	Average
Number of cash declarations	328	702	223	317	1,297	385	542
Value of Cash Declarations (KWD)	2 227 414	3 194 527	1 636 749	5 837 168	23 624 376	6 109 035	7 104 878
Number of non/false declarations	9	4	2	1	4	0	3
Number of penalties for non/false declarations	9	4	2	1	1	0	3
Value of penalties for non/false declarations (KWD)	2 009 675	140 140	38 470	48 763	25 157	0	377 034
Number of reports to the MOI/PPO	9	5	3	2	3	1	0

Note: Figures for 2023 are until April 30.

238. Competent authorities did not identify any cross-border movement in relation to ML or TF which is not in line with the country risk profile or provide case studies demonstrating cash for ML/TF was seized. Despite 17 cases of non/false declaration of cash detected, they were no ML cases in relation to those over the reporting period. GAC has reported 23 suspicious¹⁰ cases to the MOI/PPO over the reporting period, yet none had an ML or TF component. According to the authorities, those cases related to smuggling or non-disclosure of cash with no ML element.

¹⁰ It is unclear why the number of reports sent by GAC to the MOI/PPO is higher than the number of non/false declaration. Authorities indicated that the discrepancy could be due to differences in the way GAC and MOI/PPO are counting those reports.

239. Out of the 17 cases of false/non-disclosures, 12 led to convictions and eight to confiscation. All the convictions were only in relation to non-disclosure or false disclosure and not for ML or other predicate offences. This raises some concerns on competent authorities' ability to identify and investigate cross-border movements for ML and TF purposes. In cases where a confiscation ruling was not achieved, the judges considered that the undeclared funds were from legitimate sources.

240. Sanctions for non/false declarations of cash are limited to a maximum prison sentence of 1 year and a penalty, which cannot be considered as an effective and dissuasive sanction to prevent criminals from committing such offences.

Box 3.9. Failure to cash disclosing requirements case studies

Case study – False declaration at land border

In 2023, the MOI referred a GAC report to the PPO indicating that a suspect submitted a false disclosure upon entering the country through a land border in 2022. The suspect disclosed that they were in possession of (USD 10,000), but upon searching them by the GAC inspector they were found to possess (USD 30,000). Despite denying the illegitimate nature of the funds, the PPO seized the total amount of the funds. The case is pending final ruling.

Case study – Non declaration

In 2019, a non-Kuwaiti traveller going through Kuwait International Airport was stopped by a GAC officer and asked if they had anything to declare. The individual indicated that they didn't. However, during a subsequent search AED¹¹ 1,3 million (approx. USD 354 000) were found in the passenger's possession. The passenger was unable to provide proof regarding the source of the funds. The defendant was convicted of non-disclosure and there was no confiscation despite the entire amount having been seized initially.

Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities

241. Overall, confiscation results in Kuwait in line with the ML risks faced by the country to some extent. Competent authorities describe Kuwait as a safe and peaceful low crime jurisdiction where most offences are of low sophistication and do not involve large sums of money or complex techniques. However, case studies and exchanges with LEAs during the onsite demonstrate that there are some highly complex fraud and corruption cases, as well as significant amounts of proceeds of crime being generated in Kuwait. The overall number and value of confiscations, especially in ML and public corruption cases, is to some extent in line with those threats.

242. Additionally, Kuwait faces a sizeable risk from proceeds of crime moved to and dissipated in other countries. This risk is not reflected sufficiently in the NRA or AML/CFT Strategy and Action Plan. There is a particular risk for ML cases concerning proceeds that are laundered using schemes involving legal persons or individuals acquiring high-value assets such as real estate or holding accounts in foreign jurisdictions. The understanding of risk related to cross-border

¹¹ United Arab Emirates dirhams.

movements needs to be strengthened and further efforts should be taken to identify potential related ML and TF activities.

Overall conclusions on IO.8

Kuwait has been able to confiscate proceeds of crime and instrumentalities, especially in ML and corruption cases and confiscation is prioritised at a national level to some extent. Kuwait's challenges in securing ML convictions can impact competent authorities' ability to secure confiscation in other criminal cases. Kuwait has also been able to confiscate assets in non-ML or corruption cases, yet it has a more restrictive approach in such cases. Kuwait also demonstrated its ability to confiscate proceeds from foreign predicates in a few cases involving significant amount. Kuwait has resorted to provisional measures to some extent and demonstrated that it can seize and freeze a wide range of assets. However, provisional measures are resorted to a much lesser extent especially in non-ML cases.

Confiscation has not been identified as a strategic priority in the AML/CFT National Strategy and Action Plan. Competent authorities have written procedures concerning the identification, tracing, freezing and seizure of proceeds and instrumentalities of crime. The has a basic mechanism for recording frozen, seized or confiscated assets on a case-by-case basis and is still in the process of implementing a comprehensive process for managing and disposing of these assets.

Despite significant amounts cash passing through its borders, Kuwait did not identify any cross-border movement in relation to ML or TF which is not in line with the country risk profile.

Kuwait is rated as having a **moderate** level of effectiveness for IO.8.



Chapter 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

4

Key Findings

TF investigation and prosecution (Immediate Outcome 9)

1. Kuwait considers its TF risk as low, which is inconsistent with its geographical location and does not align with some important TF cases that were prosecuted during the reporting period. The classification of TF as low risk broadly aligns with the view of most competent authorities, which highlights their limited understanding of the TF threats faced. Notwithstanding, the authority directly mandated to deal with terrorism and TF has a more robust understanding of domestic and international TF.
2. Kuwait prosecutes and convicts TF to a limited extent, and largely in relation to the collection and movement of funds by individuals to terrorist organisation abroad. Those cases are relatively “simple” since they cover individuals who acknowledge joining a terrorist organisation and directly send funds to it.
3. Prosecutorial authorities face serious challenges in achieving TF convictions, such as limitations on the presentation of sufficient and conclusive evidence in accordance with the standards required in court, demonstrating the knowledge and intent elements of the TF crime, difficulty in converting intelligence into formal evidence and barriers posed by the lack of effective international cooperation with certain jurisdictions. This has led to several TF cases being acquitted at trial.
4. Kuwait has a counter-terrorism strategy, which has not been shared with the assessment team as it is a classified document, and it unclear whether CFT has been integrated and used to support counter-terrorism objectives domestically. All TF cases identified and investigated relate to the collection and movement of funds to foreign terrorist organisation. There is no identification of internal TF channels that could lead to terrorist activities in Kuwait or conducted by Kuwaiti nationals.
5. Kuwait has taken some measures to disrupt TF activities where a TF conviction is not practicable or cannot be secured. These include surveillance, placement in rehabilitation centres and deportation and removal of residency permit in the case of foreign nationals. In a few cases, a conviction for another offence was secured when a TF conviction could not be achieved. When a TF conviction is achieved, sentences are proportionate, effective and dissuasive.

Immediate Outcome 10

1. Kuwait has a legal framework to implement TF TFS, but its actions to do so are not based in the framework, and therefore, the measures that are taken lack a legal basis and enforceability. For instance, the relevant committee, the CTC, has never officially taken necessary sanctions decisions for UN sanctions. Despite this lack of legal basis, TF TFS are implemented in Kuwait informally. FIs and DNFBPs, generally, scan relevant lists to ensure that they are not doing business with designated individuals or entities. Supervisors ensure compliance with TF TFS obligations. Kuwaiti authorities have applied freezing measures without legal basis to individuals and entities that ought to be designated resulting in the freezing of multi-million USD in assets. There have been some issues in communication from the CTC, and use of the communicated information that delay informal implementation.
2. The scope of the application of TF TFS is limited in Kuwait. Furthermore, even if freezing measures were legally implemented, they would only apply to the funds and assets of the designated natural or legal person and the proceeds arising from them. Those parties required to implement these measures are meant to be defined in the decisions of the CTC, but are not, so it is not clear if all natural and legal persons are required to freeze assets. If legally implemented, the general prohibition would apply to any person making funds available or providing financial or other related services to or for a designated natural or legal person but would not prohibit persons from dealing with persons or entities who exercise indirect control or who act on behalf of sanctioned persons.
3. Operationally, Kuwait takes a passive approach to TF TFS. The Kuwaiti authorities have never considered a domestically sourced designation for national sanctions under UNSCR 1373, even though there appear to be opportunities to do so. Kuwait has not proposed any names to the UN committees. The authorities have also received and considered hundreds of third country 'trigger events' and requests pursuant to UNSCR 1373 in recent years. None of these have been positively actioned by Kuwait due to them all either containing errors, the individual/entity not being in Kuwait or Kuwait was not able to gain further information that would lead to a designation.
4. Kuwait has identified its NPO population and conducted an NPO risk assessment, focusing nearly exclusively on the risks related to the jurisdiction(s) where the NPO has projects. Assessing risk based on such limited factors has led to the misapplication of measures to address TF risks within the NPO sector.
5. Kuwait has implemented licensing measures and ongoing measures for all NPOs that serve as a barrier to entry and discourages entering the NPO sector. These measures, and their application, do not appear to be based on the level of TF risk and are not targeted. Kuwait has implemented some measures responding to the only major risk factor that Kuwait assessed,

jurisdictional risk of TF, that can, and have been shown to actually, disrupt legitimate NPO activity.

6. Kuwait has deprived terrorists, terrorist organisations, and terrorist financiers of assets and instrumentalities related to TF activities to some extent through informally applied sanctions-related freezing measures and confiscation, in some cases.
7. Kuwait is not taking measures to prevent terrorists, terrorist organisations, and terrorist financiers from raising, moving and using funds in line with its risk profile.

Immediate Outcome 11

1. Kuwait has the same issues (lack of legal basis, delay) identified in IO.10 with the implementation of PF TFS without delay.
2. The scope of the application of PF TFS is limited in Kuwait. Freezing measures would only apply to the funds and assets of the designated natural/legal person and the proceeds that arise from them if there was a legal basis for the freezing measures. There is no general prohibition preventing nationals or other persons within Kuwait from providing funds or other assets to listed natural or legal persons,
3. Funds or other assets could be detected in Kuwait when directly owned by a listed natural or legal person. No assets have been frozen in connection with PF TFS to date. The lack of available beneficial ownership information, low level of intelligence availability, and uneven awareness among FIs and DNFBPs about TFS, may frustrate the detection of assets used in or intended for PF and the pursuit of potential sanctions evasion.
4. FIs and DNFBPs have demonstrated an uneven understanding of TFS obligations. There is persistent non-compliance in the implementation of TFS obligations in all sectors in Kuwait.
5. Kuwaiti supervisors routinely inspect compliance with TFS obligations in their supervisory activities. TFS-scoped supervisory activities cover virtually the entire population of obliged entities. The supervisors have shown an ability to detect non-compliance with TFS obligations.

Recommended Actions

TF investigation and prosecution (Immediate Outcome 9)

1. Kuwait's competent authorities specifically mandated to deal with terrorism and TF should ensure their more informed understanding of TF risk is disseminated to other participants in the CFT regime.

2. Kuwait should enhance cooperation between competent authorities in charge of terrorism and TF investigations, to ensure sufficient evidence, including financial intelligence, is collected in the course of investigations.
3. Kuwait should investigate and prosecute the different types of TF activities in line with the country's risk profile.
4. Kuwait should significantly enhance its efforts to detect identify and investigate potential TF activities related cross border movements of currency and BNIs.
5. Kuwait should strengthen the understanding of TF activities through the judicial branch, which could be achieved through the dissemination of CFT guidance and training.

Immediate Outcome 10

1. Kuwait should re-evaluate its process to implement legal TF designations and required TF TFS measures to ensure a legal foundation for the implementation and enforcement of TF TFS.
2. Kuwait should address the technical deficiencies in its legal framework related to TF TFS to bring its compliance in line with the FATF Standards.
3. Kuwait should ensure the implementation of TFS without delay by considering an automated system for the notification of obliged entities as to both UN-issued sanctions as well as the National List implementing UNSCR 1373.
4. Kuwait should make their National List publicly available to facilitate communication and effective implementation of TF TFS.
5. Kuwait should more proactively use intelligence and other information, including by developing leads through domestic sources and those coming from international partners, to consider making designations. This may include examining criminal TF cases and persons residing in Kuwait with links to TF.
6. Kuwait should re-evaluate its process for determining whether there are reasonable grounds to give effect to sanctions requests from third countries.
7. Kuwait should conduct a comprehensive TF risk assessment of the NPO sector that goes beyond the primary factor of jurisdictional risk. This assessment should include consultation with the sector.
8. Based on this assessment, Kuwait should adapt the mitigating measures so that they are proportional with and targeted to the TF risks identified. Kuwait should take steps to reconsider and remove unnecessary barriers to entry that discourage NPOs and measures which disrupt the legitimate activities of NPOs.
9. To improve efforts to trace, seize, and confiscate funds linked to TF, Kuwait should significantly broaden the financial investigations conducted in

terrorism cases to identify assets and TF networks, and pursue international cooperation where appropriate.

Immediate Outcome 11

1. Kuwait should re-evaluate its process to implement legal PF designations and required PF TFS measures to ensure a legal foundation for the implementation and enforcement of PF TFS.
2. Kuwait should address the technical deficiencies in its legal framework related to PF TFS to bring its compliance in line with the FATF Standards.
3. Kuwait should enhance domestic cooperation and coordination efforts to combat PF among competent authorities, including but not limited to GAC, KwFIU, MoI, Ministry of Health and SSD, including on dual-use goods.
4. Kuwait should implement PF TFS without delay including by conducting further awareness raising and outreach to both authorities and private sector entities to make them aware of their obligations with respect to PF TFS.
5. Competent authorities should enhance obliged entities' knowledge and vigilance on PF controls and issue specific PF TFS guidance that provides context to Kuwait's PF exposure, including typologies and/or indicators on sanctions evasion.
6. Supervisory authorities should separate their statistics and activities related to TF and PF TFS and impose dissuasive and proportionate sanctions for failure to comply with PF TFS requirements.

243. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R. 1, 4, 5–8, 30, 31 and 39, and elements of R.2, 14, 15, 16, 32, 37, 38 and 40.

Immediate Outcome 9 (TF investigation and prosecution)

Prosecution/conviction of types of TF activity consistent with the country's risk-profile

244. Kuwait's categorisation of the TF risk in its NRA is inconsistent with the country's exposure to TF. As a result, Kuwait is prosecuting and convicting TF to a limited extent. The few TF cases that have been investigated and prosecuted relate to the collection and movement of funds by individuals to terrorist organisation abroad are in line with the country's risk profile but is not reflective of the full TF risks which Kuwait is exposed to.

245. Kuwait's NRA assesses the risk of TF as low, based on a low level of threat and limited vulnerabilities. In developing this assessment, the authorities heavily relied on convictions and did not consider other substantial information such as typologies, strategic analysis or cross border threats. As convictions are the main threat indicator and TF prosecutions and convictions achieved during the NRA timeframe (2016 to 2020) are extremely low, it is unsurprising that the authorities conclude the TF threat is also low. However, as pointed out in IO1, such limited analysis is likely to have led to an underassessment of TF risk. The authorities also consider that

the terrorism and TF threat is lower now than it has been at any point over the last decade, due to combined international efforts to reduce the regional influence of Al-Qaida (AQ) and the Islamic State of Iraq and the Levant (ISIL). While the threat may have reduced, these groups continue to have significant operational capabilities and have conducted terrorist operations throughout Syria and neighbouring Iraq over the past few years.

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246. The low vulnerability level attributed to TF is mainly based on the NRA finding that Kuwait had a sound and robust CFT legal framework. However, Kuwait legal framework does not cover the criminalisation of the financing of the travel of individuals for terrorist purposes (see Recommendation 5) which is a shortcoming in light of the country's risk profile. Despite the absence of such a specific provision, authorities demonstrated their ability to prosecute an individual on terrorism and terrorism financing charges for such offence on the basis that the defendant joined a terrorist organisation. Kuwait also considered that outreach and issuance of guidance to the private sector contributed to decrease the country's vulnerability to TF. However, as set out in Chapter 5 (Preventative Measures) and Chapter 6 (Supervision), obliged entities continue to only have a basic understanding of TF and do not apply CFT mitigation measures in a consistent manner.

247. Competent authorities widely share the understanding of a low TF risk as outlined in the NRA. However, different case studies suggest that significant amounts of funds have been collected in Kuwait to fund TF activities abroad, especially in Syria and Yemen. For instance, in one TF case over 60 million KWD was involved (approximately 195 million USD), and in another case, funds were sent to a UN designated person. Such significant TF cases could have led the authorities to nuance their initial finding of a low TF risk based on the risk matrix used in the NRA.

248. Prior to the reporting period, Kuwait suffered one terrorist act in 2015, perpetrated by Da'esh. The authorities also indicated that other planned terrorist acts have been thwarted during this period, but the number or scale of planned attack were not provided. Nonetheless, the authorities consider that the TF risks Kuwait is exposed to only relate to the funding of terrorist activities to be perpetrated abroad, not domestically. This narrow focus may have impacted Kuwait's ability to detect domestic cases of TF.

249. Despite Kuwait's overall understanding of TF risk being considered as low by the Assessment Team, the SSD, mandated to deal with terrorism and TF, has a more robust understanding of the risks associated with TF both domestically and abroad and considers TF as a top priority. This knowledge is shared to a limited extent with other authorities and does not contribute to enhancing the overall understanding of TF risks in Kuwait at a national level.

250. Over the reporting period, the PPO has prosecuted five TF cases, with two additional cases where prosecution was initiated in 2017 but with the final judgement rendered during the reporting period. Those seven cases cover approximately thirty defendants, all of which are related to the collection and/or movement of funds abroad. Most of the cases investigated and prosecuted involve relatively simple acts carried out by a single or limited number of suspects. There have not been any prosecutions to date relating to the use of TF funds in Kuwait which is somewhat in line with the low internal terrorism threat outlined in the NRA. Out of those seven PPO prosecutions, convictions were secured in six cases. One of the cases relates to the direct transfer of funds and assets, including shipments of oil, electronic devices, medical supplies and foodstuffs, to the leader of a terrorist organisation where the defendant acknowledged his belonging to the group. Cases that are successfully prosecuted can be regarded as simple to the extent that the defendants recognise their affiliation with a terrorist group and directly provided funds to those entities.

251. Securing a TF conviction in Kuwait appears challenging. During the reporting period, more defendants were acquitted than convicted for TF at the final stage of judgement. This suggests that prosecutorial authorities face obstacles and challenges to convince the Court that individuals are involved in TF activities in Kuwait. Over the reporting period, Kuwait secured TF convictions in six cases, covering twelve defendants. However, this should not be interpreted as every TF prosecution leading to a successful conviction. Out of the six TF cases where a conviction was secured, in five cases the investigations started before the reporting period (2016/2017) and in two out of those five cases, the initial referral to Court was in 2017, which is before the start of the review period. These three cases have still been taken into account since the final judgement from the Court of Cassation was given during the reporting period.

252. In parallel, there were four cases, covering 15 defendants, where an acquittal for the TF offence was pronounced as a final judgement. In addition, in an on-going case, the Court of First Instance acquitted 13 defendants of TF charges, but since the case is ongoing those figures were not taken into consideration.

253. The above figures raise concerns on the capacity of the authorities to advance cases towards successful outcomes. The authorities explained that they face challenges when prosecuting TF such as limitations on the presentation of sufficient and conclusive evidence in accordance with the standards required in court, demonstrating the knowledge and intent elements of the TF crime, the difficulty to convert intelligence into formal evidence and barriers posed by the lack of effective international cooperation with certain jurisdictions. Hawala transfers and cash smuggling are mostly resorted to in TF cases and hamper the tracing of the funds. The investigative and prosecutorial authorities, therefore, have to rely mainly on the confessions of the accused or intelligence to prove its link with terrorist groups.

254. Convictions for TF are rarely obtained at the level of the Court of First Instance and, most cases have to be appealed to a superior Court in order to secure a conviction. In one of the case studies provided (see case box 4.1), tangible material evidence was provided that clearly shows that the defendants knew that the funds were being transferred to a terrorist group or would be used for terrorist purposes. One of the defendants was also included on a “list of known terrorists”. However, the defendants were acquitted of TF by the Court of First Instance, prior to their final conviction by higher Courts. This demonstrates that significant challenges exist to secure TF convictions especially at the stage of the Court of First Instance.

255. The time it takes for an investigation to be referred to court varies greatly and range from several years to around a few months. In one case provided by the authorities, the investigation started in 2016 and referral to court was made only in 2020. In another case investigation started in April 2022 and referral to the court happened two months later. There is no clear correlation between the time for the investigation to be referred to Court and the ability to secure a conviction.

256. In addition to the challenges set out above, the need to further develop the knowledge and understanding of the judiciary on how to consider TF cases is also seen as a barrier to securing convictions. Terrorism and TF cases in Kuwait are judged by the Criminal Courts. Due to the specificity of terrorism and TF crimes, there may be a need for further training for Criminal Court judges specifically on TF cases. In cases where a final conviction for TF was achieved, the individuals either acknowledged being a member of terrorist organisation, or the PPO was able to prove their support for such organisation. Under Kuwait’s approach to prosecution of TF, any individual committing a TF offence is considered as a terrorist, which can increase the difficulty of obtaining a TF conviction. As shown by case studies, individuals charged for TF either recognised or clear evidence were provided that they had joined a terrorist organization.

257. Finally, as highlighted under IO7, it appears there is in practice limited criminal liability for legal persons in TF cases despite Kuwait's law providing for sanctions against legal persons in such cases. In addition, the authorities indicated that the absence of criminalisation of alternative hawala activities was also an obstacle in securing convictions, especially in light of their use in TF cases. In the one case involving legal persons used for TF (see case box 4.1 below), no prosecution was sought as the authorities deemed the entity to be an innocent party, abused by the terrorist financiers.

258. All the above elements demonstrate that Kuwait is not adequately identifying its TF risks, which likely results in the low number of prosecutions and convictions achieved during the reporting period. In light of Kuwait exposure to TF risk fundamental improvements are needed in this area.

Table 4.1. Prosecutions, convictions and acquittals for TF

	2018/2019		2019/2020		2020/2021		2021/2022		2022/2023		Total	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
<i>Prosecution</i>												
Collection									1	1	1	1
Movement			1	4							1	4
Use												
Collection and Movement			1	5	1	13			1	3	3	21
Total			2	9	1	13			2	4	5	26
<i>Final judgment</i>												
Conviction	2*	4	2	3			2	5			6	12
Acquittal			2	8			2	7			4	15

Note: * those 2 cases are taken into consideration as final conviction was secured during the reporting period, however they were prosecuted before the start of the reporting period.

Box 4. 1. Types of TF prosecutions and convictions – case studies

Case study 1: TF conviction for collection of funds

KwFIU disseminated a report in December 2016 indicating that between 2013 and 2014, three Kuwaiti nationals were involved in TF activities. This involved:

- carrying out the activity of collecting donations without a license from the competent administrative authority,
- circulating them between bank accounts, then withdrawing them in cash,
- transmitting them illegally across the border to Country A and then to the conflict regions in Country B with the aim of financing the terrorist group, knowing that these funds will be used to finance a terrorist act.

The PPO initiated the criminal investigation and on reviewing relevant documentation, including UN Security Council resolutions, one of the individuals concerned was also found to be included

on a list of known terrorists. Following the arrest and interviews of the defendants, the authorities interrogated electronic devices and discovered, on a digital storage device, audio and video clips implicating the defendants in the alleged activity. The PPO then referred them to the Court for trials.

In 2020, the Court of First Instance acquitted all the defendants. In 2021, The Court of Appeal overturned the judgement of the lower court and found the defendants guilty of TF. The appeal court imprisoned the first and second accused for seven years and fined each of them a sum of KWD 700 000 (approx. USD 2,3M), and imprisoned the third defendant for five years and fined him a sum of KWD 30,000 (approx. USD 97 000); the court also issued an order to confiscate an amount of KWD 668,730 (approx. USD 2,2M). This judgment was upheld by the Court of Cassation.

Case study 2: TF conviction for transfer of embezzled funds

In 2018, one foreign resident was convicted for terrorism financing and sentenced for 10 years imprisonment and a KWD 6 620 (approx. USD 21 400) fine. The individual was sending embezzled funds to persons affiliated with a foreign terrorist organisation, knowing and intending that those funds would be used in a terrorist act.

The PPO identified the case thanks to a report from a government enterprise (company A), regarding forgery of bank papers and unofficial documents. In this case, eight foreign defendants (including the one charged for TF), and one Kuwaiti defendant forged four cheques on company A's bank accounts, which resulted in the embezzlement of 23 850 KWD (approx. USD 77 200) from company A.

All the other defendants were not charged with TF, as they only intended to transfer the embezzled funds to their families and had no knowledge of any transactions or activities that occurred with the terrorist organisation. All the other defendants - but one - were convicted of fraud and sentenced to 5 years' imprisonment and a fine equalling the amounts of the funds embezzled. Five defendants were also charged and convicted with ML.

Case study 3: Acquittals of TF offence

In 2019, six foreign defendants were acquitted of charges of terrorism financing as the Courts considered that the evidence provided by the PPO was limited to intelligence and the testimony of the investigative officer of the SSD. The defendants denied the allegations of terrorism financing and maintained that they were just transferring money to their families in Country A, in a region controlled by ISIL.

In 2017, the SSD sent a report to the PPO indicating that the six defendants could be committing TF offence by collecting funds in favour of ISIL. Defendants established a fictitious exchange office in the State of Kuwait through which they carried out the activity of transferring funds outside the country. The amounts of funds involved in that case are KWD 11M (approx. USD 35M).

These funds were then sent outside of Kuwait to people of various nationalities, in preparation for transferring the funds to Country B and then onwards to support ISIL in Country A.

TF identification and investigation

259. Although Kuwait has demonstrated the capacity to identify and investigate TF to some extent, competent authorities rely mainly on foreign intelligence to launch investigations. It is also unclear whether competent authorities are proactively identifying and investigating TF, since Kuwait has only investigated five TF cases over the reporting period which does not seem in line with the country's risk exposure to TF but would be in line with the NRA finding of an overall low TF risk. In addition, TF investigations have been investigated in the course of terrorism investigations.

260. The identification and investigation of TF offences in Kuwait involves coordination and cooperation mainly between the MOI and the PPO. Within the MOI, the AML/CFT Department has the responsibility for investigating TF. However, in practice the SSD which has a wider counter-terrorism remit, including investigating activities linked to planning and preparation of terrorist acts and joining and participating in terrorist organisations, is the department identifying and launching preliminary investigations in most of the TF cases. The SSD passes on information on TF to the MOI AML/CFT Department, which is then in charge of referring cases to the PPO to initiate formal criminal investigation.

261. As described in Chapter 3 (Legal Systems and Operational Issues), the PPO has the sole competency of launching criminal investigations in Kuwait. The AML/CFT Department of the PPO is responsible for conducting criminal investigations on TF matters. However, terrorism cases are dealt with by the Capital Prosecution of the PPO, not the AML/CFT Department. While pursuing such investigations, the Capital Prosecution can also initiate investigations into TF and hence coordinates with the AML/CFT Department of the PPO if further financial investigations are to be conducted.

262. Since all TF cases investigated in Kuwait relate to the financing of terrorist organisations by individuals who have joined those organisations, all of the TF investigations have been initiated by the SSD before being referred to the MOI AML/CFT Department and the PPO. In practice, it is unclear how the different authorities involved in CT and CFT cooperate and to what extent TF is pursued when not linked to an individual having committed a terrorist act or an individual recognising having joined a terrorist organisation.

263. Both the MOI and the SSD have the necessary human and technical resources to effectively fulfil their responsibilities. The SSD has access to a wide range of databases to investigate TF cases (see 3.2.1), and it also has access to highly classified database of terrorism related information, shared with foreign counterparts. Access to this database is direct and is limited to a small number of specialised cleared officers both within the SSD and MOI AML/CFT Department. Out of the five TF cases that Kuwait has prosecuted during the reporting period, four emanated from foreign intelligence and one from the SSD/MOI.

264. When conducting preliminary inquiries, the MOI is able to detect TF cases and act expeditiously. For example, in 2021, following a dissemination report sent by the KwFIU, the PPO referred to the MOI a suspicion of ML activity of KWD 60 million (approx. USD 194 million) through an alternative hawala. Through the inquiries of the MOI, it was discovered that a on top of the ML activity, part of the defendants had formed an unlicensed committee to collect funds and send funds to a terrorist organisation through the alternative hawala transfer system. The sum related to TF activity identified in that case was KWD 14 million (approx. USD 45 million). When the TF elements were discovered, a separate case was opened specifically to deal with the TF component. This has been referred to Court and is pending final judgement while the investigations for the ML case are still ongoing. For further details please see below case box 4.2.

265. As described under Chapter 3 (Legal Systems and Operational Issues), the role of the KwFIU in TF cases is very limited. The SSD and the PPO use financial intelligence products from the KwFIU to a limited extent to launch or conduct TF investigations and more broadly it is unclear if KwFIU's input adds substantive value to investigations. Over the reporting period, no TF investigation emanated from a report sent by the KwFIU to the PPO. Similarly, the value added after an investigation had been initiated to advance TF investigations and prosecutions was not demonstrated. In case box 4.2 below, case study 1 emanated from a KwFIU dissemination report on ML and the TF component of the case was only discovered at a later stage following MOI inquiries. The KwFIU was not consulted to conduct financial intelligence inquiries in this case.

266. Over the reporting period, Kuwait has not investigated TF cases from financial intelligence reports from KwFIU or inputs from other agencies such as GAC, MOSA, CBK or MOCI. This is despite the fact that the banking and exchange companies' sectors, fake charity programs and the smuggling of cash are vulnerable sectors or common typologies in TF cases. With most TF cases emanating from foreign intelligence, the overall cooperation between the PPO/MOI and other competent authorities appears to be limited in TF cases.

Table 4.2. TF identification and investigation (2018 – 2023)

	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	Total
<i>Identification of TF activity</i>						
State Security Department		2		1	2	5
KwFIU						
<i>Types of PPO TF investigation</i>						
Terrorism and TF		2		1	2	5
TF only						
<i>Source of TF Investigations</i>						
Foreign		2			2	4
Domestic						
Mixed				1		1

Note: Mixed source cases are those in which the primary intelligence was domestic but was supported by information from an external source.

Box 4.2. TF Identification and Investigation case study

In 2021, a report from the KwFIU was sent to the PPO for a suspicion in ML activity between 1993 to 2021 through alternative hawala transfers. The funds that were related to the suspicious ML activity exceeded KWD 60 million (approx. USD 194 million). While conducting the investigation in that case, and through the inquiries of the MOI, it was discovered that a group of defendants had formed an unlicensed committee to collect funds and send them to a terrorist organisation through a hawala transfer system. The total sum related to TF activity was KWD 14 million (approx. USD 45 million).

The first and second defendants, who were managers of a banking institution, acted on the instructions of the seventh defendant and illegally collected cash from others through an exchange institution, and handed it over to the third and fourth defendants, who deposited the money in the bank accounts of a commercial company, another Kuwait company that was

fictitiously licensed to engage in import and export activity, and then transferred the funds to an exchange company, with the help of the fifth accused.

The third and fourth defendants also forged invoices from fictitious companies overseas in order to give the impression that the Kuwait company was importing goods from overseas, to justify the overseas transfers to the bank with whom the exchange company held its account, and to conceal the fact that the funds were being sent to a terrorist organisation. The sixth defendant took advantage of his position in the money exchange company to complete remittances to the beneficiaries, and to conceal and disguise their illegal source; he also provided the details of the companies featured on the forged invoices to the third and fourth defendant.

The seventh defendant colluded with the first to the sixth defendants by giving them directions and the mechanism through which funds were collected and transferred outside the country, which harmed the national interests of the country.

In the TF component of the case, the PPO charged all the defendants with a variety of offences including joining banned groups and financing them, harming the national interests of the country and conducting alternative hawala operations. The Court of First Instance concluded that the accused were not guilty of the TF offence but that the funds were used for charitable purposes. The case is still pending review by higher Courts. The legal persons involved in this case were not charged for TF.

The ML component of this case is still under investigation and has not been referred to Court.

TF investigation integrated with –and supportive of- national strategies

267. Kuwait does not have a standalone CFT strategy and the AML/CFT Strategy and Action Plan (2022-2027) is designed to incorporate CFT measures. The Strategy and Action Plan are based on the results of the NRA, which considers the TF risk in Kuwait as low. Kuwait analysis of its TF threat in the NRA was based on the TF cases prosecuted during the period taken into consideration for the NRA (2016-2020). The investigations of TF cases that resulted into prosecutions were taken into consideration to assess Kuwait TF threat level in the NRA, hence they were also taken into account to some extent in the Strategy and Action Plan, since both documents were based on the outcomes of the NRA.

268. There are no strategic deliverables or actions specifically relating to increasing capabilities around TF in the AML/CFT Strategy and Action Plan. All the actions laid out in the document are “generic” measures relating to AML/CFT more generally. The AML/CFT Strategy & Action Plan contains a deliverable related to the enhancing domestic cooperation on ML/TF investigations through the set-up of investigation teams. One aim of the deliverable is to ensure coordination among authorities, especially the PPO, KwFIU, MOI and GAC, on the quality of investigations after the issuance of judicial rulings. This also enables the authorities to identify any shortcomings in the investigations and discuss ways to address them in future cases. According to Kuwait, this deliverable within the Action Plan has been achieved. However, based on the results of the authorities in identifying and investigating TF over the reporting period, the outcomes of this deliverable appear so far limited.

269. Authorities indicated that there is a strategic counter-terrorism policy, however this document is classified and could not be reviewed by the assessment team. If the specific authority mandated to combat terrorism seems to have a clear understanding of the different threats related to terrorism and TF in Kuwait, there is no commonly shared strategy on CT with all other

competent authorities. The lack of common approach and procedures between authorities to deal with terrorism and TF cases was recognised by the investigative authorities as a shortcoming that they are currently working on and should be addressed as a priority.

270. Despite several TF cases, as well as many requests from international partners, Kuwait authorities have never proposed to add a name to their National List stemming from UNSCR 1373 (see 4.3).

271. In light of the above, the investigation of TF is integrated with and used to support national counterterrorism strategies and investigations to a limited extent.

Effectiveness, proportionality and dissuasiveness of sanctions

272. In Kuwait, TF is a felony and carries a minimum penalty of 3 years imprisonment and a maximum penalty of 15 years imprisonment, which can be increased to 20 years if aggravating factors are met. The amount of the fine should not be less and up to twice the value of the funds that were the objects of the offence.

273. The sanctions applied against those convicted for TF are effective, proportionate and dissuasive. As noted above, over the reporting period Kuwait secured final TF convictions in four cases, covering eight defendants. A minimum imprisonment sentence of 5 years and a maximum imprisonment sentence of 10 years were handed down, as well as fines from KWD 200 (approx. USD 650) to KWD 700 000 (approx. USD 2,3M).

274. As noted above, during the reporting period, there were four cases, covering 15 defendants, whereby an acquittal for the TF offence was pronounced as a final judgement. In addition, three defendants were acquitted for TF in cases where TF convictions were secured for other defendants. Hence, a total of 18 defendants were acquitted of TF charges over the reporting period, while twelve defendants were convicted. This raises questions about the ability of the authorities to secure a conviction when individuals are suspected of TF (see 4.2.1). In one case, an acquittal from the TF offence was complemented by a conviction in the following offences ‘joining a terrorist organisation’ and ‘illegal possession of firearm’.

275. Over the reporting period, the PPO and the Judiciary attended six specific training sessions on CFT, including a one-day CFT workshop in 2023. However, there is no specific TF training plan for the PPO and other branches of the Judiciary. This should be considered by the authorities as a way to strengthen the common understanding of the TF offence through the Judiciary.

Table 4.3 TF convictions sentences

Year when final conviction was secured	2018/2019	2019/2020	2021/2022
Number of defendants referred to Count on TF charges	4	3	7
Imprisonment sentences in Final Conviction	5 years for four defendants	10 years for three defendants	7 years for two defendants 5 years for three defendants Acquittals for 2 defendants
Fine in Final Conviction	KWD 1,3M for 1 defendant (approx. USD 4.1M) USD 14 000 for three defendants	KWD 6 620 (approx. USD 21 000) for one defendant KWD 200 (approx. USD 650) for two defendants	KWD 700 000 (approx. USD 2,3M) for two defendants KWD 30 000 (approx. USD 97 000) for one defendant KWD 8 000 (approx. USD 26 000) for two defendants

Alternative measures used where TF conviction is not possible (e.g., disruption)

276. Kuwait did not demonstrate that it sufficiently prioritises measures to disrupt TF activities where a TF conviction is not possible or cannot be secured. Kuwait states that it has added names to its National List in 2018 by way of joint designation with the Terrorist Financing Targeting Center (TFTC).¹² Since that time, the TFTC has made further designations that have not been added to the National List. The TFTC does not maintain and cannot enforce a sanctions list of its own, but provides the press releases of TFTC members, based on their own domestic authorities. At the time of the onsite, no designations from Kuwait appeared on the TFTC website list of designations. Kuwait has successfully imposed temporary measures to seize and freeze assets based on domestic TF investigations but have not done so where the assets are located abroad. This is a concern and is likely linked to some of the international cooperation challenges (e.g., having to rely on diplomatic channels) identified in Chapter 8.

277. Kuwait has a range of alternative measures it can resort to in the absence of a TF conviction. However, due to the sensitivity of the information, the assessment team was not provided with the number of individuals targeted by such alternative measures. In the absence of a judicial conviction, the MOI has the ability to deport any foreign individual as well as stopping the individual from re-entering the country. The MOI also applies specific surveillance procedures and has a large number of officers dedicated to do this. Absent a conviction for TF, the Court can decide that an individual be sent to a rehabilitation centre. In this case the process would be under the supervision of the PPO. An individual suspected, but not convicted of TF, can also be sent to a rehabilitation centre if it is proven that they have a link with a terrorist organisation. In this case, the procedure would be under the supervision of the MOI.

278. In the absence of a TF conviction, the PPO will also try to secure a conviction for another offence. If there is not enough evidence to prove that a person knew that the funds were intended for use by a terrorist group, the PPO will focus on the source and movement of the funds that may have been disguised in some way. Case study 4.1.2 is an example where the funds that were used

¹² www.tftc-istehdaf.org/designations

to finance a terrorist group were generated by fraud and forgery in a government agency. Even though only one defendant was convicted of a TF offence, it was on the basis that he was responsible for sending the funds to the terrorist organisation. The other defendants were prosecuted and convicted of ML.

Overall conclusions on IO.9

Kuwait has not demonstrated that it is effectively prosecuting and convicting TF in line with the country's risk profile and its geographical location. Kuwait has investigated, prosecuted and convicted a very limited number of TF cases, which all relate to the collection and/or movement of funds.

The classification of the TF risk as low in the NRA, as well as an uneven understanding of the TF threats in Kuwait hampers the authorities' ability to detect and disrupt TF activities. Kuwait has a counter-terrorism strategy, but it was not provided to the Assessment Team as it is a classified document and it is unclear whether it includes CFT elements and its CFT strategy is very generic and is integrated as part of a broader AML/CFT Strategy, with no specific TF actions.

When a TF conviction is secured, sanctions are effective, proportionate, and dissuasive. However, there is a low conviction rate in Kuwait, and it appears difficult to secure a TF conviction without proving that the individual has joined a terrorist organisation.

Kuwait is rated as having a **low** level of effectiveness for IO.9.

Immediate Outcome 10 (TF preventive measures and financial sanctions)

Implementation of targeted financial sanctions for TF without delay

279. Kuwait has technical and practical deficiencies that prevent the legal implementation of TFS without delay (see R.6). Its current framework to implement TFS was established in 2014 via Ministerial Decision 1396/2013. This decision created Kuwait's CTC. This Ministerial Decision was re-issued in July 2023 as Ministerial Resolution 141/2023 to give the CTC more explicit purview over PF TFS, but it did not change the mechanisms for implementing TF TFS. The framework to implement TFS has a limited freezing obligation (Recommendation 6.5(b)) and limited general prohibition (Recommendation 6.5(c)), amongst other deficiencies, that differ slightly between TFS issued by the UNSC and domestic designations. Despite these technical issues, Kuwait has frozen a significant amount of assets related to individuals and entities that should be designated, and has taken other measures to informally implement TFS, without a legal basis.

Implementation of UNSCR 1267 and successor resolutions

280. Kuwait's CTC is empowered to take all decisions required to implement TF TFS issued under UNSCR 1267 and successor resolutions without delay. According to the Resolution, the CTC must follow a mandatory process to implement TFS in Kuwait that allows Kuwait to use its discretion in implementing TF TFS (see R.6). In practice, the CTC does not take and has never taken any such decision using this process. The CTC only forwards emails from the UN Committees to the supervisors of obliged entities, generally within 24 hours of listing or de-listing. As there is no decision taken, and the CTC does not follow its own mandatory decision-making process, there is no legal basis for TFS related to UNSCR 1267 and successor resolutions being implemented in Kuwait. Obligated entities may follow the email communications to a certain extent, but the freezing obligations and other legal requirements are wholly unenforceable and lack a legal underpinning by the terms of domestic law.

281. In parallel, designations by the UNSC made through UNSCR 1267 immediately trigger a second obligation for FIs and DNFBPs to "implement Security Council Resolution 1267 (1999) immediately without delay" (Ministerial Resolution 141/2023 Art. 19(1)). This obligation is not specific enough in that it neither informs nor requires FIs and DNFBPs to implement TFS. This requirement calls on FIs and DNFBPs to implement UNSCR 1267, but the Resolution only places obligations on countries, and does not address or bind the private sector in any way. Implementation by way of custom, fiat, perceived pressure, or fear of being penalised does not remedy the core problem in the regime. A financial institution, for example, would have grounds to challenge a penalty issued by Kuwait for non-compliance with TFS. This undermines the goal of the TF TFS regime, to swiftly and legally freeze assets that could finance terrorism through coordinated international action.

282. According to Kuwait, there have been two court challenges in cases involving designations under UNSCR 1267, both outside of the assessment period. This was not acknowledged at the onsite meeting. Further, no details about these cases were provided to the Assessment Team, other than the outcome that the challengers did not prevail. Kuwait itself was not aware of the litigation risk posed by the fact that its regime was operating without legal basis and was therefore susceptible to serious challenges. The plaintiffs in those cases also could not have been aware that the basis for implementing the sanctions was infirm because, under the Resolution, the CTC's decisions to implement UNSC TFS are non-public. It is unlikely that these challenges dealt with the issue at the heart of the effectiveness problem in Kuwait. The challenger could not have had

any inkling that the country was not following the legal process as set out in domestic law to implement the UN sanctions. It is possible that if they did, the outcome of the challenges may have been different. It is also possible that these particular cases may have involved a different issue altogether, such as a claim to access funds for basic expenses. Therefore, these two challenges are not proof of the legality or enforceability of the TFS system in Kuwait. The assessors do not attach significant weight to them.¹³

283. While there is no legal basis for the country's implementation of TFS and no enforceable rule that FIs and DNFBPs must freeze assets, the Kuwaiti TFS regimes operates as though there is a legal basis for TFS implementation. FIs and DNFBPs generally implement TFS, but some with delay (see IO.4). This delay could impact FIs' and DNFBPs' ability to promptly identify funds belonging to designated individuals and entities. Supervisors almost always scope examinations to include TF TFS obligations and they have imposed numerous sanctions on FIs and DNFBPs for insufficient TFS monitoring and compliance.

284. The CTC maintains a website that FIs and DNFBPs follow that provides a link to the UN Consolidated List, comprised of all designated natural and legal persons from all relevant UNSCRs. This list is a link to the UN Consolidated List and is thus immediately updated and current as to all listings and de-listings. Members of the CTC that are AML/CFT supervisors notify their obliged entities of changes to the Consolidated List via email within 24 hours. However, as members of the CTC are not able to send delegates or substitutes to meetings of the CTC, and decisions can only be communicated through the direct business email of the individual member. This means there can be some delay in notification to the private sector, at times when the CTC member is temporarily indisposed, on leave, etc.

285. The scope of the application of TFS would be limited in Kuwait if the sanctions were to be applied with legal basis. Freezing measures would only apply to the funds and assets of the designated natural/legal person, and the proceeds that arise from their funds and assets. This would not include assets of those acting on or behalf of or at the direction of any listed person or entity, owning or controlling any designated person or entity, directly or indirectly, or assisting in evasion of sanctions or in violation of the provisions contained in the relevant resolutions. This limits the effectiveness of the implementation of TFS in Kuwait, if TFS were implemented with a legal basis.

286. The general prohibition prevents any person from making funds available or providing financial or other related services, directly or indirectly, in whole or in partnership to or for a designated natural or legal person. This does not include a prohibition on the provision of other assets or economic resources. Further, it does not include persons and entities acting on behalf of, or at the direction of, designated persons or entities. This limits the effectiveness of the implementation of TFS in Kuwait, if TFS were implemented with a legal basis.

287. Despite these shortcomings, Kuwait has frozen assets as a result of the implementation of UNSCR 1267 without legal basis. These assets include bank deposits, share certificates and real estate:

¹³ Depending on the specific facts, Kuwait may not have been the appropriate venue for the challenges, as petitions to de-list on grounds that the person or entity no longer meets the designation criteria should generally be directed to the relevant UN Committee. These were not challenges related to domestic designations issued under UNSCR 1373, which may be more substantive in nature.

Table 4.4. Type and Value (EUR) of assets frozen under UNSCR 1267 regime

Type of Asset	2018	2019	2020	2021
Bank Deposits	488 164.93	632 784.38	723 018.90	810 340.77
Securities	31 879.26	32 461.23	33 199.77	33 680.67
Real Estate	3 600.000	4 050.000	4 290.000	4 71.000

4

288. Ministerial Resolution 141/2023 does not put in place a framework to identify targets for designation. Kuwait has never made a designation proposal to the UN or any of the relevant committees, and there is no interagency body or individual institution actively examining potential candidates for designation as one of its objectives. This low number of proposals (0) is not in line with Kuwait's TF risk. This risk is exemplified by Kuwait having eight individuals on the UNSCR 1267 and successors resolutions lists, having frozen over 6,000,000 EUR related to individuals/entities listed via UNSCR 1267, having prosecuted a number of individuals for TF, mainly for collection of movements of funds to foreign terrorist organisations, having identified TF cases where the amounts of funds transferred were worth several millions USD, and sharing a large land border with Iraq, one of the countries most affected by terrorism in the world.

Implementation of UNSCR 1373

289. Regarding domestic designations, in 2014, Kuwait established a consolidated domestic sanctions list called the National List. At the time of the on-site visit, it comprised 68 natural persons and six legal persons, all of which were sourced from third party designation requests.

290. The Ministerial Resolution 141/2023 authorises the CTC to make decisions that ensure Kuwait complies with UNSCR 1373. Natural and legal persons are added to the National List through decision of the CTC. The CTC issues decisions using its decision-making process for additions and subtractions to the National List. Decisions by the CTC to include a natural or legal person on the National List are effective immediately and without delay. The Resolution does not define the implication of being included on the National List (i.e., it does not specify if the designated entity subject to asset freezes, or whether persons are prevented from dealing with them). The CTC's decisions that have been shared with the assessment team also do not detail the consequence of being included on the National List. As a result, the assessors conclude that there is a legal basis for the inclusion of natural or legal persons on the National List, but there is no legal basis for the application of freezing/prohibition measures for constituents of the National List. It is a list without practical effect. Therefore, not following the supposed obligations with respect to the nationally designated persons cannot bind Kuwaiti FIs, DNFBPs, or the general populace, or carry an enforceable penalty. Accordingly, TFS are not legally implemented in Kuwait, much less effectively implemented.

291. In practice, FIs and DNFBPs do generally implement freezing and prohibitions measures, some with delay, as if there were specific, legally enforceable obligations. As members of the CTC are not able to send substitutes to meetings of the CTC, and decisions can only be communicated through the direct business email of the individual member, there can be some delay in this notification in case of the member being temporarily indisposed, on leave, etc. Supervisors almost always scope examinations to include TF TFS obligations and they have imposed numerous sanctions on FIs and DNFBPs for insufficient TFS monitoring and compliance.

292. This National List is classified and only shared with competent authorities, FIs, and DNFBPs. The decisions are communicated by supervisors to their obliged entity population for immediate (if unspecified) implementation. The general prohibition that exists within Ministerial Resolution 141/2023, if applied with legal basis, would apply to obliged entities but not more

broadly than that. This is because all other natural and legal persons cannot be aware of who has been designated on the National List. This curtails the preventive effect of the national designation regime.

293. The CTC can consider any potential designation brought forward by the members of the CTC, which comprises all relevant competent authorities in Kuwait, or from international partners. In practice, Kuwait has only considered potential designations from international partners, and does not have interagency body or individual institution actively examining potential candidates for designation as one of its objectives. Kuwait has not considered a domestically sourced proposal to trigger a designation on its National List. The low number (0) of domestic proposals for designation through UNSCR 1373 is not consistent with Kuwait's TF risk. There are eight individuals with a Kuwaiti nationality or identification documents on UNSCR 1267 and successor resolution lists. This points to the potential for other individuals in Kuwait to be considered for designation and indicates that Kuwait is taking a passive approach to TFS, which is not in line with the TF risk it faces.

294. Kuwait receives designation 'trigger events' from two international sources: (a) requests from an embassy located in Kuwait; or (b) via international cooperation, when the CTC obtains information on a Kuwaiti person or entity being designated on other TF-related UNSCRs. Kuwait also receives formal requests for designation by foreign countries. The requests that Kuwait receives can also include intelligence from the TFTC, a body comprised of GCC countries and the United States, designed to disrupt terrorist financing networks. The assessment team considered these international information sources that could lead to a designation together.

Table 4.5. Trigger Events and International Requests for Designation

Requests received and those approved in parentheses.

Trigger Activity	2018	2019	2020	2021	2022	2023
Request from an embassy located in Kuwait	46(0)	51(0)	65(0)	219(0)	112(0)	0
International Cooperation	23(23)	3(0)	2(0)	0	0	17(0)
Total	69(23)	54(0)	67(0)	219(0)	112(0)	17(0)

295. There have been no designations sourced from the 469 international requests received in the past 4.5 years (23 individuals and entities were listed from international requests in 2018). Kuwait has indicated that the requests were not acted upon as they either contained typos, Kuwait did not hold any additional information that could assist in reaching the threshold for designation, the individual/entity subject to the request was not in Kuwait or Kuwait requested additional information from international partners and did not receive a response to allow them to reach the threshold. It is improbable that not one of the multi-hundred designation 'trigger events' and requests made over numerous years could not allow Kuwait to reach its threshold for designation. It is also improbable that one source of information in one year was deemed to reach the threshold while no instances of other requests were deemed worthy of designation subsequently. Not considering designation requests where there is a typo demonstrates a lack of effort to correct minor deficiencies, especially where small clarifications could prevent terrorist and terrorist financiers from accessing resources. Kuwait participates in the TFTC, amongst other forums, which provides a forum for cooperation of this nature. Not using TFS to prevent terrorist and terrorist financiers from accessing resources only because there is no information that they are not on Kuwaiti territory is not in line with the purpose of TFS.

296. While Kuwait has received a large number of international requests for designation, they have not made an outgoing request to an international partner during the time period covered by the mutual evaluation. This further exemplifies Kuwait's passive approach to TFS.

297. Despite these shortcomings, Kuwait has frozen assets a result of the implementation of UNSCR 1373:

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Table 4.6. Type and Value (EUR) of assets frozen under domestic UNSCR 1373 regime

Type of Asset	2018	2019	2020	2021	2022	2023
Bank Deposits	59,642.12	576,584.17	650,673.83	708,959.76	771,991.33	844,791.90
Securities	49.88	83.54	144.03	197.81	2 826.51	2 826.51

Implementation of sanctions by FIs and DNFBPs

298. FIs and DNFBPs have an uneven understanding of their obligations related to TF TFS, and they are not able to demonstrate knowledge or typologies of sanctions evasion. Most FIs, particularly the larger ones, demonstrated a good understanding of their obligations to implement TFS in accordance with international requirements and they would likely detect direct asset or fund ownership by a designated person or entity. Large FIs generally used automated systems that automatically scan UNSCR lists, and they complemented those screenings by inputting the Kuwaiti National List manually into their systems. DNFBPs demonstrated a much lower understanding of their obligations to implement TFS, and those that did implement TF TFS did so with some delay (one to two days). Some DNFBPs indicated that they would only scan UNSCR lists and the National List if they were already suspicious of the client for other reasons, while others did not seem aware of the lists at all.

299. Kuwait supervisors have found many deficiencies related to TFS and have administered numerous remedial actions and fines for failure to comply with TFS requirements. The supervisors have aggregated all TF TFS and PF PFS deficiencies making it impossible to disaggregate TFS deficiency statistics. These deficiencies, though, include five instances of Kuwaiti exchange companies "making funds available or providing financial or other related services, directly or otherwise, solely or in partnership with others, to an individual, group, or entity designated on the National List and UN Consolidated List or for their benefit" (see Chapter 5 Preventative Measures for more information). The CBK clarified that these breaches were not for the actual provision of funds, but for breaches related to automated systems not checking names of individuals/entities that should be designated, despite the name of the breach indicating a more serious violation. The Assessment Team notes that the most significant penalties applied to exchange companies are in the context of these breaches, which would be consistent with a breach involving the provision of funds.

300. Kuwait takes some productive, if passive, steps to implement TF TFS. The regime is, however, implemented informally. It lacks legal basis and specific obligations meaning that it can be challenged not only by persons whose assets are frozen, but any obliged entity being instructed to implement it. Any fine issued or other sanction for non-compliance could be appealed, for many reasons, including a lack of enforceability and vagueness. While Kuwaiti authorities state (and interviews confirmed) that the private sector is following the outlines of a normal TFS regime, the UNSCRs are not formally implemented. They are informally followed under threat of government penalty. This exposes both Kuwait's supervision and enforcement mechanism to challenge, and risks making available the assets to terrorists as a listed person could successfully challenge the application of the UN sanctions to them within Kuwait.

Targeted approach, outreach and oversight of at-risk non-profit organisations

301. MOSA supervises NPOs in Kuwait. There are established committees, such as the Committee of Readiness and Preparation for the Periodic Evaluation of the State of Kuwait in charge of proposing policies and mechanisms for Kuwait to be compliant with FATF Recommendation 8, and the Committee for Inspection and Periodic Control of the Financial Activity of Charitable Societies and Philanthropic Associations, in charge of supervising NPO activities.

302. Kuwait has taken steps to identify those NPOs operating in Kuwait that meet the FATF definition of NPOs. Those include some charities and Mabarrahs, a type of private foundation that can only operate within Kuwait. Professional associations do not meet the FATF definition. As of 2020 (cut-off date used in the NPO risk assessment), there were 285 NPOs of which 147 were professional associations, 51 were charities and 87 were Mabarrah. As of 2023, there are 346 NPOs, of which 178 are professional associations, 78 are charities, and 90 are Mabarrah. Kuwait considers that there are 168 NPOs at risk of TF abuse, comprised of the 78 charities and 90 Mabarrahs. Accordingly, for this assessment of effectiveness, only charities and Mabarrahs are considered.

303. Kuwait has conducted a risk assessment of the NPOs that meets the FATF definition as part of its NRA. This risk assessment explored the TF threats and vulnerabilities to NPOs in Kuwait through a questionnaire that was sent to all charities. Mabarrahs were not included in the questionnaire as they operate only inside of Kuwait and were, as a result, automatically considered by Kuwait to be of low TF risk. Such an exclusion is unjustified given that Kuwait has domestic TF risk, as can be exemplified by TF prosecutions (see Chapter 4), amongst other factors, as detailed in Chapter 2.

304. The risk assessment was designed such that the level of TF threat was measured focusing the assessment of a single factor: jurisdictional risk related to the NPOs' use the funds. The threat assessment assessed whether the NPOs engaged in projects outside of Kuwait, and where those projects were located. The jurisdictional risk factor used for this assessment was the level of country risk identified in the Global Terrorism Index to attempt to measure the TF threat to Kuwait's NPO sector outside of Kuwait. Kuwait did not consider other factors or ascribe any TF risk level to its own jurisdiction.

305. Solely on the basis of the outward location of Kuwaiti charitable activities, the TF threat level to NPOs in aggregate was found to be medium. After vulnerability mitigation measures were taken into account, Kuwait assigned a risk rating to the charities sector of medium risk, i.e., very significant mitigation measures described below did not actually meaningfully change the risk level.

306. MOSA conducts onsite and offsite supervision of charities and Mabarrahs. To enable this supervision, they have conducted a risk assessment of the entity level risks posed by each of the NPOs under their purview. MOSA policy sets out five factors that were to be used to assess the risk of the NPOs. MOSA confirmed while the assessment team was on-site that assessment of entity risk is driven solely by jurisdictional risk. NPOs with activities solely in Kuwait have negligible risk, NPOs with activities in countries that the FATF identifies as a High-Risk Jurisdictions subject to a Call for Action are classified as high risk, and NPOs with activities in countries that the FATF identifies as Jurisdictions under Increased Monitoring are classified as medium risk. This entity level risk assessment differs from the one done through the NRA in that it does not directly assess TF risk.

307. The assessment team considers Kuwait's assessment of threat in the aggregate-level of all NPOs, and the assessment of risk level of individual NPOs, as insufficient as it relies on mostly a single factor (jurisdictional risk) to be determinant. It also excludes the possibility of TF risk for NPOs with purely domestic activity and does not consider the source of funds for NPOs (only the location of their projects). The sectoral and individual risk assessments exclude relevant considerations and are thus not comprehensive in nature. Such an assessment could lead to the misapplication of measures to address TF risks within the NPO sector, since it is very limited in how it considers TF risk.

Mitigating TF Risk

308. Kuwait has implemented a significant number of mitigation measures for its NPO sector. These mitigation measures are either measures identified by Kuwait to mitigate TF risk, measures identified by Kuwait to protect the integrity of the NPO sector, a combination of the two or are measures that do not seem responsive to risk or integrity at all. These measures include (1) licensing measures and ongoing measures for all NPOs, and (2) some measures responding to the only major risk factor that Kuwait assessed, jurisdictional risk of TF. In considering whether these measures disrupt or discourage legitimate NPO activities, the assessment team defined the discouragement of legitimate NPO activities to mean the creation of barriers to entry that would keep legitimate prospective NPOs from entering the market. The Assessment Team considered the disruption of legitimate NPO activities to mean measures that alter or halt the delivery of legitimate NPO activities once an NPO is already established.

309. On licensing and ongoing measures for all NPOs: All NPOs in Kuwait must be licensed by MOSA. There are burdensome licensing requirements for prospective NPOs, and ongoing burdensome requirements put on the normal charitable activities once the NPOs are in operation. The following are only examples of some of these requirements for all charities and Mabarrahs:

1. The application for a new NPO must be made by a minimum of 50 founders for a charity and 10 founders for a Mabarrah. These individuals must provide their names, nationality, occupations, civil IDs, clean criminal records certificates, and phone numbers.
2. The prospective charity must have a minimum 500 square meter independent building with adequate parking. Prospective Mabarrahs must have a minimum 250 square meters independent building with a minimum of 20 parking spaces.
3. Prospective Mabarrahs must have a bank certificate reflecting 50,000KD (150,000 EUR) of initial capital.
4. Charities must be assessed to be providing a new benefit to society.
5. NPOs are required to maintain journals of their donations, incomes, and expenditures, as well as records of names of members and their paid subscriptions.
6. NPOs must report quarterly financial statements and present annual audited financial statements.
7. There must be criminal checks conducted for all workers and employees.
8. The FIU maintains direct oversight of the transactions conducted by all NPOs.
9. Charities cannot advertise charitable campaigns without written instructions from MOSA.
10. NPOs require approval for the activity or project for which the proceeds of the donations are allocated, the proposed method for collecting them, the period during which they

request permission to collect them, and the places of collection. Individuals collecting charitable funds must be identified, have a clean criminal record, and provide a photo ID.

11. NPOs must all have an appointed AML/CFT compliance officer.
12. All NPOs are subject to ongoing onsite and offsite supervision.

310. This supervision administered has significant coverage as there have been numerous years where the number of inspections was greater than the number of total charities in Kuwait showing that there were charities which received more than one inspection that year. Accordingly, the Assessment Team considers that this supervision is not targeted, or risk based.

Table 4.7. Total Number of Inspections (Onsite and Offsite) with Total Number of NPO in Brackets

Type of NPO	2018	2019	2020	2021	2022	2023
Charity	49(43)	47(48)	60(51)	74(60)	15(69)	12(78)
Mabarrah	19(87)	13(87)	7(87)	17(90)	8(89)	0(90)

311. The above measures are not responsive to TF risk and are applied to the entire population of charities and Mabarrahs. Certain requirements (such as size of the facility and parking spaces) are completely unrelated to any risk, including TF risk. It cannot be known if these measures have prevented individuals and charities from registering a charity and conducting charitable activities at all, but the capital required, as well as other requirements such as a large building and parking spaces, amongst other requirements, are assessed to be significant barriers to entry into the sector unrelated to mitigation of any foreseeable TF risk. The measures are taxing to legitimate charitable activity, serve as a significant barrier to entry and discourage legitimate charitable activity in Kuwait. Kuwait's position is that that these measures are all designed to protect the integrity of the NPO sector and are not responsive to TF risk.

312. Kuwait has also put in place measures to respond directly to its primary identified risk for NPOs to be misused for TF purposes: extra-jurisdictional risk. To send or receive funds from outside of Kuwait, charities must have the written approval of MOSA. To receive approval from MOSA, the NPO must:

1. Obtain a prior license from MOSA before implementing the charitable project, provided that the project is compatible with the objectives stipulated in the association's articles of association.
2. Obtain a prior license from MOSA to implement the charitable project, and a code (serial number) is allocated for each project license.
3. Ensure that fundraising for the licensed project is carried out using authorised legal means in accordance with the fundraising bylaw (128/a) for the year 2016. These authorised legal means include those detailed in para 311 above and are applied to all charities.

313. Further, the charity must submit a request to carry out financial transfers for the benefit of any external parties located outside of Kuwait (i.e., to use the raised funds), and prior approval must be granted by MOSA, verifying the following:

1. Existence of a contract between the Kuwaiti charity and the external party.
2. Documents supporting the use of the amount to be transferred (i.e., a statement of the names of the recipients (where relevant), a statement of the needy families, etc.)

3. That the charity is dealing with one of the external parties accredited by the humanitarian work system of the Kuwaiti Ministry of Foreign Affairs. (There is a separate process for an external party to be accredited by the Ministry of Foreign Affairs for Kuwaiti transfers of funds).
4. Making the transfer of funds to an identified bank account, approved by the Ministry of Foreign Affairs.
5. Providing MOSA with a notice of the transfer within one week from the date of the transfer.

314. These measures responding to the TF risk are all applied indiscriminately to all transactions involving jurisdictions outside of Kuwait and do not respond to Kuwait's NPO risk assessment that identified different jurisdictional risks of TF.

315. In the year before the on-site visit to Kuwait, there were a total of 78 registered charity transactions blocked by Kuwait totalling 2,919,791 KWD (9,500,000 USD). These were blocked for being destined for charitable projects that were not registered with the Kuwait Ministry of Foreign Affairs. This, in essence, imposes an external registration requirement for NPOs operating outside of Kuwait to receive money from anyone in Kuwait.

316. Some NPOs did acknowledge that these measures disrupt their activities and prevent them from conducting legitimate charitable fundraising and actions in some cases. Some NPOs indicated that they would send their funds to established international organisations outside of Kuwait that had already been approved by Kuwait's MOFA, for further dispersal to NPOs in other jurisdictions for use that are not on MOFA's list. Such activities incur unnecessary cost for the charity and prohibit timely charitable giving, particularly in time-sensitive scenarios. Some NPOs also acknowledged that the requirement to request authorisation to carry out financial transfers outside of the country from MOSA prohibited them entirely from conducting activities in time-sensitive scenarios. As charities have demonstrated that they take steps to circumvent the measures to conduct legitimate charitable activity and indicated that some of their legitimate charitable activities are curtailed (i.e., providing activities in time-sensitive scenarios), it is assessed that these measures specifically addressing TF risk are disruptive and not proportional to the TF risk.

Investigation and information gathering

317. As a result of the mitigation measures applied, MOSA maintains a significant database of information that is made available to competent authorities. Prior to 2022, the same information was being collected, but in paper format. MOSA is still in the process of migrating some of the information on NPOs registered before 2022 into its newly developed database.

318. Competent authorities in Kuwait make use of the MOSA database to progress their investigations and other activities.

Table 4.8. Number of Requests Received for Information from the NPO Database

Requesting Authority	2017/2018	2019	2020	2021	2022
MOI	19	15	33	16	-
CBK	1	-	-	-	-
MOCI	8	9	26	89	56
PPO	-	-	-	-	49
Total	28	24	59	105	105

319. If through its activities, MOSA suspects that an NPO is being misused for TF purposes, it has the authority to share this information with competent authorities. It has not yet used this authority. There have not been recent cases of registered charities being used for TF in Kuwait, only cases of unregistered charitable activities.

Outreach

320. MOSA dedicates significant efforts and resources to conduct outreach to its NPO population. This includes the issuance of nine circulars to NPOs that focus on educating NPOs on how to conduct international funds transfers in line with the Kuwaiti system, which is responsive to Kuwait's only assessed TF risk factor of jurisdictional risk. Kuwait has also conducted sustained outreach to the NPO sector through workshops and awareness raising campaigns. Many of these activities were not related to the risk of misuse for TF. However, Kuwaiti authorities have conducted seven workshops over the past five years for NPOs on mitigating ML/TF risk.

321. Kuwait has taken some steps to understand the TF risks faced by the NPO sector. This assessment was limited in that it focused on jurisdictional risks, misclassifying the risk exposure for the sector, and on an NPO-specific basis. Kuwait has implemented licensing measures and ongoing measures for all NPOs that serve as a barrier to entry and discourages entering the NPO sector. Kuwait has implemented some measures responding to the only major risk factor that Kuwait assessed (jurisdictional risk of TF) that can, and have been shown to actually, disrupt legitimate NPO activity. Kuwait's supervision of the NPO sector is not targeted or risk based. The measures imposed by Kuwait disrupt and discourage legitimate NPO activities, and such disruption and discouragement is the foreseeable consequence of the imposition of these measures.

Deprivation of TF assets and instrumentalities

322. In total, Kuwait currently holds approximately 7,387,000 USD frozen under UNSCR 1267 measures and approximately 933,960 USD frozen under UNSCR 1373 measures, all without legal basis. The total amount of frozen funds and assets is 8,350,000 USD. Kuwait does not appear to prioritise the use of TFS to deprive terrorists, terrorist organisations and financiers of their funds as they have not made or co-sponsored a designation proposal to the UN, have not made a domestic designation in their UNSCR 1373 regime in the time period evaluated, have not and given effect to 'trigger events' or requests for designation from international partners over the past 4.5 years despite having received over 400 of them.

323. During the timeframe of the mutual evaluation, Kuwait obtained six confiscation orders for the proceeds of TF and instrumentalities as follows:

Table 4.9. Confiscation Orders Obtained in TF Cases

Year	Number of Orders	Proceeds of TF	Instrumentalities
2018/2019	1	0	8,532.00 KWD + 21,000.00 USD
2019/2020	2	1,263,850 KWD	0
2020/2021	1	0	13,190.00 KD + 50,810.00 USD + 4,500.00 Saudi Riyal + 20.00 KWD (Old Currency) + 810.00 Syrian Lyra + 5.00 Bahraini Dinar + 14 Mobile Phones + 1 PC + 7 Laptops + 4 iPads + 5 Hard Disks + 33 Rounds of Ammunition + 3 Military Mask + Filters
2021/2022	2	0	668,730.00 KWD + 2 Mobile Phones + 1 Firearm + 448 Rounds of Ammunition + 4 Firearm Magazines + 1 Drone + 1 Laptop + 1 Hard Disk
2022/2023	0	0	0

324. Shortcomings described in Section 4.2 on the effective identification, investigation, and prosecution of TF cases affects the capacity of Kuwait to take all appropriate measures to prevent the raising, movement, and use of funds for TF. When Kuwait does pursue TF charges it seeks confiscation orders to deprive terrorists, terrorist organisations, terrorist financiers of instrumentalities related to TF activities. All of the above confiscation orders were fully realised as the confiscation orders were only issued for funds and assets that Kuwait already had frozen or seized. Financial investigations and the use of financial intelligence is not sufficiently broad to result in assets not in Kuwait's possession or direct control (i.e., in a local bank account) to be traced and seized. If assets leave the country then there is no attempt to trace them. This approach limits Kuwait's ability to deprive terrorists, terrorist organisations and terrorist financiers of their funds. In many cases, the assets involved in the offence had already left Kuwait, and the criminal processes took place after the funds left the country. There was no attempt to secure these assets as they were either untraceable or in a place where it would be difficult/impossible to secure them.

325. Kuwait understands the risks associated with that fact that UN designated individuals are living freely in Kuwait and are not imprisoned. Kuwait emphasises de-radicalisation in its approach to addressing this threat and takes administrative actions to mitigate the possibility of designated individuals accessing their funds, except for living expenses in line with the applicable UN resolutions.

326. The Assessment Team concludes that Kuwait has deprived terrorists, terrorist organisations, and terrorist financiers of assets and instrumentalities related to TF activities to some extent through sanctions-related freezing measures implemented without legal basis and confiscation in some cases.

Consistency of measures with overall TF risk profile

327. Kuwait has assessed their overall TF risk as low. The Assessment Team considers this risk to be mis-assessed, due to lack of sources used in the assessment and that the real TF risk facing Kuwait is likely to be higher than portrayed in the NRA (see Chapter 2).

328. Kuwait does not appear to prioritise the use of TFS to deprive terrorists of funding in line with its risk profile. For example, hundreds of third country 'trigger events' and requests have not been given sufficient consideration resulting in zero designations from these requests in 4.5 years. They represent an untapped resource that Kuwait could use as the basis for TFS, or for opening

investigations with a view to confiscation. Instead, they are generally rejected on technicalities or lack of domestically sourced information meeting the legal threshold, and there is no evidence that the intelligence and leads provided from foreign partners in these requests are followed-up upon in a meaningful or timely fashion. This leads to the conclusion that the requests are undervalued or disregarded as a potential avenue to deprive terrorists of funds or prevent access to Kuwait's financial system and that this is not in line with Kuwait's risk.

329. Kuwait is also a country that shares borders with conflict zones and states where terrorist attacks regularly occur. Currently, eight individuals with a place of birth in Kuwait or Kuwait-issued identification are on the UN Consolidated List. Accordingly, and as described in Chapter 1, there is TF risk in Kuwait, and Kuwait has been in receipt of hundreds of requests for designation, but Kuwait has never even considered a domestically sourced designation. Accordingly, Kuwait may be missing opportunities to use TFS as a means to deprive terrorists of assets and instrumentalities. The names added to the National List date from 2018, demonstrating a downward trend in even using foreign-sourced information to make designations under UNSCR 1373. This is not in line with Kuwait's TF risk profile, indicating that Kuwait is not sufficiently using intelligence or even criminal information (i.e., from completed and successful TF cases) as potential grounds for domestic designations.

330. Shortcomings identified in IO.9 contribute to limited instrumentalities and, in particular, proceeds of TF being successfully traced, seized and confiscated.

331. Measures put in place in the NPO sector are not targeted or responsive to the level of TF risk. There is no accounting for domestic TF risk pertaining to NPOs and measures put in place to mitigate TF risk arising from NPOs' foreign activities are implemented indiscriminately, i.e., with no regard to the level of TF risk.

332. Kuwait is not taking measures to prevent terrorists, terrorist organisations and terrorist financiers from raising, moving and using funds in line with its risk profile.

Overall conclusions on IO.10

Kuwait has a legal framework to implement TF TFS but has not used that framework to legally implement TFS in Kuwait. Therefore, the measures that are taken related to TFS in Kuwait lack a legal basis and enforceability. Legal basis is fundamental to taking the actions required of a TFS regime. The informal nature of the system, vague legal obligations, and other technical gaps result in a lack of effectiveness and expose the system to a risk of legal and credibility challenge.

Despite this, Kuwait has frozen multi-millions in assets, FIs and DNFBPs generally scan relevant lists to ensure that they are not doing business with designated individuals or entities and supervisors monitor TF TFS obligations.

Operationally, Kuwait is not proactive in its approach to TF TFS. The Kuwaiti authorities have never considered or made a domestically sourced designation for national sanctions under UNSCR 1373. Kuwait has not proposed any names to relevant UN committees. The authorities have also received hundreds of third country 'trigger events' and requests pursuant to UNSCR 1373, but none have been positively actioned by Kuwait in recent years.

Kuwait has identified its NPO population and conducted a risk assessment of them with limited factors, focusing on the jurisdiction where the NPO has projects. As a result of this limited assessment, Kuwait has implemented overly burdensome risk mitigation measures for the NPO sector that disrupt and discourage legitimate NPO activities. These measures are neither risk-based nor targeted.

Kuwait has deprived terrorist financiers of assets and instrumentalities related to TF activities to some extent through sanctions-related freezing measures that lack legal basis and confiscation in some cases.

These measures are not in line with Kuwait's TF risk (see IO.1).

Kuwait is rated as having a **low** level of effectiveness for IO.10.

Immediate Outcome 11 (PF financial sanctions)¹⁴

333. Kuwait hosts an embassy for DPRK and maintains a trading relationship with the country. Historically it permitted approximately 3,000-6,000 workers from DPRK to work in Kuwait. More recently it has taken steps to reduce and remove DPRK workers from its economy and ceased the practice of providing permits entirely in 2019.

334. Kuwait has an export control system in place for the exportation of controlled goods and sensitive technologies related to dual-use products. There is no proliferation financing offence in Kuwait. If an offence related to the financing of the proliferation of WMD were to take place in Kuwait, the PPO would use other offences related to the exportation.

¹⁴ On 18 October 2023, the TFS elements of UNSCR 2231 expired. Therefore, assessors did not assess the implementation of UNSCR 2231.

Implementation of targeted financial sanctions related to proliferation financing without delay

335. Kuwait's current framework to implement TFS was created in 2014 via Ministerial Decision 1396/2013. This established Kuwait's CTC, the interagency group that is charged with taking all TF and PF TFS decisions. This Ministerial Decision was re-issued in July 2023 as Ministerial Resolution 141/2023 to give the CTC more explicit purview over PF TFS. Prior to the issuance of Ministerial Resolution 141/2023, the CTC was already the competent body to issue decisions to implement PF TFS in Kuwait. The changes made the authority to issue these decisions clearer and included new, specific references to UNSCRs 1718 and 2231.

336. Kuwait's CTC is empowered to take all decisions required to implement PF TFS issued under UNSCRs 1718 without delay. Per the Resolution, the CTC has a mandatory process to follow to implement all TFS in Kuwait, i.e., the same process applies for both TF and PF TFS (see R.7). In practice, the CTC does not take any such decision to implement designations for UNSCRs using the decision-making process. The CTC only forwards emails from the UN Committees to the supervisors of obliged entities, generally within 24 hours of listing or de-listing. As there is no decision taken, and the CTC does not follow its own mandatory decision-making process, there is no legal basis for TFS related to UNSCR 1718 being implemented in Kuwait. Obligated entities, as will be discussed below, may follow the email communications to a certain extent, but the freezing obligations and other legal requirements are wholly unenforceable and lack a legal underpinning.

337. In practice, Kuwait's competent authorities, FIs and DNFBPs operate as though the PF TFS have a legal basis for implementation in Kuwait. The CTC maintains a website with current links to the UN lists so FIs and DNFBPs can consult up-to-date information on listings and de-listings related to UNSCR 1718.

338. In addition, Kuwait's asset freezing framework¹⁵ is deficient, would such a framework be implemented with legal basis. The Ministerial Decision only indicates that funds and assets of persons and entities that the CTC decides to list will be frozen. This does not include those acting for, or on behalf of, or at the direction of, any listed person or entity, owning or controlling any designated person or entity, directly or indirectly, or assisting in evasion of sanctions or in violation of the provisions contained in the relevant resolutions. Therefore, the scope of the freezing requirement is limited to situations where the listed person directly owns assets in his or her name, or possibly as a BO. This is not sufficient considering the common use of front persons and nominees for PF.

339. Kuwait's general prohibition¹⁶ on dealing with assets of listed persons does not apply to PF TFS as the prohibition mechanism specifies that it only applies to the National List (the domestic TF TFS list) and those listed on the UN Security Council's counter-terrorism lists. This is a serious shortcoming as it would allow listed persons to be provided with funds or other assets through the Kuwaiti financial system, or more informally outside of the financial system.

340. As indicated in IO.10, the implementation of TFS in Kuwait lacks legal basis and specific obligations meaning that it can be challenged not only by persons whose assets are frozen, but any obliged entity being instructed to implement it. Any fine issued or other sanction for non-compliance could be appealed for many reasons, including a lack of enforceable means. While

¹⁵ Recommendation 7.2(b)

¹⁶ Recommendation 7.2(b)

Kuwaiti authorities state (and interviews confirmed) that the private sector is following the outlines of a normal TFS regime, the UNSCRs are not formally implemented. They are informally followed under threat of government penalty. This exposes both Kuwait's supervision and enforcement mechanism to challenge, and risks making available assets to persons or entities that should be designated as they could challenge the application of the UN sanctions to them within Kuwait. To date, Kuwait's PF TFS regime has not been challenged or tested in court.

341. Kuwait has created a DPRK Sanctions Committee to ensure that designees under UNSCR 1718 are not unlawfully active in Kuwait. This committee has taken numerous measures to lessen PF risk in Kuwait such as enhancing lists for use at border check points, providing information to obliged entities on transactions with DPRK, banning civil aviation operations with DPRK carriers, guiding customs on trade transactions and deporting DPRK nationals. Kuwait's CBK has guided their obliged entities not to do any transactions with any DPRK citizens. Kuwait conducts some activities to detect the unlicensed provision of MVTS, but there was not an indication that there were any activities conducted to determine or track the remittances from migrant workers in Kuwait back to DPRK (who now do not have legal grounds to be in the country). This demonstrates that there may have been financial pathways available that could have been exploited for PF that were unknown and therefore un-investigated by competent authorities.

342. This committee show that there is some coordination and cooperation between relevant authorities to prevent sanctions from being evaded, and implement policies to combat PF. This coordination and cooperation have led to tangible policy efforts to prohibit or curtail civil aviation activities, access of DPRK's financial infrastructure and the issuance of migrant visas to citizens of this country. There have been fewer activities inside of Kuwait to prevent sanctions evasions as there has not been guidance provided to FIs/DNFBPs or other businesses on sanctions evasion (there has been guidance to close all accounts related to DPRK), and there was no indication that this committee has led to enhanced intelligence/information sharing to prevent sanctions evasion.

Identification of assets and funds held by designated persons/entities and prohibitions

343. Kuwait's border authorities are aware of the risks of dual use and sensitive goods. The shipment of these goods requires an export license. Lists of dual use goods are made available to customs agents, who make sure that all declarations are properly done and must clear the shipment of any dual use products with Kuwait's Ministry of Health before entry/exit. It is unclear why the Ministry of Health would be the coordinating body for such activity as it is unlikely that they have the expertise or resources available to address dual use and sensitive goods, or the potential financing of proliferation of WMD.

344. There is a lesser awareness of whether trade payments for permissible goods are being used as cover for PF and it is not clear that the export control regime is linked up with the financial component of counter proliferation financing.

345. Kuwait faces challenges in maintaining accurate and up-to-date BO information (see Chapter 7 Legal Persons and Arrangements). Legal persons and arrangements could be misused by proliferators or actors that intend to evade PF-related sanctions.

346. Kuwait has not identified, frozen or seized assets due to PF-related sanctions and has not received a false positive on any natural or legal persons on the UN-issued lists. There has never been an STR filed on suspected proliferation financing activity. At the time of the on-site visit, Kuwait had not made or co-sponsored any listing or delisting proposals to the relevant UN

Committee. No person who is subject to UN sanctions for proliferation-related activities is resident in Kuwait.

347. It is not clear whether the MOI and GAC are coordinating on PF effectively and no information was provided on this during onsite discussions. There have been no regular or occasional exchanges of intelligence or other forms of information-sharing for investigations pertaining to PF TFS. Kuwaiti LEAs have never disrupted an attempt to finance or ship proliferation-related cargo via air or maritime routes. Furthermore, Kuwait has never investigated a potential case of PF sanctions evasion. Kuwait was not able to demonstrate that it undertakes any specific activities aimed at identifying funds, assets, or persons that may be involved in PF activity or engaged in sanctions evasion.

348. Based on these findings, funds or other assets could be detected in Kuwait when directly owned by a listed natural or legal person. However, the lack of available BO information and intelligence availability, and an uneven knowledge among FIs and DNFBPs (see below) may frustrate competent authorities in the detection of assets used in or intended for PF and the pursuit of potential sanctions evasion.

FIs and DNFBPs understanding of and compliance with obligations

349. Kuwaiti FIs and DNFBPs have not identified any assets or funds held by designated persons or entities. No funds are frozen, and there have never been false positive cases.

Financial Institutions

350. Larger FIs including those that are part of international groups, had a better understanding of and compliance with PF TFS obligations and FIs generally showed a good understanding of their obligations related to TFS. Many FIs interviewed on-site, except currency exchanges, checked the lists for updates on a routine basis, but they treated all lists essentially the same way (i.e., no distinction between TF and PF TFS). FIs usually search for potential matches using third party software designed to scan relevant UN lists as well as other lists such as those from OFAC, UK (OFSI), EU etc. The screening of names without understanding the nature of the list, and the types of activities being undertaken to evade sanctions, limits the private sector's ability to identify PF activity.

Table 4.10. TFS-Related Inspection Results – FIs

	Number of Bank On-site Inspections Covering TFS	Number of TFS-related Breaches Identified (Banks)	Number of Exchange Company On-site Inspections Covering TFS	Number of TFS-related Breaches Identified (Exchange Companies)	Number of Securities Companies On-site Inspections Covering TFS	Number of TFS-related Breaches Identified (Securities Companies)
2019	18	5	38	9	37	5
2020	19	13	36	7	41	0
2021	20	1	18	2	63	2
2022	1	0	35	5	68	27
2023	9	2	26	10	68	13
Total	67	21	153	33	277	47

351. As shown above, the breaches identified in onsite inspections are persistent and numerous. The above chart depicts those sectors that are (a) the most significant in terms of potential to be engaged in trade finance activity, and (b) those that are, in general, have the best

compliance regimes in the country. Despite being the strongest performers, there are deficiencies in the implementation of TFS in approximately 20% of inspections over time. It is positive that Kuwaiti supervisors are committed to detecting non-compliance, and that they are, demonstrably, able to do so. It is, however, fair to conclude that compliance is not improving over time, and that there remain large parts of the Kuwaiti financial system that do not have the appropriate safeguards in place to prevent PF.

352. Kuwaiti FI supervisors have found many deficiencies related to TFS and have administered numerous remedial actions and fines for failure to comply with TFS requirements. The supervisors have aggregated all TF TFS and PF PFS deficiencies, making it impossible to disaggregate TFS deficiency statistics. Importantly though, these deficiencies include five instances of Kuwaiti exchange companies making funds available or providing financial or other related services, directly or otherwise, solely or in partnership with others, to an individual, group, or entity designated on the National List and UN Consolidated List or for their benefit. The CBK clarified that these breaches were not for the actual provision of funds, but for breaches related to automated systems not checking names of individuals/entities that should be designated, despite the name of the breach indicating a more serious violation. The Assessment Team notes that the most significant penalties applied to exchange companies are in the context of these breaches, which would be consistent with a breach involving the provision of funds.

DNFBPs

353. The DNFBPs were, in general, less aware of their obligations in terms of TFS. Some of the DNFBPs indicated that they implemented TFS with some delay (i.e., one to two days late). Some DNFBPs indicated that they would only scan UNSCR lists if they were already suspicious of the client for other reasons, while others did not seem aware of the lists at all. Thus, it cannot be certain that PF TFS are implemented by some DNFBPs at all.

354. Kuwait's DNFBP supervisor aggregated all TFS-related deficiencies in their records, so it is unclear which TFS obligations were specifically breached and the gravity of those violations (i.e., failure to update list, failure to have adequate policies and procedures, provision of funds to a listed person/entity). It is also unclear what proportion of the deficiencies are related to deficiencies in the implementation of PF TFS vs. TF TFS. Lastly, it is unclear what number of these represent deficiencies among currency exchange organisations, a financial institution, which are supervised by MOCI.

Table 4.11. TFS-Related Inspection Results – DNFBPs

Year	Number of On-site Inspections Covering TFS	Number of TFS-related Breaches Identified
2019	38	Not able to disaggregate statistics
2020	210	Not able to disaggregate statistics
2021	306	Not able to disaggregate statistics
2022	1 242	306
2023	863	279

355. As with FIs, there remains a significant level of non-compliance with respect to DNFBPs for failure to implement TFS. As with FI supervisors, MOCI has shown commitment to detecting and addressing non-compliance, and they have demonstrated that they are competent to do so. However, there remains a high level of non-compliance in MOCI-supervised obliged entities for failure to implement TFS. The nature of the breaches is not known so it is difficult to determine the seriousness of the non-compliance in MOCI's supervised sectors.

Competent authorities ensuring and monitoring compliance

356. Kuwaiti supervisors communicate to all obliged entities that they must comply with PF TFS. CBK has issued some useful guidance documents, but, considering that all obliged entities have continual challenges in implementing PF requirements, further actions are required for all sectors.

357. The CBK and CMA routinely scope-in compliance with TFS requirements as part of their on-site inspections. These inspections are guided by supervisory manuals issued by CBK and CMA, which provide details on how they will approach onsite inspections, including for PF TFS. CBK and CMA have been successful in implementing their examination programme and have shown adeptness at detecting breaches in compliance. CBK and CMA engage in on-site inspections over a large proportion of their sectors, allowing them to routinely test for PF TFS compliance. During the reporting period, there have been 67 on-site inspections of banks with a TFS element (there are 22 banks in Kuwait), 153 such inspections of exchange companies (there are 32 exchange companies in Kuwait) and 277 securities companies (there are 56 securities companies in Kuwait).

358. The insurance sector has not seen meaningful compliance monitoring for the period of the report due to a lack of adequate supervision for the sector (See Chapter 5).

359. MOCI does not have a similar supervisory manual with a focus on TFS, but they do have a field control process that inquires whether the obliged entity checks international sanctions lists. Although the inspection process is not particularly in-depth with regard to PF TFS compliance, MOCI has still shown an ability to detect non-compliance with PF TFS obligations. MOCI's coverage of its obliged entities is not as wide when compared to CBK and CMA, but a reasonable number of on-site inspections are carried out in proportion to the population of MOCI's obliged entities. During the review period, there have been 2,659 onsite inspections of MOCI-supervised obliged entities with a TFS element, out of a total of 5,724 DNFBPs subject to 3641 onsite inspections.

360. As detailed in chapter 6 (Supervision), there have been some small fines that have been issued for serious non-compliance with CPF measures. However, supervisors have generally treated this non-compliance with remedial measures, if any measure at all. Given the seriousness of the breaches to not implement TFS fully in a timely manner, more serious escalation could be used to ensure a culture of compliance in Kuwait.

361. The Assessment Team cannot come to a definitive conclusion due to the aggregation of supervisory activities for TF TFS and PF TFS, however, it appears that monitoring compliance for PF TFS is a strength, and that the significant supervisory coverage of the Kuwaiti supervisors continually tests and ensures informal compliance with PF TFS obligations.

Overall conclusion on IO.11

Kuwait has a legal framework to implement PF TFS but has not used that framework to legally implement TFS in Kuwait. Therefore, the measures that are taken related to TFS in Kuwait lack a legal basis and enforceability. Despite this, FIs and DNFBPs generally scan relevant lists to ensure that they are not doing business with designated individuals or entities. Supervisors monitor PF TFS obligations. There have been some issues that delay this informal implementation.

The scope of the application of PF TFS is limited in Kuwait. Freezing measures would only apply to the funds and assets of the designated natural or legal person and the proceeds arising from them if implemented with legal basis. Those parties required to implement these measures are meant to be defined in the decisions of the CTC, but are not, so it is not clear if all natural and legal persons are required to freeze. The general prohibition does not apply to PF TFS.

Funds or other assets could be detected in Kuwait when directly owned by a listed natural or legal person. No assets have been frozen in connection with PF TFS to date. The lack of available beneficial ownership information, low level of intelligence availability, and uneven awareness among FIs and DNFBPs about TFS, may frustrate the detection of assets used in or intended for PF and the pursuit of potential sanctions evasion.

FIs and DNFBPs have demonstrated an uneven understanding of TFS obligations. There is persistent non-compliance in the implementation of TFS obligations in all sectors in Kuwait. Kuwaiti supervisors routinely inspect compliance with TFS obligations in their supervisory activities. TFS-scoped supervisory activities cover virtually the entire population of obliged entities. The supervisors have shown an ability to detect non-compliance with TFS obligations.

Kuwait is rated as having a **low** level of effectiveness for IO.11.

Chapter 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

FIs

1. Banks and larger FIs have a good understanding of their ML risks and obligations. Understanding of risk in the insurance sector is lower as they have not had an active supervisor for three years. This understanding is very low in the currency exchange organisations sector. Understanding of TF risk is lower across all sectors.
2. FIs supervised by CBK and CMA (131 of 399 FIs) risk assess their customers in a consistent manner and apply mitigation measures commensurate with their assessed risks. Other FIs don't systematically conduct such activities.
3. Most medium to large size FIs have invested in effective AML/CFT controls in recent years and these controls are administered at the highest levels of those FIs.
4. CDD measures are generally implemented but there remain compliance deficiencies found in a large proportion of onsite inspections. All obliged entities struggle with their obligations with respect to ascertaining and verifying beneficial owners.
5. FIs generally apply EDD in cases of higher risk and have automated systems to identify high risk customers and activities. However, there is a weakness in the implementation of TF TFS measures that have resulted in listed individuals being provided funds in Kuwait.
6. Banks are reporting increasing numbers of STRs and exchange companies have continually reported a lower number of STRs. Reporting of STRs remains low in some other sectors and some sector participants demonstrated a higher reporting threshold than 'reasonable grounds to suspect'. All FIs receive high quality feedback on the STRs that they report and use the feedback to improve their reporting.

DNFBPs

1. Understanding of ML risks and obligations are lower and vary amongst DNFBPs. DNFBPs articulated their ML risk in terms of business risk (i.e., solvency) rather than ML risk presented to their business. Understanding of TF risk is lower across all sectors.

2. The implementation of mitigation measures for DNFBP sectors is at a less mature level than FI sectors. There remain considerable compliance deficiencies in the implementation of these measures.
3. DNFBPs struggle to identify beneficial owners, and in some cases, such as in the real estate sector, legal persons are only required by real estate agents and brokers to provide an authorised signatory rather than a beneficial owner. DNFBPs considered that the AML/CFT measures conducted by FIs lessened their necessity to do the same.
4. There are significant deficiencies in the implementation of TF TFS. Sector participants indicated that they would only check TFS lists when conducting transactions in certain situations, such as when they had a suspicion of ML/TF.
5. STR reporting in DNFBP sectors is very low. It is unclear to DNFBPs where and how they should report, and sector participants demonstrated a higher reporting threshold than 'reasonable grounds to suspect'.

Recommended Actions

1. Kuwait should take steps to increase the knowledge of obliged entities, particularly those supervised by the MOCI, on their ML risks and how ML can be conducted through the services they provide. Kuwait should also increase the knowledge of all obliged entities on their TF risks, and how TF may be conducted using the services they provide.
2. FIs and DNFBPs should enhance their ML/TF risk mitigation and control frameworks proportionate to their identified risks, particularly in the areas identified in recommended action a).
3. Kuwait should conduct outreach activities to increase the knowledge of FIs and DNFBPs on the concept of beneficial ownership, their obligations in identifying the ultimate beneficial owner, and how to use the beneficial ownership registry (once operational).
4. DNFBPs, in particular, should seek to increase their level of STR reporting. Kuwait should facilitate this increase through ensuring that all obliged entities understand the STR reporting threshold, and through providing sector-based indicators of ML/TF in the Kuwaiti context developed with sources of information beyond ML/TF convictions.
5. Kuwait should take additional measures to ensure the systems in place to ensure obliged entities receive TFS updates and implement TFS without delay are effective and obliged entities are adhering to their obligations to implement TFS.

362. The relevant Immediate Outcome considered and assessed in this chapter is IO.4¹⁷. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, 6, 15 and 29.

Immediate Outcome 4 (Preventive Measures)

363. Considering the relative materiality and risk in Kuwait, the implementation of preventive measures by the relevant sectors is weighted as follows:

1. Most heavily weighted: Banks and exchange companies
2. Moderately weighted: Securities companies (all types supervised by CMA), currency exchange organisations, real estate brokers and agents, and DPMS.
3. Lower weighted: Finance companies, E-payment companies and insurance companies.

Understanding of ML/TF risks and AML/CFT obligations

FIs

364. In general, banks in Kuwait have a good understanding of ML risks and a relatively better understanding of TF risks than other FIs in Kuwait. Their understanding is in line with the findings of the NRA, which assessed the sector as posing 'medium' ML risks. Banks that are part of international financial groups noted that they take a holistic approach to their risk assessment, factoring risks relating to the financial group, MENA region, and those that are unique to Kuwait. They conduct risk assessments of their customers, informed by CBK instructions and sophisticated risk assessment tools, and use these assessments to assign each customer a risk rating. Banks revisit customer risk ratings on a regular basis and in light of trigger events and use these ratings to inform AML/CFT measures. Overall, banks appear to have a good understanding of their AML/CFT obligations.

365. Exchange companies and finance companies demonstrated a good level of ML risk understanding. However, that understanding diminishes as the size of the company gets smaller. Exchange companies generally agreed with the 'medium-high' risk rating for the sector as identified in the NRA, citing the cash-intensive nature of their business and their role in undertaking cross-border transactions as high-risk activities. Exchange companies are sensitive to ML/TF risks and conduct rigorous customer risk assessments on a regular basis, taking into consideration factors such as nationality, identification documents presented, transaction methods, employment and tenure of relationship. Exchange companies seem to be more attuned to ML risks than TF risks, with some specifically citing challenges in detecting TF activity. Exchange companies seem to have a relatively good understanding of their AML/CFT obligations.

366. Securities companies in Kuwait have relatively good understanding of the ML/TF risks in the securities sector and consider the NRA's 'medium' risk rating for the securities sector to be appropriate. Their risk assessment process for customers, however, does not appear to be as rigorous as that adopted by banks and exchange companies. They were not able to meaningfully

¹⁷ When assessing effectiveness under Immediate Outcome 4, assessors should take into consideration the risk, context and materiality of the country being assessed. Assessors should clearly explain these factors in Chapter One of the mutual evaluation report under the heading of Financial Institutions, DNFBPs and VASPs, as required in the instructions under that heading in the Methodology.

distinguish between the ML and TF risks they face. Securities firms exhibit a generally good understanding of their AML/CFT obligations.

367. Only a few firms in Kuwait provide life insurance products, and these are typically related to employee life insurance plans. Accordingly, insurance companies generally considered their ML/TF risks to be relatively low, and it generally agreed with the medium-low sectoral risk rating in the NRA. Insurance companies, which were previously under MOCI's supervision and fully transitioned to IRU's supervision in 2021, continue to improve their understanding of ML/TF risks and AML/CFT obligations. This understanding has been impacted by the fact they have been without a fully functional supervisor guiding them for approximately two years.

368. Among FIs, currency exchange organisations, which are supervised by MOCI, appear to have the least developed understanding of ML/TF risks and their obligations. Currency exchange organisations understanding of their ML/TF risks and processes for assessing customer-level risks raise significant concerns. Representatives did not seem familiar with the results of the NRA and were not able to cite any specific ML/TF risks relating to the sector. These organisations generally follow guidance provided by MOCI, but do not have a mature understanding of their AML/CFT obligations.

DNFBPs

369. DNFBPs understanding of the ML/TF risks they face is poor. DNFBP representatives met during the onsite were not able to distinguish between ML and TF risks affecting their sector, risks affecting their business and risks posed by certain customers. DNFBPs generally linked risks of ML/TF to listed names on 'prohibited customers' list. However, they were not able to identify why customers were prohibited. Some DNFBPs participated in workshops with supervisors that included NRA results, however, none was able to relate the NRA's general findings, nor the risk rating assigned to the relevant sector. TF risks in particular are not understood.

370. DNFBPs, generally, do not have a clear understanding of their AML/CFT obligations. For example, DPMS indicated that they have reported suspicious transactions to MOCI, the supervisor, rather than the KwFIU. DNFBPs in some instances indicated that they were unaware of the UNSCRs lists and National List, while indicated in other instances that they would only consult these lists if they had other suspicions regarding the customer.

Application of risk mitigating measures

Financial Institutions

371. Banks and other larger FIs have implemented policies and controls designed to mitigate the ML/TF risks identified in their risk assessments. These are broadly risk-based and effective. They have invested resources to develop mitigating measures for higher-risk scenarios, including for cash-intensive activities and activities involving higher-risk countries and customers. Currency exchange organisations and other smaller FIs appear to have fewer, less sophisticated measures in place.

372. Banks and exchange companies, as well as securities companies rely on technology to implement their dynamic risk assessment models to classify customers as high-risk, medium-risk and low-risk based on a number of factors (e.g., activity type, nationality of customer, visa category, occupation, cross-border nature of transactions, volume of transactions, etc). These risk classifications inform the mitigation measures they apply to each customer - both in terms of intensity and frequency of imposition of risk mitigation measures. For example, banks, exchange

companies and finance companies generally update customer information annually for high-risk clients, every two years for medium risk clients and every three years for low-risk clients. Such processes do not seem to be undertaken in the currency exchange sector, and only to a certain extent in the insurance sector.

373. All FIs have implemented restrictions on high levels of cash transactions (i.e., limited to KWD 3 000 approx. USD 9 700) and do not conduct transactions using VAs as risk mitigation measures, in line with Kuwait's VA prohibition. The insurance sector has banned cash transactions for life insurance policies.

DNFBPs

374. DNFBPs have less sophisticated systems to implement mitigation measures but do generally have some policies and procedures responsive to risk. These mitigation measures appear more transaction specific for DNFBPs, seeing risk through the lens of single factors, and do not seem to represent risk-based policies and procedures.

375. DNFBPs do implement some risk-based measures, including DPMS and real estate brokers restricting the use of cash. DPMS do not accept cash above 3000 KWD (approx. USD 9700) and transactions should be done via electronic means. Transactions for real estate should be done either via cheques or wire transfers, while the downpayment could be done in cash. Real estate brokers verify the authenticity of documents relating to the sale of real estate via MOJ website by searching for the number of the previous sale contract.

376. DNFBPs reported that the supervisor, MOCI, offers guidance and on-site visits to assist them in implementing risk-based mitigation measures. MOCI has provided basic templates for businesses to use to implement such frameworks.

Application of CDD and record-keeping requirements

FIs

377. Most FIs met during the onsite visit were able to demonstrate a very strong understanding of CDD and record-keeping measures, with sufficient ongoing monitoring procedures. However, this understanding does not appear to be well applied in practice, as supervisors continue to identify a significant number of deficiencies relative to the number of inspections year-over-year across sectors, during the majority of FI inspections (see table 5.1).

Table 5.1. Deficiencies related to CDD/EDD, by year

	2018	2019	2020	2021	2022	2023	Total
Central Bank of Kuwait							
Banks	4	15	26	37	0	14	96
Exchange Companies	5	9	18	8	22	13	75
Finance Companies	-	-	-	-	1	-	1
E-payment Companies	-	-	-	-	5	-	5
Total	9	24	44	45	28	27	177
Capital Markets Authority							
Securities companies	11	16	21	10	72	64	194
Brokerage Companies	-	2	-	1	44	30	77
Other Companies	2	2	-	-	11	4	19
Total	13	20	21	11	127	98	290
Insurance Regulatory Unit							
Insurance Companies	-	-	-	-	-	-	-
Ministry of Commerce and Industry							
Currency Exchange Organisations	-	12	28	102	113	47	302
Real Estate Agents and Brokers	-	11	36	135	258	78	518
DPMS	-	16	139	980	511	390	2 036
Total	-	39	203	1217	882	515	2 856

378. FIs, generally, have effective processes in place for onboarding customers and carrying out CDD. FIs undertake their own CDD processes and do not rely on third-party CDD information. Larger banks appear to have the most robust CDD measures. If FIs require updated information and a customer does not respond in a timely manner to a CDD inquiry, and CDD file is not completed, most FIs do not proceed with a transaction or provision of service. In some cases, STRs related to non-cooperative clients have been submitted. Most FIs interviewed also shared that they undertake source of funds checks for most, if not all, clients as part of their CDD processes, and that they have more rigorous identification and verification processes for foreign persons.

379. The Assessment Team identified gaps in some FIs' understanding of what constitutes a BO, and gaps in the process for identifying and verifying BOs in all FIs. Banks have made improvements in identifying and maintaining BO information relating to their clients. Exchange companies, however, still need to improve their processes to ensure that BO identification and verification processes comply with AML/CFT law requirements. CMA has also identified deficiencies in securities companies' BO identification and verification processes.

380. FIs rely on the Chamber of Commerce's database to verify information they receive from clients, including BO information. This Chamber of Commerce database, however, is comprised mainly of information maintained by MOCI, which at present does not maintain complete, reliable BO information (see Chapter 7 for details). As a result, it is unlikely that the Chamber of Commerce database contains adequate, accurate, and current information regarding legal persons' beneficial owners - leading to gaps in FIs' understanding of the BOs behind their customers.

381. CMA inspections have revealed a significant number of deficiencies in securities companies' implementation of CDD over the reporting period - particularly in 2022 (and part of 2023 covered under the reporting period), when it identified 44 deficiencies (63 securities companies) relating to general provisions on CDD procedures, 16 relating to simplified due

diligence, 14 for ongoing CDD and unusual transactions, 21 for know your customer (KYC) information updates, and 11 for record-keeping requirements.

382. Currency exchange organisations have least robust CDD measures in place. The currency exchange organisation met during the onsite shared that it relies on a KYC form, the template for which has been developed by MOCI, and conducts some basic checks on the clients. These checks are largely manual and do not include any verification of the information provided by the clients. This is consistent with MOCI's own findings, which has identified deficiencies relating to verification processes.

DNFBPs

383. Most DNFBPs understand CDD as identifying the customer and checking the presence of documents. However, most DNFBPs see this collection and recording of CDD information as part of their business to retain and upsell customers, rather than comply with their AML/CFT obligations. As a result, they have only been collecting a subset of the information that they require to conduct their AML/CFT CDD obligations. Most DNFBPs assume that banks' CDD processes are more advanced and the CDD the DNFBPs duplicates that of the banks. This results in DNFBPs taking the minimum level of information and steps to conduct their business, rather than be guided by customer risk.

384. Regarding BO information, DPMS rarely deal with legal persons and do not seem to seek BO information in instances where they do. Real estate brokers deal with legal persons and require only identifying those individuals that possess signing authority for the legal person.

385. The majority of inspections of DNFBPs uncover deficiencies in CDD or record keeping requirements.

Application of EDD measures

FIs

386. FIs generally have a good understanding of when to apply EDD measures and specific requirements relating to EDD, but implementation varies depending on the size and international exposure of the FI and particularly with respect to TF TFS requirements.

387. Larger banks and exchange companies have more sophisticated systems for screening clients. Most FIs reported having their systems linked to reputable and reliable third-party solutions that consolidate various lists to identify foreign PEPs and designated persons. These FIs are able to screen clients more frequently (e.g., on a daily basis and before and after transactions) and also have more resources to dedicate to incorporating the National List and identifying changes (through news and other channels) in real-time.

388. Regarding PEPs, most FIs apply EDD measures, such as requiring additional documentation and information (e.g., relating to source of funds and wealth). These individuals are classified as high-risk customers and therefore, transaction monitoring thresholds for these individuals are lower, resulting in more alerts which require further scrutiny. In addition, FIs met during the onsite highlighted that management approval is required before conducting business with a PEP (either establishing a business relationship or carrying out occasional transactions). Both CBK and CMA inspections, however, have identified deficiencies relating to EDD measures for PEPs and high-risk customers during the reporting period, particularly among banks and securities companies in 2021 and 2022 respectively.

389. Kuwaiti FIs, generally, consider any jurisdiction to be higher risk than Kuwait, and do not take a nuanced approach to country risk. FIs rely on FATF lists and supervisory authorities for guidance on high-risk countries. A couple of banks and exchange companies met during the onsite noted taking into consideration the Basel AML index and the Corruption Perception Index, and other factors unique to their business when identifying additional high-risk countries.

390. With respect to correspondent banking, when establishing a correspondent relationship, banks conduct due diligence on the correspondent bank, checking in which countries it operates, adverse news, and risks relating to its products and services. One bank highlighted that it does not establish correspondent banking relationship in higher risk countries. Based on information provided, CBK has not identified any deficiencies relating to correspondent banking relationships and banks take adequate steps to screen the correspondent bank and have adequate processes and controls in place.

391. With respect to wire transfers, FIs reported few instances of missing information. When information is missing, FIs do not process the transaction. Based on information provided, CBK inspections have not identified any significant deficiencies relating to wire transfer requirements, and have revealed that banks, in particular, have in place automated systems for generating transaction alerts and implementing systemic measures to comply with the wire transfer requirements.

392. For TFS, most FIs met during the onsite shared that they rely on third-party solutions such as World Check and Dow Jones for screening. Banks, in particular, highlighted that their systems screen against the UN, OFAC, and UK Treasury lists, and run updates daily. While the process involving UN lists seems fairly consistent and automated across FIs, the procedures relating to the National List are less clear and consistent across FIs. FIs reported different processes for how they receive the National List from Kuwaiti authorities, and how quickly they are expected to incorporate these lists into their systems. For example, one bank reported having 48 hours, while an exchange company reported 24 hours. All FIs reported manual processes for incorporating the National List into their systems. These factors, coupled with on-site inspections findings, raise concerns about the timeliness and accuracy of TF TFS measures across FIs.

393. Specifically, CBK inspections reveal that while larger banks have established automatic screening solutions to identify and flag any sanctioned individuals or entities during customer onboarding and transaction processing, smaller banks face challenges in implementing effective screening processes due to limited resources and use of manual processes. With respect to exchange companies, CBK identified some inadequate screening solutions and lack of periodic screening of customer data. In some cases, CBK also observed exchange companies focusing their screening on parties directly involved in transactions, rather than extending the scope to all parties in a business relationship and found instances of provisions of funds to listed individuals.

394. With respect to securities companies' TFS measures, CMA observed that in general, larger securities firms rely on third-party solutions to conduct screening activities while smaller ones opt for their compliance officers manually screening customer databases. These manual processes have led to delays following changes to the relevant lists. Significantly, in 2022, CMA identified a number of deficiencies with respect to securities companies' compliance with TFS requirements. These deficiencies generally related to periodic screening of customer data against sanctions lists updates, lack of screening process for the BOs, and internal policies and procedures that did not address TFS compliance processes within the institution.

395. As with CDD measures, currency exchange organisations have weakest EDD measures in place, particularly with respect to TFS requirements. During interviews, the sector showed a weak

understanding of the procedures in place to screen customers. Sector participants were able to indicate that there was a private list to review but it was unclear which list they were referring to and what specific procedures are in place to screen against this list.

Table 5.2. Deficiencies related to TFS, by year

	2018	2019	2020	2021	2022	2023	Total
Central Bank of Kuwait							
Banks	0	5	13	1	0	2	21
Exchange Companies	12	9	7	2	5	10	45
Finance Companies	-	-	-	-	-	-	-
E-payment Service Provider	-	-	-	-	-	-	-
Total	12	14	20	3	5	12	66
Capital Markets Authority							
Securities companies	3	5	-	2	21	9	40
Brokerage Companies	-	-	-	-	5	3	8
Other Companies	-	-	-	-	1	1	2
Total	3	5	-	2	27	13	50
Insurance Regulatory Unit							
Insurance Companies	-	-	-	-	-	-	-
Ministry of Commerce and Industry							
Currency Exchange Organisations	-	16	27	57	62	43	205
Real Estate Agents and Brokers	-	19	25	65	96	44	249
DPMS	-	29	65	372	398	246	1 110
Total	-	64	117	494	556	333	1 564

DNFBPs

396. Implementation of EDD measures by DNFBPs largely relates to PEPs. DNFBPs have a generally good understanding of domestic PEPs and the procedures for dealing with them. DNFBPs indicated that foreign business would be considered higher risk and subject to EDD or outright refused.

397. DNFBPs have weak understanding and their obligations with respect to TF TFS. Some DPMS mentioned that they check the list provided by MOCI once every two weeks, while others had a procedure to only check customers against the list when they had a suspicion about the client or when conducting very large transaction. Small DNFBPs do not screen any customers, and screening would be triggered only upon suspicion. Real estate brokers indicated that they would generally rely on banks' transactions monitoring as they handle the financial part of real estate transactions.

Reporting obligations and tipping off

FIs

398. The AML/CFT Law obliges FIs to notify the KwFIU without delay if they suspect or have reasonable grounds to suspect that a transaction involves proceeds of crime or funds related or linked to or to be used for ML or TF. The reporting obligation applies to all transactions, including attempted transactions, and regardless of their value.

399. To enable compliance, the KwFIU has developed various guidance materials to help FIs understand their obligations and to identify indicators of suspicious activity. This guidance appears to be effective with respect to banks and, to some degree, exchange companies, which report significantly more STRs than other FIs, with a clear increase the number of STRs submitted by banks during the reporting period (see table 5.3). STRs remains extremely low among other FIs, and the quality and timeliness of the reporting require further improvements across the board.

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Table 5.3. STRs reported by sector, by year

	2019	2020	2021	2022	2023	Total
Banks	996	713	1 623	1 440	1 583	6 355
Exchange Companies	659	338	776	870	640	3 283
Finance Companies	1	-	-	1	-	2
E-payment Service Provider	-	-	-	-	-	-
Total	1 656	1 051	2 399	2 311	2 223	9 640
Securities companies	-	2	14	1	-	17
Brokerage Companies	8	6	-	1	2	17
Other Companies	-	-	-	2	-	2
Total	8	8	14	4	2	36
Insurance Companies	-	-	-	-	-	-
Currency Exchange Organisations	-	-	-	-	-	-
Real Estate Agents and Brokers	18	-	-	-	-	18
DPMS	5	-	-	4	4	13
Total	23	-	-	4	4	31

400. CBK on-site inspections indicate that banks generally have more robust transaction monitoring systems than exchange companies. This allows them to detect and report more suspicious transactions. The improvements observed in banks transaction monitoring systems can be attributed, in part, to the sanctions imposed by CBK in 2018 in response to serious breaches identified in one institution's transaction monitoring process, where the staff did not properly investigate alerts generated, and STRs were not filed as required. As a result, the compliance officer responsible for overseeing AML/CFT compliance was suspended.

401. With respect to exchange companies, even though exchange companies have submitted more STRs than other sectors during the reporting period, CBK continues to identify deficiencies in exchange companies' transaction monitoring processes, identifying more than two times the deficiencies compared to banks over the reporting period (see table 5.4), and only a gradual increase in the STRs over the reporting period when compared to banks.

Table 5.4. Transaction Monitoring Deficiencies Identified by CBK

	2018	2019	2020	2021	2022	2023	Total
Central Bank of Kuwait							
Banks	5	4	8	11	1	6	35
Exchange Companies	8	17	13	8	19	14	79

402. Based on onsite interviews with FIs, banks appear to have more comprehensive STR policies and procedures than exchange companies, including but not limited to their transaction monitoring systems. Both sectors aim to report within 48 hours, although some cases can take up to two weeks, depending on the complexity of the activity and analysis required. Onsite meetings also revealed that some banks and exchange companies apply higher threshold than required for reporting.

403. When asked about indicators and typologies, both FIs and exchanges noted challenges in detecting suspected TF activity relative to ML and were not able to demonstrate that they could detect suspected TF activity. This is also the case for other obliged entities. Banks mainly highlighted common typologies relating to VAs, fraud, PEPs, and corruption, and exchange companies highlighted one-to-many and many-to-one activity as leading indicators. In all cases, the banks and exchange companies reported receiving helpful feedback from the FIU on the STRs submitted, including follow-up requests and updates on the status of the STRs (e.g., whether it is referred to PPO). They also reported getting requests from PPOs in the course of their investigations.

404. The securities companies and the currency exchange organisation that the assessment team met did not report any STRs during the reporting period. The assessment team does not consider this an appropriate level of reporting. With respect to securities companies, CMA's inspections have identified several deficiencies contributing to low levels of reporting, including e.g., transaction monitoring system weaknesses, lack of clarity into the STR processes, and insufficiency of analysis conducted on flagged transactions.

DNFBPs

405. All DNFBPs have the same requirements for STR reporting. There are only four STRs per year reported by DPMS in 2021/2022 and 2022/2023 while no STRs are reported in these years for other DNFBPs. Reporting levels of DNFBPs are low compared to their size, importance and reach.

406. DNFBPs did not demonstrate any policies or procedures for reporting STRs and indicated to the assessment team that financial institutions largely have purview over the transactions they conduct. Some DNFBPs indicated that they would not enter into a relationship or business transaction with a prospective client they see as suspicious, but would not tip off clients if they were planning on reporting an STR.

407. DNFBPs benefit from red flag indicators in the workshops organised by MOCI. A small number of DNFBPs developed their own indicators based on their experience with customers and did not rely on the indicators prepared by KwFIU or MOCI. DNFBPs report a very limited amount of STRs and thus, these indicators may not be effective in detecting potential ML/TF. The indicators that DNFBPs used were all with respect to money laundering, and none involving terrorist financing.

408. All obliged entities are generally aware of their responsibilities to report STRs, and not tip off the subjects of the report. Most obliged entities could describe at least some scenarios suspicious of money laundering that could lead to reporting, but there was very little knowledge on suspicions of TF that could lead to filing an STR. Some obliged entities demonstrated to the Assessment Team that they have a higher threshold than 'reasonable grounds to suspect' to submit an STR.

409. KwFIU indicated to the assessment team that all STR reports were of high quality.

5

Internal controls and legal/regulatory requirements impending implementation

FIs

410. FIs in Kuwait are required to implement internal policies, procedures, systems, and controls against ML/TF, including appropriate compliance management arrangements and adequate screening procedures to ensure high standards when hiring employees. These programs must also include ongoing employee training program and an independent audit function to verify AML/CFT compliance.

411. Most FIs that the Assessment Team met with demonstrated that they have appropriate internal control policies, banks in particular. This is also consistent with the findings of supervisors' on-site inspections during the reporting period which show fewer deficiencies relating to internal controls than other AML/CFT obligations. For example, CBK's inspections indicate that most FIs have designated compliance officers, their AML/CFT policies are approved at the board level, their internal audit functions consistently examine the AML/CFT controls, and they have training programs. In addition, CBK has seen a shift from manual to automatic controls. That said, CBK have also observed that some FIs, smaller ones in particular, have not fully developed comprehensive policies and controls.

412. The banks, exchange companies, and securities companies that the Assessment Team met during the onsite reported having rigorous hiring processes to ensure that the AML/CFT compliance staff are qualified and with a clean criminal record. Some FIs even noted ongoing screening processes for more high-risk roles. In particular, FIs reported rigorous screening processes for compliance officers, including fit and proper checks with supervisors. FIs shared that compliance officers report directly to FI leadership (i.e., CEO, General Manager, or equivalent) and relevant committees of the board of directors (i.e., Risk and Compliance Committee or equivalent) and are required to report on AML/CFT activities on a regular basis, in some cases, monthly.

413. Most FIs that the assessment team met during the onsite reported having their own internal, independent audit function, which reviews the AML/CFT measures annually and reports its findings to FI leadership and relevant board committees. With respect to securities companies, CMA approves external auditors of supervised entities in order to ensure that the auditors possess the necessary expertise and qualifications to comprehensively assess the supervised entities' internal controls, risk management practices, and compliance with AML/CFT regulations.

414. In general, CMA has observed that while securities companies have implemented AML/CFT policies and controls, the effectiveness and consistency of these controls varies, with some exhibiting deficiencies related to their compliance function.

415. Finally, FIs that are part of a cross-border financial group did not report any barriers to implementing group-wide programmes and noted that they tailor their AML/CFT as needed to Kuwait's specific requirements and context.

DNFBPs

416. DNFBPs implement basic internal policies, procedures, and controls against ML/TFs. This includes the appointment of a compliance officer, who is subject to criminal background checks and mandatory training. The application and effectiveness of these internal policies, procedures, and controls was commensurate with the size of the DNFBP.

417. DNFBPs did not demonstrate that their AML/CFT programmes provided employees with an ongoing employee training program or an independent audit function to verify AML/CFT compliance.

418. MOCI supports DNFBPs in implementing these requirements by providing templates, training material and guidance to assist DNFBPs and all of their appointed compliance officers in implementing required controls and procedures. This interaction was well received by DNFBPs, and those that have participated indicated that their compliance programme improved once having met with MOCI.

419. There are no legal or regulatory requirements that impede the implementation of obliged entities AML/CFT compliance programme.

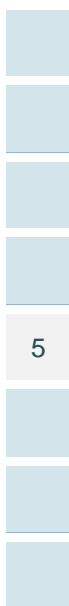
Overall conclusions on IO.4

Understanding of AML/CFT risks and obligations varies across FI and DNFBP sectors. This is generally high for banks and large/international FIs, but lower for DNFBPs and smaller FIs. Understanding of TF risks is lower across all sectors.

Identification of BOs is difficult for most obliged entities and there is no credible source to verify information. This can lead to an incomplete understanding of customers and their BOs. CDD and EDD measures are generally applied with the exception of those related to TF TFS. There remains a significant number of ongoing compliance deficiencies, and some obliged entities do not either screen against TFS lists or update lists in a timely manner. This has resulted in instances where listed individuals were provided funds in Kuwait.

Detection of suspicious transactions is improving in the banking sector but does not show a positive trend in other sectors, particularly DNFBPs where very few STRs are reported. Some obliged entities demonstrated that they have a higher threshold than 'reasonable grounds to suspect' to submit an STR. Generally, obliged entities demonstrated difficulties detecting suspected TF activity.

Kuwait is rated as having a **moderate** level of effectiveness for IO.4.



Chapter 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

FIs

1. Kuwait's FI supervisors implement a fairly robust licensing framework and ongoing checks, beyond the usually prescribed fit and proper requirements to prevent criminals and their associates from holding a significant or controlling interest or a management function. All supervisors have issues in identifying and verifying BOs as part of market entry procedures.
2. Kuwait recognises the presence of some unlicensed MVTs activity and takes some successful measures to detect and sanction such activity but needs to further refine its processes to identify unlicensed hawala activity in particular given the country's context and risk profile.
3. CBK, CMA and IRU have a good understanding of ML/TF risk that's sourced from a data-driven process, engagement with their supervised population and questionnaires.
4. CBK and CMA conduct risk-based supervision that features a very significant coverage of the sectors they supervise. Risk informs frequency, but it is not clear that intensity of supervisory coverage is driven by risk. There is a gap in CMA supervision where 11 securities entities licensed by CBK are not covered in CMA's supervision.
5. The insurance sector has not had a fully functional supervisor for three years. The IRU became its operational supervisor in 2021 and has put in place the foundational elements to a successful risk-based AML/CFT supervisor, however, they had only conducted some pilot inspections at the time of the onsite.
6. Supervisors have demonstrated their capabilities by finding significant number of instances of non-compliance in all FI sectors, except for MOCI with respect to currency exchange organisations. All supervisors demonstrated a commitment to using remedial measures to amend compliance deficiencies. However, they rely to a large degree on remedial measures and small fines that are not proportionate to the deficiencies or dissuasive. This has led to continual non-compliance.
7. All supervisors produce a range of guidance and conduct outreach to supervised sectors and supervisory action has had some positive effect on entity-level compliance.

DNFBPs

1. MOCI is responsible for licensing of all commercial activities in Kuwait, in addition to being an AML/CFT supervisor for all DNFBP sectors. MOCI employs a quality market entry procedure, but that procedure does not comprehensively identify and verify ultimate beneficial owners as part of licensing.
2. MOCI has a developing understanding of ML/TF risk that could benefit from the consideration of other factors beyond a small number of ML and TF convictions.
3. MOCI has a dedicated team and has digitised its processes but is in the process of developing a risk understanding of its supervised population at the entity level. As this process has only just begun, MOCI conducts event-driven supervision rather than risk-based supervision.
4. MOCI applies a wide range of remedial measures and sanctions. However, their policy to aggregate and not increase the severity of remedial measure/sanctions can allow very serious non-compliance to be treated with inappropriate measures.

Recommended Actions

FIs

1. CBK and CMA should ensure that the frequency and, in particular, the intensity of their supervisory activities is dictated by the risk presented by the obliged entities they supervise.
2. CBK should take measures to enhance its monitoring of unlicensed MVTS providers operating in Kuwait, especially hawalas, and enhance cooperation with LEAs to ensure that all available tools are used to discontinue such unlicensed activity.
3. CBK should conduct appropriate fit and proper controls for its new e-payment service provider sector as planned.
4. CBK should amend its remedial action/sanctions policy to ensure that all non-compliance is considered at the obligation level, rather than capping scoring for deficiencies at the 'instruction' level.
5. IRU should conduct risk-based supervision which considers the sectoral, and individual entity-level ML/TF risks presented by the obliged entities they supervise.

DNFBPs

1. MOCI should enhance its understanding of ML/TF risk, especially TF risk, in the sectors it supervises. MOCI should apply this understanding to determine the entity-level ML/TF risk presented by its supervised population.
2. MOCI should be given sufficient resources and develop appropriate expertise to conduct their AML/CFT supervision.
3. MOCI should fully implement risk-based supervision by creating their supervisory plans in response to the ML/TF risks presented in the sectors it supervises, and the obliged entities that make up those sectors. Supervisory plans should be comprised of supervisory activities where the frequency and intensity are tailored based on the risk presented.

FIs and DNFBPs

1. Supervisors should systematically cover beneficial owners as part of licensing processes (including where legal persons exist in an ownership chain), and ensure that a consistent, complete set of crimes are codified to be considered for all applicants as part of the licensing process.
2. Supervisory authorities should put in place enforcement policies that enable the application of proportionate and dissuasive measures. This should include escalatory measures for continued non-compliance and ensuring that all remedial actions/sanctions are available in first instances. Supervisory authorities should consider publishing sanctions to increase their dissuasive effect.

420. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.14, 15, 26-28, 34, 35 and elements of R.1 and 40.

421. There are four AML/CFT supervisors in Kuwait. CBK supervises banks, exchange companies (provider of MVTS), finance companies and e-payment companies. CMA supervises all securities companies, which includes investment companies, securities brokerage companies, financial brokerage companies, underwriters, asset managers, mutual funds, and custodians. IRU supervises all providers of insurance. MOCI supervises currency exchange organisations (an FI), real estate brokers and agents and DPMS (analysis below has in places aggregated these three sectors as they have the identical supervisor following identical processes). Lawyers and accountants do not conduct the triggering activity for their coverage by the FATF Standards and are not supervised in Kuwait. TCSPs do not exist in Kuwait. Notaries are all employed by the government of the State of Kuwait. VASPs and casinos are prohibited in Kuwait. Licensing is a partnership between MOCI, who licenses all business activity in Kuwait, and the supervisor responsible for the obliged entity. See Chapter 1 for the description for each supervisor and their responsibilities, as well as the ranking of each sector in terms of Kuwait's risks, context and materiality.

Table 6. 1. Number of FIs and DNFBPs by Supervisor

Supervisor	Type of Obligated Entity	Number
CBK	Banks	22
CBK	Exchange Companies	32
CBK	Finance Companies	2
CBK	E-Payment Companies	12
	Total CBK	68
CMA	Investment Companies	42
CMA	Brokerage Companies	12
CMA	Other Companies	9
	Total CMA	63
IRU	Insurance Companies	18 ¹⁸
	Total IRU	18
MOCI	Currency Exchange Organisations	250
MOCI	Real Estate Agents and Brokers	4 191
MOCI	DPMS	1 283
	Total MOCI	5 724

Immediate Outcome 3 (Supervision)

Licensing, registration and controls preventing criminals and associates from entering the market

Financial Institutions

422. Kuwait has a robust process for the licensing of FIs, and most technical deficiencies in licensing are rectified through licensing processes that are more stringent than the technical requirements set out.

423. FIs seeking to engage in financial services in Kuwait must submit a licensing application to MOCI, who licenses all commercial activities in Kuwait. MOCI refers the application and supporting documentation to relevant supervisory authorities (itself for sectors it supervises) for approval before granting a commercial license, once both MOCI and the supervisor are satisfied.

424. When MOCI receives an FI's application, it conducts preliminary checks to ensure that the application includes information about the company, its legal status, its founders and their identification information and criminal record certification before referring the application to the appropriate supervisor authorities for approval. Applications are not referred if information is incomplete, or if individuals proposed for the management functions of the applicant have a criminal record.

425. Upon receiving licensing applications, FI supervisors apply fit and proper tests to key persons identified in the application, including management functions (e.g., directors) and certain shareholders. These tests appear to be generally effective in preventing criminals from being legal owners and controllers of an FI, however, supervisors do not consistently identify and screen all

¹⁸ Thirty-four insurance companies total, of which 18 offer life insurance products.

BOs of an FI, leaving the possibility of criminals hiding behind nominee shareholders and directors.

426. CBK is well resourced to evaluate licensing applications, has stringent requirements for licensing and performs rigorous checks on most key persons. MOCI reviews key persons' qualifications and background, requires a clean criminal background, consults MOI to ensure that applicants are not suspected of crimes and screens names against UN and Kuwait's National List. Key persons include those filing the application, founders, directors, managers, board members and shareholders who own 5% or more. While these persons may be BOs of the applicant, it is not clear what measures CBK has in place to verify the applicant's BO information and identify any nominee arrangements. When there is a legal person listed as a founder or shareholder, CBK reviews that entity's business activities and legal status, and it seeks to identify the individuals behind the legal person, but, as discussed above, it is not clear if this includes all BOs of the legal person.

427. Over the reporting period, CBK received 19 applications for banks, exchange companies and finance companies. 11 of these are for digital banks that are still being evaluated as this sector does not yet exist in Kuwait. Of the remaining eight, CBK only approved one application for a finance company and refused seven due to activities to be conducted by the applicant being considered too risky (transactions with high-risk jurisdictions); a determination made by the CBK that the applicant's senior management do not meet fit and proper requirements; and based on a failure by the applicant to provide complete information and documents as required.

428. In addition to banks, exchange companies, and finance companies, CBK also supervises 12 electronic payment service providers. These entities were initially licensed by MOCI but were not deemed obliged entities, serving only as financial intermediaries to certain banks, which themselves were responsible for assessing risks related to these entities and their activities. However, in 2018, under a new set of regulations relating to e-payment service providers, these entities became subject to CBK supervision, including for AML/CFT obligations. CBK initially relied on MOCI's licensing procedures and banks' policies and procedures with respect to these entities when accepting these entities and did not conduct its own fit and proper tests. However, under updated regulations, issued in May 2023, CBK will be reassessing the fitness and propriety of all 12 entities, applying the same rigorous procedures it applies to other obliged entities when renewing licenses, but at the time of the onsite, they were operating without the rigour of CBK's fit and proper tests. During the onsite, CBK shared that in addition to reviewing the 12 existing entities, it is also reviewing 19 new licensing applications for e-payment service providers.

Table 6.2. Licensing Applications Received and Rejected, Total for 2018-2023

	Received	Approved	Refused
CBK			
Banks	4	0	4
Exchange Companies	3	0	3
Finance Companies	1	1	0
E-payment Service Providers	12	12	0
Digital Banking* (under consideration)	11	0	0
Total	31	13	7
CMA			
Investment Companies	17	13	3
Brokerage Companies	6	4	0
Other Companies	8	8	0
Total	31	25	3
IRU			
Insurance Companies ¹⁹	39	34	5
Total	39	34	5
MOCI			
Currency Exchange Organisations	47	46	1
Real Estate Agents and Brokers	1 676	1 652	24
DPMS	516	511	5
Total	2 239	2 209	30

429. Similar to CBK, CMA is well resourced for evaluating licensing applications and checks with MOI to ensure key persons do not have a criminal record. It also reviews their qualifications and background. It is not clear, however, whether CMA screens names against UN and Kuwait's National List to ensure that the persons are not designated. Key persons include management functions, members of the board, and shareholders who own 5% or more of the entity. However, as with other supervisors, there are no clear measures in place to verify the applicant's BO information and identify any nominee arrangements. Over the reporting period, CMA received 31 applications, approved 25, and refused three. The entities to which the CMA refused to grant license failed to demonstrate a sound business plan, presented AML/CFT deficiencies in their applications (e.g., the entities did not provide adequate AML/CFT procedures, failed to demonstrate the fitness of the AML/CFT responsible person linked to higher risk geography), or their key persons failed the fit and proper test.

430. In Kuwait, CBK and CMA are collectively responsible for licensing securities companies and CMA is responsible for AML/CFT supervision. CBK has licensed 53 securities companies, but CMA has only licensed and supervises 42 securities companies. Kuwait was not able to substantiate who is responsible for the AML/CFT supervision of the 11 securities companies that are not reflected in the CMA's total count.

431. The IRU is a new supervisor that was established during the reporting period to oversee Kuwait's insurance sector. While it was established in 2019, it did not enter into operations until 2021. Since then, it has licensed 34 insurance companies, majority of which were renewals of

¹⁹ Includes all insurance companies, and not only those applying to sell life insurance products.

licenses previously granted by MOCI (the former supervisor). It did not renew three licenses that were previously issued by MOCI and refused two new applicants. These licenses were denied based on the determination that the applicants lacked sufficient resources or technical expertise, that its key functions lacked necessary competencies, and/or non-compliance with other key requirements. As a part of a renewal process for entities previously licensed with MOCI, IRU performed fit and proper tests on all key persons to ensure consistency across applications.

432. Although a newer supervisor, the IRU's licensing requirements and procedures are fairly robust with qualified personnel responsible for reviewing applications. It reviews key persons' qualifications and background. It requires certification from the key persons that they do not have a criminal record. If key persons include legal persons, they are also required to submit a certificate confirming there are no criminal orders against them and provide information on its BOs. All persons are screened through World Check to identify any designated persons. However, World Check does not have access to Kuwait's National List. Key persons include managers and all shareholders. As with CBK and CMA, it is not clear what specific measures IRU takes to verify the applicant's BO information and identify any nominee arrangements during the licensing process.

DNFBPs

433. MOCI licenses and supervises DPMS and real estate brokers and agents as well as currency exchange organisations (which are FIs). The licensing department in MOCI is staffed with 100 employees who are well resourced to process applications in 1-2 weeks. All applications for commercial activity in these sectors are submitted through MOCI's electronic portal. All individuals listed on the application, whether as part of a management function, shareholder or director, must submit a criminal record check and, in some instances, MOCI may allow an individual with a criminal record to conduct commercial activity in Kuwait, including activity that would designate them as a FI/DNFBP, if authorised on a case-by-case basis by their legal department. This ability to override the clean criminal record requirement can also include BOs. As with other supervisors, there is currently no ability to verify this information. These individuals are also screened against UN lists and Kuwait's National List. Fit and proper checks are done for key persons, including the appointed compliance officer of the obliged entity, who must also pass a MOCI AML/CFT test.

434. All supervisors have in place processes to ensure the fitness and propriety of key persons on an ongoing basis. They also have processes in place to evaluate the appropriateness of AML/CFT compliance officers. Licensed entities are required to notify supervisors of any changes to key persons and compliance officer and seek their approval before proceeding. Licenses are valid for three years, at which point entities must go through a renewal process, which, among other assessments, includes supervisors performing fit and proper tests on key persons again.

435. All supervisors also have in place processes to identify unlicensed activities. These processes seem to be generally effective, though some concerns remain with respect to the authorities' ability to effectively identify unlicensed hawala schemes in particular given Kuwait's context and risk profile relating to TF. FI supervisors interviewed noted that they learn about unlicensed activity through social media, customer complaints, business activity (including transaction activity), onsite inspections, etc. MOCI has put in place software to scrub social media for indicators of unlicensed commercial activity, including transactions in VAs and activity that would make the person/entity an obliged entity. Supervisors shared that when they do identify unlicensed activity, they notify the MOI and other competent authorities as appropriate. CBK highlighted that during inspections it ensures that FIs are not engaging with shell banks and also

monitors for any unlicensed hawala schemes. CMA highlighted that when it identifies any unlicensed activity, it consults with its legal department, then notifies the MOI as appropriate. It noted that relevant competent authorities then form a team or taskforce to investigate the activity further and block the activity.

VASPs

436. In July 2023, MOCI, the registrant for all commercial activities in Kuwait, as well as all FI and DNFBP supervisors issued an identical circular prohibiting: 1) the use of VAs as a payment or investment instrument, 2) the issuance of business licenses to VASPs, and 3) VA mining activities. Supervisors interviewed noted that prior to the circular, there was an informal prohibition on such activity and that obliged entities generally took a risk-sensitive approach to VAs and VASPs. Since the circular, supervisors have advised obliged entities to update their policies and procedures, review their risk assessments, and ensure that they have sufficient measures in place to detect and report unauthorised VASP activity. Supervisors shared that they monitor for unauthorised VASP activity in the same way as for any other unauthorised activity (e.g., through social media and customer complaints). In general, it appears that the 2023 prohibition has been effective in preventing VASP activities in Kuwait.

437. As VASPs are prohibited in Kuwait, they will not be detailed further in this immediate outcome.

Supervisors' understanding and identification of ML/TF risks

FIs

438. CBK has a robust understanding of sectoral and entity-level risks, informed by a rigorous, dynamic risk assessment methodology. CMA also demonstrates a good understanding of entity-level risks since establishing a risk assessment model in 2019. The IRU, as a new supervisor, is still assessing the risks faced by the entities it supervises, but its risk assessment methodology appears to be sound and detailed. MOCI's understanding of ML/TF risks remains under development, which is concerning given the number of entities it supervises. Across the board, supervisors' understanding of ML risks appears to be more developed than TF risks generally, and in terms of the risks associated with the specific entities they supervise.

439. CBK participated in the most recent NRA process, informing the process based on its entity-level risk assessments. CBK has not conducted its own formal sectoral risk assessments for banks, exchange companies, finance companies or e-payment service providers, but CBK agreed with the outcomes of the NRA, having informed this process.

440. CBK uses a robust risk assessment model to identify entity-level ML/TF risks. The model was initially developed in 2014 but has been refined over the years based on new observations and developments. The model incorporates several inherent risks data points for each entity, including those relating to customers, BOs, NPO customers and transaction volumes, PEPs, high-risk jurisdictions, foreign branches, products and services, correspondents in high-risk jurisdictions, wire transfers to high-risk jurisdictions, transaction volumes, transaction monitoring systems, STRs, deficiencies identified by internal and external audits, and AML/CFT staff. The model also considers several AML/CFT controls implemented by each entity, including internal policies and procedures in line with AML/CFT requirements, CDD/EDD controls in place to monitor and control ML/TF risks, automated systems and controls to monitor transactions, TFS screening system, STR process and procedures, the internal/external audit in relation to the

internal control systems, and the AML/CFT training program. CBK updates the model on an ongoing basis, working with senior employees of the team with expertise in risk assessments.

441. Entity risk ratings are updated annually and based on trigger events. These ratings can also be adjusted based on analyses of data produced by the Transaction Reporting System (TRS). CBK introduced this system in July 2022 to enhance its risk model and deepen the analysis of transactional risks and geographic exposure. Through TRS, CBK can collect information on cash deposits in banks and incoming/outgoing wire and money transfers on a daily basis from supervised entities. Specifically, TRS enables CBK to receive the following data on each transaction: the nationality of the customer, customer ID information, information on the receiver bank, receiver country, the purpose of the transaction, amount and currency of the transaction. TRS runs scenario analysis on this transaction data, which CBK's AML/CFT section then analyses to identify any issue, areas or trends and advise entities on how to improve their AML/CFT procedures.

Box 6.1. CBK's Transaction Reporting System

Based on the analyses of transactions through the TRS, CBK identified a pattern across FIs where certain FIs did not specify transaction purpose and instead list "other" as purpose. Based on this observation, CBK developed a TRS manual, which provides pre-determined transaction purposes to ensure transparency and consistency across transaction details and information.

442. Based on this risk assessment model and other key factors (e.g., information from entities in response to ad-hoc requests, entities' engagement with CBK, FIU, and other competent authorities, and open-source information), CBK assigns risk ratings to each obliged entity.

Table 6.3. Supervisors' risk ratings as of 2023

	High	Med-High	Medium	Med-Low	Low	Total
CBK						
Banks		6	6	1	9	22
Exchange Companies	3	1	10	9	9	32
Finance Companies	-	-	-	-	1	1
E-Payment Service Providers	-	-	-	-	-	-
Total	3	7	16	10	19	55
CMA						
Investment Companies	6	11	17	4	5	43
Brokerage Companies	-	-	6	6	-	12
Other Companies	1	-	-	3	4	8
Total	7	11	23	13	9	63
IRU						
Insurance Companies	-	-	7	-	11	18
MOCI						
Currency Exchange Organisations	-	-	1	-	3	4
Real Estate Agents and Brokers	-	1	10	2	27	40
DPMS	2	2	3	4	7	18
Total	2	3	14	6	37	62

Note: (1) there is one new finance company that has not yet received a risk rating, (2) e-payment service providers are a new obliged entity sector and have not yet rated, (3) MOCI remains in the process of assigning entity-level risk ratings to its supervised population.

443. CMA also participated in the NRA process starting in 2019 when its AML/CFT section was established. Like CBK, CMA has not conducted its own formal sectoral risk assessments, but it agrees with the findings of the NRA which assessed securities companies to pose medium risk for ML for a number of reasons including that shares are the only tradable product for investment purposes, securities providers do not accept cash as a payment method and all funds related to the investment have to be processed via bank transfers. In addition, there is a low volume of foreign investment, limited prevalence of high-risk customers, and the sector's non-resident customers represent 2% of the total number of customers.

444. Since the establishment of its AML/CFT section in 2019, CMA has developed a risk assessment model to identify entity-level ML/TF risks. The model is informed by data that CMA collects on each entity through annual questionnaires, capturing many of the same inherent risks data points as CBK's model, but also incorporating data on customers investing in collective investment schemes, customers onboarded non-face-to-face, and customers using the electronic trading platform, total assets, size managed funds (specifically for investment companies). Like CBK, CMA also considers various AML/CFT controls implemented by each entity. CMA applies different weighting to various factors to ensure it has a good understanding of entities with higher inherent risk exposure and/or weaknesses in their AML/CFT framework.

445. Based on this risk assessment model and consideration of other key factors, such as previous violations and disciplinary board decisions, CMA assigns risk ratings to each obliged entity. CMA re-evaluates each supervised entity's risk annually. This process involves a review of key documentation and the entity's responses to CMA's annual AML/CFT questionnaire. Entities' risk rating is also reconsidered after an onsite inspection and as a result of trigger events, such as a media report, information from another authority, or customer complaints.

446. Since the IRU did not become operational until 2022, the NRA's findings relating to the insurance sector were informed by information from the sector's previous supervisor, MOCI. The NRA assessed that the insurance sector poses medium-low ML risks. The IRU, like other supervisors, has not conducted a formal sectoral risk assessment of the insurance sector, but it has developed an entity-level risk assessment process, which includes a questionnaire to obtain information about each entity's inherent risks, covering many of the same risks as those captured by CBK and CMA, but also more sector specific components – e.g., number of life insurance policies and volume, number of group life insurance packages, number of policies in force, number of terminated policies, and number of beneficiaries and high-risk beneficiaries. Its risk methodology also considers several controls, similar to those that CBK and CMA considers.

447. Based on the initial set of responses to the questionnaires, the IRU has determined that out of 34 insurance companies, only 18 entities offer life insurance services. It has also identified entities where the highest number of life insurance policies have been issued.

DNFBPs

448. MOCI understanding of ML/TF risk is more limited. MOCI participated in the NRA and agrees with its outcomes and has not conducted separate sectoral risk assessments. MOCI identified that there was more limited information considered as part of the NRA risk assessment for sectors under their purview, primarily focused on convictions of ML/TF. The assessment of risk in the real estate sector was limited considering investigations involving the real estate sector, and, as a result the risk understanding was limited to typologies related to fraud using the real estate sector and not, for instance, money laundering through real estate.

449. MOCI understanding of the risks of DPMS is also limited but mirrored the NRA results. This understanding is based on some convictions for unlicensed DPMS activity which involved the sale of gold products on social media platforms without a license for online sale. Currency exchange organisations were identified by Kuwait as low risk as there were no ML cases involving these obliged entities.

450. MOCI has begun assessing its obliged entities to make an entity-level determination of ML/TF risk. This is encouraging but MOCI is only at the beginning stage of this process, and this could not be assessed as contributing to its understanding of ML/TF risk at the time of the onsite.

Risk-based supervision of compliance with AML/CFT requirements

451. CBK and CMA conduct risk-based supervision and have sufficient resources for their supervisory activities. CBK's supervision seems particularly intensive, especially for banks. The IRU has not yet begun a fully operational risk-based supervision programme since its purview began over the insurance sector in 2022. MOCI does not yet conduct risk-based supervision, and this is unlikely to be the case in most sectors for some time. All supervisors have significant supervisory coverage, with most FIs being inspected annually.

FIs

452. CBK's supervisory measures including onsite inspection plans are informed by entity-level risk assessments. Entities' risk ratings inform the intensity of inspections as well as the frequency/timing. CBK inspects all entities every year, but priority is given to higher-risk entities. After conducting onsite inspections of all high-risk entities, CBK then focuses on medium-risk entities, followed by lower-risk (and if there are some low-risk entities that are not inspected in a given year, those are pushed to the following year). The scope and intensity of these inspections

naturally also inform the duration of these inspections, which based on private sector interviews, can take several months for banks and several weeks for exchange companies. CBK also conducts ad-hoc and thematic inspections based on trigger events or other factors.

453. Prior to conducting onsite inspections, CBK's AML/CFT section and inspection teams engage in offsite review of key documents, information, and data to inform their understanding and scope of their onsite inspections. After inspections, CBK produces detailed inspection reports, describing all findings and providing an action plan for deficiencies identified with specified timeframes for by when the actions must be completed. CBK follows up with entities to ensure that they adequately implement the required remediated actions within the specified timeframes and prepares follow-up reports based on the information received. These reports are presented to CBK leadership.

454. CBK is well resourced for its AML/CFT supervisory efforts. Its AML/CFT section consists of 17 FTEs, and is also supported by CBK's inspections department, which has 35 FTEs. These employees are trained with respect to AML/CFT obligations and are provided with guidance on how to conduct inspections. It is not clear, however, that CBK allocates these significant resources on a risk basis dedicating more resources to inspections of higher-risk entities, and fewer resources to inspections of lower-risk entities.

Table 6.4. Supervisors' onsite inspections covering AML/CFT, by year

	2018	2019	2020	2021	2022	2023	Total
CBK							
Banks	21	22	20	22	2	9	96
Exchange Companies	37	40	38	21	35	26	197
Finance Companies	1	1	1	1	1	-	5
E-Payment Service Providers	-	-	-	-	6	-	6
Total	59	63	59	44	44	35	304
CMA							
Investment Companies	11	27	34	38	48	50	208
Brokerage Companies	13	5	3	3	12	8	44
Other Companies	1	2	-	-	3	10	16
Total	25	34	37	41	63	68	268
IRU							
Insurance Companies (Note inspections done by MOCI 2018-2020)	1	7	10	-	-	6	24
MOCI							
Currency Exchange Organisations	5	72	76	181	80	88	502
Real Estate Agents and Brokers	32	49	61	246	270	338	996
DPMS	1	82	159	815	513	573	2 143
Total	38	203	296	1242	863	999	3 641

455. In addition to onsite inspections, CBK engages in continuous off-site monitoring activities. This includes analysis and review of data received from TRS as discussed in the previous section, as well as responses to questionnaires. CBK reviews and takes supervisory measures (e.g., information requests and ad-hoc inspections) based on adverse media, organisational changes within supervised entities, analysis of information provided by the prudential supervisory department within the CBK or by external authorities where relevant, e.g., KwFIU, and customer complaints related to potential ML/TF risks, among others.

456. Since adopting a risk assessment model in 2019, CMA's supervisory measures are informed by entity-level risk assessments. In particular, entities' risk ratings inform the frequency of CMA's inspections. During the onsite interview, CMA shared that it inspects very high-risk entities almost yearly and medium-risk entities every two years. Based on the inspection data provide, CMA has increased its inspections over the reporting period, targeting investment companies in particular, which CMA views as being higher risk. It also shared that in the past, its onsite inspections would last two weeks but now they typically last three weeks, allowing for more robust inspections. It is not clear how precisely entities' risk ratings impact the scope and intensity of onsite inspections since they're all of identical length. CMA conducts onsite inspections consisting of both full-scope inspections and ad-hoc and thematic inspections, informed by trigger events or other factors.

457. Prior to conducting onsite inspections, CMA conducts offsite desk review of entities' responses to the annual questionnaire. After inspections, CMA produces inspection reports, summarising the findings, including violations identified, and specifying remedial actions; each entity has 10 working days to respond to the report. Depending on the nature of the violations identified and remedial actions proposed, CMA conducts follow-up AML/CFT inspections to determine whether appropriate actions have been taken to address deficiencies.

458. The IRU became responsible for the insurance sector in 2021 and it has not yet fully implemented a full risk-based supervision programme. The Unit is in the process of establishing a framework for risk-based supervision and will commence full-scope, risk-based inspections in 2024. To prepare for these inspections, the IRU has conducted six 'pilot' inspections to gather samples of life insurance policies and develop an initial understanding of insurance companies' deficiencies. During the pilot inspections, the IRU made productive findings and was able to refer files to the KwFIU, which resulted in an insurance company suspension. The IRU is taking positive steps to building a risk-based supervisory programme, but it was not fully in place at the time of the onsite visit to Kuwait.

459. Given the transition from MOCI to IRU for supervision of the insurance sector, it appears that the sector has not been subject to supervision for at least 3 years.

DNFBPs

460. MOCI has a significant AML/CFT department comprised of 71 FTE across three divisions (financial and data analysis, onsite supervision and awareness raising). MOCI is in the process of implementing an entity-level risk analysis tool to better understand the risk of the obliged entities under its purview. Data has begun to be collected, and some obliged entities (<1% of total) have been assigned risk ratings. MOCI is putting in place the fundamental building blocks to a quality risk-based supervisory programme, but it is not in place yet.

461. MOCI has responded to the risk ratings that have been assigned to its sectors from the NRA. For instance, MOCI has been dedicating more resources and conducting more inspections to the DPMS sector than the real estate sector given its higher risk rating in the NRA.

462. While inspections are not done on a risk sensitive basis, MOCI does conduct a reasonably high number of onsite inspections considering the vast obliged entity population it supervises. Supervision is largely event driven and often rooted in raising awareness. As an example, all newly licensed obliged entities receive an onsite inspection visit six months after licensing to ensure that required compliance programme elements have been implemented from the obliged entity commencing its activities. Other events that would lead to an inspection include the receipt of a complaint against an obliged entity or request from other competent authorities.

Remedial actions and effective, proportionate, and dissuasive sanctions

463. Upon identifying deficiencies and violations, FI supervisors specify remedial actions for FIs. These remedial actions are frequent and can have a positive effect on obliged entity-specific deficiencies. However, sanctions do not appear dissuasive and there is a heavy reliance on warning letters. MOCI has gradually become more likely to fine obliged entities for significant non-compliance, but also relies on written warnings.

FIs

464. CBK's enforcement powers are defined in the AML Law. The CBK is authorised to impose the following sanctions: a written warning; an order to comply with specific instructions; an order to provide regular reports on the measures taken to rectify the concerned violation; imposition of a monetary penalty of up to KWD 500,000 (approximately USD 1.6 million); restricting the perpetrator of the breach from working in the relevant sector for a period specified by the supervisory bodies; and limiting the mandate of the board of directors members, members of the executive or supervisory management, their managers and controlling owners, including the appointment of a temporary controller. It is also authorised to impose sanctions on financial institutions, directors, board members, and executive management for violations of AML/CFT Law requirements and Executive regulations or Ministerial decisions. Where an individual is culpable in serious non-compliance by an entity, consideration is also given to imposing a regulatory sanction on both the entity and the individual.

465. CBK uses a standardised process to determine the severity of the deficiencies identified and the appropriate course of action. The process considers various factors and uses weighted scores to arrive at a final score, which informs the decisions about specific penalties to be applied.

Box 6.2. CBK's Severity Matrix

The severity matrix that CBK has developed for this purpose has five categories of level of seriousness of the violation, where the first category is the lowest in terms of weight and score, and the fifth category is the highest in terms of severity. The factors considered include: nature of the violation (e.g., whether it is an omission or error, failure due to technical reasons, or failure due to poor management); damage to customers; revenue generated by the specific activity subject to violations; time between the date of the violation and detection; active cooperation and development of the remedial action plan by the supervised entity; number of enforcement actions against the supervised entity during the past three years; number of identified violations of the same type and number of violations in total; and whether the violation has been identified as a one-time event or it is a continuous violation over a certain period of time.

466. One severity matrix is filled for deficiencies related to a single 'instruction' given to the obliged entity. Instructions are a grouping of obligations that the obliged entity has to comply with (i.e., all measures related to CDD/EDD could be found in a single instruction). The final score is used to determine the penalty based on a separate penalty matrix, which specifies penalties for different score ranges.

467. While these matrices that CBK uses demonstrate a commitment to creating a formal and consistent process for imposing sanctions, the process seems to mostly result in scores of less than 175 points, which correspond to the issuance of written warnings as the remedial measure. This raises concerns about the scoring methodology, particularly the practice that deficiencies are aggregated to those that are found in a single instruction to the obliged entity, and whether the matrix assigns appropriate weights to different violations and factors.

468. During the reporting period, CBK implemented a variety of remedial actions and sanctions. CBK issued 100 warning letters, imposed administrative fines in 93 cases, suspended/banned individuals from working in four cases, and revoked licenses in three cases for AML/CFT violations. With respect to the administrative fines, based on the data provided, during the reporting period, CBK imposed fines with total value of KWD 4.3 million (approximately USD 11 million), with the largest fine for KWD 500,000 (approximately USD 1.6 million) imposed on an FI which failed to apply EDD measures on high-risk customers. While these fines demonstrate that CBK does increasingly apply monetary penalties, the fines are not proportionate and dissuasive. The average fine imposed by CBK is approximately KWD 36,500 (USD 118,000).

Table 6.5. Remedial actions and sanctions by supervisors, by year

Supervisor	Action	2018	2019	2020	2021	2022	2023	Total
CBK	Warning Letter	12	18	17	15	17	21	100
	Financial Penalty	16	19	22	15	14	7	93
	Employee banned/suspended	-	2	2	0	-	-	4
	Oblige entity to take immediate and specific action (bank)	-	1	-	-	-	-	1
	Revocation of license	-	-	-	3	-	-	3
CMA	Warning	18	18	9	17	41	23	126
	Disciplinary board warning	0	2	1	0	0	2	5
	Disciplinary board decision	2	4	3	3	19	13	44
IRU	Written Warning	-	-	-	-	-	3	3
MOCI	Written Warning	137	307	392	480	246	132	1 694
	Order to Comply with Specific Requirement	466	579	208	81	197	89	1 620
	Order to Comply with Remedial Actions and Provide Regular Reports	23	115	39	45	5	3	230
	Imposition of Fine	-	-	-	40	115	36	191
	Suspend of License	8	33	41	50	27	3	162

469. CBK does not publicly announce the sanctions it imposes but requires that supervised entities share information about the sanctions imposed with their respective board and shareholders. This also raises questions about the dissuasive nature of the sanctions and the wider deterrent affect they have.

470. CMA is authorised to impose the same sanctions available to CBK as provided under the AML/CFT law. The CBK has an enforcement framework in place, informed by the Enforcement Module, but this module does not specify measures with respect to AML/CFT deficiencies and violations specifically. CMA's legal department reviews inspection reports and in cases where it identifies AML/CFT breaches, CMA either issues warning letters or depending on the severity of the violation, escalates the case to the Executive Director and the Disciplinary Board for decision regarding sanctions. CMA's AML/CFT supervision team has no insight into or influence on decisions that the Disciplinary Board imposes. The process appears to be highly bureaucratic and raises questions about the Disciplinary Board's understanding of ML/TF risks and its process for imposing sanctions.

471. During the reporting period, CMA issued 126 warning letters, five Disciplinary Board warnings, and 44 Disciplinary Board Decisions. The 44 Disciplinary Board Decisions all resulted in administrative fines with a total value of KWD 215,000 (approximately USD 698,000). While these fines have increased in the last two years, the fines do not appear to be proportionate for the types of violations identified during inspections i.e., ongoing deficiencies relating to CDD measures, know your customer (KYC) and TFS. They also do not appear to be dissuasive, on

average, amounting to roughly KWD 4,800 (USD 15,500) per fine. CMA does, however, make its sanctions public, publishing them on its website, which can generally have a dissuasive effect.

472. Since the IRU has not fully operationalised its risk-based supervision programme, it has not yet imposed any sanctions on insurance companies. It did establish a Disciplinary Council on January 15, 2023 to decide on the disciplinary actions referred to it. In addition, it has rejected a compliance officer during the licensing process and has issued three warnings. MOCI did not impose any sanctions against insurance companies under its supervision prior to IRU assuming the role.

DNFBPs

473. MOCI can apply sanctions in the event of significant non-compliance. It has the following remedial actions and sanctions at its disposal: written warnings, orders to comply with specific requirements, orders to comply and report on compliance, fines, and license suspension. MOCI policy in its application of remedial actions and sanctions is to take a graduated approach regardless of the nature and severity of the non-compliance (i.e., an obliged entity must first receive a written warning, then receive and order to comply etc.). As a result, MOCI mostly issues written warnings as they must always be the first outcome in instances of non-compliance.

474. Fines imposed to date range from KWD 200 – 1 000 (USD 650-3 500), Such fines are not proportionate or dissuasive. However, MOCI has suspended 162 licenses from its covered sectors for repeat violations, such as the refusal to appoint a qualified compliance officer, which has some dissuasive effect.

Impact of supervisory actions on compliance

FIs

475. CBK and CMA view their actions as having a positive effect on obliged entities' AML/CFT compliance. They routinely meet with their supervised population, provide guidance and feedback on compliance programmes. Interviews with obliged entities also suggest this where, for example, many have increased their number of compliance staff or acquired screening technology in recent years as a result of CBK/CMA's actions.

476. While FI supervisors have observed improvements with respect to specific entities (e.g., sanctioned entities addressing the deficiencies that resulted in the sanctions), the data provided for the reporting period shows ongoing deficiencies on key AML/CFT obligations (e.g., KYC, CDD, EDD, transaction monitoring, and TFS) across the different sectors. As CBK, and to a lesser extent CMA, conduct onsite inspection of every obliged entity every year, the trend in deficiencies is informative as it shows whether the same obliged entities are improving their AML/CFT compliance behaviour. Sectors generally show a consistent number of deficiencies and that suggests that the compliance activities do not have a material effect on compliance at the sector level. In addition, the STR data for the reporting period does not entirely corroborate the assertion that there has been an increase in STRs across sectors. While there was a meaningful increase in STRs from banks starting in 2021, the number of STRs filed by exchange companies has fluctuated and remains low for other FIs (see table 5.3 in previous chapter).

477. The IRU has not conducted enough supervisory activities or done so for a long enough period to demonstrate the impact of their actions on compliance.

DNFBPs

478. MOCI has indicated to the assessment team that their supervisory actions have positively contributed to AML/CFT compliance. They meet in-person with each new licensee in their sectors and ensure that they have the fundamental building blocks of a compliance regime in place. Where there is significant non-compliance, where able, they will order obliged entities to comply with their requirements and escalate these files where necessary. MOCI indicated such processes fix compliance issues that are found as part of onsite inspections. Interviews with obliged entities suggest this where, for example, sole proprietors would not have known how to develop a compliance regime without MOCI's tools, templates and initial meetings.

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479. However, MOCI's onsite inspections continue to find a significant number of violations. For instance, in 2022 and 2023, MOCI conducted 1862 onsite inspections. 1397 of those inspections found non-compliance with CDD/EDD measures, and 889 found non-compliance with TFS measures. STRs are rarely submitted from the sectors that MOCI covers. Only 8 STRs have been submitted between 2020-2023.

Promoting a clear understanding of AML/CFT obligations and ML/TF risks

480. FI supervisors provide guidance and undertake varying outreach activities to obliged entities to assist them in complying with their AML/CFT obligations. The guidance covers different AML/CFT areas, including risk assessments, CDD, EDD and BO. They also hold meetings and workshops to discuss ML/TF risks and AML/CFT obligations and conduct trainings.

481. CBK provides circulars and instructions to obliged entities on both general AML/CFT obligations and specific requirements e.g., relating to the implementation of Security Council Resolutions issued under Chapter VII of the UN Charter. Over the reporting period, CBK issued at least six circulars relating to AML/CFT issues. It has also provided guidance in response to questions or issues raised by obliged entities. For example, it developed guidance on KYC procedures for exchange companies, as well as on when to apply simplified due diligence. It also makes itself available to obliged entities for more specific, time-sensitive issues, communicating via exchange letters, email, and phone conversations. Significantly, CBK conducts annual meetings with each sector to provide feedback, detailing breaches identified during inspections and discussing case studies and expected remedial actions to address the shortcomings. Finally, it engages in awareness raising campaigns (e.g., relating to cybercrimes) via social media accounts.

482. CMA issues circulars and annual reports, conducts trainings, and engages with obliged entities through its website, electronic portal and social media activity to improve securities companies understanding of ML/TF risks and obligations. Circulars and guidance materials are typically informed by issues or inquiries that entities raise, deficiencies identified during inspections, or developments in the domestic AML/CFT regime. For example, in 2023, CMA issued a circular on beneficial ownership following Ministerial Resolution 4/2023, and it is currently working on issuing a project through its online portal, establishing a CDD form for securities companies to use in response to deficiencies identified during inspections. This was not complete at the time of the onsite visit. Over the reporting period, CMA has conducted at least three workshops on AML/CFT issues, including on the NRA findings and onsite inspection observations. Through its electronic portal, CMA directly communicates with obliged entities on annual reports, questionnaires, and other inquiries. Finally, its awareness campaigns, including through social media, cover a range of issues, recently covering risks and concerns relating to virtual assets.

483. While a new supervisor, the IRU has already conducted a few meetings and training workshops with obliged entities. In May 2023, it conducted a training workshop to presents its

AML/CFT regulatory approach, and in July 2023, it conducted one to present the results of the NRA and discuss TFS, IRU's newly developed questionnaire, ML/TF risks associated with the insurance sector, and future plans, including the development of the IRU online portal. There was no indication on how often and in what ways MOCI's engaged with the insurance sector on ML/TF risks and AML/CFT obligations prior to IRU becoming operational.

484. MOCI has an awareness section within the AML/CFT department that is responsible for the awareness and outreach activities. MOCI has provided recent outreach to obliged entities through the MOCI portal, the government "Sahel" application and the Social Media Platforms. In 2023, the AML/CFT department organised a workshop per each sector it supervises. These were attended by 16-20 participants per sector (participants selected as per their compliance deficiencies). Importantly, MOCI has provided new licensees and small businesses with templates to assist in building their AML/CFT compliance regime.

485. FIs and DNFBPs indicated that communication with supervisors is generally good and that they have a good working relationship with them. They noted that FI supervisor engagement continues to increase in frequency and quality. They shared that they find the circulars, other guidance materials, and trainings and other outreach efforts to be very instructive and asked that supervisors continue to provide ongoing feedback. Banks and exchange companies had particularly positive views of their engagement with CBK.

Overall conclusions on IO.3

CBK supervises banks, exchange companies, finance companies and e-payment service providers, and CMA supervises securities companies, and they have fairly robust market entry controls in place to ensure that criminals cannot control or hold management functions in the FIs they supervise.

Although risk understanding is highly granular in CBK and CMA, this is less so in the IRU and, in particular MOCI. CBK and CMA have largely implemented risk-based supervision programmes with significant coverage, the IRU has not yet implemented a risk-based supervision programme, and MOCI conducts significant supervisory activities, but they are not done in a risk-based manner. Major improvements are needed to ensure that all sectors are subject to risk-based supervision in Kuwait.

All supervisors rely heavily on remedial actions and impose small fines that generally are not dissuasive or proportionate to repeated breaches of compliance. These follow-up actions have generally resolved identified compliance issues but have not led to a broader improvement in AML/CFT compliance in Kuwait.

Kuwait is rated as having a **moderate** level of effectiveness for IO.3.

Chapter 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

1. Information on the creation of legal persons and arrangements in Kuwait is available publicly.
2. Kuwait has not conducted a vulnerability assessment of legal persons and arrangements and have, accordingly, an underdeveloped understanding of how they can be misused for ML/TF. This has affected some competent authorities' understanding of the concept of BO.
3. Kuwait has certain measures in place (such as the Sahel application and requirement for each legal person/arrangement to have a bank account) that provide a strong foundation to having basic information available and could potentially provide a strong foundation for high-quality beneficial ownership information if other steps (i.e., completing the BO registry) are undertaken.
4. Kuwait has a unified identification system that's available for consultation during the creation of legal persons and arrangements. The government's Sahel application, the unified communication platform for the Kuwaiti government, notifies individuals and requires their approval when they are party to the creation of a legal person or arrangement.
5. To mitigate the misuse of legal persons/arrangements, Kuwait relies on the availability of basic information, fit and proper tests, the requirement for all legal persons to have a bank account (and therefore, subject to CDD requirements) and foreign restrictions on ownership and management functions. These measures are not responsive to the extent to which legal persons can be misused for ML/TF given the lack of an ML/TF vulnerability assessment of legal persons/arrangements in Kuwait.
6. Basic information for legal persons is readily available to competent authorities. Beneficial ownership information is available through FIs/DNFBPs in a timely manner, but a lack of understanding of the concept of BO has led this information to be an unreliable representation of BO. Kuwait has begun the creation of a beneficial ownership database that was due to be fully filled by Summer 2023, but it remained <5% as of the time of the onsite in November 2023.
7. Basic and beneficial ownership information is available for legal arrangements in Kuwait in a timely manner via the MoJ and/or Waqf Authority.
8. Sanctions are not effectively applied for non-compliance with information requirements.

Recommended Actions

1. Kuwait should conduct a formal and comprehensive ML/TF vulnerability assessment for all legal persons and arrangements in the country that results in an action plan to mitigate the risks presented by legal persons and arrangements in Kuwait. This assessment should reflect the rapidly changing legal persons and arrangements environment in Kuwait.
2. Kuwait should ensure that both supervisory authorities and obliged entities have a robust understanding of the concept of beneficial ownership and obliged entities are identifying and verifying BO in line with the legal requirements.
3. Kuwait should ensure that competent authorities have access to adequate, accurate and current BO information on legal persons. To do so, Kuwait should ensure that their BO registry is fully populated without delay
4. Kuwait should apply appropriate sanctions in cases where reporting requirements have not been met.

486. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25, and elements of R.1, 10, 37 and 40.²⁰

Immediate Outcome 5 (Legal Persons and Arrangements)

487. MOCI is responsible for the establishment of all legal persons in Kuwait. They allow for the creation of six types of legal persons:

- general partnership
- limited partnership
- limited liability company
- joint stock company
- one-person company
- sole proprietorship.

488. MOJ is responsible for the creation of all legal arrangements in Kuwait. The only legal arrangement that can be created in Kuwait is a Waqf. There are three types of Waqfs: public/charitable purpose Waqf, private/family-purpose Waqf and joint-purpose Waqf.

²⁰ The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

Public availability of information on the creation and types of legal persons and arrangements

489. Basic information on the creation and types of legal persons and Waqfs is publicly available.

490. Kuwait's MOCI is responsible for the licensing of all commercial activities in Kuwait and is responsible for the formation of all legal persons. MOCI's website provides information on the types of legal persons that can be created in the country, including applicable legal/regulatory provisions and general guidelines. It also specifies the required documentation or specific procedures for the formation process.

491. With respect to Waqfs, the websites for MOJ and Kuwait Ministry of Awqaf and Islamic Affairs (Waqf Authority) together provide information on the creation of Waqfs, including applicable legal/regulatory provisions, guidelines, and specific procedures and requirements.

492. Different types of legal persons and arrangements can be created and operate in Kuwait (see Table 7.1). MOCI is responsible for licensing and maintaining information on the six types of legal persons available in Kuwait. All legal persons must also join Kuwait's Chamber of Commerce and Industry, who also maintains information in parallel to that of MOCI. Waqfs in the context of Kuwait, are established with the MOJ, who maintains all information on Waqfs in Kuwait. The Waqf Authority may be party to a Waqf in Kuwait. In such cases, the Waqf Authority would also maintain records on these Waqfs; regardless of which authority establishes the Waqf, all information on Waqfs is registered and maintained by MOJ.

Table 7.1. Legal Persons and Arrangements in Kuwait

Authority	Type of Legal Person or Arrangement	Number
MOCI	General Partnership	13 454
	Limited Partnership	10 272
	Limited Liability Company	121 531
	Joint Stock Company	4 400
	One-person Company	69 551
	Sole Proprietorship	146 068
Total Legal Persons (November 2023)		365 276
MoJ	Public/Charitable-purpose Waqfs	353
	Private/Family-purpose Waqfs	573
	Joint-purpose Waqfs	79
	General Waqfs	426
Waqf Authority	Public/Charitable-purpose Waqfs	1 071
	Private/Family-purpose Waqfs	96
	Joint-purpose Waqfs	65
Total Legal Arrangements (June 2023)		2 663

493. Waqfs are established under Sharia law. Specifically, three types of Waqfs exist in Kuwait: a) Charitable endowment for which the benefits are dedicated to charitable causes or entities; b) Family endowment for which the benefits are for certain individuals, progeny, or other person(s); and c) Joint endowment where the benefits are for both charitable and family endowments.

494. The Waqf Authority's involvement in a Waqf is not mandatory in Kuwait but for many Waqfs, particularly the charitable ones, the endower (or settlor) may appoint the Waqf Authority as the wakeel (or trustee) to administer the trust, and in some more limited cases, for example

where disputes arise between parties of a Waqf, a court may appoint the Waqf Authority as the wakeel of an existing Waqf. All Waqfs administered by the Waqf Authority must be dually registered with MOJ. All other Waqfs are registered with MOJ and are administered by a wakeel, who is a private individual, appointed by the endower. All wakeels are required to be Kuwaiti nationals or residents. Oversight of Waqfs is the mandate of the Courts, which are the competent authority to call upon in case of conflict between the Waqf parties.

Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

495. Kuwait has not conducted a formal, comprehensive ML/TF vulnerability assessment of legal persons and Waqfs operating in Kuwait. Legal persons that are FIs and DNFBPs were assessed for ML/TF risks as part of the NRA process and are also assessed at the entity-level by the appropriate supervisory authorities, but this only represents a very small subset of the total population of legal persons and Waqfs in Kuwait. In the absence of a formal assessment, Kuwait views the main ML/TF risks to emanate from foreign ownership or management of legal persons operating in Kuwait and does not view Waqfs as presenting any major ML/TF risks. Kuwaiti authorities were unable to differentiate the ML/TF vulnerabilities of the legal persons available in Kuwait.

496. For the majority of legal persons operating in Kuwait, foreign ownership (outside of GCC countries) is restricted to 49% ownership and requires that management roles be held by Kuwaiti citizens/residents. Only about 17% of legal persons in Kuwait include foreign owners. The remaining 83% are wholly owned by Kuwaiti or GCC nationals and have not been assessed for domestic ML/TF risks in any manner. The assessment team views this as significant shortcoming in light of the growth of certain types of legal persons and arrangements in Kuwait and gaps in MOCI's licensing processes.

497. The number of LLCs and one-person companies operating in Kuwait have each nearly doubled since the beginning of the period covered by the report while other types of legal persons have only seen a steady increase (see table 7.2). In addition, the number of Waqfs administered by wakeels (i.e., private individuals) in Kuwait have risen significantly since 2016 (from 426 to 1431). The change in the legal entity and arrangement environment, and rapid growth in the number of LLCs demonstrates a changing risk environment where risks may not have yet manifested due to the recency of these changes. The growth in LLCs in particular raises questions about the individuals behind these companies and MOCI's licensing processes, especially since no ML/TF vulnerability assessment of LLCs has been undertaken in Kuwait.

Table 7.2. Total number of Legal Persons by year since 2018 (until April 2023)

	2018	2019	2020	2021	2022	2023
General Partnership	12,475	12,826	12,948	13,106	13,368	13,454
Limited Partnership	9,401	9,873	9,957	9,951	10,220	10,272
Limited Liability Company	73,054	86,774	93,096	102,028	115,663	121,531
Joint Stock Company	3,942	3,946	3,952	4,121	4,282	4,400
One-person Company	38,502	48,951	53,414	58,320	66,111	69,551
Sole Proprietorship	135,192	138,191	139,569	141,837	144,814	146,068
Total	272,566	300,561	312,936	329,363	354,458	365,276

498. In rare cases, Kuwait permits commercial activity by majority or wholly owned by foreign persons through the Kuwait Direct Investment Promotion Authority (KDIPA). Through KDIPA, a foreign person can establish a majority, or wholly owned company in Kuwait or open a branch or representative office in the country. Information about the application process and required documentation are available on KDIPA's website. Among other documents, applicants are required to submit parent company's memorandum and articles of association, and identification information for the applicant and individual who would serve as the entity's manager in Kuwait, with a power of attorney/authorisation letter from shareholders/partners for the latter. KDIPA requires information on all shareholders of the parent company to be notarised by the Kuwaiti embassy in the parent company's jurisdiction of incorporation. Once KDIPA approves an application, MOCI issues the commercial license. Both KDIPA and MOCI maintain information on these legal persons. As of 2023, there are roughly 80 KDIPA-approved legal persons in Kuwait, operating primarily in the information technology, insurance, and construction industries.

499. With respect to Waqfs, Kuwait considers ML/TF risks associated with Waqfs to be low given the lack of foreign persons' involvement in Waqfs in Kuwait and the narrow set of purposes for which Waqfs can be created. Based on information provided, endowers of Kuwaiti Waqfs are almost exclusively Kuwaiti nationals and assets of majority of Waqfs are located in Kuwait. Private/family purpose Waqfs, which represent over half of all Waqfs administered by MOJ in Kuwait, are typically created to hold real estate to ensure that real estate remains with a family over generations. These are not generally utilised for asset management purposes. The remaining Kuwaiti Waqfs are created either for public/charitable purposes exclusively or for joint family and charitable purposes and a majority of these are administered by the Waqf Authority. To date, Kuwait has not identified any cases of ML/TF involving Waqfs.

500. Given the number of Waqfs in Kuwait and relevant context, the assessment team has generally weighted the findings with respect to Waqfs less heavily. That said, as with legal persons, Kuwait's focus on foreign ML/TF risk exposure when a vast of majority of Waqfs only involve Kuwaiti individuals raises questions about Kuwait's understanding of domestic ML/TF risks – particularly with respect to private/family purpose Waqfs, which have been steadily increasing in recent years (see table 7.3) and interact with the domestic real estate sector, a higher risk sector.

Table 7.3. New Waqfs founded with MOJ each year (showing until April 2023)

Entity Type	2018	2019	2020	2021	2022	2023
Public/Charitable-purpose Waqfs	45	66	52	77	68	16
Private/Family-purpose Waqfs	81	93	67	105	118	42
Joint-purpose Waqfs	17	17	14	13	8	3
Total	143	176	133	195	194	61

Mitigating measures to prevent the misuse of legal persons and arrangements

Legal persons

7

501. Kuwait's mitigation measures to prevent the misuse of legal persons are largely based on basic information, fit and proper tests, foreigner restrictions on ownership and management functions, checking criminal records on certain positions and functions within the legal person, the requirement for all legal persons and arrangements to have a bank account (and therefore be subject to CDD) and the restriction of bearer shares.

502. Kuwait has implemented few AML/CFT-specific mitigating measures to prevent the misuse of legal persons and Waqfs. In 2023, Kuwait issued Ministerial Resolution 4/2023 to establish a BO registry for legal persons to ensure competent authorities have access to adequate, accurate, and current information. This Resolution, effective April 1, 2023, delegated MOCI with the responsibility to develop the BO registry and provided existing legal persons with 60 days from the effective date to report their beneficial ownership information to MOCI. At the time of the onsite in November 2023, Kuwait had populated less than 5% of the registry (see table 7.4). As a result, the register could not be considered as a tool for BO information at this time, but the assessment team considers this a positive step, and it should become a powerful tool to prevent misuse once fully implemented.

Table 7.4. Number of Legal Persons with BO Information in BO Database

	Total Population	Total in Database	% of Population
General Partnership	13,454	405	3%
Limited Partnership	10,272	287	2.7%
Limited Liability Company	121,531	11,353	9%
Joint Stock Company	4,400	317	7%
One-person Company	69,551	2,241	3%
Sole Proprietorship	146,068	1,224	<1%
Total	365,276	15,827	4.3%

503. MOCI conducts fit and proper checks on any party wishing to establish a company to prevent criminals from conducting commercial activity in Kuwait. Specifically, MOCI conducts a criminal record check with MOI's database on managers and directors, via their Kuwaiti civil ID. It also checks whether these individuals are designated persons by the UN and Kuwait's National List. For foreign individuals, if the individual does not have a Kuwait civil ID, it requires the individual's foreign passport and an authenticated criminal record from their home jurisdiction. During fit and proper tests, MOCI does not perform such screening on beneficial owners in addition to individuals who would hold a management function in the legal person.

504. As noted above, to mitigate jurisdictional risks, Kuwait restricts foreign ownership (outside of GCC countries) to 49% in most cases and requires that these entities' management roles be held by Kuwaiti citizens. Where foreign persons are able to own more than 49% of a legal person, applicants need to receive KDIPA's approval before MOCI can issue a license, but KDIPA does not consistently identify and verify beneficial owners during the application review process.

505. Bearer shares are prohibited in Kuwait as per Ministerial Resolution 4/2023. In addition, the resolution requires that nominee directors disclose their nominee status and their nominator's information to both the legal person and MOCI. In practice, it does not appear that MOCI collects this information.

506. Finally, MOCI monitors for unlicensed activity through its commercial supervision department and through reporting it receives through its website, as well as through cooperation with MOI and other authorities. In order to detect shell company activity, MOCI reviews annual financial statements and limits one legal person to be registered per civic address. When it identifies shell companies, which Kuwait rarely identifies, MOCI suspends their license and removes them from their database.

Legal arrangements

507. All wakeels of Waqfs are also required to be Kuwaiti nationals and residents. In addition, in 2023, Kuwait prohibited the creation of new Waqfs in cases where the Waqf's assets would be located abroad to further limit jurisdictional risks. This decree also implemented a new requirement where an endower of any new Waqf in Kuwait would be required to bring a letter from a bank, confirming that the bank agrees to open an account for the Waqf's assets. This requirement would subject the Waqf to the bank's customer due diligence and ongoing monitoring measures, resulting in greater scrutiny and visibility into the individuals involved and the Waqf's activities.

508. In establishing a Waqf, MOJ and the Waqf Authority consider whether the endower is of sound mind, checks their civil ID, requires witnesses present for signing but does not check to see whether the individual has a criminal record or is a designated person. MOJ also does not conduct checks on wakeels appointed by the endower, relying solely on the endower's judgement.

509. Kuwait is in the process of expanding the powers of the Waqf Authority to be responsible for the auditing of all Waqfs in Kuwait, including those for which the Authority itself does not exercise the management/wakeel function. These changes would increase supervision of Waqfs and enhance Kuwait's understanding of the use of Waqfs. Once fully implemented, these changes should contribute to further mitigating ML/TF risks for Waqfs. However, since this measure has not yet been adopted or implemented yet, the assessment team has not taken this measure into consideration for the reporting period.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

Basic Information

510. Legal persons in Kuwait are licensed and registered with MOCI. Under Kuwait's Companies Law and Ministerial Resolution 4/2023, legal persons must provide the following basic information to MOCI for licensing:

- i. name, legal form, and articles of incorporation;
- ii. business address in Kuwait (only one legal person per address);

- iii. memorandum of association or any other similar documents approved by the concerned authority in Kuwait; and
- iv. names of the relevant persons who hold senior management positions with the legal person and information from their travel document or the civil ID card (i.e., number and the date of its issuance and expiry).

511. This basic information is maintained by the Company Register at MOCI. To ensure that this information is kept adequate, accurate, and current, legal persons are required to report any changes to the Company Register within 15 days of the change. Kuwait's civil ID system and Sahel application (unified government application) are required for virtually all aspects of Kuwaiti life, ensuring those that are involved in basic information registration are aware of their involvement in the legal person and properly identified. MOCI makes this information available to the public through a search function on its website.

512. In addition to the basic information outlined above, pursuant to Ministerial Resolution 4/2023, legal persons are also required to provide MOCI with the following information about its shareholders and partners:

- i. number of shares or stocks owned by each, their categories, and the associated voting rights associated;
- ii. date of acquiring capacity as a partner or shareholder;
- iii. for partners or shareholders who are natural persons: full name as stated in the civil ID or travel document, nationality, address, place of birth, name and address of the employer, and copy of the civil ID or travel document; and
- iv. for partners or shareholders who are legal persons, basic information about the legal person as noted above.

513. Legal persons are also required to update MOCI of any changes to shareholders and partners' information in a timely manner (also within 15 days from the date of change), and MOCI's Company Register maintains this information as well. This information is readily available to competent authorities.

514. Competent authorities are able to directly access up-to-date basic information through MOCI's website. For any information not publicly available through MOCI's website, competent authorities can make requests to MOCI. To ensure that competent authorities have access to adequate, accurate, and current information, MOCI responds to any requests typically within three days. Recently, MOCI and the KwFIU have also established a new access mechanism, which enables the FIU to directly access all information in MOCI's Company Register.

515. MOCI's Company Register also includes basic information on legal persons approved by KDIPA. Once KDIPA approves a legal person, it provides the entity's information to the Company Register for licensing – through an electronic system connecting KDIPA's database with MOCI's. KDIPA-approved legal persons are required to update KDIPA of any changes within 30 days, which is then reflected in MOCI's database. Basic information on KDIPA-approved entities is made available to competent authorities in the same way as all other legal persons' information as outlined above.

Beneficial Ownership Information

516. Currently, FIs and DNFBPs are the main source for BO information in Kuwait. Law enforcement authorities have adequate powers to compel FIs and DNFBPs to provide this

information in a timely manner. For instance, the KwFIU can obtain this information through a direct circular to all obliged entities within one or more sectors of interest, requesting that they identify any relationships with, or accounts held, by a certain legal person of interest. Based on the information provided, this process has been used on many occasions – particularly with FIs, whose response time tends to be around three business days. The DNFBPs response time can be up to one week.

517. While the information provided through this mechanism is described as being comprehensive and of high quality, the Assessment Team has significant concerns about FIs' and DNFBPs' ability to fully identify and verify BO information. Both CBK and CMA have identified deficiencies in FIs' CDD measures relating to BO information during the reporting period (see previous chapter). In a number of cases, the obliged entities interpreted the term BO to mean the same as shareholders, managers or signatories, resulting in due diligence files where the BO was not identified separately from the company's legal ownership, management and other staff members. MOCI also generally considers directors, signatories, shareholders or managers as BOs, which suggests that it does not sufficiently monitor the FIs and DNFBPs it supervises for deficiencies relating to BO information or provide these entities with sufficient guidance on identifying and verifying BO information. This issue is somewhat mitigated by the number of one-person companies in Kuwait.

518. During onsite interviews, FIs and DNFBPs stated that they rely on Kuwait's Chamber of Commerce business database to verify basic and BO information it receives from its customers. This, however, raises some questions about how rigorously obliged entities verify the information they receive from customers since the Chamber of Commerce database is comprised of information maintained by MOCI's Company Register, which does not contain complete BO information. Through the licensing process, MOCI's Company Register identifies directors, signatories, shareholders, and/or managers. As noted above, in practice, MOCI considers these individuals to also be BOs. While it is possible that these individuals are also the beneficial owners for a number of legal persons in Kuwait (e.g., one-person companies or sole proprietorships), the Assessment Team views this approach as inconsistent with the broad definition of BO in Kuwait's legal framework and problematic in practice since it results in gaps in MOCI's Company Register, particularly with respect to ultimate ownership or control over a legal person and nominee arrangements. This in turn leads to gaps in the Chamber of Commerce database, which is foundational to FIs/DNFBPs' processes for identifying and verifying their customers' BO.

519. Under Ministerial Resolution 4/2023, legal persons are required to obtain and maintain adequate, accurate, and up-to-date BO information and to directly provide MOCI's Company Register with this information within 60 days from the date of implementation of the Resolution or from the date of licensing and registration of the legal person if it is newly created. This creation of a centralised BO registry under MOCI is a positive step that should ultimately result in an additional mechanism for competent authorities to access BO information in a timely manner, but also demonstrates that the current FI/DNFBP method is insufficient. Based on the implementation date of the Resolution, legal persons in Kuwait were required to report BO information by June 1, 2023. Despite this, as of the onsite, MOCI's Company Register held less than 5% of BO information on legal persons in Kuwait (see table 7.4).

520. Consequently, MOCI's BO information register lacks adequate, accurate, and up-to-date information. Competent authorities confirmed that they have not begun using this registry as a source of BO information. MOCI is engaged in an awareness-raising campaign (through reminders in the national gazette, circulars on MOCI's online portal, social media, etc.) and at the time of the onsite said that it expected to have a fully populated BO register by the end of 2023. The

Assessment Team considered this to be unlikely given the registry was less than 5% complete five weeks before the end of 2023.

521. MOCI has been working to ensure that the information in the register will be accurate. When a legal person provides BO information to MOCI, each individual who is identified as a BO is sent a message on the Sahel application (the Kuwaiti government's unified channel for all government to individual communication and verification) requesting that they confirm that they are a BO of the legal person. An individual is only registered as a BO of a legal person if they confirm their status. If the BO does not confirm their identity, the legal person is deemed non-compliant with the BO reporting requirement. In addition, during the onsite, KDIPA shared that it is working with MOCI to ensure that adequate, accurate, and current BO information for all KDIPA-approved entities is included in the BO register.

522. While it is clear that Kuwait is taking positive steps to facilitate competent authorities' timely access to BO information, the lack of a fully populated and operational BO register, coupled with gaps in MOCI's and FIs/DNFBPs' understanding of the concept of beneficial ownership result in a system that, at present, does not provide competent authorities in Kuwait with adequate, accurate, and current BO information.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

523. In order to establish a Waqf with Kuwait's MOJ, an endower is required to appear before MOJ in person with two witnesses who can attest to the endower's soundness of mind and his/her identity. The endower is required to complete an application, providing the following basic and beneficial ownership details:

- information about the Waqf assets and documentation verifying the endower's legal title to the assets;
- the names, copies of civil ID, nationality, date of birth, and addresses for the endower and appointed wakeel;
- the civil IDs and signatures of the two witnesses; and
- civil IDs of the beneficiaries in cases where the beneficiaries are named rather than a defined by class.

524. Based on this information, a Waqf deed is drafted, signed by a judge within the MOJ, and registered with MOJ. Upon registration, the basic and beneficial ownership information is maintained in MOJ's database.

525. Where an endower decides to appoint the Waqf Authority as the wakeel, the information requirements are largely the same, but the process varies in that the endower first goes to the Waqf Authority to declare their intent to create a Waqf and to assign the wakeel function to the Authority. The Waqf Authority works with the endower to prepare Waqf deed, which is then provided to MOJ for judge's signature and registration.

526. The endower is responsible for notifying the MOJ and Waqf Authority of any changes relating to the Waqf (e.g., changes to wakeel or bank account), typically within two business days of any material change (in case the endower is deceased, changes are made by the Courts and the Waqf Authority is appointed as the wakeel by the Courts). In addition, the Waqf Authority's electronic database is directly connected with the database of the civil ID authority, so any update to the information associated with the civil ID can be accessed by the Waqf Authority in real-time.

These measures help ensure that MOJ and the Waqf Authority, where relevant, maintain adequate, accurate, and current basic and BO information on Waqfs.

527. Competent authorities have indirect access to basic and BO information maintained by MOJ or the Waqf Authority through request. The processing time for such requests is typically within two business days. Requests for basic and BO information by competent authorities are rare. MoJ receives no more than ten requests per year from domestic competent authorities and have never received an international cooperation request.

528. In addition, MOJ and Waqf Authority are able to provide information to obliged entities and public upon request based on the provisions of the Disclosure Law 12/2020, which grants any person access that can demonstrate a justified interest in requested information. The determination regarding justified interest is made by the MOJ's legal department and are also rare.

Effectiveness, proportionality and dissuasiveness of sanctions

529. There are no sanctions available for non-compliance with basic and BO information requirements for most legal persons. Sanctions under Article 15 of Law 106/2013, including license revocation, restricting individuals from working in a sector, and a fine not exceeding 500,000 KWD (1.63 million USD) can be applied against FIs and DNFBPs that do not comply with the requirements, but these entities only represent a fraction of the legal persons operating in Kuwait and there are no measures in place for other legal or natural persons' non-compliance.

530. When faced with non-compliance, MOCI suspends licenses of legal persons for violation of information requirements pursuant to the provisions of the Company Law, but these measures are always temporary, and licenses are restored upon the provision of the necessary information. Overall, these sanctions are not dissuasive (see table 7.5).

Table 7.1. Sanctions Implemented by MOCI

Sanction	2018	2019	2020	2021	2022	2023
Licenses suspended for non-compliance with information/registration requirements	143	663	32	131	1 051	564

531. MOCI has not issued any fines for failure to provide BO information under Ministerial Resolution 4/2023. As noted above, the deadline for reporting this information was June 2023 and as of the onsite visit, less than 5% of legal persons had reported BO information. MOCI intends to apply Article 15 of Ministerial Decision 3/2013 to issue warnings for ongoing non-compliance, followed by fines, but has not issued any yet.

532. MOJ has not imposed any sanctions on a Waqf for violations of the 1951 Law on Waqf, and the Waqf Authority does not have direct sanctioning powers.

Overall conclusion on IO.5

Kuwait has not yet developed a good understanding of the vulnerability posed by the misuse of legal persons and arrangements; this is particularly true with respect to domestic ML/TF vulnerabilities. Consequently, risk-based measures have not been implemented to address this risk.

Kuwait is highly centralised and has singular channels in managing individual/business relationship with the government. These are foundational elements that allow for the provision of good quality basic information in a timely manner.

These same conditions have not yet led to the availability of reliable, high-quality information on the BOs. At the time of the report, there is a lack of understanding of beneficial ownership amongst obliged entities, and information provided by authorities as representing the BO is not, in fact, representative of the BO in many cases. Kuwait has begun implementing a solution in a beneficial ownership registry, but it contained less than 5% of the required information at the onsite and cannot yet ensure the provision of such information. Such lack of information on legal persons could frustrate LEAs in pursuing complex ML/TF cases involving legal persons.

There are no sanctions imposed for failure to provide required basic or BO information. Kuwait suspends business licenses until required information is provided.

Kuwait is rated as having a **low** level of effectiveness for IO.5.

Chapter 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

Key Findings

1. Kuwait has a partial legal basis for MLA and extradition in relation to ML/TF and associated predicate offences. This legal basis applies only to countries with which Kuwait has bilateral or multilateral agreements. For countries without such agreements, Kuwait relies on the principle of reciprocity for cooperation.
2. Kuwait generally responds to requests for MLA and extradition in a constructive and timely manner. Feedback from FATF Global Network has been mainly positive in this regard. However, Kuwait does not currently solicit feedback on its MLA, extradition, and international cooperation processes.
3. Kuwait lacks an automated case management system or tracking mechanism for MLA and extradition requests. This makes it difficult to ensure the timeliness of responses and hinders effective monitoring and follow up of cooperation efforts. Additionally, relying on diplomatic channels for cooperation in the absence of formal agreements can lead to delays.
4. KwFIU's current system for making international requests and submissions is complex and may contribute to delays. KwFIU rarely seeks information from international counterparts, even though this would be beneficial given Kuwait's ML and TF risk profile.
5. Most of Kuwait's supervisory authorities (CBK, CMA, IRU) have channels for exchanging information with counterparts. However, these are not regularly used. The MOCI lacks international cooperation channels for AML/CFT, but has recently established a dedicated international cooperation division, which should help in this regard.
6. Kuwait has limited experience in seeking and sharing basic and beneficial ownership information of legal persons and arrangements with international partners. This hinders effective identification and investigation of ML and TF activities involving these entities.

Recommended Actions

1. Kuwait should establish a clear legal framework for providing MLA and extradition in the absence of bilateral or multilateral agreements. This framework should be aligned with international standards and best practices
2. Kuwait should implement a mechanism to ensure the timely processing and response to MLA and extradition requests. This mechanism should establish clear timelines and performance measures for handling such requests.
3. Kuwait should establish a system for soliciting feedback from its international partners on the effectiveness of its MLA, extradition requests, and other forms of international cooperation.
4. Kuwait should streamline the process for its FIU to request information from foreign counterparts, both for specific investigations and for spontaneous submissions. This could involve implementing standardised procedures, electronic data exchange platforms, and clear communication channels.
5. Kuwait should continue to build the capacity of the MOCI to effectively exchange basic and beneficial ownership information of legal persons and arrangements with its international counterparts.

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533. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, 15, 24, 25, and 32.

Immediate Outcome 2 (International Cooperation)

534. International cooperation is an important aspect of Kuwait's AML/CFT system due to its geographic position, population composition and the cross-border ML/TF risk it faces.

Providing constructive and timely MLA and extradition

535. Kuwait has a partially established legal framework for providing and requesting MLA and extradition in relation to ML/TF and associated predicate offences. Kuwait can provide MLA and extradition to countries with which it has bilateral and/or multilateral agreements or based on the principle of reciprocity. However, Kuwait only has bilateral agreements with 17 countries, several of which are from the Middle East and North Africa region. Assistance provided based on reciprocity does not appear to have generally hindered Kuwait's ability to provide assistance.

536. The MOJ serves as the central authority responsible for managing international judicial cooperation requests in Kuwait. However, the PPO is the sole authority to receive, process, and prepare requests for legal assistance, letters rogatory, and extradition of criminals in all criminal matters and related affairs. Additionally, the PPO possesses the authority to receive and send similar requests for international cooperation. The processes for MLA, extradition and other international cooperation are set out in Kuwait's The Guide for International Judicial Co-Operation in Criminal Matters.

537. Kuwait does not have an automated case management system or tracking system for MLA and extradition requests. All such requests are handled directly by a dedicated team of 18

specialist prosecutors in the PPO's International Cooperation Department, established in 2018. In the absence of bilateral agreements, MLA requests must be submitted in writing through diplomatic channels via the MOFA. These are then forwarded to the PPO to respond to. Kuwait states that it deals with all international requests as a priority and has available resource to deal with them immediately. As such there is not specific prioritisation process in place. Responses from some counterpart countries note certain delays in receipt and response times for requests. This is likely due to reliance on formal diplomatic channels for both MLA and extradition requests.

Mutual Legal Assistance

538. During the assessment period²¹, Kuwait received an average of 11 annual incoming MLA requests, totalling 65. A majority of these requests were completed, with no rejections or refusals recorded. As of the date of the onsite, two requests remained ongoing (see Table 8.2). As detailed in Table 8.1, money laundering, fraud, and theft were the primary types of crimes for which assistance was sought.

Table 8.1. Incoming requests by case type (2018-2023)

Crimes	No.	Crimes	No.
ML	22	Bribery	1
Fraud	21	Drug Trafficking	2
Theft	12	Interest Based Transactions	1
Cyber Fraud	8	Embezzlement of Public Funds	1
Robbery	3	Misappropriation of Funds	1
Breach of Trust	3	Economic Espionage	1
Embezzlement	1	Forgery of Bank documents	1
Smuggling of artifacts	1		

Note: some requests represented more than one offence, accounting for a higher figure than the total amount of requests received 65.

Table 8.2. Status of MLA requests received (2018-2023)

Response Time	1/11/2018 – 31/12/2018	1/1/2019 – 31/12/2019	1/1/2020 – 31/12/2020	1/1/2021 – 31/12/2021	1/1/2022 – 31/12/2022	1/1/2023 – 22/11/2023	Total
Completed	1	11	13	8	21	9	63
No response	-	-	-	-	-	-	-
In process	-	-	-	-	-	2	2
Additional information	-	-	-	-	-	-	-
Rejected/Refused	-	-	-	-	-	-	-
Total	1	11	13	8	21	11	65

²¹ The assessment period starts from 1 November 2018 to 22 November 2023.

539. The PPO endeavors to respond to all MLA requests within eight months, with a more expedited timeframe of two months for requests related to ML/TF cases. As illustrated in Table 8.3, over 74% of all requests are concluded or responded to within 90 days of receipt by the PPO. However, some requests, approximately 5% (three requests), require longer processing times exceeding one year. Notably, Kuwait has not recorded any rejections or refusals of MLA requests to date.

540. Overall, the establishment of the International Cooperation Department within the PPO in 2018, has led to a positive reduction in the average response time MLA requests, from 6.4 month in 2019 to 1.2 months in 2022/2023 (Table 8.3).

Table 8.3. Response times of MLA requests received by Kuwait (2018-2023)

Response Time	1/11/2018 – 31/12/2018	1/1/2019 – 31/12/2019	1/1/2020 – 31/12/2020	1/1/2021 – 31/12/2021	1/1/2022 – 31/12/2022	1/1/2023 – 22/11/2023	Total
1 to 30 days	-	-	2	2	12	5	21
31 to 90 days	-	5	7	3	7	4	26
91 to 180 days	1	2	1	3	2		9
181 to 365 days	-	2	2	-	-		4
1 to 2 years	-	2	1	-	-		3
More than 2 years	-	-	-	-	-	-	-
Under Process	-	-	-	-	-	2	2
Total	1	11	13	8	21	9	65

541. Table 8.4 presents a breakdown of the types of assistance provided by Kuwait. As shown, requests for information documents and witness statements were the most frequently provided forms of assistance by the PPO. Notably, only two requests concerned the tracing, seizure, or freezing of funds. Overall, the PPO provided approximately 86 instances of assistance during the assessment period.

Table 8.4. Type of MLA provided by Kuwait (2018-2023)

Type of Assistance	1/11/2018 – 31/12/2018	1/1/2019 – 31/12/2019	1/1/2020 – 31/12/2020	1/1/2021 – 31/12/2021	1/1/2022 – 31/12/2022	1/1/2023 – 22/11/2023	Total
Request for information	1	6	7	5	1	6	26
Request for documents	1	2	6	1	1	1	12
Suspect interview	-	-	-	-	-	4	4
Witness statement	-	1	3	-	1	5	10
Initiating investigation	-	1	1	2	2	-	6
Tracing/Seizing/Freezing of Funds	-	1	-	-	1	-	2
Other	-	7	5	7	1	6	26
Total	2	18	22	15	7	22	86

Note: some responses may represent more than one type of assistance, accounting for a higher figure than the total amount of requests received 65.

Extradition

542. Extradition requests must be submitted in writing by the requesting foreign competent authority and addressed to the International Cooperation Department of the PPO through diplomatic channels. Upon receipt, the department registers the request in the designated system and assigns it to one of its prosecutors for processing.

543. The PPO reviews each extradition request to ensure compliance with all legal requirements stipulated by international conventions to which Kuwait adheres. When a request is incomplete or lacks necessary information, the PPO drafts an official letter to the MOFA, attaching a corresponding letter addressed to the competent authority of the requesting state, requesting the provision of missing data or documents. The authorities note that this process causes delays in the absence of bilateral agreements and a complete legal framework.

544. Upon verification that all formal and substantive conditions are satisfied, the PPO informs Interpol in the MOI about the location of the individual subject to extradition in Kuwait, initiating the arrest process and any other necessary actions. In the absence of any compelling grounds for delaying extradition, the PPO issues a formal decision to surrender the individual to the requesting state. Following this decision, the PPO collaborates with the MOI Interpol Bureau, which liaises with Interpol in the requesting country to facilitate efficient execution of the extradition. The MOI then locates, apprehends, and detains the individual until their extradition.

545. During the assessment period, Kuwait received around 17 requests and has extradited a total of 23 persons to 7 requesting jurisdictions. Table 8.5 shows the number of incoming extradition requests by case type, which indicate that 65% of the request was related to breach of trust crimes.

Table 8.5. Incoming extradition requests by case type (2018-2023)

Crimes	No.	Crimes	No.
Breach of Trust	11	Theft	2
Fraud	3	ML	1

Note: some requests represented more than one offence, accounting for a higher figure than the total amount of requests received 17.

546. The table below presents an overview of extradition requests received by Kuwait and their status. From 2018 to 2023, 19 requests culminated in successful extradition, while two resulted in domestic prosecution, and three were declined as Kuwait's policy of declining extradition for its nationals is followed by referral of such individuals to another branch of the PPO for consideration of prosecution related to the underlying offences. Additionally, there are three instances of declined extradition requests due to the statute of limitations expiring.

Table 8.6. Extradition requests received by Kuwait (2018-2023)

Status	1/1/2018 – 31/12/2018	1/1/2019 – 31/12/2019	1/1/2020 – 31/12/2020	1/1/2021 – 31/12/2021	1/1/2022 – 31/12/2022	1/1/2023 – 22/11/2023	Total
Completed	-	3	4	1	1	-	9
To be prosecuted by the country	-	1	-	-	4	1	6
Under consideration	-	-	-	-	-	1	1
Rejected/Refused	-	1	2	-	-	-	3
Total	-	5	6	1	5	2	19

547. In regard to timelines for responding to requests for extradition, 81% of responses are provided within three months, while 13% of the responses are provided within less than 6 months. As shown below the maximum time for extradition has been 2 years and in nine cases within days.

Table 8.7. Responses times of extradition requests received by Kuwait (2018-2023)

Response Time	1/1/2018 – 31/12/2018	1/1/2019 – 31/12/2019	1/1/2020 – 31/12/2020	1/1/2021 – 31/12/2021	1/1/2022 – 31/12/2022	1/1/2023 – 22/11/2023	Total
1 to 30 days	-	3	-	1	5	2	11
31 to 90 days	-	1	1	-	-	-	2
91 to 180 days	-	-	2	-	-	-	2
181 to 365 days	-	-	-	-	-	-	-
1 to 2 years	-	-	1	-	-	-	1
More than 2 years	-	-	-	-	-	-	-
Under Process	-	-	-	-	-	-	-
Rejected/refused	-	1	2	-	-	-	3
Total	-	3	6	1	5	1	19

548. While Kuwait prohibits the extradition of its own nationals, it adheres to the principle of dual criminality for all other extradition requests. This requirement, however, is identified as a technical deficiency under Recommendation 37.6.

Box 8.1. Incoming MLA/extradition requests**Case study 8.1.1: Incoming MLA request**

On September 27, 2022, Kuwait received a request for assistance from the Country A concerning two individuals suspected of fraud in both Country A and Kuwait. Country A's judicial authorities specifically requested copies of any judgments issued against the defendants in the State of Kuwait. In accordance with the principle of reciprocity, Kuwait's Public Prosecution Office promptly provided the requested documents on October 6, 2022.

Case study 8.1.2: Incoming extradition request

On December 29, 2020, Kuwait received an extradition request from the foreign authorities pursuant to the Legal and Judicial Cooperation Treaty between the State of Kuwait and Country A. The request sought the extradition of an individual convicted of embezzlement and sentenced to three years imprisonment. The individual had been entrusted with the delivery of 10 000 Kuwaiti dinars to another person but instead misappropriated the funds. Following his arrest on March 7, 2021, the suspect was extradited to the Country A's authorities on March 19, 2021.

Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements

549. As previously mentioned, the PPO is the competent authority for MLA and extradition. The processes and legal basis for requesting both forms of assistance are largely analogous to those for providing them. The International Cooperation Department within the PPO handles all such requests. Similarly, to the challenges encountered when providing MLA and extradition, the issue of a partial legal basis and the intricacies and delays associated with utilising diplomatic channels also present obstacles when requesting such assistance.

550. Prior to formally requesting extradition, the PPO can use informal channels, such as Interpol or GCCPOL to verify the subject's presence within the target jurisdiction and identify any potential legal, resource, or other obstacles to the extradition process. However, there is no evidence to suggest it regularly does this. Formal requests are submitted through the PPO's International Cooperation Department. Subsequently, the extradition file will be transmitted to the requested country via diplomatic channels by the MOFA. In the absence of a bilateral treaty between Kuwait and the requested state, the principle of reciprocity governs this process.

Mutual Legal Assistance

551. The PPO's International Cooperation Department handles all aspects of MLA, from drafting and sending requests to managing responses. The PPO can initiate MLA requests on its own initiative, or upon request from the MOI or the Criminal Court. Requests must be in writing, dated, signed, stamped, and accompanied by all necessary documentation to comply with the requested country's legal requirements. A standard clause ensures confidentiality of the request, documents, and information sought. Outgoing requests are generally of good quality, and the PPO actively follows up on pending requests. However, the PPO does not solicit feedback from foreign counterparts regarding their MLA requests (Table 8.8).

Table 8.8. Outgoing requests by case type (2018-2023)

Crimes	No.	Crimes	No.
ML	43	Forgery	4
Fraud	28	Breach of trust	2
Cyber fraud	28	Willful damage of public funds	2
Misappropriation of public funds	17		

Note: some requests represented more than one offence, accounting for higher figure than the total amount of requests received 97.

552. The PPO submitted 97 MLA requests during the assessment period, with limited success. Only 16 requests were fully completed, 8 were partially completed, and 81 remain pending. Kuwait was not aware of any specific reason for the low rate of completion. Most requests sent since 2019 include a request to trace and freeze proceeds of crime, if permitted by the requested country's legal framework. In May 2021, the PPO successfully recovered USD 3,135,394.24 from Switzerland through MLA in a case involving real estate fraud and money laundering. Additionally, in November 2022, the PPO recovered KWD 30,088,646.894 (approximately USD 97,850,240.50) from the Kingdom of Bahrain in a case related to the misappropriation of public funds and money laundering.

Table 8.9. Status of MLA requests sent (2018-2023)

Response Time	1/11/2018 – 31/12/2018	1/1/2019 – 31/12/2019	1/1/2020 – 31/12/2020	1/1/2021 – 31/12/2021	1/1/2022 – 31/12/2022	1/1/2023 – 22/11/2023	Total
Completed	-	4	-	3	1	8	16
No response	-	-	-	-	-	-	-
In process	-	6	3	26	28	18	81
Additional information	-	-	-	-	-	-	-
Rejected/Refused	-	-	-	-	-	-	-
Total	-	10	3	29	29	26	97

Extradition

553. During the assessment period, the PPO submitted 64 extradition requests, with limited success (11%). Only 7 extraditions have been achieved to date, while 20 requests were rejected, 17 cases were deemed suitable for domestic prosecution and 20 requests remain under consideration (Table 8.9.). A significant portion of these requests were directed towards Egypt. However, despite the existence of a bilateral agreement, Egypt's policy of not extraditing individuals facing ongoing domestic legal proceedings hinders cooperation. Furthermore, certain countries maintain a policy of refusing to extradite their own citizens under any circumstances. In such cases, the PPO seeks confirmation from the requested state regarding the feasibility of pursuing domestic prosecution instead. The PPO states that it follows up on extradition requests, initiating inquiries if no response is received within two months for offences related to money laundering, terrorist financing, and human trafficking. For other crimes, the follow-up period is three months.

Table 8.10. Extradition requests sent by Kuwait (2018-2023)

Status	1/1/2018 – 31/12/2018	1/1/2019 – 31/12/2019	1/1/2020 – 31/12/2020	1/1/2021 – 31/12/2021	1/1/2022 – 31/12/2022	1/1/2023 – 22/11/2023	Total
Rejected/Refused	1	15	3	1	-	-	20
Completed	1	-	3	-	-	3	7
To be prosecuted by the country	-	9	4	1	3	-	17
Under consideration	1	3	4	8	-	4	20
Total	3	27	14	10	3	7	64

Box 8.2. Outgoing MLA/extradition requests

Case study 8.2.1: Outgoing MLA request

On October 3, 2022, the PPO received information from the KwFIU regarding funds held in Country A linked to one of the defendants in a criminal case. Acting on this intelligence, the PPO requested the FIU to freeze the identified funds on October 4, 2022. Additionally, on November 20, 2022, the PPO submitted a formal request to the competent judicial authorities in the foreign jurisdiction seeking the recovery of the defendant's assets.

The legal basis for these requests rests upon the United Nations Convention against Corruption of 2003, the United Nations Convention against Transnational Organized Crime of 2000, and the principle of reciprocity.

On April 14, 2023, a specialized court in the Country A issued a decision freezing the defendant's funds, totalling £863,522.4, for an initial period of six months. This freeze was subsequently extended for a further six months on September 19, 2023.

On November 2, 2023, the PPO held a meeting with counterparts in Country A to discuss the asset recovery request. Case is ongoing in Country A.

Case study 8.2.2: Outgoing extradition request

On May 25, 2021, the PPO issued a request for the extradition of a defendant in accordance with the Extradition Treaty between the State of Kuwait and Country A. The defendant was arrested on November 23, 2021, and appeared at Country A's court the same day. Initial remand in custody was followed by conditional bail on November 27, 2021.

To establish a prima facie case under Country A's Extradition Act, the State of Kuwait provided numerous supplementary materials. Two prison experts visited Kuwaiti prisons on November 14 and 15, 2023, to assess and evaluate prevailing conditions. A comprehensive report based on their visit was submitted to the court. A series of hearings were conducted between January and September 2023. On September 29, 2023, the district judge at Country A's court ruled that extradition would be compatible with the defendant's Convention rights. Subsequently, on November 7, 2023, the Minister of State Security issued an order for the defendant's extradition.

Seeking and providing other forms of international cooperation for AML/CFT purposes

554. Kuwait participates in several forms of informal international cooperation to identify and investigate domestic ML/TF and associated predicate offences involving transnational elements. Competent authorities use mechanisms beyond MLA and extradition to facilitate the timely exchange of relevant information with their foreign counterparts. However, the level of engagement in informal cooperation varies across different sectors. While the KwFIU, MOI, and FIs' supervisors have shown engagement in information exchange to some extent, the GAC and the DNFBPs' supervisor, MOCI, are not currently active in such exchanges with relevant foreign authorities.

KwFIU

555. As a member of Egmont Group since 2017, the KwFIU exchanges information and intelligence with international partners through the Egmont Secure Web (ESW) and secure email channels, depending on the recipient FIU's membership in Egmont and the existence of a bilateral MoUs with non-Egmont countries. The KwFIU has signed MoUs with a small number of other non-Egmont member countries. While Kuwaiti law does not explicitly require these agreements for international cooperation, some foreign FIUs require them as a prerequisite for information exchange.

556. Kuwait has shared information with its international counterparts in some instances, both in response to specific requests and through spontaneous disclosures when deemed potentially valuable. However, concerns remain regarding the consistency of this practice and how the channels are actually utilised with Kuwait's identified ML/TF risk profile. This is due to the infrequent instances of KwFIU seeking information from its international partners to further its investigations.

557. The KwFIU has issued 26 requests for information during the assessment period. Notably, a significant majority of these requests focused on investigations related to ML and associated predicate offences, demonstrating an emphasis on seeking information in these types of cases. In contrast, only 4 requests were related to TF. This is a concern given Kuwait's TF risk profile. During the reporting period, the KwFIU, received 160 information requests and 115 disseminated requests concerning ML and associated predicate offences and 53 information requests concerning TF. Requests received originated from over 30 countries globally (Table 8.11).

Table 8.11. Request and disseminations sent and received by KwFIU (2018-2023)

Type of Assistance	1/11/2018 – 31/12/2018	1/1/2019 – 31/12/2019	1/1/2020 – 31/12/2020	1/1/2021 – 31/12/2021	1/1/2022 – 31/12/2022	1/1/2023 – 22/11/2023	Total
Requests sent	1	7	12	3	3	-	26
Disseminations sent	-	4	-	23	-	-	27
Requests received	9	34	37	44	27	9	160
Disseminations received	6	45	13	17	22	12	115

558. KwFIU employs a systematic prioritisation process for both STRs and incoming information requests from foreign partners. One of the key factors automatically elevating an STR to high priority is the presence of a corresponding international request received through the ESW. Consequently, KwFIU ensures international information request are prioritised. However,

as indicated in Chapter 3 (Legal System and Operational Issues), the KwFIU prioritisation system in general has significant shortcomings which also have a negative effect on the international cooperation.

Ministry of Interior

559. The MOI conducts preliminary investigations into criminal matters, which are subsequently referred to the PPO for initiating formal criminal investigations. During preliminary inquiries, MOI uses various channels for international cooperation, including Interpol, GCCPOL²², liaison officers, and intelligence services. Requests disseminated through Interpol and GCCPOL are subject to strict confidentiality protocols. Information exchanged through these channels may not be utilised by either party for any purpose beyond the initial investigative objective, unless mutually agreed upon.

560. Kuwait's National Central Bureau for Interpol (NCB) within the Kuwait Arab and International Criminal Police Department of the MOI is responsible for international investigations and coordinates activities related to fugitives, extradition, and asset seizure outside Kuwait. They assist police in detecting illicit goods trafficking and play a key role in preventing international organised crime. The NCB verifies the feasibility of extradition and MLA requests before submission, through direct communication or urgently, via Interpol's command center. During the assessment period, the NCB submitted 16 requests through Interpol and GCCPOL channels to nine identified countries (Table 8.12). All requests aimed to solicit or share information relevant to ongoing ML investigations, although further specifics remain unavailable. Notably, all requests were fulfilled by the recipient countries, demonstrating compliance with Interpol's information-sharing standards. Nevertheless, the limited number of requests raises significant questions regarding the effectiveness of international cooperation mechanisms in relation to Kuwait's ML/TF risk profile and broader context.

561. Mirroring the outgoing request volume, the NCB received 45 requests through Interpol and GCCPOL channels from 22 identified countries during the assessment period (Table 8.12). Of these, 40 requests were related to ML investigations, while the remaining five inquiries pertained to TF investigations. All of these requests were completed by Kuwait, demonstrating compliance with Interpol's information-sharing standards.

Table 8.12. Requests sent and received by NCB (2018-2023)

Requests	1/1/2018 – 31/12/2018	1/1/2019 – 31/12/2019	1/1/2020 – 31/12/2020	1/1/2021 – 31/12/2021	1/1/2022 – 31/12/2022	1/1/2023 – 22/11/2023	Total
Requests sent	-	1	3	4	6	2	16
Requests received	-	4	14	17	9	1	45

General Authority of Customs

562. Cross-border smuggling risks are an important challenge for Kuwait. The GAC controls the flow of goods, cash, BNIs, and other items across Kuwait's borders. GAC does not directly investigate ML/TF and associated predicate offences and relies on the MOI for this. GAC also

²² GCCPOL serves as a law enforcement hub for the six countries of the GCC (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and UAE)

maintains a database of declarations for customs purposes and collects duties and taxes on imports and exports.

563. GAC is a member of the World Customs Organisation (WCO) and Regional International Liaison Officer (RILO) network and is able to cooperate through these channels. However, it is not clear how regularly this happens in practice. GAC's International Cooperation Unit serves as the National Central Point of Contact (NCP) for the RILO network in Kuwait and facilitates communication with other Customs authorities.

564. GAC is responsible for administering Kuwait's cash declaration regime and identifies suspicious activity suggesting ML, TF, or predicate offenses. In such cases, GAC directly refers information to the MOI officers stationed at the ports. GAC views all international information exchange on these matters as the responsibility of the MOI, with the PPO assuming responsibility if criminal investigations proceed.

565. Despite established channels and processes for international cooperation, the GAC has only sent one request for information related to ML predicate offences. This request was to Saudi Arabia in 2022 regarding drug smuggling confiscation. This limited activity stands in stark contrast to Kuwait's identified ML/TF risk profile and geographical position. GAC received 68 requests during the same period. No information was provided on how adequately or timely these requests were dealt with, or what the requests were for Table 8.13.

Table 8.13. Requests sent and received by GAC (2018-2023)

Requests	1/11/2018 – 31/12/2018	1/1/2019 – 31/12/2019	1/1/2020 – 31/12/2020	1/1/2021 – 31/12/2021	1/1/2022 – 31/12/2022	1/1/2023 – 22/11/2023	Total
Requests sent	0	0	0	0	1	-	1
Requests received	2	2	2	18	27	17	68

FI and DNFBP supervisors

566. Kuwait's supervisory authorities, including the CBK, CMA, and IRU can exchange information through official and non-official channels. For example, the CBK engages with foreign jurisdictions ahead of visits to foreign branches and provides a summary of findings after the inspection. The CBK also seeks information and responds to requests relating to licensing. However, despite having a framework in place, cooperation is not common in practice.

567. The CMA can leverage the IOSCO Multilateral MoU to facilitate cooperation with other regulatory authorities, both sending and receiving information requests as needed. However, this does not happen regularly in practice. CMA has participated in international training programs offered by IOSCO and the PIFS Harvard Law School Global Certificate Program for Regulators of Securities Markets. While the IRU, having recently joined AIAS in March 2022, is still in the early stages of developing its international cooperation strategy, it plans to enhance this aspect once it begins licensing and supervising companies. In contrast, MOCI has not yet established formal international cooperation channels.

Box 8.3. Supervisory international cooperation case studies

Case study 8.3.1: CBK case study

The CBK cooperates with international counterparts to conduct on-site inspections of Kuwaiti bank branches operating abroad. During the period from 2019 to 2023, a total of four such on-site visits were undertaken:

- 2022: Foreign visit in Country A
- 2023: Foreign visit in Countries B, C and D.

Furthermore, the CBK facilitates in reciprocal collaboration for on-site visits by foreign counterparts to inspect their bank branches within Kuwait. From 2019 to 2023, a total of two on-site visits were conducted:

- 2019: from Country A.
- 2023: from Country E.

Case study 8.3.2: CMA case study

The CMA requested information from a foreign securities regulator on 9th November 2021 to investigate potential fraudulent activity involving a Kuwaiti citizen promoting the purchase of shares in a company registered under the foreign regulator's jurisdiction. The foreign regulator provided the requested information on 1st December 2021, enabling the CMA to further investigate the case.

Case study 8.3.3: IRU case study

On March 28, 2022, the IRU engaged in international cooperation with the foreign supervisor on regulatory matters. The IRU submitted three inquiries concerning the licensing of branches of Kuwaiti insurance companies: (1) The extent to which accepting such licenses is permissible under the foreign supervisors' regulations; (2) The classification of Kuwaiti insurance branches as "national" companies under foreign law; and (3) If classified as "national," the eligibility of these branches to issue insurance policies limited to national companies and participate in public tenders issued by foreign state institutions.

The foreign supervisor responded to all inquiries on April 6, 2022, via email. The communication included PDF documents signed by the Head of the IRU.

International exchange of basic and beneficial ownership information of legal persons and arrangements

568. Significant limitations exist in Kuwait's international exchange of basic and BO information for legal persons and Waqf or other legal arrangements. This largely results from Kuwait's severe limitations in relations to collection of BO information at a domestic level (see chapter 7). During the assessment period, PPO stated that it initiated one request for basic and BO information concerning a legal person, directed to the United Arab Emirates. No requests for MLA regarding the BO of legal arrangements were made in either direction. Notably, only three incoming requests for BO information of legal persons were received throughout the assessment

period, originating from Albania, Germany, and Qatar. These requests were answered within a timeframe of 1-2 months.

569. Kuwait currently lacks robust mechanisms for international information exchange regarding BO information. While the MOCI established an international cooperation division, its future impact on BO information sharing remains uncertain due to the absence of an information exchange framework and due to a lack of information in the BO register. The KwFIU has access to relevant databases but requires a formal request to share information with its counterparts.

570. During the assessment period, MOCI has not requested BO information from overseas counterparts. KwFIU initiated 11 requests and received 58 requests for "commercial information," but the lack of details about the requests prevents confirmation on whether legal persons or Waqfs or other legal arrangements were involved.

Overall conclusions on IO.2

Weighting and conclusion:

Kuwait's legal framework for providing and seeking MLA and extradition lacks a robust foundation. Incoming and outgoing MLA and extradition requests are executed on the principle of reciprocity, using diplomatic channels, apart from the limited cases where there is a bilateral or multilateral agreement in place. This lack of a complete legal framework can create delays and be unpredictable and inconsistent.

Kuwait's current system lacks a centralised case management system or tracking mechanism for MLA and extradition requests. This makes it difficult to ensure timely responses and monitor the progress of such requests. Additionally, reliance on diplomatic channels for requests not covered by bilateral or multilateral agreements can lead to delays and hinder efficiency.

The KwFIU's complex system for making international requests and submissions contributes to delays. Furthermore, the limited frequency of seeking information from international counterparts is inconsistent with Kuwait's ML/TF risk profile.

Kuwait's exchange of beneficial ownership information with international partners regarding legal persons and arrangements is highly limited. Similarly, the lack of comprehensive statistics on these requests and responses obscures the extent and effectiveness of such exchanges.

Kuwait is rated as having a **moderate** level of effectiveness for IO.2.

TECHNICAL COMPLIANCE

1. This section provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the country situation or risks and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.
2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2011. This report is available from www.fatf-gafi.org/content/fatf-gafi/en/publications/Mutualevaluations/Mutualevaluationofthestateofkuwait.html

Recommendation 1 – Assessing risks and applying a risk-based approach

This is a new recommendation that was not assessed in the 3rd Round MER.

Criterion 1.1 – Kuwait has identified and assessed its ML/TF risks through two NRAs (2016 and 2023). Both NRAs were developed by the National Committee for AML/CFT using the World Bank Methodology. The second NRA (NRA 2) incorporates a range of qualitative and quantitative data including statistics from a range of agencies, academic reports, expert opinions and input from the private sector. NRA 2 assesses national threats and vulnerabilities and sectoral risks for the financial and non-financial sectors subject to AML/CFT requirements as well as for NPOs (charitable institutions and foundations).

Criterion 1.2 – Kuwait’s National Committee for AML/CFT is responsible for assessing ML and TF risk in Kuwait (Law 106/2013 Art. 24; Law 106/2013 Executive Regulation Art. 19, 20). The Committee comprises of: KwFIU, CBK, the MOCI, the CMA, the PPO, MoJ, MoF, MoI, MoFA, MOSA, the GAC, the IRU and KACA. The Committee has six competencies, including establishing, developing and following-up on the implementation of a national strategy to combat ML/TF and PF offences (AML/CFT Law Executive Regulation, Art. 20(1)).

Criterion 1.3 - The NRA team within Kuwait’s National Committee for AML/CFT is specifically tasked to continuously monitor ML/TF risks and developments (Executive Regulation No. (37/2013) (AML/CFT Regulation), Art. 20(2)). The National Committee has indicated that the current NRA will be updated within five years from the adoption of the current 2020 NRA.

Criterion 1.4 - Competent authorities within the National Committee for AML/CFT received Kuwait’s approved NRAs. These documents are not publicly available and there is no established mechanism to disseminate the results. However, the findings from the NRA 2 were disseminated to FIs and some DNFBPs through a series of meetings.

Criterion 1.5 - Kuwait implements measures to prevent or mitigate ML/TF through its National AML/CFT strategy. The National Committee is responsible for establishing, developing and following up on the implementation of the strategy and

action plan (Executive Regulation 37/2013; Law 106/2013 Art. 20 (1)). It is through this framework that Kuwait applies a risk-based approach to allocating resources and implementing measures to prevent or mitigate ML/TF.

Kuwait's first three-year national strategy was introduced in 2016 (2016-2019). This was based on recommendations from Kuwait's previous Mutual Evaluation Report, which was adopted in 2011 and was not based on a comprehensive risk assessment. This first strategy led to outcomes such as the establishment of an independent, administrative FIU and more resources for supervisors. A second national strategy was produced in 2022 to reflect the outcomes of the most recent NRA. The 2022 strategy covers the period from 2022-2027 and contains a detailed action plan with timelines for actions for specific authorities. The Secretariat of the National Committee is responsible for engaging with individual authorities on an ongoing basis to track progress on actions allocated to them, and to report such progress to the National Committee both through its annual report and its participation in National Committee Meetings.

Criterion 1.6 - There are no casinos in Kuwait and notaries are public sector workers and TSCP activity can only be conducted by lawyers. Lawyers, independent legal professionals and DPMS are covered in most instances, but not all situations required by the FATF Recommendations (see R.22). The FATF Standards apply to all other obliged entities in Kuwait.

Criterion 1.7 - FIs and DNFBPs in Kuwait are required to have in place a risk assessment processes to identify, assess, monitor, manage and mitigate ML/TF risks arising in the course of their business activities including those related to:

- a) Customers;
- b) Countries or geographic areas in which they operate or the place of origination or destination of transactions;
- c) The nature of products and services offered; and,
- d) The delivery channels for products and services (Executive Regulation 37/2013 Art. 3).

Where ML/TF risk is identified as being higher, EDD must be applied (Law 106/2013 Art. 4). FIs and DNFBPs must also apply EDD measures to foreign PEPs, domestic PEPs or persons that have been entrusted with a prominent function by an international organisation and that are deemed to be higher risk (Executive Regulation 37/2013 Art. 7, 8; Law 106/2013 Art. 4). EDD must be applied to all complex, unusual large transactions, where there is no clear economic or visible lawful purposes or objectives (Law 106/2013 Art. 5).

Criterion 1.8 - Kuwait allows FIs and DNFBPs to apply SDD measures where the risk of ML/TF has been identified as lower. However, SDD may not be applied where there is a suspicion of ML/TF (Law 106/2013 Art. 4).

Criterion 1.9 - The supervisory authorities in Kuwait (CBK, CMA, MOCI, IRU, Kuwait Lawyer Association) are required ensure that FIs and DNFBPs Are implementing their obligations under R.1. However, lawyers and independent legal professionals carrying out certain activities, and some types of DPMS do not have to comply with AML/CFT obligations in all of the instances required by the FATF Standards (Law 106/2013 Art. 14).

Criterion 1.10 - FIs and DNFBPs are required to:

- a) document the business risk assessment and any underlying information in writing (Executive Regulation 37/2013 Art 3; Law 106/2013, Art. 4).
- b) have in place risk assessment processes to identify, assess, monitor, manage and mitigate ML/TF risks that may arise in the course of their business (Executive Regulation 37/2013; Law 106/2013 Art. 3; Law 106/2013 Art. 4).
- c) keep risk assessments up to date (Executive Regulation 37/2013 Art 4; Law 106/2013 Art. 4).
- d) Ensure the risk assessment is readily available with any underlying information for review by the supervisory authority (Executive Regulation No 37/2013 Art. 4; Law 106/2013 Art. 4).

Criterion 1.11 - FIs and DNFBPs must have in place policies, procedures, systems and controls to manage risks identified in relation to customer, geographical exposure, nature of product and service and delivery channel. These systems must be reviewed and endorsed periodically by a senior manager and enhanced due diligence applied when ML/TF risk is identified as being higher (Law 106/2013 Art. 10 (e); Executive Regulation 37/2013 Art. 2).

Criterion 1.12 - Kuwait permits most FIs and DNFBPs to apply simplified due diligence measures where low risks have been identified. Simplified due diligence must not be applied where ML/TF is suspected. Finance and exchange companies regulated by the CBK are not permitted to apply simplified due diligence (Law 106/2013, Art 4).

Weighting and Conclusion

Kuwait has an established process to assess the risks faced by the country and implements measures to prevent or mitigate ML/TF through its National AML/CFT strategy. Supervisors are required to monitor, regulate and supervise FIs and DNFBPs compliance with AML/CFT obligations in most cases, but lawyers and independent legal professionals that carry out certain activities and some types of DPMS are not subject to all AML/CFT obligations required by the FATF Standards.

Recommendation 1 is rated largely compliant.

Recommendation 2 - National Cooperation and Coordination

In its 3rd round MER, Kuwait was rated PC with former R.31, due to a lack of coordination mechanisms for the development and implementation of ML and TF policies and activities and the absence of coordination mechanisms relating to the implementation of UNSCR 1267 and 1373.

Criterion 2.1 - Kuwait's first national AML/CFT Strategy (2016 - 2019) was developed in 2016 as a result of the 2011 FATF Mutual Evaluation Report. A national AML/CFT action plan was produced in 2018 to address the findings of the first National Risk Assessment. The National Strategy (2022-2027) and National Action Plan were updated in line with the outcomes of the 2020 NRA exercise. Both NRAs have led to policy and practical developments. The Secretariat of the National AML/CFT Committee is responsible for engaging with individual authorities on an ongoing basis in relation to progress made against the Action Plan and to report such

progress to the National Committee both through its annual report and in the course of its participation in National Committee Meetings. The National Committee meets at least twice a year and its decisions presented to the Minister of Finance (Executive Regulation 37/2013 Art. 22).

Criterion 2.2 – The National Committee for AML/ CFT is responsible for coordinating the position of ministries and other national institutions in various matters related to combatting ML and TF (Executive Regulation 37/2013 Art. 20(6)). The Committee is administered by the KwFIU and members comprise of all competent authorities and law enforcement representation. A comprehensive policy that sets out the National Committee’s mission, vision, tools of implementation tasks of the Committee and working groups is currently under development and listed as a high priority in the NRA Action Plan 2022-2027.

Criterion 2.3 – Kuwait has in place mechanisms for coordinating the development of AML/CFT policies at a national level. Coordination between organisations at an operational level takes place on an ad hoc basis, through MOUs or similar agreements. The National Committee for AML/CFT is supported by a permanent secretary and has three technical working groups (the technical working group, national evaluation working group and risk assessment working group). Members of the National Committee must be of supervisory level and have good knowledge of the tasks and responsibilities of the authority they are representing in relation to AML/CFT (Ministerial Decision 55/2015 Art. 4(5)).

Criterion 2.4 – CPF is the responsibility of Kuwait’s Special Committee for the Implementation of United Nations Security Council Resolutions. The Committee was established under Ministerial Resolution 4/2014 and is a member of the National Committee for AML/CFT. The composition and provisions of the committee are set out in Ministerial Resolution 141/2023.

Criterion 2.5 – Kuwait does not have a data protection authority and there is no mechanism to ensure cooperation and coordination between relevant authorities to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules and other similar provisions (e.g., data security/localisation). However, there are several internal circulars related specifically to the confidentiality obligations of FIU employees.

Weighting and Conclusion

Kuwait has mechanisms in place for national co-ordination and co-operation at the policymaking level while at operational level coordination takes place on an ad hoc basis. However, there is no mechanism to ensure cooperation and coordination between relevant authorities to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules and other similar provisions.

Recommendation 2 is rated largely compliant.

Recommendation 3 - Money laundering offence

In its last round MER, Kuwait was rated LC with former Recommendations 1 and 2 on the scope of the money laundering offence. Outstanding deficiencies related to limitations in the scope of predicate offences for ML and criminal liability was only applied to companies and not to other legal persons.

Criterion 3.1 – Kuwait’s ML offence is largely consistent with the Vienna and Palermo Conventions. Kuwait criminalises as an ML offence any person that knows that funds are the proceeds of crime (a) the intentional conversion or transfer or substitution of proceeds of crime or helping a person involved in the commission of the predicate offence to evade the legal consequences of his/her acts; (b) the disguise or concealment of the true nature, source, location, disposition, movement or ownership of proceeds of crime, or rights pertaining thereto; and (c) the acquisition, possession or use of proceeds of crime (Law 106/2013 Art. 2).

However, the offences mentioned under Art. 3(1)c subpoint ii) of the Vienna Convention are not covered under Kuwait’s law.

Criterion 3.2 –

Kuwait takes an all-crimes approach to ML. However, not all 21 predicate offences are listed under Kuwait’s law, including illicit trafficking in stolen goods.

Criterion 3.3 – Kuwait follows an all-crime approach (Law 106/2013 Art.1). The Penal Code includes two types of crimes: misdemeanours and felonies. The ML offence applies to both of these crime types.

Criterion 3.4 – Kuwait defines the proceeds of crime as any “funds” derived or obtained directly or indirectly through the commission of a predicate offence, with “funds” referring to any kind of assets or property (Law 106/2013 Art. 1). In addition, the law does not stipulate that the funds need to reach a certain value to be considered as proceeds of crime, hence the ML offence extends to any type of property regardless of its value. Virtual assets are also covered in Kuwait’s definition of funds which relates to “any kind of assets or property (...) including electronic or digital form” (Law 106/2013 Art. 1).

Criterion 3.5 – It is not necessary that a person is convicted of a predicate offence to prove that property is the proceeds of crime (Law 106/2013 Art. 2).

Criterion 3.6 – Predicate offences for ML extend to any act constituting a misdemeanour or felony, committed outside Kuwait, if the act committed constitutes an offence in both the foreign state in which it was committed and Kuwait (Law 106/2013 Art. 1).

Criterion 3.7 – The ML offence applies to persons who commit the predicate offence as the law clearly indicates that punishment for a predicate offence shall not preclude conviction of the same person for an ML offence (Law 106/2013 Art. 2).

Criterion 3.8 – It is possible infer the intent and knowledge required to prove a ML offence from the conduct itself and from objective factual circumstances. This was demonstrated through case law.

Criterion 3.9 – The criminal sanctions for ML applied to natural persons are proportionate and dissuasive. Natural persons convicted of ML are subject to imprisonment of up to 10 years and a fine of no less than half and up to the full value of the funds laundered, where the offender knew that these funds and instrumentalities were the proceeds of crime (Law 106/2013 Art. 28). In cases with aggravating factors, such as commission by an organised criminal or terrorist organisation, perpetrators who have exploited the authority or influence of their position, commission through public benefit clubs and associations and charitable organisations, or repeated perpetration, these penalties may be doubled to

imprisonment of up to 20 years and a fine of up to twice the amount pursuant crime (Law 106/2013 Art. 30). Mitigating factors, such as providing relevant information to the police, public prosecution or court, can provide an exemption from the above penalties in certain cases (Law 106/2013 Art. 31). For all corruption offences, the law also allows for exemptions of the penalties if the perpetrator cooperates with the authorities (Law 2/2016 Art. 44).

Penalties for ML are more severe than penalties for other crimes of similar nature such as fraud (incarceration for a period not exceeding five years and a fine not exceeding three hundred seventy-five Dinars (approx. USD 1215) (Penal Code Art. 235) and bribery (incarceration for a period not exceeding ten years and a fine equivalent to double the value of what he is given or promised, provided that it shall not be less than fifty Dinars (approx. USD 162) (Law 31/1970 Art. 35).

Criterion 3.10 – Legal person can be subject to criminal liability for money laundering offences if the offence is committed in its name or to its credit (Law 106/2013 Art. 2). This liability is without prejudice to the criminal liability of the natural persons (Law 106/2013 Art. 32). Fines for legal persons convicted of ML amount to no less than 50,000 Dinars (approx. USD 162 000) and no more than 1 million Dinars (approx. USD 3,2 million), or the equivalent of the full value of the funds that were the objects of the offence, whichever is greater. In addition, a legal person may be prohibited from continuing to engage in certain commercial activities permanently, or for a period of no less than five years or can have its business liquidated or assigned a receiver to manage its funds (Law 106/2013 Art. 32).

Criterion 3.11 – Kuwait criminalises ancillary offences to ML through general provisions related to attempting, facilitating, assisting, soliciting, or inciting, aiding and abetting, and participating in an organisation to commit offences (Penal Code Art. 45-49).

Weighting and Conclusion

The legal framework covers the requirements of R.3 to most extent. ML is not fully criminalised on the basis of the Vienna Convention. The predicate offences for ML do not cover all serious offences.

Recommendation 3 is rated largely compliant.

Recommendation 4 - Confiscation and provisional measures

In its last MER, Kuwait was rated largely compliant with the requirements of former Recommendation 3, as the legal framework did not allow for confiscation of property of corresponding value. Furthermore, the AML confiscation regime was not applied in an effective manner.

Criterion 4.1 – Kuwait can confiscate property whether held by criminal defendants or by third parties. The confiscation of property is mandatory upon a conviction for ML/TF:

- a) *Property laundered*: the funds, including any kind of assets or property, shall be confiscated in the case of an ML offence (Law 106/2013 Art. 28). Virtual assets are covered in Kuwait’s definition of funds which relates to “any kind of assets or property (...) including electronic or digital form” (Law 106/2013 Art. 1).

- b) *Proceeds of (including income or other benefits derived from such proceeds), or instrumentalities used or intended for use in, ML or predicate offences*: confiscation extends to funds and instrumentalities that are proceeds of crime, derived from or exchanged for such proceeds, income and other benefits obtained from proceeds of crime and funds objects of the offence (Law 106/2013 Art. 40). Proceeds of crime are defined as funds derived or obtained directly or indirectly from committing a predicate offence including other yields, interest, gains or profit from such funds whether it remained as is or it was converted wholly or partially into other funds (Law 106/2013 Art. 1). Confiscation also extends to proceeds or instrumentalities intended for use in ML or predicate offences (Law 16/1960 Art.78).
- c) *Property that is the proceeds of, used in, or intended or allocated for use in the financing of terrorism, terrorist acts, or terrorist organisations*: the conviction-based mandatory confiscation also apply to TF for the seized funds and instrumentalities (Law 106/2013 Art. 29). Confiscation also extends to proceeds or instrumentalities intended for use in TF (Law 16/1960 Art.78).
- d) *Property of corresponding value*: in the event that the funds and instrumentalities cannot be located, the court shall rule on the equivalent in value (Law 106/2013 Art. 40).

Criterion 4.2 –

- a) *Identification, tracing and evaluation*: there is no clear measure enabling competent authorities to identify, trace and evaluate property that is subject to confiscation. The public prosecutor, or any public attorney whom he/she authorises, may order the freezing or seizure of funds or instrumentalities if they are reasonable grounds to believe they are related to a ML, TF or a predicate offence (Law 106/2013 Art. 22).
- b) *Provisional measures*: The public prosecutor, or any public attorney whom he/she authorises, may order the freezing or seizure of funds or instrumentalities if they are reasonable grounds to believe they are related to a ML, TF or a predicate offence (Law 106/2013 Art. 22).
- c) *Preventing or voiding actions*: Kuwait's Courts have the power to invalidate contracts or acts if one or more parties had knowledge or reason to believe that the objective of the contract or agreement was to prevent confiscation measures derived from ML/TF or other instrumentalities or proceeds of crime (Law 106/2013 Art. 36).
- d) *Appropriate investigative measures*: deficiencies under R.30/31 would also apply here.

Criterion 4.3 – Kuwait's Law 106/2013 requires confiscation while providing protection for the rights of *bona fide* third parties (Law 106/2013 Art. 22, 26, 40, 41). An appeals mechanism is in place for concerned parties to appeal the confiscation order to a competent court within one month of the issue of the order (Law 106/2013 Art. 22).

Criterion 4.4 – The PPO is responsible for the management and administration of any property frozen, seized or confiscated (Law 106/2013 Art. 22). Kuwait has a basic mechanism for managing and disposing property from, seized or confiscated when

necessary and on a case-by-case basis. The PPO can undertake a disposal procedure if the seized property is damaged; if the costs for its maintenance are too high or do not match its value, the property may be sold and the amount deposited in the government treasury (Law 17/1960 Art. 93).

Weighting and Conclusion

Kuwait has a large range of measures, including legislative measures that enable the confiscation of property laundered, proceeds of crime and property of corresponding value. However, there is no clear measure enabling competent authorities to identify, trace and evaluate property that is subject to confiscation.

Recommendation 4 is rated largely compliant.

Recommendation 5 - Terrorist financing offence

In its last MER, Kuwait was rated non-compliant with former SR.II as there was no legal provision criminalising TF.

Criterion 5.1 – Kuwait criminalises TF on the basis of Article 2 of the TF Convention. A “terrorist act” is defined as any act that constitutes an offence within the scope of and as defined in the treaties listed in the Annex of the TF Convention or any other act as defined in the TF Convention (Law 106/2013 Art. 1).

The definition of “terrorist” under Kuwait law also includes the participation as an accomplice in a terrorist offence, the organisation or direction of others to commit the terrorist offence and the intentional contribution to the commission of a terrorist act (Law 106/2013 Art. 1). The attempt to commit the offence also qualifies as a TF offence in Kuwait (Law 106/2013 Art. 3).

In parallel with the signing and ratification of the TF Convention, Kuwait issued an Interpretative Declaration expressing that “The commitment of the State of Kuwait to the Convention is without prejudice to its Arab and Islamic obligations in respect of the definition of terrorism and the distinction between terrorism and legitimate national struggle against occupation.”²³. This Interpretative Declaration has not been transposed into law. Kuwait also indicates that this Interpretative Declaration has not been used in Court to acquit an individual over TF charges. Hence, there is no evidence that this Interpretative Declaration is in practice limiting the scope of the application of the TF Convention in Kuwait and hence would limit the criminalisation of terrorism financing.

Criterion 5.2 – Under Kuwaiti law, the TF offence extends to any person who by any means, directly or indirectly, unlawfully and wilfully, collects or provides funds, with the knowledge that they will be used or with the intent that they should be used, in full or in part, in order to carry out a terrorist act or for the benefit of a terrorist organisation or a terrorist (Law 106/2013 Art. 3).

Criterion 5.2bis – There is no specific provision to cover the financing of the travel of individuals for the purpose of the perpetration, planning, preparation, participation in terrorist acts, or for providing or receiving terrorist training. The law generally

²³ [UNTC](#)

criminalises contribution, participation and the fact of directing others in terrorism and TF acts.

Criterion 5.3 – Kuwait’s law defines “funds” subject to the TF offence as “any kind of assets or property (...) however acquired” (Law 106/2013 Art. 1). Virtual assets are also covered in Kuwait’s definition of funds which relates to “any kind of assets or property (...) including electronic or digital form” (Law 106/2013 Art. 1).

Criterion 5.4 – The TF offence in Kuwait does not require that the funds used were to carry out or attempt a terrorist act and to be linked to a specific terrorist act (Law 106/2013 Art. 3).

Criterion 5.5 – Intent and knowledge can be inferred from objective factual circumstances. This was demonstrated through case law.

Criterion 5.6 – Proportionate and dissuasive sanctions apply to natural persons convicted of TF. Natural persons convicted of TF are subject to imprisonment of up to 15 years and a fine “of no less than “and up to twice the value of the funds that were the objects of the offence (Law No 106/2013 Art. 29). Under Kuwaiti law, the penalty of the temporary incarceration may not be less than one third of the maximum limit determined for the crime (Law 16/1960 Art. 83), consequently the minimum imprisonment for a person convicted of TF is five years. In case of aggravating factors such as commission by an organised criminal or terrorist organisation, perpetrators who have exploited the authority or influence of their position, commission through public benefit clubs and associations and charitable organisations, or repeated perpetration, these penalties may be increased to imprisonment of up to 20 years and a fine of up to twice the amount pursuant to the crime (Law 106/2013 Art. 30). The law also allows for exemption of the above penalties if the person collaborates with the authorities to prevent the commission of ML/TF offences or predicate offences, provide assistance in helping the arrest of other perpetrators, prevent the effects of the offence and deprive organised criminal or terrorist organisations of funds over which the person has no right or control (Law 106/2013 Art. 31). Other penalties for crime of terrorism, joining a terrorist entity, etc are not applicable as Kuwait does not convict terrorism but the underlying offence behind the terrorism act.

Criterion 5.7 – Kuwait criminalises terrorist financing for “any person” which is defined in law by “natural and legal persons” (Law 106/2013 Art. 1-2). A legal person shall be held liable for a TF offence, without prejudice to the criminal liability of the natural persons and is subject to the same sanctions as for an ML offence (Law 106/2013 Art. 32). Sanctions available against legal persons are a fine of no less than 50,000 Dinars (approx. USD 162 000) and no more than 1 million Dinars (approx. USD 3,2 million), or the equivalent of the full value of the funds that were the objects of the offence, whichever is greater. In addition, a legal person may also be punished by permanently or temporarily prohibiting it from continuing to engage in certain commercial activities for no less than five years, or by liquidating its business, or assigning a receiver to manage its funds.

Criterion 5.8 – It is an offence to attempt, participate, organise, or direct others, and contribute to commit a TF offence. Kuwait defines a “terrorist” as any person who commits a terrorist act, directly or indirectly, acts as an accomplice in a terrorism act, organises or direct others to commit a terrorist act or contributes to the commission of a terrorist act (Law 106/2013 Art. 1). The definition of terrorism financing covers

the collection or provision of funds to carry out a terrorist act or for the benefit of a terrorist organisation or of a terrorist even if the funds are used to attempt to commit the act or are not linked to a specific terrorist act (Law 106/2013 Art. 1).

Criterion 5.9 – TF offences are designated as ML predicate offences as Kuwait adopts an all-crime approach to the offences underpinning ML (Law 106/2013 Art. 1).

Criterion 5.10 – In Kuwait, the TF offence in Article 3 of the Law 106/2013 involves the provision or collection of funds for a terrorist act or the benefit of a terrorist organisation or of a terrorist (Law 106/2013 Art.3). The term “terrorist act” is defined and applies to acts, whether carried out “in the State of Kuwait or in any other place” (Law 106/2013 Art.1). Similarly, the terms “terrorist organisation” and “terrorist” are defined to include groups and natural persons both inside and outside the State of Kuwait (Law 106/2013 Art.3). Consequently, TF is also criminalised if terrorist organisations and terrorists are located abroad or the financed act occurred abroad.

Weighting and Conclusion

Terrorist financing offences do not include financing the travel of individuals who travel to a State other than their State of residence or nationality for conducting terrorist acts.

Recommendation 5 is rated largely compliant.

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

In its last MER, Kuwait was rated non-compliant with former SR.III. Deficiencies included having no law and procedure in place to implement UNSCRs 1267 and 1373, no authority responsible for designations, and no criminalisation of terrorist financing, amongst other deficiencies.

Criterion 6.1 – In relation to designations pursuant to the UNSCRs 1267/1989/2253 and 1988:

- a) Kuwait established the Counter Terrorism Committee for the implementation of United Nations Security Council Resolutions under Chapter VII of the UN Charter. The CTC is empowered to submit potential designations to the appropriate UN committees (Ministerial Resolution 141/2023 Art. 2, 21).
- b) Kuwait has a mechanism for making decisions on designations but has no explicit domestic process to identify targets for designation.
- c) Kuwait applies an evidentiary standard of “reasonable evidence” which is equivalent to “reasonable grounds to believe”. There is no conditionality on the existence of a criminal proceeding. (Ministerial Resolution 141/2023 Art. 21).
- d) Kuwait has not made a designation request to a relevant committee but is empowered to follow the procedures and standard forms for listing for all relevant UNSCRs (Ministerial Resolution 141/2023 Art. 7(1)).
- e) Kuwait has not made a designation request to a relevant committee but is empowered to provide as much relevant information as possible on the proposed name, a statement of case which contains as much detail as possible

on the basis for the listing and specifies whether their status as a designating state may be known (Ministerial Resolution 141/2023 Art. 7(1)).

Criterion 6.2 –

- a) The CTC is responsible to take decisions, make procedures, and set measures to freeze and seize the funds and assets of persons, organisations, and entities found by the Committee to be linked to terrorist crimes and to include them in the National List. The CTC can consider applications from any one of its constituent members, any competent local body or any competent foreign body (Ministerial Resolution 141/2023 Art. 7(2), 17(1)).
- b) The mechanism that Kuwait uses to identify potential targets for designation is (i) when there is a request from another country or (ii) when the CTC is in receipt of information from a Kuwait-based embassy. This only partially covers the designation criteria set out in UNSCR 1373 as there is no domestic process that makes an assessment against the 1373 designation criteria.
- c) There is no requirement for Kuwait to make a prompt determination whether they are satisfied that the proposed designee meets the criteria for designation under UNSCR 1373.
- d) Kuwait uses a threshold approach for inclusion of designations on the National List, a defined term. To be included on the list, there must be reasonable grounds to believe that a person, group or entity has committed, attempted, attempted to commit, participated in, facilitated or financed a terrorist act (Ministerial Resolution 141/2023 Definition 5). There is no conditionality that there exists a criminal proceeding to meet this threshold.
- e) The CTC is responsible for taking necessary decisions, procedures and measures to freeze and seize the funds and assets of persons, organisations and entities that they find are related to terrorist crimes and their inclusion on the National List according to UNSCR 1373 (Ministerial Resolution 141/2023 Art. 7(1)). This is a very broad and unspecific remit but is interpreted as a mechanism for outgoing requests that would allow Kuwait to provide as much identifying and supporting information as required.

Criterion 6.3 –

- a) The CTC has the ability to request any documents or data from any competent authority it deems necessary to carry out its mandate (Ministerial Resolution 141/2023 Art. 7(5)). This does not extend beyond the competent authorities that are part of the CTC.
- b) There is no explicit provision that the CTC and its members can operate in an *ex parte* manner when a designation is being considered. The CTC members are explicitly not able to disclose any information or data that's made available to them by their membership on the CTC unless authorised to do so (Ministerial Resolution 141/2023 Art. 9(1,2)).

Criterion 6.4 – For TFS implemented as part of UNSCR 1267 and successor resolutions, the CTC is granted the authority for “Taking the necessary resolutions, procedures, and measures to freeze and seize all funds and assets and any other measures provided for in Chapter VII Security Council resolutions for persons, organisations, and entities included in the lists of the Security Council Sanctions

Committee under Resolutions 1267 (1999) 1373 (2001) 1988 (2011) 1718 (2006) 2231 (2015) 2253 (2015), and other relevant resolutions” (Ministerial Resolution 141/2023 Art. 7(2)). The granting this authority implies that discretion is provided to the CTC when a designation will be enforced in Kuwait.

This authority is accompanied by a mandated decision-making process for the CTC to take decisions to implement TFS in Kuwait. In practice, the CTC does not take any such decision. The CTC only forwards emails from the UN Committees to the supervisors of obliged entities. As there is no decision taken, and the CTC does not follow its own mandated decision-making process, there is no legal basis for TFS related to UNSCR 1267 and successor resolutions being implemented in Kuwait. Further, there is no temporal requirement for taking such decisions, which could compromise TFS being implemented without delay.

FIs and DNFBPs have a separate requirement to “implement Security Council Resolution 1267 (1999) immediately without delay” (Ministerial Resolution 141/2023 Art. 19(1)). This obligation is not specific enough in that it neither informs nor requires FIs and DNFBPs to implement TFS. This requirement calls on FIs and DNFBPs to implement UNSCR 1267, which only provides obligations to countries, not FIs or DNFBPs.

For domestic sanctions, Kuwait uses its National List, which is a list of individuals and entities where there are reasonable grounds to believe that they have committed, attempted, attempted to commit, participated in, facilitated or financed a terrorist act. Similar to international sanctions, the CTC is empowered to take decisions to list or de-list natural and legal persons from the list. The Ministerial Resolution does not provide any implication for being included in the National List (i.e., does not indicate that funds and other assets should be frozen upon inclusion on the National List). Kuwait has shared one decision for de-listing from the National List, and that decision only indicates that competent authorities should take the “necessary measures” and does not detail what those measures are. Accordingly, natural and legal persons are added or removed from the National List without delay and without prior notice; however, TFS are not applied when added to the list, nor are they applied as part of the decision to add the natural or legal person to the list. Thus, domestic TFS are not implemented without delay as there is no legal underpinning to their implementation.

Criterion 6.5 –

- a) Ministerial Resolution 141/2023 Art. 7 provides enabling legislation to allow the CTC to issue decisions to freeze the funds and assets of designated persons, organisations and entities, but is not a freezing requirement in itself. The decisions themselves do not provide legal basis for a requirement to freeze funds or other assets of designated persons and entities. Further, the parties required to implement these freezing measures are meant to be defined in the decisions of the CTC, but are not, so not all natural and legal persons are required to take freezing measures.
- b) Ministerial Resolution 141/2023 Art. 7(1) provides enabling legislation to allow the CTC to issue decisions to freeze the funds and assets of designated persons, organisations and entities, but is not a freezing requirement in itself. The Resolution provides the ability to apply freezing measures to proceeds generated from the funds of assets of designated persons, organisations and

entities (Art. 9). This enabling legislation providing the ability to take a decision and implement the obligation to freeze does not extend to funds and assets controlled by the designated person or entity, those funds or other assets that are jointly owned or controlled, directly or indirectly, by designated persons or entities, or funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

- c) It is prohibited for any person to make funds available or to provide financial or other related services, directly or indirectly, in whole or in partnership to or for a person, group or entity on the UNSC's counter-terrorism lists or the National List (Ministerial Resolution 141/2023 Art. 14). Kuwait does not make the National List public and thus this prohibition is limited for domestically designated natural and legal persons. This prohibition does not include legal persons. In addition, this does not cover the provision of economic resources or other assets. It also does not cover the provision for entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or at the direction of, designated persons or entities, unless licensed, authorised or otherwise notified in accordance with the relevant UNSCRs.
- d) The CTC has a website to communicate designations to obliged entities. The supervisors on the CTC must inform the obliged entities under their purview of any decisions of the CTC, but there is no requirement to do so immediately. In addition, they must issue necessary decisions to guide entities to comply with the decisions taken by the CTC (Ministerial Resolution 141/2023 Art. 19(3,5)). They have done so in practice.
- e) CBK and CMA supervised entities are required to report to their supervisor of freezing actions taken within 3 working days (no obligation exists for other sectors). All supervisors are required to report these actions to the CTC within another 5 working days (Ministerial Resolution 141/2023 Art. 19(4)). This obligation does not address the prohibition requirements of the UNSCRs or attempted transactions.
- f) Individuals are exempt from administrative responsibility when operating in good faith to freeze funds, to refuse to allow them to be disposed or to provide financial services in accordance with their responsibility (Ministerial Resolution 141/2023 Art. 15).

Criterion 6.6 –

- a) Any person, group or entity designated by a UN Sanctions Committee may submit a grievance to the Committee directly through their email (Ministerial Resolution 141/2023 Art. 22). This is not in line with the procedures adopted by the 1267/1989 Committee or the 1988 Committee.
- b) The CTC reviews the National List on an annual basis, except where there are circumstances requiring an ad hoc review, to determine whether there remain reasonable grounds to keep the name of a person, group or entity on the list. When there is no longer reasonable grounds to keep them on the list, they are de-listed without delay (Ministerial Resolution 141/2023 Art. 17(2,3)).

- c) Designees can submit a written request for de-listing to the CTC, which then has up to 30 days to take a decision. The CTC must inform the applicant via an official letter issued by the committee's chair of the decision it has taken regarding the de-listing request. In cases where an application has been rejected by the CTC or the CTC has not issued an explicit decision within 30 days following the receipt of a delisting request, the applicant has the right to file an appeal in front of the Kuwaiti Courts. This appeal must happen either within 60 days of receipt of the rejected decision or within sixty days from the date of expiration of the 30-day review period by the CTC (Ministerial Resolution 141/2023 Art. 18(1-3)).
- d) Designees under UNSCR 1988 can submit delisting requests to the respective UN Sanction Committee directly through their email (Ministerial Resolution 141/2023 Art. 22). This is insufficient and also not in line with the procedures of the Focal Point mechanism established under UNSCR 1730.
- e) Designees under UNSCR 1989 can submit delisting requests to the respective UN Sanction Committee directly through their email (Ministerial Resolution 141/2023 Art. 22). This is insufficient and also does not concern the United Nations Office of the Ombudsperson.
- f) There is no clear procedure to unfreeze funds related to false positives.
- g) FIs and DNFBPs are informed of de-listing from UN lists as the CTC website maintains an up-to-date listing for FIs and DNFBPs to consult. They are informed of de-listings from the National List via CTC email from their supervisor. There is no timeline for the CTC to take the decision to remove an entry from the National List other than the CTC's requirement to review the National List once per year to determine if sufficient grounds remain to keep the name of a person, group or entity on the National List (Ministerial Resolution 141/2023 Art. 17 (3)). Once a decision is taken to de-list a natural or legal person, it takes effect immediately and without prior notice. There is no clear guidance to FIs and DNFBPs on their obligations to hold funds and other assets subject to unfreezing.

Criterion 6.7 – Listed persons can submit a written request to the CTC to dispose of all or part of the frozen funds. Once a completed request is received, the CTC follows the procedures set out in UNSCR 1452 to decide on whether to grant the request (Ministerial Resolution 141/2023 Art. 16(1,2)).

Weighting and Conclusion

Kuwait's CTC is granted the authority to take decisions to implement TF TFS in Kuwait under a mandated decision-making process. However, the CTC has not taken such decisions, thus Kuwait does not have a legal basis for the implementation of TF TFS. The freezing and prohibition mechanisms are limited such that if TF TFS were to be implemented with a legal basis, they would have limited effect as they do not apply to all natural and legal persons and are limited in scope.

Recommendation 6 is rated not compliant.

Recommendation 7 – Targeted financial sanctions related to proliferation

This is a new Recommendation, which was not assessed in the 3rd round.

Criterion 7.1 – Kuwait established the CTC to take decisions to implement United Nations Security Council Resolutions under Chapter VII of the UN Charter related to the proliferation of WMD and its financing. The CTC is granted the authority for “Taking the necessary resolutions, procedures, and measures to freeze and seize all funds and assets and any other measures provided for in Chapter VII Security Council resolutions for persons, organisations, and entities included in the lists of the Security Council Sanctions Committee under Resolutions 1267 (1999) 1373 (2001) 1988 (2011) 1718 (2006) 2231 (2015) 2253 (2015), and other relevant resolutions” (Ministerial Resolution 141/2023 Art. 7(2)). The granting this authority implies that discretion is provided to the CTC when a designation will be enforced in Kuwait.

This authority is accompanied by a mandated decision-making process for the CTC to take decisions to implement TFS in Kuwait. In practice, the CTC does not take any such decision. The CTC only forwards emails from the UN Committees to the supervisors of obliged entities. As there is no decision taken, and the CTC does not follow its own mandated decision-making process, there is no legal basis for TFS related to UNSCR 1718 being implemented in Kuwait.

Criterion 7.2 –

- a) Ministerial Resolution 141/2023 Art. 7 provides enabling legislation to allow the CTC to issue decisions to freeze the funds and assets of designated persons, organisations and entities, but is not a freezing requirement in itself. The decisions themselves do not provide legal basis for a requirement to freeze funds or other assets of designated persons and entities. Further, the parties required to implement these freezing measures are meant to be defined in the decisions of the CTC, but are not, so not all natural and legal persons are required to take freezing measures.
- b) Ministerial Resolution 141/2023 Art. 7(1) provides enabling legislation to allow the CTC to issue decisions to freeze the funds and assets of designated persons, organisations and entities, but is not a freezing requirement in itself. The Resolution provides the ability to apply freezing measures to proceeds generated from the funds of assets of designated persons, organisations and entities (Art. 9). This enabling legislation providing the ability to take a decision and implement the obligation to freeze does not extend to funds and assets controlled by the designated person or entity, those funds or other assets that are jointly owned or controlled, directly or indirectly, by designated persons or entities, or funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.
- c) The prohibition identified in Ministerial Resolution 141/2023 Art. 14 does not apply to those listed under the relevant PF-related UNSCs as it only applies to “a person, group or entity on the National List and on the Security Council's counter-terrorism lists.
- d) The CTC has a website to communicate designations to obliged entities. The supervisors on the CTC must inform the obliged entities under their purview

of any decisions of the CTC, but there is no requirement to do so immediately. In addition, they must issue necessary decisions to guide entities to comply with the decisions taken by the CTC (Ministerial Resolution 141/2023 Art. 19(3,5)). This guidance has been provided in practice.

- e) CBK and CMA supervised entities are required to report to their supervisor of freezing actions taken within 3 working days (no obligation exists for other sectors). All supervisors are required to report these actions to the CTC within another 5 working days (Ministerial Resolution 141/2023 Art. 19(4)). This obligation does not address the prohibition requirements of the UNSCRs or attempted transactions.
- f) Individuals are exempt from administrative responsibility when operating in good faith to freeze funds, to refuse to allow them to be disposed or to provide financial services in accordance with their responsibility (Ministerial Resolution 141/2023 Art. 15).

Criterion 7.3 – FIs and DNFBPs must adopt procedures to comply with the provisions of the Ministerial Decision on the implementation of PF TFS (Ministerial Resolution 141/2023 Art. 24(1)). Supervisory authorities have the power to monitor FIs and DNFBPs and ensure compliance with their TFS obligations (Law 106/2013 Art. 14).

Supervisory authorities have the ability to impose sanctions on FIs and DNFBPs through their ability to impose sanctions on legal persons, their directors, board members, executive and supervisory management members for failure to comply with Ministerial Resolution 141/2023 (Ministerial Resolution 141/2023 Art. 24(2), Law 106/2013 Art. 15):

- Impose a fine on the violating financial institution not to exceed Dinars 500,000 (1,500,000 EUR) per violation.
- Ban individuals from employment within the relevant sectors for a period to be determined by the supervisory authority.
- Restrict the powers of directors, board members, executive or supervisory management members, and controlling owners, including appointing a temporary controller.
- Dismiss or replace the directors, members of the Board of Directors or of executive or supervisory management.
- Suspend, restrict or prohibit the continuation of the activity, business or profession.
- Revoke the license.
- Withdraw the license.

Criterion 7.4 –

- a) The CTC is empowered to mandate measures to comply with the relevant UNSCRs. Designees can submit delisting requests to the respective UN Sanction Committee directly through their email (Ministerial Resolution 141/2023 Art. 22, 23(1)). This is not in line with the procedures of the Focal Point mechanism established under UNSCR 1730.

- b) There is no clear procedure to unfreeze funds related to false positives.
- c) Designees under UNSCR 1718 can directly address the relevant Sanctions Committee with a request for authorization to dispose of all or part of their frozen funds. They can also approach the Chairman of the CTC, via the CTC, who will take the appropriate action to send such request to the relevant Sanctions Committee (Ministerial Resolution 141/2023 Art. 16(2)). This mechanism covers funds but not other assets.
- d) The CTC has a website to communicate designations to obliged entities. The supervisors on the CTC must inform the obliged entities under their purview of any decisions of the CTC, but there is no requirement to do so immediately. In addition, they must issue necessary decisions to guide entities to comply with the decisions taken by the CTC (Ministerial Resolution 141/2023 Art. 19(3,5))

Criterion 7.5 –

- a) Freezing measures extend to the proceeds from which said funds arise or are collected (Ministerial Resolution 141/2023 Art. 7(9)). This does not cover the full scope of the requirement and does not include the stipulation that the obligations or agreement from which these incremental funds arise arose prior to the date on which the funds became subject to freezing. There is no clear allowance for additions to accounts frozen pursuant to UNSCR 1718.

Weighting and Conclusion

Kuwait's CTC is granted the authority to take decisions to implement PF TFS in Kuwait under a mandated decision-making process. However, the CTC has not taken such decisions, thus Kuwait does not have a legal basis for the implementation of PF TFS. The freezing mechanism is limited and the prohibition does not apply to PF TFS such that if PF TFS were to be implemented with a legal basis, they would have limited effect.

Recommendation 7 is rated not compliant.

Recommendation 8 – Non-profit organisations

In its last MER, Kuwait was rated partially compliant with the requirements of former SR.VIII. outstanding deficiencies related to the absence of AML/CFT requirements for charities and associations, the absence of requirement to maintain records for five years, the lack of outreach to the NPO sector and the lack of effectiveness and dissuasiveness of the sanction regime for non-compliance with registration requirements.

Criterion 8.1 –

- a) Kuwait conducted a risk assessment of the Kuwaiti NPO sector as part of its second NRA. Kuwait identified professional associations, charitable associations and foundations (also called "Mabarrah") as the subset of organisations falling within the FATF definition of NPO. Kuwait only considers that charitable associations and foundations are at risk of TF abuse. As of 2020 (cut-off date for date used in the NPO risk assessment), they were 285 NPOs of which 147 were Professional Associations, 51 were Charities and 87 were Mabarrah. As of 2023,

there are 346 NPOs, of which 178 are Professional Associations, 78 are Charities and 90 are Mabarrah. Hence, Kuwait considers that there are 168 NPOs at risk of TF abuse (sum of Charities plus Mabarrah).

- b) To assess the level of TF risk to which charitable associations and foundations are exposed to, Kuwait assessed TF threats and vulnerabilities. The level of TF threat was measured focusing the assessment primarily on a single factor: jurisdictional risk related to the activities of the NPO. TF threats are only related to external factors hence they only apply for NPOs conducting operations outside of Kuwait, which is not in line with Kuwait's domestic TF risk profile. In addition, the jurisdictional risk is. Kuwait did not assess how terrorist actors can abuse those NPOs.
- c) MOSA, supervises NPOs in Kuwait. Kuwait has identified in its NRA II measures needed in order to take actions to address the risks related to NPOs in general and is in the process of implementing them. However, Kuwait did not assess the proportionality of such measures, nor it is applying a targeted approach to the subset of NPO that may be abused for TF support.
- d) MOSA carries out regular supervision activities, such as onsite and offsite supervision. However, it does not periodically reassess information on risks and vulnerabilities the NPO sector is exposed to ensure effective implementation of measures.

Criterion 8.2 –

- a) Kuwait, through MOSA, has policies to promote accountability, integrity and public confidence in the administration and management of NPOs. Ministerial Resolutions for charitable institutions (49/A/2015) and charitable societies (48/A/2015) and as set up a mechanism for overseeing the activities of NPOs (Ministerial Resolution 46A/2020), which include rules under which charities are formed, the way in which they may operate, the supervision and sanctions for failures to comply with requirements set in those Resolutions.
- b) Kuwait has undertaken outreach and delivered workshops and courses to raise and deepen awareness among NPOs and the donor community about the potential vulnerabilities of NPOs to TF.
- c) Kuwait has established a Committee for Inspection and Periodic Control of the Financial Activity of Charitable Societies and Philanthropic Associations (Administrative Decision 1471/A/2020), within its prerogative this Committee is responsible for liaising with charities and ensuring that charities are implementing procedures and instructions protecting them from TF abuse.
- d) NPOs receiving funds from abroad (Circular 4440/2018) and sending funds abroad (Circular 298/2018) are required to do so via regulated financial channels.

Criterion 8.3 – Kuwait is promoting a holistic supervision of the NPO sector which is not risk-based to NPOs at risk of TF abuse. Kuwait applies extensive regulatory measures, described below, which extend to the entire NPO sector.

MOSA supervises NPOs in Kuwait. There are established committees, such as the Committee of Readiness and Prepare for the Periodic Evaluation of the State of Kuwait (Administrative Resolution 5167/A/2019) in charge of proposing policies and mechanisms for Kuwait to be compliant with FATF Rec. 8 and the Committee for

Inspection and Periodic Control of the Financial Activity of Charitable Societies and philanthropic Associations (Administrative Resolution 1470/A/2020), in charge of supervising NPOs activities.

All NPOs need to be registered and licensed by MOSA and officially announced in the official gazette prior to being allowed to operate (Law 24/1962 Art. 3). In addition, there are burdensome licensing requirements for prospective NPOs, and significant ongoing burdens put on the normal charitable activities once in operation. The following are only examples of some of these requirements:

- i. The application for a new NPO must be made by a minimum of 50 founders for a charity and 10 founders for a Mabarrah. These individuals must provide their names, nationality, occupations, civil IDs, clean criminal records certificates, and phone numbers.
- ii. The prospective charity must have a minimum 500 square meters independent building with adequate parking for the charity. Prospective Mabarrahs must have a minimum 250 square meters independent building with a minimum of 20 parking spaces.
- iii. Prospective Mabarrahs must have a bank certificate reflecting 50,000KD (150,000 EUR) of initial capital.
- iv. Charities must be assessed to be providing a new benefit to society.
- v. NPOs are also required to maintain journals of their donations, incomes, and expenditures, as well as records of names of members and their paid subscriptions.
- vi. NPOs must report quarterly financial statements and present annual audited financial statements.
- vii. There must be criminal checks conducted for all workers and employees.
- viii. The FIU maintains direct oversight of the transactions conducted by all NPOs.
- ix. Charities cannot advertise charitable campaigns without written instructions from MOSA.
- x. All NPOs are subject to ongoing supervision both onsite and offsite. This supervision has significant coverage as there have been numerous years where the number of inspections was greater than the number of total charities in Kuwait showing that there were charities which received more than one inspection that year.

In addition, to send or receive funds from outside of Kuwait, charities must have the written approval of MOSA. The charity must submit a request to carry out financial transfers for the benefit of any external parties, and prior approval must be granted by MOSA, verifying the following:

- i. Existence of a contract between the Kuwaiti charity and the external party.
- ii. Documents supporting the use of the amount to be transferred (i.e., a statement of the names of the guarantees, a statement of the needy families, etc.).
- iii. That the charity is dealing with one of the external parties accredited by the humanitarian work system of the Kuwaiti Ministry of Foreign Affairs.

- iv. The transfer of funds to an identified bank account, approved by the Ministry of Foreign Affairs.
- v. Providing MOSA with a notice of the transfer within one week from the date of implementation of the transfer.

Criterion 8.4 –

- a) MOSA has the powers to monitor registration (Law 24/1962, Art. 3). Within MOSA, a Committee to follow-up Field Activity for Charitable work in Kuwait has been established (Administrative Decision 1470/A 2020) in charge of the supervision of NPOs.
- b) MOSA has both financial and administrative penalties that it can apply to NPOs, depending on the type of regulatory breach in question. MOSA can apply sanctions that are effective, proportionate and dissuasive. Administrative penalties include warning letters or license suspension (for 6 months) for collecting donation collection donations contraventions (Ministerial Resolution 128/2016, Art. 17). In addition, MOSA can issue fines not exceeding fifty dinars (approx. 160 USD), or dissolve NPOs in case they fail to fulfil their financial obligations or if they breach any other provision under Law 24/1962 (Art. 27(3), 27(4) and 31). MOSA can also appoint a temporary board of directors to assume the responsibilities of the elected board of directors instead of dissolving the “charitable institution or foundation if such action was in the interest of the members and social goals of the community (Law 24/1962 Art. 27). In cases of breaches of fundraising obligations, similar measures apply to charitable institutions and societies (Ministerial Resolutions 48/A and 49/A, 2015). However, such measures do not apply to persons acting on behalf of NPOs.

Criterion 8.5 –

- a) MOSA collaborates with the Ministry of Interior (MOI) regarding the licensing of NPOs, as any NPO seeking registration with MOSA needs to provide a certificate of non-objection of its establishers from the MOI (Law 24/1962 Art. 8). As a government agency, MOSA is also required to collaborate with the KwFIU upon its request (Law 106/2013 Art. 18). MOSA has established the Committee to Follow Up Field Activity of Charitable Work, with members including the CBK, Ministry of Awqaf and Islamic Affairs, MOCI, and the MOI to exchange information on NPOs.
- b) Kuwait has specific investigative expertise and capability to examine NPOs suspected of either being exploited or supporting terrorist activity.
- c) MOSA is keeping information, such as the name of the NPO, the location, objectives, fiscal information, the civil ID number and names of board of directors and senior management, and the NPO’s legal representatives, on every NPO registered in Kuwait (Law 24/1962, Art. 7). The PPO may order the MOSA to submit any information in its possession and MOSA cannot refuse to provide such information to the PPO (Law 17/1960, Art. 140-142). A mechanism for automated exchange of information between MOSA and other competent authorities is being implemented. Access to some information on the administration and management of particular NPOs is accessible to investigative authorities.

- d) MOSA is a full member of the CTC, as set out in of Ministerial Decision 141/2023 Art 2 and is required to provide information requested by the KwFIU (Law 106/2013 Art. 18) and by the PPO (Law 17/1960, Art. 140-142). However, Kuwait does not have mechanisms to ensure that information is shared among competent authorities on suspicious terrorism and TF activities by NPOs in order to take preventive or investigative action.

Criterion 8.6 – Kuwait has not identified points of contacts and procedures to respond to international requests for information regarding NPOs suspected of TF. KwFIU may, spontaneously or upon request, make its information available to any foreign authority upon reciprocity or mutual agreement (Law 106/2013 Art. 19). In addition, the PPO shall exchange international cooperation requests with competent foreign authorities (Law 106/2013 Art. 23). Through the KwFIU and the PPO, Kuwait can exchange information with foreign authorities on NPOs suspected of TF. The authorities reported that MOSA is in regular and direct contact with MOFA when it comes to communication regarding compliance with dealings between Kuwaiti charity organisations and NPOs abroad.

Weighting and Conclusion

Kuwait has several significant deficiencies in relation to the regulation of NPOs. The most significant shortcoming is that Kuwait applies a strict supervision of all NPOs which is not risk based. The measures applied against NPOs, both in terms of licensing process and conducting regular operation, are very stringent, especially but not limited to NPOs with an international remit. The nature of threats posed by terrorist entities to the NPOs at risk as well as how terrorist actors abuse those NPOs have been assessed on a basic level by considering geographic and demographic factors. Kuwait has undertaken some outreach and educational programmes to raise and deepen awareness among NPOs and the donor community about the potential vulnerabilities of NPOs to TF.

Recommendation 8 is rated partially compliant.

Recommendation 9 – Financial institution secrecy laws

In its last MER, Kuwait was rated largely compliant with the requirements of former R.4 as secrecy provisions of Kuwaiti law inhibit the free and direct international sharing of information outside consolidated supervision.

Criterion 9.1 – There are no financial secrecy laws that inhibit the implementation of AML/CFT measures in Kuwait.

Access to information by competent authorities

The general provision for supervisors to obtain information is set out in law (Law 106/2013 Art. 14 (1)-(2)).

KwFIU is able, on the basis of any report or information it has received, to require from any obliged entities any additional information it deems necessary to carry out its functions (Law 106/2013 Art.18). In addition, FIs and DNFBPs are bound to provide information and documents to the relevant competent authorities upon request. Secrecy is explicitly identified to not be a rationale for failure to provide this information (Ministerial Resolution 37/2013 Art.16).

The PPO can require any person to provide or submit to inspection of papers, effects or any other thing in relation to the crime they are investigating. FIs and DNFBPs are compelled to maintain records and ensure that such records are available to competent authorities (Law 106/2013 Art.11, Law 17/1960 Art. 77).

Sharing of information between competent authorities

Supervisors are able to share information with other competent authorities and any foreign authority concerned with combating ML/TF (Law 106/2013 Art. 14(5)). There are no FI secrecy laws that inhibit this sharing.

Sharing of information between FIs

There are no secrecy laws that restrict the sharing of information between FIs, where this is required by R.13, 16 or 17.

Weighting and Conclusion

All criteria are met.

Recommendation 9 is rated compliant.

Recommendation 10 – Customer due diligence

In its last MER, Kuwait was rated non-compliant with the requirements of former R.5, as there were deficiencies the timing for undertaking CDD measures, the identification and verification of some legal persons, the verification of natural persons purporting to act on behalf of certain type of legal persons, the identification and verification of beneficial owners and the conduct of ongoing due diligence on the business relationships, amongst other deficiencies.

Criterion 10.1 – FIs are explicitly prohibited from opening or maintaining accounts of unknown identity or in fictitious names. (Law 106/2013 2013 Art. 5(1)).

Criterion 10.2 – Law 106/2013 Art. 5(3) sets out the five circumstances when FIs are required to undertake CDD measures. FIs are required to undertake CDD measures:

- a) before or during opening an account or establishing a business relationship (Law 106/2013 Art. 5(3)(a)).
- b) before carrying out a single, or several transactions that are apparently linked, above a threshold or its foreign equivalent for a customer with whom a business relationship has not been established (Law 106/2013 Art. 5(3)(b)). This threshold has been set to 3,000 Dinars (approximately 10,000 USD) by Article 6 of the Executive Regulation No. (37/2013) (AML/CFT Regulation).
- c) before carrying out a domestic or international wire transfer for a customer (Law 106/2013 Art. 5(3)(c)).
- d) when there is a suspicion of ML or TF (Law 106/2013 Art. 5(3)(d)).
- e) when there are doubts about the veracity or adequacy of previously obtained customer identification data (Law 106/2013 Art. 5(3)(e)).

Criterion 10.3 – FIs are required to identify and verify the customer’s identity and verification must be done through reliable, independent sources (Law 106/2013 Art. 5(2)(a)). The definition of customer in the Law 106/2013 does not include a legal

arrangement. Trusts and similar legal arrangements cannot be established in Kuwait and trusts formed outside of Kuwait cannot be party to financial transactions within Kuwait. Waqfs can be created but are small in number and are generally created for narrow use cases. Banks and Exchange Companies, however, are required to identify and verify the customer's identity for both legal persons and legal arrangements (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art. 5(3)(b), CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 5(2)(b)).

Criterion 10.4 – Banks are required to identify and verify the identity of the person acting on behalf of the customer (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art. 5(3)(a)(4), 6(5)), but they have no requirement to verify that the person purporting to act on behalf of a customer is so authorised. Exchange companies have the requirement to identify and verify the identity of the person acting on behalf of the customer, and that the person is so authorised CBK Exchange Companies Instructions No. (2/ES/507/2023) Art. 5(2). Other FIs have no such requirement.

Criterion 10.5 – FIs are required to identify the beneficial owner and verify their identity; verification must be done through reliable, independent sources (Law 106/2013 Art. 5(2)(a)). The permissible list of reliable and independent sources is communicated sector-by-sector through supervisory guidance and law: CBK Bank Instructions No. (2/BS/IBS/507/2023) Art.5(3), CBK Financing Companies Instructions No. (2/FS/309/2013) Art. 3, CBK Exchange Companies Instructions No. (2/ES/507/2023) Art. 5(2), Resolution 57/2023 Art. 10 and 12, CMA Executive Bylaws on AML/CFT Module 16 Art. 3-8) and Ministerial Resolution 409 of 2013 Concerning Controls and Instructions Organising the Business of Exchange Companies and Institutions Art. 4(3). The definition of customer in Law 106/2013 only covers legal persons and not legal arrangements, thus this requirement does not apply to legal arrangements. Circulars provided to some obliged entities amends this definition and includes legal arrangements (Banks CBK Bank Instructions No. (2/BS/IBS/507/2023) Art.6(4), Financing Companies CBK Financing Companies Instructions No. (2/FS/309/2013) Art. VI(3), CBK Exchange Companies Instructions No. (2/ES/507/2023) Art. 6(3), Resolution 57/2023 Art 16). This does not include securities companies or currency exchange organisations.

Criterion 10.6 – FIs are required to understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship. (Law 106/2013 Art. 5(2)(b)).

Criterion 10.7 – FIs are required to conduct ongoing due diligence on business relationships. This includes:

- a) monitoring the business relationship on an ongoing basis and examining any transactions carried out to ensure they are consistent with their knowledge of the customer, commercial activities and risk profile, and where required, the source of funds. (Law 106/2013 Art. 5(2)(c))
- b) reviewing existing records and documents on an ongoing basis to ensure that any information collected is kept up-to-date and relevant. (Law 106/2013 Art. 5(11))

Criterion 10.8 – FIs are required to take CDD measures to understand the ownership and control structure of the customer (Law 106/2013 Art. 5(2)(d)). The definition of customer in Law 106/2013 only covers legal persons and not legal arrangements.

Circulars provided to some obliged entities amends this definition and includes legal arrangements (Banks CBK Bank Instructions No. (2/BS/IBS/507/2023) Art.6(4), Financing Companies CBK Financing Companies Instructions No. (2/FS/309/2013) Art. VI(3), CBK Exchange Companies Instructions No. (2/ES/507/2023) Art. 6(3), Resolution 38/2021 Art 31). This does not include securities companies or currency exchange organisations. Banks have a requirement to understand the nature of the customer's business (CBK Bank Instructions No. (2/BS/IBS/507/2023) Art.1(2/a). There is no requirement to understand the nature of the customer's business, only of the business relationship, for other FIs.

Criterion 10.9 – FIs are required to identify customers that are legal persons, but not legal arrangements. Some supervisors have issued circulars that apply this requirement to legal arrangements. FIs must verify their identity on the basis of documents, data or information from a reliable and independent source (Law 106/2013 Art. 5(a)). Kuwait requires the collection of the required information for all FIs (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.5(b)), (CBK Financing Companies Instructions No. 2/FS/309/2013 Art. 3), (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 5(b)), (Resolution 38/2021 Art. 19 and 20), (CMA By-law Module 16 Art. 3-8, 3-13).

This is not set out for currency exchange organisations.

Criterion 10.10 – FIs are required to identify beneficial owners of legal persons and verify their identity on the basis of documents, data or information from a reliable and independent source (Law 106/2013 Art. 5(a)). The ultimate beneficiary for legal persons in Kuwait is anyone who owns or has ultimate control of the legal person through shares or direct or indirect ownership of 25% or more of the legal person's capital or voting right (Ministerial Resolution 2/2023 Art. 5). The information required is set out in various legislative acts and guidance, and includes:

Banks – All requirements set out in a-c are met (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.6(4)).

Finance Companies – The identification, but not verification, of a natural person that owns or controls more than 50% of the legal entity, and those responsible for the management of the legal entity (CBK Financing Companies Instructions No. 2/FS/309/2013 Art. 6(a)).

Exchange Companies - All requirements set out in a-c are met (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 6(3)).

Insurance Companies - All requirements set out in a-c are met (Resolution 57/2023 Art. 16).

Securities companies – Requirements for a-b are satisfied, c is not (CMA By-law Module 16 Art. 3-6).

This is not set out for currency exchange organisations.

Criterion 10.11 – CDD requirements, including for beneficial ownership, set out in the Law 106/2013 do not apply to legal arrangements. This is amended in circulars for some sectors, but not for currency exchange organisations.

The requirement is set out in various legislative acts and guidance, and includes:

Banks – Banks shall verify the identity of the person acting on behalf of the customer, the custodian, the beneficiary, any other person entrusted with these functions or effective control (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.6(4), 6(5)). For Waqfs, this applies to each beneficiary, the founder and the Wakeel (administrator).

Finance Companies – Finance companies are required to identify the settlor, trustee, beneficiary and any person in similar positions, (CBK Financing Companies Instructions No. 2/FS/309/2013 Art. 6(4)(b)).

Exchange Companies – Exchange companies are required to identify the custodian and the beneficiary but are not required to identify the individuals with other relevant roles (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 6(3)).

Securities companies – Securities companies are required to identify the settlor, trustee, beneficiary and any person in similar positions (CMA By-law Module 16 Art. 33-6).

Insurance Companies – Insurance companies are required to identify the settlor, trustee, beneficiary and other people entrusted with similar roles (Resolution 38/2021 Art. 31(2)).

This is not set out for currency exchange organisations.

Criterion 10.12 – In relation to life insurance policies and other investment-related insurance policies, FIs are required to conduct CDD for the customer, beneficiary and beneficial owner immediately upon determining the identity of the beneficiary or beneficial owner as follows:

- a) Obtain the name of the beneficiary whether a natural or legal person or legal arrangement (Resolution 38/2021 Art. 20(1)).
- b) Obtain adequate information about the beneficiary to enable the supervised entities to verify the identification of beneficiary when paying the compensation, for a beneficiary designated in certain category such as spouse or children upon occurrence of the insured event or through other means such as will (Resolution 57/2023 Art. 12(2)).
- c) It is not clear if in both of the above cases, the verification of the beneficiary should occur at the time of payout.

Criterion 10.13 – FIs must consider the beneficiary of an insurance policy as a relevant risk factor. In the case a beneficiary of an insurance policy presents a higher risk, the FI must apply enhanced CDD measures and take reasonable measures to determine and verify the identity of beneficiary or beneficial owner at the time of payment (Resolution 57/2023 Art. 12(3)).

Criterion 10.14 – FIs are required to verify the identity of the customer and beneficial owner before or during the opening of an account or establishment of a business relationship, and before carrying out a transaction above KD 3,000 for a customer that has not established a business relationship (Law 106/2013 Art. 5(3)(a)-(b)). Each supervisor can prescribe circumstances in which an FI can delay the verification of a customer or beneficial owner after the establishment of a business relationship (Law 106/2013 Art. 5(4)). They have prescribed the following circumstances:

Banks – a-c are met (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.7(1)).

Finance Companies – a-c are met (CBK Financing Companies Instructions No. 2/FS/309/2013 Art. 7(1)).

Other FIs are not permitted to delay verification of the identity of the customer after the establishment of the business relationship in any circumstance.

Criterion 10.15 – FIs are required to adopt the following risk management procedures concerning the conditions under which a customer may establish a business relationship prior to verification:

Banks – Banks are required to implement a set of minimum procedures, such as verifying the customer within 90 days, a follow up for these accounts and determination of the number of transactions that the customer can execute, define the type of transactions that can be executed, and defining the maximum limit for the value of transactions (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.7(2)).

Finance Companies – Finance companies are required to put in place procedures to manage risk that should include a minimum set of measures such as a limitation on the number, type or value of transactions that can be performed (CBK Financing Companies Instructions No. 2/FS/309/2013 Art. 7(2)).

Criterion 10.16 – FIs are required to apply CDD measures for existing accounts and customers based on their materiality and risk, or as prescribed by supervisory authorities (Law 106/2013 Art. 5(10)). This requirement does not take into account whether and when CDD measures have previously been undertaken and the adequacy of the data obtained.

Criterion 10.17 – FIs must conduct enhanced due diligence measures where the risk of ML or TF is identified as higher (Law 106/2013 Art. 4(2)).

Criterion 10.18 – FIs may apply simplified due diligence measures where the ML/TF risk is lower, provided that there is no suspicion of ML or TF (Law 106/2013 Art. 4(2)). There is no general prohibition of simplified due diligence where specific higher risk scenarios apply, except for banks when effecting transactions where the customer's activity is associated with a business relationship in high-risk countries (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.11). The general allowance for simplified due diligence measures for FIs does not include any necessary qualification such as an adequate risk assessment having been done by Kuwait or the FI. Simplified due diligence requirements are further detailed only for banks and securities companies:

Banks – Banks are able to apply simplified due diligence procedures when they have assessed risk being low through a risk assessment study, and provided that they receive the prior approval of the CBK (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.11).

Securities companies – Securities companies are able to apply simplified measures on the basis of lower risk, however this lower risk does not need to be determined through an adequate analysis of the risks by the country or the investment company. (CMA Executive Bylaws on AML/CFT Module 16 Art. 3-14))

Criterion 10.19 – In situations where an FI is unable to complete CDD measures, they must:

- a) refrain from opening the account or commencing the business relationship or carrying out the transaction; or it shall terminate the business relationship (Law 106/2013 Art. 5(5)).
- b) consider filing an STR to the FIU (Law 106/2013 Art. 5(5)).

Criterion 10.20 – Where a bank has a suspicion of ML/TF and believes that performing the CDD process would tip-off the customer, the bank is permitted not to pursue the CDD process so long as they file an STR (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.8(2)).

No other FIs have such an ability to discontinue the CDD process to report an STR.

Weighting and Conclusion

Financial institutions are required to conduct customer due diligence in many situations; however, securities companies and currency exchange companies have lesser customer due diligence requirements than is required in the FATF Standards than other FIs. Deficiencies exist for all FIs in that legal arrangements are not part of the Kuwaiti defined term ‘customer’, and thus not subject to customer due diligence.

Recommendation 10 is rated largely compliant.

Recommendation 11 – Record-keeping

In its last MER, Kuwait was rated largely compliant with the previous R.10. There was no requirement for brokerage companies, insurance companies or exchange organisations to provide information on a timely basis to domestic competent authorities with appropriate authority.

Criterion 11.1 – FIs are required to maintain all records of transactions, both domestic and international, for a period of five years after the completion or attempt to make a transaction (Law 106/2013 Art. 11(1)(b)). Guidance to obliged entities sets out identical requirements, with the exception of insurance companies where they must keep the records for a period of ten years (Resolution 57/2023 Art. 26(2)).

Criterion 11.2 – FIs are required to maintain all records obtained through the CDD process, including documents demonstrating the identities of customers and beneficial owners, account files and business correspondence for at least five years after the business relationship has ended or after the date of the occasional transactions (Law 106/2013 Art. 11(1)(a)). Guidance to obliged entities sets out identical requirements, with the exception of insurance companies where they must keep the records for a period of ten years (Resolution 57/2023 Art. 26(1)). There are no requirements to keep records on analysis undertaken on the records obtained.

Criterion 11.3 – FIs are required to maintain transaction records that are sufficiently detailed to permit the reconstruction of each individual transaction (Law 106/2013 Art. 11(1)(b)).

Criterion 11.4 – FIs must maintain CDD information and transaction records and ensure that the records and underlying information are available to competent authorities (Law 106/2013 Art. 11(1)). FIs must certify and keep record of all

customer transactions in official records following a regular accounting system. All records and documents related to the transaction shall be kept and made available to the supervisory authorities, each within their own purview (Decision 37/2013 on Law 106/2013 Art. 13). There is no requirement for records to be made available swiftly, but on average, records are provided to supervisory authorities in two days.

Weighting and Conclusion

Financial institutions are required to maintain all records of transactions and CDD information. Minor deficiencies relating to the swift provision of information to competent authorities and maintaining a record of analysis undertaken on information obtained remain.

Recommendation 11 is rated largely compliant.

Recommendation 12 – Politically exposed persons

In its last MER, Kuwait was rated non-compliant with the requirements of former R.6. There were no measures in place addressing PEPs for most FIs.

Criterion 12.1 – A PEP is defined as any natural person who is or has been entrusted with a prominent public function in the State of Kuwait or a foreign country; or with a high-level management position in an international organisation, including family members. In addition to performing CDD, FIs are required to:

- a) Establish appropriate risk-management systems to determine whether a customer or beneficial owner is a foreign PEP (Law 106/2013 Art. 5(7)).
- b) Obtain approval from senior management before establishing or continuing a business relationship with a foreign PEP (Decision 37/2013 on Law 106/2013 Art. 7(1)(a)(i)).
- c) Take all reasonable measures to identify the source of wealth and funds (Decision 37/2013 on Law 106/2013 Art. 7(1)(a)(ii)). This does not include beneficial owners identified as PEPs.
- d) Apply enhanced ongoing monitoring of the business relationship (Decision 37/2013 on Law 106/2013 Art. 7(1)(a)(iii)).

Criterion 12.2 – For domestic PEPs and a person who is or has been entrusted with a prominent function in an international organisation:

- a) FIs shall, in addition to performing CDD, establish appropriate risk-management systems to determine whether a customer or beneficial owner is a domestic PEP or a person with a high-level management position in an international organisation (Law 106/2013 Art. 5(7)).
- b) The measures identified in Criterion 12.1(b)-(d) shall be applied whenever the FI determines the risk of ML/TF is high in relation to a domestic PEP or a person who is or has been entrusted with a prominent function in an international organisation (Decision 37/2013 on Law 106/2013 Art. 7(1)(b)).

Criterion 12.3 – The definition of PEP in the Law 106/2013 includes only family members, and not close associates. However, the Law 106/2013 definition provides its Executive Regulation with the ability to broaden the definition of PEP. The

Executive Regulation includes family members up to second degree and close associates (Decision 37/2013 on Law 106/2013 Art. 1(4)).

Criterion 12.4 – Insurance companies must take reasonable measures to determine whether a beneficiary or beneficial owner is a PEP. If the beneficiary or beneficial owner is a PEP, they shall notify senior management before exercising any rights related to insurance policies or paying compensation for the insurance policy related to protection and/or savings or the investment-related insurance policies; conduct a thorough inspection regarding the business relationship; and consider reporting suspicious transactions to the FIU (Resolution 57/2023 Art. 11, 12, 17).

Weighting and Conclusion

Financial institutions are required to apply the relevant measures beyond CDD with respect to both foreign and domestic PEPs, as well as their family members and close associates. There is a minor deficiency relating to the identification of source of funds and wealth for beneficial owners who are identified as foreign PEPs.

Recommendation 12 is rated largely compliant.

Recommendation 13 – Correspondent banking

In its last MER, Kuwait was rated partially compliant with the requirements of former R.7 as there were no requirements for banks, exchange companies, and securities companies to gather information about the respondent institution, and there being no requirement to document the respective AML/CFT obligations of each institution.

Criterion 13.1 – Before entering into a cross-border correspondent banking relationship or other similar relationship, in addition to performing normal customer due diligence measures, FIs shall:

- a) Gather sufficient information about the respondent institution, understand the nature of the respondent’s business, and evaluate the reputation of the respondent institution and the quality of supervision to which it is subject, including whether it has been subject to a ML/TF investigation or regulatory action. (Decision 37/2013 on Law 106/2013 Art. 9(1)(a)-(c))
- b) Evaluate the AML/CFT controls implemented by the respondent institution. (Decision 37/2013 on Law 106/2013 Art. 9(1)(d))
- c) Obtain approval from senior management before establishing new correspondent relationships. (Decision 37/2013 on Law 106/2013 Art. 9(1)(e))
- d) Clearly understand and document the respective AML/CFT responsibilities of each institution. (Decision 37/2013 on Law 106/2013 Art. 9(1)(f))

Criterion 13.2 – For payable-through accounts, banks, which are the only FI that are able to maintain PTAs, must satisfy themselves that:

- a) The respondent bank has applied CDD measures to its customers having direct access to the account. (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.16(3))
- b) The respondent bank can provide CDD information to the sender bank. (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.16(3))

Criterion 13.3 – FIs are prohibited from entering into or continuing a correspondent or business relationship with a shell bank. This prohibition also applies to correspondent financial institution in a foreign country that allows its accounts to be used by a shell bank. (Law 106/2013 Art. 8)

Weighting and Conclusion

All criteria are met.

Kuwait is rated compliant with Recommendation 13.

Recommendation 14 – Money or value transfer services

In its last MER, Kuwait was rated partially compliant with the requirements of former SR.VI. The same deficiencies identified in relation to other FIs applied to MVTs (i.e., CDD measures for BO and keeping CDD information up to date).

Criterion 14.1 – MVTs may only be provided by banks and exchange companies. Banks (Law 32/1968 Art. 59 (1)-(6)) and exchange companies (Handbook for Establishing Exchange Companies 1984 Art. 9) that provide MVTs have to be registered.

Criterion 14.2 – Kuwait takes some actions, such as monitoring social media, and inspections of other businesses to identify MVTs operating without a license. Banks and exchange companies operating without registration are subject to up to two years in prison and/or a KD 100,000 fine. In addition, the operating license of the business will be revoked. This applies to all banks, including those that are providing MVTs. (Law 32/1968 Art. 59(1)-(6), CBK Handbook on Exchange Companies Art. 9).

Criterion 14.3 – MVTs is one of the activities that will classify a natural or legal person to be an FI (Law 106/2013 Art.1). MVTs providers have all of the AML/CFT obligations of other FIs and are monitored by the CBK (Decision 37/2013 on Law 106/2013 Art. 1(5)).

Criterion 14.4 – (N/A) – MVTs providers in Kuwait are not able to use agents.

Criterion 14.5 – (N/A) – MVTs providers in Kuwait are not able to use agents.

Weighting and Conclusion

All criteria are met.

Kuwait is rated compliant with Recommendation 14.

Recommendation 15 – New technologies

In its last MER, Kuwait was rated non-compliant with the requirements of former R.8. Deficiencies included that there were no requirements for some FIs regarding the misuse of new technologies, and there were no requirements for all FIs to have policies and procedures in place to address any specific risks associated with non-face-to-face business relationships or transactions.

Criterion 15.1 – FIs in Kuwait shall assess their ML/TF risks, including new products or technologies (Law 106/2013 Art. 4(1)). This is specified further in the executive regulation, where FIs must identify and assess ML/TF risks that may arise from the development of new products and business practices including mechanical means to

provide new products and services and the use of new or advanced technologies for the provision of both new and existing products. (Decision 37/2013 on Law 106/2013 Art. 11(1)(a)-(b))

There is no process for Kuwait to identify and assess the ML/TF risks that may arise from the development of new technologies at the national level.

Criterion 15.2 –

- a) Banks are required to undertake risk assessments prior to the launch of new services and products (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.18). Exchange companies must undertake a risk assessment during the development of new products and services (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 1). Other FIs are required to conduct such as risk assessment, but not until after the new technology or service is deployed.
- b) Financial institutions must take appropriate measures regarding the ML/TF risks that arise from products, practices and technologies (Decision 37/2013 on Law 106/2013 Art. 11(1)).

Criterion 15.3 – In line with R.1, Kuwait has:

- a) Identified and assessed their ML/TF risks emerging from VA activities and the activities or operations of VASPs.
- b) Not taken a risk-based approach to ensure that measures to prevent or mitigate ML/TF are commensurate with the risks identified. Kuwait's risk assessment rated VASPs as having a medium-low level of ML/TF risk but implemented a prohibition of VASPs in Kuwait.
- c) VASPs are prohibited in Kuwait and this criterion does not apply.

Criterion 15.4 – VASPs are prohibited in Kuwait and this criterion does not apply.

Criterion 15.5 – All FIs are prohibited from carrying out VA and VASP activities. Any FI that conducts such activities are subject to the administrative sanctions identified in Kuwait AML/CFT Law (see R.35.1 for full list). All natural and legal persons are prohibited from using virtual assets as a payment instrument or means, using them as a means of investment or mine virtual assets. Kuwait has undertaken some limited activities to identify natural and legal persons conducting unlicensed VASP activity. MOCI has introduced an IT tool that identifies advertisements for such activities on social media so that they may conduct onsite inspections for unlicensed activities. CBK ensures that no FIs are conducting VASP activity through inspecting their balance sheets and other inquiries while conducting onsite supervision.

Criterion 15.6-15.10 – VASPs are prohibited in Kuwait and these criteria do not apply.

Criterion 15.11 – Kuwait is able to provide informal and formal international assistance in relation to ML, predicate offences and TF involving virtual assets. There is a limited legal basis for the provision of MLA (see R.37-39).

Weighting and Conclusion

Kuwait does not systematically identify and assess the ML/TF risks that may arise from the development of new technologies. Kuwait has conducted an assessment of ML/TF risk from VA/VASPs and banned VASPs from operating in Kuwait. Kuwait conducts limited activities to identify unlicensed VASP activities and has a limited legal basis for the provision of formal international cooperation.

Recommendation 15 is rated partially compliant.

Recommendation 16 – Wire transfers

In its last MER, Kuwait was rated largely compliant with the requirements of former SRVII. There was a lack of statistics regarding the application of sanctions for violations related to wire transfers, and it was unclear that sanctions issued by the Central Bank of Kuwait were effective.

Banks and exchange companies are the only FIs that can conduct MVTs activities.

Criterion 16.1 – FIs that engage in all cross-border wire transfers must include:

- a) The following required information: (Decision 37/2013 on Law 106/2013 Art. 10(1)(a)-(b)):
 - i. The full name of the originator.
 - ii. The originator account number where such an account is used to process the transaction. There is no requirement for a unique transaction reference number which permits traceability in the absence of an account in Law 106/2013.
 - iii. The originator's address and the customer's identification card number or their date and place of birth.
- b) The following required information:
 - i. The name of the beneficiary.
 - ii. The beneficiary account number where such an account is used to process the transaction.

Banks (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.17(1)) and exchange companies (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 14(1)) must maintain a unique identification number for each wire transfer.

Criterion 16.2 – Where there are several cross-border electronic remittances ordered by a single originator at a bank or exchange company, the bundled package of remittances must include the required and accurate information about the originator and full beneficiary information so that the remittances are fully traceable in the beneficiary country. The bank or exchange company must include the originator's account number or a unique remittance reference number (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.17(5)), CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 14(5).

Criterion 16.3 – There is no threshold in the Law 106/2013 for wire transfers.

Criterion 16.4 – There is no threshold in the Law 106/2013 for wire transfers.

Criterion 16.5 – FIs are required to include the information described in criterion 16.1(a) for domestic wire transfers (Decision 37/2013 on Law 106/2013 Art. 10(2)).

Criterion 16.6 – The information relating the electronic transfers should be made available by the ordering banks within three business days of receiving the request either from the beneficiary financial institution, CBK or KFIU (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.17(8)).

Criterion 16.7 – FIs are required to maintain all records of transactions, both domestic and international, for a period of at least five years after the transaction is attempted or completed. In addition, FIs must maintain all records obtained through the CDD process, including documents demonstrating the identities of customers and beneficial owners, account files and business correspondence for at least five years after the business relationship has ended or after the date of the occasional transactions (Law 106/2013 Art. 11(1)).

Criterion 16.8 – FIs are prohibited from executing a wire transfer if the requirements in 16.1-16.7 are not satisfied (Law 106/2013 Art. 9(1)).

Criterion 16.9 – For cross-border wire transfers, banks (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.17(7)) and exchange companies (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 14(6)) processing an intermediary element of payment chains should retain all wire transfer information including the originator and beneficiary information.

Criterion 16.10 – Where technical limitations prevent retaining the required originator or beneficiary information accompanying a cross-border wire transfer that should be attached to the related domestic wire transfer data, a record should be kept, for at least five years, by the receiving intermediary bank of all the information received from the ordering bank or another intermediary bank (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.17(10)). Exchange companies are required to retain all wire transfer information for an unspecified period of time when they act as an intermediary in a payment chain (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 14(6)).

Criterion 16.11 – FIs are required to take appropriate measures in order to monitor wire transfers for the purpose of detecting those which lack required originator or beneficiary information (Decision 37/2013 on Law 106/2013 Art. 10(3)).

Criterion 16.12 – Banks (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.17(10)) and exchange companies (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 14(8)) are required to have risk-based procedures for determining:

- a) Cases when to execute, reject, or suspend a wire transfer lacking required information of the originator or beneficiary information and consider reporting them to KwFIU.
- b) The appropriate follow-up that may include restricting or terminating the business relationships.

Criterion 16.13 – FIs are required to take appropriate measures to monitor wire transfers for the purpose of detecting those which lack required originator or beneficiary information (Decision 37/2013 on Law 106/2013 Art. 10(3)).

Criterion 16.14 – Banks (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.17(2)) and exchange companies (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 14(2)) are required to verify the identity of the beneficiary if the verification has not previously taken place, and this information shall be kept in the transaction’s supporting documents, which are subject to five years of retention.

Criterion 16.15 – Banks (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.17(10)) and exchange companies (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 14(8)) are required to have risk-based procedures for determining:

- a) Cases when to execute, reject, or suspend a wire transfer lacking required information of the originator or beneficiary and consider reporting them to KFIU.
- b) The appropriate follow-up that may include restricting or terminating the business relationships.

Criterion 16.16 – MVTs are provided in Kuwait only through banks and exchange companies. The compliance of banks and exchange companies with relevant requirements of R.16 have already been covered.

Criterion 16.17 –

- a) There is no requirement to take into account all information from both the ordering and beneficiary sides in order to determine whether an STR has to be filed.
- b) There is no requirement to file an STR in any country affected by the suspicious wire transfer and make relevant transaction information available to the Financial Intelligence Unit.

Criterion 16.18 – In the context of processing wire transfers, banks (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.17(4)) and exchange companies (CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 14(4)) must comply with all freezing requirements and prohibitions on dealing with designated persons, entities or groups as per UNSCRs under Chapter VII of the UN Charter relating to terrorism and TF.

Weighting and Conclusion

Financial institutions are required to record and transmit much of the required information for wire transfers. Deficiencies exist in that there is no requirement for the consideration of both sides of MVTs transactions when considering the submission of an STR. Furthermore, there is no requirement to file an STR in any country affected by the suspicious wire transfer and make relevant transaction information available to the Financial Intelligence Unit.

Recommendation 16 is rated largely compliant.

Recommendation 17 – Reliance on third parties

In its last MER, Kuwait was rated non-compliant with the requirements of former R.9. There was no legal and regulatory framework explicitly addressing the issue of FIs

relying on intermediaries or other third parties to perform elements of the CDD process.

Criterion 17.1 – FIs may rely on 3rd parties to perform some elements of the CDD process (Law 106/2013 5(12)) only if the arrangement is approved by the designated supervisory authority and the following conditions are met (Decision 37/2013 on Law 106/2013 Art. 15(1)):

- a) The FI can immediately obtain all required CDD information.
- b) The FI is satisfied that copies of identification data and other documents relating to CDD measures will be made available from the third party upon request and without delay.
- c) The FI is satisfied that the third party is regulated, supervised or monitored for and has measures in place for compliance with the CDD and record keeping requirements for FIs set out in Kuwaiti law.

The ultimate responsibility for customer identification and verification remains the FI relying on the third party (Decision 37/2013 on Law 106/2013 Art. 15(2)).

Criterion 17.2 – Kuwait does not have a mechanism to consider available information on the level of country risk in determining whether and/or how an entity in another country can be used for reliance.

Criterion 17.3 – Kuwaiti law does not specify under what circumstances relevant competent authorities may consider that the requirements of 17.1 and 17.2 are met for financial institutions that rely on a third party that is part of the same financial group.

Weighting and Conclusion

Financial institutions are permitted to rely on 3rd parties to perform certain elements of the CDD process (Law 106/2013 5(12)) only if the arrangement is approved by the designated supervisory authority and the required conditions are met; however, there is no requirement or mechanism, at the country level, to consider available information on the level of country risk when determining whether and/or how a third party in another country can be used for reliance.

Recommendation 17 is rated partially compliant.

Recommendation 18 – Internal controls and foreign branches and subsidiaries

In its last MER, Kuwait was rated partially compliant with former R.15 and non-compliant with R.22. Not all FIs were required to have AML programmes with adequate internal controls, including a compliance officer and an annual audit. Additionally, there are no requirements for FIs to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with requirements.

Criterion 18.1 – FIs shall:

- a) Establish compliance management arrangements, as well as designate a compliance officer at the senior management level (Law 106/2013 10(1)(a) and (e)).

- b) Put in place adequate screening procedures to ensure high standards when hiring employees (Law 106/2013 10(1)(a)).
- c) Implement an ongoing training program to ensure that employees are kept informed of all the aspects of the AML/CFT requirements, new developments, ML/TF techniques, methods and trends, and concerning due diligence measures and suspicious transaction reporting (Law 106/2013 10(1)(b)).
- d) Establish an independent audit function to verify compliance with the internal policies, procedures, systems and controls and to ensure that such measures are effective (Law 106/2013 10(1)(c)).

Only banks, finance companies, exchange companies and securities companies must implement these measures with regard to the size of the business (CBK Bank Instructions No. 2/BS/IBS/507/2023 Art.2, CBK Financing Companies Instructions No. 2/FS/309/2013 Art. 2(1), CBK Exchange Companies Instructions No. 2/ES/507/2023 Art. 2(2), CMA Executive Bylaws on AML/CFT Module 16 Art. 7). Banks and exchange companies must have risk-management systems in place that are responsive to risk, but these measures identified above do not have to consider the ML/TF risks of the business specifically.

Criterion 18.2 – Financial groups must implement internal policies, procedures, systems and controls to combat ML/TF which are applicable to all domestic and foreign branches and subsidiaries of their financial group (Decision 37/2013 on Law 106/2013 Art. 12(1)). They must apply all measures described in 18.1 (Law 106/2013 10(2)), as well as the following:

- a) Put in place mechanisms for the sharing with other members of the financial group of information obtained in conducting CDD activities and ML/TF risk management (Law 106/2013 10(1)(d)).
- b) Put in place mechanisms for the sharing of customer information gained through CDD and ML/TF risk functions with other financial group members. There is no requirement to share account or transaction information with other financial group members (Law 106/2013 10(1)(d)). There is no requirement to share account or transaction information outside of information gained from enhanced due diligence performed on all complex, unusual large transactions and all unusual patterns of transactions for which there are no clear economic or visible lawful purposes or objectives (Law 106/2013 5(8)).
- c) Put in place mechanisms to protect the confidentiality and use of exchanged information when sharing with other members of the financial group. Safeguards to prevent tipping-off are not included in this provision (Law 106/2013 10(1)(d)).

Article 10(1) of the Law 106/2013 obliges FIs to establish mechanisms for the sharing with other group members of information obtained for the purposes of CDD (Article 4) and ML/TF risk management (Article 5), and to protect the confidentiality and use of the information exchanged.

Exchange companies are unable to have branches or subsidiaries outside of Kuwait.

Criterion 18.3 – FIs must ensure that their foreign branches and subsidiaries apply only AML/CFT internal controls consistent with the Kuwait's requirements to the

extent that their host country laws permit. If the host country laws do not permit the full implementation of internal controls, FIs should implement appropriate additional measures to manage the ML/TF risks and inform the supervisory authority. If the additional measures are not sufficient, supervisory authorities should consider taking additional supervisory actions including additional controls on FIs or requiring them to cease operations in the host country, when appropriate (Decision 37/2013 on Law 106/2013 Art. 12(2)).

Weighting and Conclusion

While FIs are required to implement the necessary internal policies, procedures, and controls, only banks, finance companies, exchange companies and securities companies must implement these measures with regard to the size of the business, and these measures also do not have to consider the ML/TF risks of the business. There are also some deficiencies relating to the provision of account and transaction information, and safeguards to prevent tipping off with respect to group-wide programmes.

Recommendation 18 is rated partially compliant.

Recommendation 19 – Higher-risk countries

In its last MER, Kuwait was rated non-compliant with former R.21. There were no measures to ensure that FIs are advised of the weaknesses of the AML/CFT systems of other countries and there was no requirement for some FIs regarding transactions involving countries that insufficiently apply the FATF Recommendations.

Criterion 19.1 – The FIU shall identify high-risk countries and prescribe measures to be applied relating to such countries (Law 106/2013 Art. 17), but these don't necessarily have to be countries identified by the FATF. FIs shall apply enhanced due diligence measures to business relationships and transactions with persons or financial institutions from or in countries that are identified as high risk (Law 106/2013 Art. 5(9)). There is no requirement for enhanced due diligence measures to be applied proportionate to the risk.

Criterion 19.2 – The Executive Committee of the FIU can identify countries that it considers high-risk and prescribe measures to be applied in relation to those countries (Council of Ministers Resolution No. 1532/2013 Art. 9(d)). This obligation does not require that countermeasures are proportionate to the risks, and Kuwait does not have the requirement to act when called upon by the FATF.

Criterion 19.3 – The FIU and supervisors have, at times, shared information with FIs about the weaknesses in the AML/CFT systems of other countries. This has not been consistent or timely in all cases.

Weighting and Conclusion

Kuwait FIU identifies high-risk countries and prescribes measures to be applied in relation to these countries, but there is no requirement that enhanced due diligence measures and countermeasures be proportionate to the risks or that countermeasures be applied when called upon by the FATF. In addition, measures to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries have not been consistent.

Recommendation 19 is rated partially compliant.

Recommendation 20 – Reporting of suspicious transactions

In its last MER, Kuwait was rated non-compliant with the requirements of former Recommendation 13 and SR.IV. Outstanding deficiencies related to the absence of requirement in law that STRs be filed with the FIU, there was also no requirement to report attempted transactions. In addition, due to the lack of an autonomous TF offence, there was no obligation in law or regulation to make an STR when there were reasonable grounds to suspect that funds were related to TF. Since then, Kuwait adopted a new Law 106/2013 (Law 106/2013) requiring STR reporting.

Criterion 20.1 – Financial institutions are required to report “without delay” to the KwFIU any transaction if they suspect that such transaction involves proceeds of crime or funds related to ML/TF (Law 106/2013 Art. 12). In various circulars, the Central Bank (CBK) indicates respectively to Banks (Circular 2-BS-IBS-507-2023 Art. 21), Finance Companies (Circular 2-FS-309-2013 Art. 13) and Exchange Companies (Circular 2-ES-507-2023 Art.16) that the report of suspicious transaction should occur within no later than two working days (Ministerial Resolution 37/2013 Art. 16).

Criterion 20.2 – Financial institutions are required to report to the KwFIU any suspicious transaction or attempted transaction, regardless of the value (Law 106/2013 Art. 12). This is also indicated in the CBK instructions to Banks (Circular 2-BS-IBS-507-2023 Art. 21), Finance Companies (Circular 2-FS-309-2013 Art. 13) and Exchange Companies (Circular 2-ES-507-2023 Art. 16).

Weighting and Conclusion

All criteria are met.

Recommendation 20 is rated compliant.

Recommendation 21 – Tipping-off and confidentiality

In its last MER, Kuwait was rated partially compliant with former R14. Outstanding deficiencies related to the absence of a prohibition against banks, investment, insurance, brokage and exchange companies and organisations, their directors, officers, or employees from disclosing the fact that an STR or related information was provided to competent authorities (FIU and PPO).

Criterion 21.1 – FIs, their directors and employees are protected by law from penal, civil, disciplinary or administrative liability for breach of any restriction on disclosure of information imposed by contract or law if they report their suspicions in good faith to the KwFIU (Law 106/2013 Art.13). However, there is no reference that this protection is being provided regardless of whether an illegal activity has occurred or not, and regardless of their knowledge of the underlying criminal activity.

Criterion 21.2 – FIs, their directors and employees are prohibited by law (Law 106/2013 Art. 13) from disclosing to a customer or any other person any information related to an STR or any information related or to an ML/FT investigation. This is also indicated in the CBK instructions to Banks (Circular 2-BS-IBS-507-2023 Art. 21), Finance Companies (Circular 2-FS-309-2013 Art. 13) and Exchange Companies (Circular 2-ES-507-2023 Art. 16).

Weighting and Conclusion

Kuwait's legal framework protects FIs, directors and individuals when submitting information on STRs to the KwFIU. However, it is not clear that this protection is being provided regardless of whether an illegal activity has occurred or not, and regardless of knowledge of the underlying criminal activity.

Recommendation 21 is rated largely compliant.

Recommendation 22 – DNFBPs: Customer due diligence

Criterion 22.1 –

- a) Casinos cannot operate legally in Kuwait.
- b) Real estate agents are covered for AML/CFT purposes in all circumstances, not simply when they are involved in transactions for a client concerning the buying and selling of real estate (Law 106/2013 Art. 1). Real estate agents must perform CDD as set out in R.10 (Law 106/2013 Art. 5), however R.10.4, 10.9, 10.10 and 10.20 are not covered by the Law 106/2013 and its Executive Regulation, or by any real estate-specific instruction or otherwise.
- c) Sole proprietors and commercial companies dealing in gold, precious stones, and precious metals must perform CDD before or during the course of opening an account or establishing a business relationship with a customer or when engaging in any transactions above KD 3,000 as set out in R.10 (Law 106/2013 Art. 1,5, Decision 37/2013 on Law 106/2013 Art. 6), however R.10.4, 10.9, 10.10 and 10.20 are not covered by the Law 106/2013 and its Executive Regulation by any DPMS-specific instruction or otherwise.
- d) Lawyers, independent legal professionals and accountants are covered for AML/CFT purposes when they prepare, execute, or conduct transactions for customers in relation to some of the activities set out in the Methodology, including: purchase or sale of real estate, management of a customer's funds, including securities, bank accounts, and other assets, and creation, buying and selling of legal persons. Existing regulations do not cover certain activities undertaken by lawyers that fall within the scope of R.10, including when they prepare, execute or conduct transactions for customers in relation to the organisation of contributions for the creation, operation or management of companies, or operating or management of legal persons and arrangements (Law 106/2013 Art. 1).

Lawyers, independent legal professionals and accountants that are covered by Kuwait are required to conduct CDD as set out in R.10 (Law 106/2013 Art. 5), however R.10.4, 10.9, 10.10 and 10.20 are not covered by the Law 106/2013 and its Executive Regulation or by any industry-specific instruction or otherwise.

No lawyers, independent legal professionals and accountants in Kuwait conduct any of the activities specified in this recommendation in Kuwait, and thus, are not covered by this definition in Kuwait's AML/CFT Law.

- e) Lawyers are the only individuals that may conduct the activities of the TCSP sector. TCSPs (Law 106/2013 Art. 1) must conduct CDD as set out in R.10

(Law 106/2013 Art. 5), however R.10.4, 10.9, 10.10 and 10.20 are not covered by the Law 106/2013 and its Executive Regulation or by any industry-specific instruction or otherwise.

No lawyers or other TCSPs in Kuwait conduct any of the activities specified in this recommendation in Kuwait, and thus, are not covered by this definition in Kuwait's AML/CFT Law.

Criterion 22.2 – DNFBPs must comply with the record keeping requirements in R.11 (Law 106/2013 Art. 11, Decision 37/2013 on Law 106/2013 Art. 13). Minor deficiencies relating to the swift provision of information to competent authorities and maintaining a record of analysis undertaken on information obtained remain.

Criterion 22.3 – DNFBPs must comply with the PEP requirements set out in R.12 (Law 106/2013 Art. 5, Decision 37/2013 on Law 106/2013 Art. 1, 7). There is a minor deficiency relating to the identification of source of funds and wealth for beneficial owners who are identified as foreign PEPs.

Criterion 22.4 – DNFBPs must comply with the new technologies' requirements set out in R.15 (Law 106/2013 Art. 4(1), Decision 37/2013 on Law 106/2013 Art. 11(1)(a)-(b)). DNFBPs are required to conduct a risk assessment of new technologies and services, but not until after the new technology or service is deployed.

Criterion 22.5 – DNFBPs must comply with the same reliance on third party requirements set out in R.17 (Law 106/2013 Art. 5, Decision 37/2013 on Law 106/2013 Art. 15). DNFBPs are permitted to rely on 3rd parties to perform certain elements of the CDD process (Law 106/2013 5(12)) only if the arrangement is approved by the designated supervisory authority and the required conditions are met; however, there is no requirement or mechanism, at the country level, to consider available information on the level of country risk when determining whether and/or how a third party in another country can be used for reliance.

Weighting and Conclusion

Kuwait meets most requirements. Covered DNFBPs are required to comply with the CDD requirements set out in Recommendation 10 however requirements set out in R.10.4, 10.9, 10.10, and 10.20 are not covered. DNFBPs can rely on 3rd parties to perform CDD but there is no country mechanism to consider country risk for allowing such an arrangement. There are minor deficiencies in R.11, R.12 and R.15 requirements.

Recommendation 22 is rated largely compliant.

Recommendation 23 – DNFBPs: Other measures

In its last MER, Kuwait was rated non-compliant with former R.16. Deficiencies included no obligation to report to the FIU, no requirement regarding 'tipping off' when providing information to a competent authority and lack of some internal control requirements.

Criterion 23.1 – DNFBPs are subject to the same suspicious transaction reporting requirements as FIs (Law 106/2013 Art. 12, Decision 37/2013 on Law 106/2013 Art. 16).

Criterion 23.2 – DNFBPs are subject to the same internal controls requirements, and requirements regarding foreign branches and subsidiaries, as FIs (Law 106/2013 Art. 10, Decision 37/2013 on Law 106/2013 Art. 12). There are also some deficiencies relating to the provision of account and transaction information, and safeguards to prevent tipping off with respect to group-wide programmes.

Criterion 23.3 – DNFBPs are subject to the same requirements concerning high-risk countries as FIs (Law 106/2013 Art. 5(9), 17). Kuwait’s DNFBPs do not have the obligation that countermeasures are proportionate to the risks, and Kuwait’s DNFBPs do not have the requirement to act when called upon by the FATF.

Criterion 23.4 – DNFBPs are required to comply with the same tipping-off and confidentiality requirements as FIs (Law 106/2013 Art. 13). It is not clear that protection is being provided regardless of whether an illegal activity has occurred or not, and regardless of knowledge of the underlying criminal activity.

Weighting and Conclusion

DNFBPs are obliged to conduct most other measures. They are obliged to report STRs as required. There are some deficiencies such as in the application of internal controls relating to the provision of certain information. There are some deficiencies concerning high-risk countries such as the lack of requirement for countermeasures to be proportionate to the risks and not having the obligation to act when called upon by the FATF.

Recommendation 23 is rated largely compliant.

Recommendation 24 – Transparency and beneficial ownership of legal persons

In its 3rd round MER, Kuwait was rated NC with former R.33 as changes in ownership and control information of corporations were not kept up-to-date and there was an absence of adequate, accurate, and current information on corporations that could be obtained in a timely fashion by competent authorities.

Criterion 24.1 – The different types of legal persons that can be established in Kuwait and processes for establishing them are set out in the Promulgation of Company Law 2016 Art 4. The forms and basic features of these legal persons are also set out in this legislation (General Partnership Company (Art. 33), Limited Partnership Company (Art. 56), Partnership Limited by Shares (Art. 60), Joint Venture Company (Art.76), Professional Company (Art. 80), Single Person Company (Art. 85), Limited Liability Company (Art. 92), Public Shareholding Company (Art. 119), Closed Shareholding Company (Art. 234), Holding Company (Art. 243). The processes for obtaining and recording basic and beneficial ownership information is also set out in legislation (Promulgation of Company Law 2016; Ministerial Resolution 4/2023 Arts. 4-11). This information is also publicly available through the Kuwait Business Centre.

The ultimate beneficiary for legal persons in Kuwait is anyone who owns or has ultimate control of the legal person through shares or direct or indirect ownership of 25% or more of the legal person’s capital or voting right. Where a natural person with an ultimate controlling interest cannot be identified, the individual occupying the senior management official position is deemed the beneficiary (Ministerial Resolution

2/2023 Art. 5). Information on recording basic and beneficial ownership information is set out in detail in Ministerial Resolution 2/2023 Art. 5-8.

Criterion 24.2 – Kuwait has identified ML/TF risks associated with obliged entities creating legal persons but has not carried out a full assessment of the risks associated with different type of legal persons that can be created in the country. The NRA 2 assesses the risks posed by NPOs to some extent and identifies them as being medium risk of TF.

Criterion 24.3 – All Legal Persons in Kuwait must be licenced by or registered with Ministry of Commerce and Industry, which is responsible for registering new companies. Details of the basic information that must be provided to the MOCI Registrar are set out in Ministerial Resolution 4/23 Art. 4. This includes:

- name,
- legal form,
- articles of incorporation,
- the address of the main and registered office,
- the name and address of its legal representative in Kuwait (for foreign parties),
- memorandum of association or similar documents approved by the concerned authorities in the State,
- the names and identification of persons holding senior management positions,

There is no requirement to provide information on legal status. The information set out above is publicly available via the Kuwait Business Centre.

Criterion 24.4 – Legal persons must maintain the information required in 24.3, except for legal status. Any amendments to the data or information must be submitted to the Register within 15 days from the date of the amendment or modification (Ministerial Resolution 4/2023 Art. 14.2). Legal persons are required to maintain a register of shareholders and partners, which must include the number of shares held by each shareholder and category of shares (including the nature of associated voting rights (Ministerial Resolution 4/2023 Art. 10.1). Legal persons are also required to provide the name of a natural person residing in the country authorised to disclose to the Registrar all data and information required by relevant laws and regulations (Ministerial Resolution 4/2023 Art. 11.4).

Criterion 24.5 – Except for legal status, Kuwait requires legal persons to notify the Registrar of any changes to the legal person’s basic information (as well as confirm the details upon renewal of the license or registration) within 15 days of a change taking place (Ministerial Resolution 4/2023 Art. 11.3). If the legal person issues shares or allots stock options to its management, it must notify the Registrar within 15 days. Legal persons are also required to update the partners or shareholders record and the details of any quotas or shares issued and the identity of the persons and members of the management to the Registrar within 15 days of any modification (Ministerial Resolution 4/2023 Arts. 10, 11.5).

The Registrar is required to maintain the basic information and ensure its accuracy and make it available to the public (Ministerial Resolution 4/2023 Art 13.6). Furthermore, the Registrar is required to update basic information and the records

of partners or shareholders on an ongoing basis, based on information provided by the legal person (Ministerial Resolution 4/2023 Art 9).

Criterion 24.6 – Details of each beneficial owner (referred to as the ‘actual beneficiary’) must be kept in a record that the legal person creates within 60 days of the establishment of the legal person (Ministerial Resolution 4/2023 Art 8.1). The legal person should submit BO info to the Registrar within 60 days from the date of implementation of Ministerial Resolution 4/23 or from the date of licensing and registration of the legal person (Ministerial Resolution 4/2023 Art 11.1). These records should be updated and include any modification within 15 days of the change (Ministerial Resolution 4/2023 Art 8.1).

Legal person must take reasonable measures to obtain and maintain adequate, accurate and up-to-date information on the actual beneficiary (Ministerial Resolution 4/2023 Art. 6.1).

FIs and DNFBPs are required to identify and verify the identity of the customer and beneficial owner using reliable, independent source documents, data or information (Law No. 106/2013, Article 5(1)(a) and Ministerial Resolution No. (37/2013, Article 5).

Criterion 24.7 – Legal persons are required to take reasonable measures obtain and maintain adequate, accurate and up to date information on their beneficial owners (Law 106/2013 Art. 5(1)(a); Ministerial Resolution 37/2013 Art.5). Where such information changes, legal persons must update their registers within 15 days (Ministerial Resolution 4/2023 Art. 6.1). The Registrar shall obtain and update beneficial ownership information upon licensing or registering a legal person, and ensure accuracy of this information, and update this information on an ongoing basis based on information provided by the legal person (Ministerial Resolution 4/2023 Article 13.7 and 13.9).

Criterion 24.8 – Legal persons are required to provide to the Registrar the name of a natural person residing in the country who is authorised to provide to all required information on request. This includes beneficial ownership registers and basic information on the legal person (Ministerial Resolution 4/2023 Art. 11.4).

Criterion 24.9 – Legal persons, the person in charge of its business, the liquidator or others concerned with its dissolution are required to keep records and all information for at least (5) years from the date of its dissolution, liquidation, cancellation or other procedures that lead to terminate its legal existence (Ministerial Resolution 4/2023 Art. 11.7). In addition, the Registrar is also required to maintain all records received under Article 11.7 for at least 5 years from the date the legal person expires through dissolution, liquidation or other procedures leading to the termination of its legal existence (Ministerial Resolution 4/2023 Art. 13.8).

FIs are required to maintain all records obtained through the CDD process, including documents demonstrating the identities of customers and beneficial owners, account files and business correspondence for at least five years after the business relationship has ended or after the date of the occasional transactions (Law 106/2013 Art. 11(1)(a)).

Criterion 24.10 – The Registrar is required to update the basic and BO info, and the partners or shareholders record on an ongoing basis, based on the information provided by the legal person. (Ministerial Resolution 4/2023 Art 13.9, 15.1). Law

enforcement authorities including the MOI and PP have direct access to this information. KwFIU and other competent authorities can access the information on request. Requests are typically handled within two days.

Criterion 24.11 - Bearer shares and bearer share warrants are prohibited in Kuwait.

Criterion 24.12 - Nominal management members (i.e., nominee) are required to notify the legal person that he/she is a nominee. The nominee must inform the legal person of any modifications and cessation of nominee arrangement (Ministerial Resolution 4/2023 Art. 9.2, 9.3).

Any legal person who has one or more partners or shareholders acting as a trustee or as a nominal management member is required to record this info in the record of partners or shareholders (Ministerial Resolution 4/2023 Art. 10.2). The information recorded, should include information on the persons represented by each trustee or nominal management member (i.e., the nominator). The legal person is required to provide this information to the Registrar (Ministerial Resolution 4/2023 Art. 11.1). The Registrar is required to keep this information updated, based on info provided by the legal person (Ministerial Resolution 4/2023 Art 13.9).

Criterion 24.13 -

Dissuasive sanctions are available for FIs and DNFBPs that do not comply with Ministerial Resolution 4/2023. These sanctions can be applied to FIs or DNFBPs or any of their directors, board members, executive or supervisory management members. Measures include licence revocation, restricting individuals from working in a sector and a fine not exceeding 500,000 Kuwaiti Dinars (USD 1.6 million) (Law 106/2013 Art. 15). Apart from FIs and DNFBPs, there are no measures in place for other legal or natural persons that do not comply with Ministerial Resolution 4/2023.

Criterion 24.14 - The MOCI is required to provide cooperation to international authorities providing it is to:

- a) Facilitate access by the competent foreign authorities to the basic information available in the records of the legal person upon request.
- b) Exchange data and information about the partners or shareholders of the legal person.
- c) Use its authority to obtain all the information of the actual beneficiary on behalf of the foreign counterparts (Ministerial Resolution 4/2023 Art. 15.2).

Supervisory authorities have the powers and duties to cooperate and share information with other competent authorities or any foreign authority concerned with combating money laundering or terrorism financing, including basic and beneficial ownership information (Law 106/2013 Art. 14).

The KwFIU may, spontaneously or upon request, make its information available to any foreign authority upon reciprocity or mutual agreement on the basis of cooperation arrangements entered into between the unit and such foreign authority (Law 106/2013 Art. 14).

The PPO can exchange international cooperation requests with competent foreign authorities in criminal matters related to money laundering, predicate offences, or terrorism financing offences with respect to assistance, letters rogatory, extradition of suspects and convicted persons, and requests to identify, trace, freeze seize or

confiscate funds, all in accordance with the rules established under bilateral or multilateral agreements ratified by the State of Kuwait or in accordance with the principle of reciprocity (Law 106/2013 Art 22).

There are no requirements for any of the authorities to provide cooperation rapidly, but on average, PPO responds to international cooperation requests in three weeks.

Criterion 24.15 –

MOCI is required to supervise the quality of the implementation of international cooperation processes received from other countries with regard to requests to obtain basic and BO info of legal persons, and requests for international cooperation regarding knowing the whereabouts of the actual BO outside the country, in accordance with bilateral or multilateral agreements, or the principle of reciprocity (Ministerial Resolution 4/2023 Art. 15.3).

Weighting and Conclusion

Information on the establishment of legal persons in Kuwait is set out in legislation and publicly available. All legal persons must be registered by the MOCI Registrar. However, Kuwait has not undertaken a formal and comprehensive assessment of the risks associated with legal persons. In addition, legal persons are not required specifically to submit information on their legal status and there are no sanctions available to legal and natural persons, other than FIs and DNFBPs, that do not comply with the requirements on maintaining and updating beneficial ownership information. These are significant deficiencies and have been weighed accordingly.

Recommendation 24 is rated partially compliant.

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

Kuwait was not assessed against the previous requirements on transparency and BO of legal arrangements.

Kuwait legislation does not provide for the creation of trusts or other similar legal arrangements. However, Kuwait allows for the formation of Waqfs, which are trust-like legal arrangement allowing the separation of control and ownership of an asset. A Waqf is a Sharia based concept which involves funds being endowed into the legal ownership of an administrator – the Wakeel – to manage and administer the assets for the benefit of a certain class or type of beneficiary. The Kuwait Awqaf Public Foundation for endowments (also referred to as the Waqf Authority), is established under the Minister of Endowments and Islamic Affairs and is responsible for calling for endowments, managing and investing its funds and distributing its funds for the development of civil, cultural and social needs (Decree 257 (1993), Art. 1, 2).

Criterion 25.1 – A Wakeel is the designated person for supervising and managing the Waqf and thus assumes a role similar to that of a common law trustee in relation to express trusts. The Wakeel can either be the Kuwait Waqf Authority or a natural person. The endowment, in its general concept, is a Sharia-based concept that provides for the management of an endowment by a Wakeel, with the endower being comparable to the function of a settlor. To establish the Waqf, the Wakeel (in cases

where the Waqf Authority is not the Wakeel) with two witnesses must attend the MOJ and submit an application with the following information:

- Details on the Waqf assets, which in most cases are real estate, as well as documents verifying the endowers legal title to the assets. For the assets that are being put into the Waqf, a verification needs to be provided as well. For example, for deposits in a bank account, the certification of the bank needs to be provided; for real estate, an excerpt from the real estate register needs to be provided.
- The completed application form for the new Waqf.
- For the founder, the name, copy of his civil ID, nationality, date of birth, address.
- For the Wakeel: the name and a copy of the civil ID, which includes his/her nationality, date of birth, and address.
- For the two witnesses: their civil IDs and signatures.
- For the beneficiaries: A copy of their civil IDs in case where the beneficiaries are named rather than defined by class.

The MOJ is responsible for registering and collecting the information above for all Waqfs including those not established under the Waqf Authority.

Criterion 25.2 – In order to establish a Waqf, the endower needs to submit an application, along with a copy of the civil ID of the endower and overseer/wakeel, to the Ministry of Justice (MOJ). This information is held in the MOJ's Legal Authentications Department, including the application, copies of IDs/other official documents, endowment certifications, and notifications about the endowment to relevant authorities. For any changes to be legally effective, they must be notified to the MOJ. This includes changes to information on the Wakeel, the type of Waqf, or the beneficiary. There is no mechanism for this information to be 'kept accurate and as up to date as possible' and 'updated on a timely basis.'

Regarding the Awqaf Public Foundation, all files, data and documents related to any endowment are saved on the computer and archived administratively and kept in a special system in Awqaf Public Foundation (computerized system FedShari). Similar to the information held by MOJ discussed above, there is no requirement or mechanism for the information in FedShari is 'kept accurate and as up to date as possible' and 'updated on a timely basis.'

Criterion 25.3 – Financial institutions and some DNFBPs (see R.22) must identify and verify the identity of all natural or legal person or a legal arrangement in connection with combatting money laundering and finance of terrorism (Law 106/2013, Art, 4 and 5). This applies in the case of Waqfs. However, although the MOJ holds details of the wakeel/trustee of Waqfs, there is no specific requirement for a 'trustee' or wakeel to disclose their status to an FI/DNFBP as required by 25.3.

Criterion 25.4 –

There is no legal prohibition or restriction on Awqaf or other Waqf providing information about endowments to competent authorities, FIs and DNFBPs. The only requirement that applies is that the person requesting the information has a relationship with the Waqf (Law 78/2017. Art 21).

Criterion 25.5 –

The MOJ maintains paper-based files that document the above outlined information for every Waqf and contains copies of all the physical documents that were provided as part of the creation process. Any Waqf not registered with MOJ lacks legal validity.

Access to files maintained by the MOJ is granted to competent authorities upon request. No judicial order is required and requesting authorities do not need to substantiate the reasons for their request. The processing time for such requests usually is around two business days.

The Waqf Authority has an electronic system and database in which all information on the founder, the beneficiaries, and the Waqf assets are kept and available in a searchable format. The Waqf Authority is also directly connected with the database of the Civil ID authority, so any update to the information associated with the civil ID can be accessed by the Waqf authority on a real-time basis.

Access mechanisms to information held by the Waqf authority are the same as for the MOJ, with competent authorities being able to access information upon request, whereas third parties need to demonstrate a justified interest in the information they seek.

FIs and DNFBPs must maintain records, including beneficial ownership information, and ensure that such records and underlying information are available to competent authorities. This applies to legal arrangements including Waqfs (Law 106/2013, Art. 11).

Criterion 25.6 –

The PPO is responsible for handling requests for international cooperation with competent foreign authorities in criminal matters in the field of money laundering crimes, predicate crimes, or terrorist financing crimes in connection with assistance, judicial delegations, extradition of suspects and convicts, and requests related to identifying, tracing, freezing, seizing or confiscating funds, all in accordance with the rules established by the bilateral or multilateral agreements ratified by the State of Kuwait or in accordance with the principle of reciprocity (Law 106/2013 Art. 19).

The Kuwait FIU may exchange information with counterparts that can include financial and other information, including basic information and real beneficiary information received from financial institutions and other obliged entities in connection with the accounts held with them for legal persons (Law 106/2013 Art. 19).

There are no requirements for any of the authorities to provide cooperation rapidly.

The above provisions apply in relation to Waqfs.

Criterion 25.7 –

All wakeels in Kuwait are subject to oversight by the MOJ. If a wakeel fails to administer his duties in line with the law or the Waqf arrangement or the beholders wishes, he can be replaced by the court and be held accountable for any damage inflicted.

Criterion 25.8 –

Kuwait does not have specific dissuasive and proportionate powers for failing to grant competent authorities timely access to the legal arrangement referred to in 25.1.

Weighting and Conclusion

With the exception of Waqfs, Kuwait law does not permit the establishment of legal arrangements. Either MOJ or the Kuwait Awqaf Public Foundation, depending on the type of Waqf, hold information on Waqfs and can grant competent authorities access to this information; however, there is no mechanism for this information to be ‘kept accurate and as up to date as possible’ and ‘updated on a timely basis.’ There are also deficiencies in relation to providing cooperation rapidly, ‘trustees’ disclosing their status to an FI/DNFBP and being legally liable for failure to perform the duties relevant to meet their obligations, and sanctions for failing to provide information under 25.1. These deficiencies are weighted less heavily, however, on the basis of risk, context, and materiality.

Recommendation 25 is rated largely compliant.

Recommendation 26 – Regulation and supervision of financial institutions

In its last MER, Kuwait was rated largely compliant with former R.23. There were deficiencies related to the ‘fit and proper’ testing, and no supervision of brokerage companies for compliance with AML/CFT obligations.

Criterion 26.1 – CBK, CMA, MOCI and IRU are designated to regulate, supervise and monitor compliance with the requirements in the Law 106/2013, its Executive Regulation, and any relevant Ministerial decisions or instructions (Executive Regulation 106/2013 Art. 1, 14, Executive Regulation 125/2019).

Criterion 26.2 – All companies in Kuwait must be licensed (Commercial Licensing Law No. 111 of 2013 Art.1) and thus all Core Principles institutions are required to be licensed:

- Banks must be licensed to operate in Kuwait (Law 32/1968 Art. 59).
- Securities companies must be licensed to operate in Kuwait (CMA Executive Bylaws Module 5 Art. 1-3).
- Insurance Companies must be licensed to operate in Kuwait (Law 125/2019 Art.4, 26).

Other FIs must be either licensed or registered:

- Finance Companies must be licensed to operate in Kuwait (Ministerial Resolution 38/2011 Art. 5, 8).
- Currency Exchange Companies must be licensed to operate in Kuwait (Law 111/2013 Art. 1).
- Exchange Companies must be licensed to operate in Kuwait (Ministerial Resolution Subjecting the Exchange Companies to the Supervision of the Central Bank of Kuwait Art. 9 in the Handbook for Establishing Exchange Companies).

Kuwait prohibits the establishment or operation of shell banks (Law 106/2013 Art. 8).

Criterion 26.3 – – The measures are sector -specific:

- Banks – No individual or legal person is able to hold more than 5% of the capital of a bank (Law 32/1968 Art. 57 Para. 2). An individual is unable to act as a member of the bank’s board or be in charge of the executive staff if they have been found guilty of an offence involving dishonesty or breach of trust (Law 32/1968 Art. 68). Banks are unable to appoint any employee or member of the board that have been suspected or convicted in crimes of fraud, dishonesty and other similar crimes (CBK Instruction for Banks, Clause 25, para. 3d and 4). There is no general prohibition on criminals being appointed to the management function of a bank. The definition of criminal, i.e., a person found guilty of an offence involving dishonesty or breach of trust, is an incomplete definition.
- Securities companies – Prospective members of the board, as well as 22 designated positions such as executives and members of an entities’ control mechanism, are asked if they have been convicted of a crime involving a breach of trust or related to ML/TF or any other financial crime when making an application to be a registered person within an investment company (CMA By-Law Chap. 5). This declaration is not verified, nor does this include those holding a significant or controlling interest or beneficial owners. The definition of criminal, i.e., a person found guilty of breach of trust or related to ML/TF or any other financial crime, is an incomplete definition.
- Insurance Companies – The natural persons who established an insurance company must declare that no judgements have been issued against them in the past five years regarding a crime against honour or trust (Executive Regulations of Law No (125) of the year 2019, Art. 70 (3)). In applying for a license to conduct insurance activities, individuals must submit a criminal status record as part of their application (Resolution No. (14) of 2022, Exhibit N. 3). This does not include those holding a significant or controlling interest or beneficial owners. The definition of criminal, i.e., a person found guilty in the past 5 years regarding a crime against honour or trust, is an incomplete definition.
- Finance Companies – Employees of finance companies must not have been charged or convicted with offences related to fraud, dishonesty or other similar offenses (CBK Instruction 2/FS/309/2013 for Finance Companies Clause 15, para. 9). This does not include those holding a significant or controlling interest or beneficial owners. The definition of criminal, i.e., a person charged or convicted of offences related to fraud, dishonesty or other similar offenses, is an incomplete definition.
- Currency Exchange Companies – MOCI will not issue a business license to a currency exchange company if the individual applicant has been convicted of a “bankruptcy crime by fraud, commercial fraud, theft, fraud or treason” (Article 4 of the Licensing Law N111/2013). This does not include those holding a significant or controlling interest or beneficial owners, nor does it apply to individuals holding a management function. The definition of

criminal, i.e., a person convicted of bankruptcy crime by fraud, commercial fraud, theft, fraud or treason, is an incomplete definition.

- Exchange Companies – CBK requires that new internal auditors, compliance officers and deputy general managers provide a criminal record check as part of their application for these positions. In addition, partners, persons nominated to manage companies and board members (if relevant) must also provide a criminal record check to ensure that they haven't been sentenced to a crime of honour and fidelity as defined in the Penal Code The Rules and Regulations approved by CBK's Board of Directors in its Meeting held on 21/10/2014, as amended on 23/12/2014, concerning Establishment of Foreign Exchange Companies). This does not include those holding a significant or controlling interest or beneficial owners, nor does it apply to all individuals holding a management function. The definition of criminal, i.e., a person convicted of crime of honour or fidelity, is an incomplete definition.

Criterion 26.4 –

- a) Kuwait's Financial Sector Assessment Program (FSAP) report was conducted in 2019. The FSAP noted that CBK's supervisory approach for banks could be further refined to better assess the risk profile of banks, strengthen consolidated supervision, and enhance cross-border supervision. Since the FSAP, the CBK has improved their risk profiling of all supervised entities (see below) and strengthened the quality of its supervisory approach.

Further, it indicated that the CMA supervisory approach is effective but could be strengthened and would benefit from moving to an enhanced risk-based approach. Lastly, the report suggested enhancing the visibility of the regulatory and supervisory function of the insurance industry to develop effective supervisory process²⁴.

- b) Other FIs are subject to supervision considering the ML/TF risks in the sector.

Criterion 26.5 –

CBK conducts their supervisory activities on the basis of the required characteristics and risks.

CMA conducts their supervisory activities on the basis of the required characteristics and risks.

MOCI remains in the process of developing its risk-based supervision framework.

IRU, being a new supervisor, has not yet begun onsite and offsite supervisory activities. IRU is creating the foundation to conducting supervisory activities on the basis of the required characteristics and risks but has not yet conducted supervisory activities.

Criterion 26.6 – Those FIs under the purview of CBK and CMA are required to provide an annual data submission to their regulator. The CBK and CMA use this information to review the risk profiles of the FIs on an annual basis. IRU and MOCI

www.imf.org/en/Publications/CR/Issues/2019/04/02/Kuwait-Financial-System-Stability-Assessment-46730

conduct similar activities, but they are not calendarised in an annual period. There is no requirement to consider FIs' AML/CFT risk profile when there are major events or developments.

Weighting and Conclusion

Kuwait has designated supervisors with the responsibility for regulating and supervising financial institutions' compliance with AML/CFT requirements. All financial institutions are required to be licensed, and there is a prohibition on the establishment or operation of shell banks. There remain, however, deficiencies with respect to 'fit and proper' testing: the measures vary across sectors, have incomplete definitions of a criminal and do not consistently cover beneficial owners. In addition, only 2/4 supervisors apply a risk-based approach to supervision, there are some gaps in how frequently some supervisors review their assessments, and there is no requirement for supervisors to consider FIs' AML/CFT risk profile when there are major events or developments.

Recommendation 26 is rated partially compliant.

Recommendation 27 – Powers of supervisors

In its last MER, Kuwait was rated non-compliant with former R.29. Deficiencies related to MOCI's ability to ensure compliance by the insurance companies and the exchange organisations, and that sanctions available and applied were not appropriate.

Criterion 27.1 – All supervisory authorities, including CBK, CMA, MOCI and IRU, have the powers to regulate, supervise and monitor FIs for their AML/CFT obligations (Law 106/2013 Art. 14, Decision 37/2013 on Law 106/2013 Art. 1).

Criterion 27.2 – Supervisory authorities have the authority to conduct on-site inspections of FIs (Law 106/2013 Art. 14 (1)).

Criterion 27.3 – Supervisory authorities have the authority to compel FIs to produce any information, and copies of documents and files (Law 106/2013 Art. 14 (2)).

Criterion 27.4 – Supervisory authorities have the authority to apply measures and impose sanctions against FIs for non-compliance with the Law 106/2013 (Law 106/2013 Art. 14 (3)). Supervisory authorities can impose a wide range of measures and sanctions on an FI, its directors, board members, or executive or supervisory management for failure to comply with the Law 106/2013, its Executive Regulation and Ministerial decisions/instructions, including suspension of the FI's activity, and revocation or withdrawal of the FI's license (Law 106/2013 Art. 15).

Weighting and Conclusion

All criteria are met.

Recommendation 27 is rated compliant.

Recommendation 28 – Regulation and supervision of DNFBPs

In its last MER, Kuwait was rated non-compliant with former R.24. There was no clear legal framework for monitoring and ensuring compliance of real estate agents or dealers in precious metals and stones, and all DNFBPs were not subject to effective systems for ensuring compliance.

Criterion 28.1 – Casinos are prohibited in Kuwait by law under (Penal Code Law No. 16/1960 Art. 205).

Criterion 28.2 & 28.3 – The following institutions are responsible for the supervision of AML/CFT compliance of the obliged DNFBPs other than casinos (Decision 37/2013 on Law 106/2013 Art. 1(5)):

- Ministry of Commerce and Industry – Real estate agents and dealers in precious metals and stones.

Criterion 28.4 –

- MOCI has adequate powers to perform their functions, including to conduct on-site examinations and to compel information from obliged entities (Law 106/2013 Art. 14).
- MOCI will not issue a business license to real estate agents or dealers in precious metals and stones if the applicant has been convicted of a “bankruptcy crime by fraud, commercial fraud, theft, fraud or treason” (Licensing Law N111/2013 Art.4). This does not address those holding a significant or controlling interest (or beneficial owners) or those in management positions.
- MOCI has the authority to apply measures and impose sanctions against DNFBPs for non-compliance with the Law 106/2013 (Law 106/2013 Art. 14 (3)). Supervisory authorities can impose a wide range of measures and sanctions on a DNFBP, its directors, board members, or executive or supervisory management for failure to comply with the Law 106/2013, its Executive Regulation and Ministerial decisions/instructions (Law 106/2013 Art. 15).

Criterion 28.5 –

MOCI remains in the process of developing its risk-based supervision framework.

Weighting and Conclusion

Kuwait has assigned MOCI to supervise obliged DNFBPs. MOCI has the powers to perform its duties. In addition, MOCI, in its capacity as business register, will not issue a business license to real estate agents, and dealers in precious metals and stones if the applicant has been convicted of a small subset of crimes but this does not cover all crimes and does not cover holding a significant or controlling interest (or BO). MOCI remains in the process of developing its risk-based supervision framework.

Recommendation 28 is rated partially compliant.

Recommendation 29 - Financial intelligence units

In its last MER, Kuwait was rated non-compliant with former R.26, due to the absence of a clear legal basis for establishing the KwFIU and providing it with its powers and functions.

Criterion 29.1 –

The KwFIU is an independent agency responsible for receiving and analysing information concerning suspected proceeds of crime or funds related, linked or to be used for ML or TF (Law 24/2016 Art. 1 and Ministerial Resolution 1532/2013). The definition of “proceeds of crime” covers all funds – any kind of assets or property – obtained directly or indirectly through the commission of a predicate offence (Law 106/2013 Art.1). Virtual assets are also covered in Kuwait’s definition of funds which relates to “any kind of assets or property (...) including electronic or digital form” (Law 106/2013 Art. 1).

Criterion 29.2 –

The KwFIU serves as the central agency for the receipt of disclosures filed by obliged entities, including:

- (a) STRs filed by financial institutions and DNFBPs, as required by R.20 and R.23 (Law 106/2013 Art.12).
- (b) The KwFIU does not receive any other information except transaction or attempted transaction information involving proceeds of crimes or funds linked to ML or TF. For cross-border cash disclosures, the KwFIU has access to such information only upon request (Law No. 106/2013 Art. 20).

Criterion 29.3 –

The KwFIU:

- (a) is able, on the basis of any report or information it has received, to require from any obliged entities any additional information it deems necessary to carry out its functions (Law 106/2013 Art.18). In addition, obliged entities must provide any relevant information or copies of documents or files, however stored, requested by the KwFIU and within the timeframe prescribed by the KwFIU (Ministerial Resolution 37/2013 Art.16).
- (b) is able, on the basis of any report or information it has received, to obtain without delay from competent authorities and other public bodies any information it deems necessary to carry out its functions (Law 106/2013 Art.18).

Criterion 29.4 –

- (a) The KwFIU has the mandate to conduct operational analysis on available and obtainable information concerning suspected proceeds of crime, including all predicate offences, or funds related to ML or TF. However, it is unclear that the analysis is making links between targets to follow the trail of particular activities or transactions, and to determines links between those targets and possible proceeds of crime, ML, predicate offences and TF (Law 106/2013 Art.16).
- (b) The KwFIU has the responsibility to conduct strategic analysis (KwFIU Work Procedures Manual for Financial Analysis Department 2023-2024).

Criterion 29.5 – The KwFIU is responsible for disseminating information concerning suspected proceeds of crime, including all predicate offences, or funds related to ML or TF. This requirement applies whenever the KwFIU has reasonable grounds to suspect that funds are proceeds of crime or related to ML/TF (Law 106/2013 Art.19). In addition, the KwFIU can disseminate information to the MOI and the Customs Administration on request (MoU 2018). In addition, the KwFIU does not use dedicated, secure and protected channels for the dissemination.

Criterion 29.6 –

- (a) The KwFIU is required to establish and operate a secure database including all information related to STRs and other relevant information (Ministerial Resolution 1532/2013 Art.13). KwFIU staff are forbidden from disclosing any information in relation to their duties at the KwFIU (Law 106/2013 Art.16) from accessing any information they have not been granted the right to (Internal Circular 11/2016), from archiving documents in places other than those designated for achieving them (Internal Circular 05/2015). KwFIU employees are also prohibited from divulging any information that falls within their scope of work, to keep copies of any document related to KwFIU's work, and to store documents in other places than the one they have been assigned to (Administrative Resolution IU/19/2015).
- (b) KwFIU employees are forbidden from disclosing any information in relation to their duties at the KwFIU, even after cessation of those duties within the KwFIU (Law 106/2013 Art. 16). KwFIU employees are also forbidden to access any information they have not been granted the right to, or to access KwFIU information through their personal devices, (Internal Circular 11/2016). KwFIU also has clear security clearance processes and procedures on preserving the confidentiality of information (Administrative Resolution IU/36/2022).
- (c) KwFIU ensures limited access to its IT system through its secure database (Ministerial Resolution 1532/2013) and by preventing its employees from accessing information they are not authorised to, from carrying personal devices to official meetings, from taking pictures or recording videos inside the KwFIU premises and using social media or any application that may identify KwFIU's premises (Internal Circulars 2015/2016). KwFIU also ensures limited access to its facilities.

Criterion 29.7 –

- (a) The KwFIU is an independent legal person, under the oversight of the Minister of Finance, with financial and administrative independence and the full authority in making decisions upon issues within the scope of its responsibilities (Ministerial Resolution 1532/2013 Art. 5). The KwFIU's Chairman and his/her deputy are appointed by decree upon their nomination by the Minister of Finance and approval of the Cabinet for a mandate of four years renewable once (Ministerial Resolution 1532/2013 Art.2). The KwFIU has a budget drafted by its Chairman, which is included under a special item of the State Public Budget (Law 106/2013 Art.16).
- (b) The KwFIU, whenever it has reasonable grounds to suspect that funds are proceeds of crime, including all predicate offences, or related to ML or TF, is required to notify the PPO and forward the relevant information to competent

authorities (Law 106/2013 Art.19). The KwFIU can also, spontaneously or upon request, make its information available to any foreign authority upon reciprocity or mutual agreement between the KwFIU and the foreign authority (Law 106/2013 Art.19).

- (c) The KwFIU is not located within the existing structure of another authority.
- (d) The KwFIU has a budget drafted by its Chairman which is included under a special item of the State Public Budget (Law 106/2013 Art.16). The KwFIU has financial and administrative independence (Ministerial Resolution 1532/2013 Art.5).

Criterion 29.8 –

The KwFIU has been a Member of the Egmont Group since 2017.

Weighting and Conclusion

Kuwait's legal framework meets the requirements of R.29 to some extent. However, the KwFIU does not receive information except for transaction or attempted transaction involving proceeds of crimes or funds linked to ML or TF and access to the KwFIU facilities is not limited.

Recommendation 29 is rated largely compliant.

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

In its last MER, Kuwait was rated partially compliant with the requirements of former R.27. Outstanding deficiencies related to the lack of adequate investigation and prosecution of ML cases and there was no legal basis for investigating TF.

Criterion 30.1 – The PPO has the exclusive authority to investigate ML, associated predicate offences, and TF (Law 106/2013 Art.21). Within the PPO, the Public Funds and Anti-Money Laundering Prosecution is in charge of investigating ML, associated predicate offences, and TF (Decision 47/2021). All prosecutors at the PPO are authorised by law to pursue the investigation of any offence (Law 17/1960 Art. 9).

Other LEAs have the power to identify, detect and conduct preliminary inquiries into ML/TF and associated predicate offences, those are the MOI, Nazaha and GAC.

Under the jurisdiction of the PPO, Nazaha, the MOI and GAC have responsibility for ensuring that ML and associated predicate offences are properly investigated. In Kuwait, the Ministry of Interior is in charge of conducting inquiries and gathering evidence for all crimes (Law 17/1960, Art. 39-42).

Nazaha has the responsibility to gather evidence regarding any suspicion of a corruption crime that it becomes aware of. For that purpose, Nazaha may access the records, papers and documents related to such crime and decide to refer the case to the competent judicial bodies (Law 2/2016, art. 24). In addition, Nazaha may, address and summon any person associated with a corruption crime to hear their statements (Law 2/2016 Art. 25).

GAC is responsible for collecting and analysing customs declarations. GAC is also in charge of liaising with KwFIU on false and undeclared currency and BNIs declarations and seizing related funds (Customs Instructions 2014/73).

Criterion 30.2 – The PPO has the authority for investigating, handling and prosecuting all criminal cases (Law 17/1960 Art. 9) and in particular ML, associated predicate offences and TF (Law 106/2013 Art.21). Upon conducting investigations into any predicate crime within its jurisdiction or referred to it by another competent authority, the PPO is not restrained from conducting a parallel financial investigation in the case of suspicion of ML/TF, given that the competence of the investigation and disposition in the two crimes of ML and TF is exclusively within its prerogative. With regard corruption, Nazaha can conduct inquiries and collect evidence aimed at uncovering the corruption offence and the PPO has exclusive competence on investigation (Law 2/2016 Art. 27).

Even though Kuwait's law does not explicitly mention “parallel financial investigations”, the MOI is required to execute the orders of investigation received from the PPO (Law 17/1960 Art.39). Hence the PPO may order the MOI to conduct parallel financial inquiries, whether during the course of an investigation into a predicate offence or an investigation into a ML/TF offence. In such cases, the PPO would provide the MOI with the necessary warrants required to receive and view any relevant documents. In cases where a formal criminal investigation has not been initiated by the PPO, and on the basis of the ongoing formal and informal cooperation between the PPO and the MOI, the MOI may conduct financial inquiries into potential criminal activity upon an informal request from the PPO. In such cases, the MOI would conduct their inquiries by utilising procedures that do not require a warrant from the PPO.

The PPO may also request Nazaha, whenever it deems it necessary, to conduct a parallel financial inquiry into the financial elements of corruption offences that fall within its competence in line with the Penal Procedures and Trials Code (Law 17/1960 Art. 100-101). To date, the PPO has never requested Nazaha to conduct such financial inquiries.

Criterion 30.3 – In the event of a conviction for ML, associated predicate offence, or TF, the Court shall order the confiscation of funds and instrumentalities (Law 106/2013 Art. 40). For corruption offences, Nazaha is authorised to follow-up the procedures of seizure, confiscation, and recovery of funds and proceeds of corruption (Law 2/2016 Art. 23). The PPO, or any public attorney whom he/she authorises, may order the freezing or seizure of funds or instrumentalities if there are reasonable grounds to believe they are related to a ML, TF or predicate offence (Law 106/2013 Art. 22). However, it is not required that the PPO, or any other competent authorities undertaking preliminary inquiries “expeditiously” identify, trace and initiate the freezing and seizing of property that is, or may become, subject to confiscation, or is suspected of being proceeds of crime.

Criterion 30.4 – In Kuwait, the PPO has the exclusive authority to investigate, act upon and prosecute the ML, associated predicate offences, and TF (Law 106/2013 Art.21) and the MOI is responsible for conducting inquiries and gathering evidence for all crimes (Law 17/1960 Art. 39-42). Only Nazaha, which is not a law enforcement authority, (Law 2/2016 Art. 5 and 27) can also initiate inquiries that fall within its competency and refer them to the PPO for criminal investigation and prosecution.

Criterion 30.5 – (N/A) - The PPO is responsible for the investigation and prosecution of all offences under Kuwait's law, including corruption (Law 17/1960 Art. 9). Nazaha can request the PPO to investigate corruption (Law 2/2016 Art. 5) and can follow-up

actions and measures taken by the PPO to recover funds and proceeds resulting from the corruption offences (Law 2/2016 Art. 5).

Weighting and Conclusion

Kuwait does not empower competent authority to expeditiously identify and trace property that could be subjected to freezing and seizing. The requirements of R.30 apply to the PPO which is the sole competent authority in charge of investigating ML/TF offences.

Recommendation 30 is rated largely compliant.

Recommendation 31 - Powers of law enforcement and investigative authorities

In its last MER, Kuwait was rated partially compliant with the requirements of former R.28. The main deficiencies related to the absence of a legal basis for investigative measures on TF, as it was not criminalised as an offence. The assessment team also noted a shortage of evidence as to the effectiveness of law enforcement authorities and the lack of statistics.

Criterion 31.1 – The PPO has the exclusive authority to investigate and prosecute ML, associated predicate offences and TF in Kuwait (Law 106/2013 Art. 21). As a general rule, felonies fall within the PPO’s competence of investigation and prosecution, but misdemeanors do not. However, certain misdemeanors fall within the competence of the PPO by law, such as corruption (Law 2/2016 Art. 27) and capital market offences (Law 7/2010 Art. 114). For other misdemeanors, when they are associated with a ML offence, the PPO has the authority to investigate and prosecute those associated misdemeanors (Order 20/2017 Art. 1).

The investigative powers of the PPO are broad and are set out in the Penal Procedures and Trials Law (Law 17/1960). These allow investigators to:

- a) Require any person to hand over papers, effects or any other information in relation to the crime being investigated (Law 17/1960 Art. 77).
- b) Search persons and premises (Law 17/1960 Art. 80-89).
- c) Take witness statements in the course of the investigation (Law 17/1960 Art. 98-99).
- d) Seizing objects and obtaining evidence (Law 17/1960 Art. 90).

Authorities in charge of preliminary inquiries, such as the Police and Nazaha, can obtain the same powers from the PPO, see 30.1 and 30.2.

Criterion 31.2 – Competent authorities conducting investigations are able to intercept communications (Law 17/1960 Art. 87) and to use a range of investigative techniques, such as undercover operations, accessing computer systems and controlled delivery, for ML, associated predicate offences and TF cases.

Criterion 31.3 –

- a) Competent authorities may require any FIs or DNFBPs to provide due diligence records, transactions reports (domestic and international), and any risk assessment information (Law 106/2013 Art. 11). FIs and DNFBPs are also bound

to provide information and documents to relevant competent authorities upon request (Law 106/2013 Art. 13). In addition, according to the Penal Proceedings and Trials Code, if the person concerned with the request does not execute the writ order on the date set, the investigator may order the inspection, seizure or any other action to obtain information or records relevant to the investigation (Law 17/1960 Art. 77).

Other authorities mandated to conduct preliminary inquiries (i.e., Police, Nazaha) require authorisation from the PPO in order to identify whether natural or legal persons holds or control accounts (see R. 30.2).

- b) FIs and DNFBPs are prohibited from disclosing to a customer or any other person (natural and legal) any information related to a ML/TF investigation (Law 106/2013 Art. 13). Banks, Exchange and Finance companies are also instructed through Circulars to maintain confidentiality about ML/TF investigation (please see R21.2). The PPO and the MOI have procedures to identify assets without prior notification to the owner (PPO [Financial Investigations Procedures Relating to Money Laundering Cases](#) and MOI Guidelines for Combating ML/TF).

Criterion 31.4 – The KwFIU must notify the PPO and forward the relevant information to competent authorities whenever it has reasonable grounds to suspect that funds are proceeds of crime or are related, linked to or to be used for money laundering or terrorism financing (Law 106/2013 Art. 19). The KwFIU also has the power to examine requests for information filed by competent authorities and to take decision regarding these requests (Ministerial Resolution 1532/2013 Art. 9). As the competent authority in charge of investigating ML/TF, the PPO can also proactively request the KwFIU to submit any relevant information in its possession. The PPO can also utilise informal cooperation channels to request information from the KwFIU in cases of urgency. The same avenues are available to the MOI.

Weighting and Conclusion

Kuwait has designated the PPO with responsibility for ensuring that money laundering, associated predicate offences and terrorist financing offences are properly investigated. The PPO and the MOI, who is in charge of conducting police-type activities, are able to employ a wide range of investigative techniques in their investigations.

Recommendation 31 is rated compliant.

Recommendation 32 – Cash Couriers

In its 3rd Round MER, Kuwait was rated partially compliant with SRIX. Deficiencies included the absence of a requirement for a declaration system for outbound cross-border transportation of cash and BNIs, no clear definition of BNIs, no clear powers to request and obtain further information from the carrier and no specific powers to stop or restrain currency and BNIs, and a lack of proportionate sanctions for false disclosure, failure to disclose, or cross-border transportation of funds for ML and TF purposes.

Criterion 32.1 – Kuwait has put in place a declaration system for the reporting of incoming and outgoing cross-border transportation of currency and BNIs. Any person who enters or leaves the Kuwait in possession of currency or BNIs or arranges for the

transportation of such items into or out of the Kuwait through a person, cargo, postal service or any other means, must disclose the value of such currency or BNI on demand (Law 106/2013 Art. 20).

Criterion 32.2 – Not applicable. Kuwait has a disclosure system.

Criterion 32.3 – Couriers are required to disclose, online or in person, the value of currency or BNIs exceeding KWD 3 000 (approx. USD 9 714), and their intended use on request by the Kuwaiti Customs officials (Law 106/2013 Art. 20). Cash or BNIs that have been declared must be presented to customs at the border. The amounts are then verified and source of funds assessed.

Criterion 32.4 – In cases where there is a lack of disclosure or provision of information, or the information disclosed is false, the Kuwait General Administration of Customs may seize or restrain some or all of the funds in question (Law 106/2013 Art. 20).

Criterion 32.5 – Any person that violates or fails to comply with Law 106/2013 Art. 20, makes a false disclosure of currency or BNIs or deliberately conceals facts can be imprisoned for up to one year and fined no less than half and no more than the full value of the funds that were the objects of the offence. In cases of legal person, a fine can be issued of no less than the full value or more than twice the value of the funds that were the objects of the offence (Law 106/2013 Art. 37).

Criterion 32.6 – The KwFIU is notified of suspicious transfer cases according to the memorandum of understanding between KwFIU and Customs, reference No.9/7-2241 dated 23/6/2016 in connection with the cooperation and exchange of information in the field of anti-money laundering, predicate crimes related to them and finance of terrorism.

Criterion 32.7 – The Customs Administration participates in the National Committee, in developing national strategies and ensuring the existence of effective coordination mechanisms. Operational cooperation takes place through direct communication and joint meetings. Furthermore, the KwFIU and General Administration of Customs have signed an MoU on cooperation and information exchange relating to ML/TF Ref. No. (AH/MS 9/7-2241) on 23/6/2016.

Criterion 32.8 –

- a) the General Administration of Customs may seize or restrain some or all of the amount of currency or BNIs if there are sufficient indications for a suspicion that such currency or bearer negotiable instruments are proceeds of crime or funds or instrumentalities related, linked to or to be used for money laundering or terrorism financing (Law 106/2013 Art. 20(2)).
- b) the General Administration of Customs may also seize or restrain some or all of the amount of currency or BNIs if there has been a lack of disclosure, or provision of information when requested, or false disclosure or information (Law 106/2013 Art. 20 (2)(b)).

Criterion 32.9 –

The Kuwait General Administration of Customs retains information disclosures, which include the value of the currencies and the details of their carrier, when upon disclosure of amounts the value exceeds the specified limit. Information is also

retained in cases of false disclosure or there is suspicion of money laundering or finance of terrorism (Customs Instructions No. (73/2014) and this information can be used for international cooperation.

Apprehension report information is transferred to the competent security bodies by the KwFIU, which has access to the General Administration of Customs database. This information can then be exchanged by the PPO, which is the competent authority for exchanging information with competent foreign authorities in criminal matters related to money laundering, predicate, or terrorism financing offences with respect to assistance, letters rogatory, extradition of suspects and convicted persons, and requests to identify, trace, freeze seize or confiscate funds. This exchange of information takes place in accordance with the rules established under bilateral or multilateral agreements ratified by the State of Kuwait or in accordance with the principle of reciprocity (Law 106/2013 Art. 23).

Criterion 32.10 – The General Administration of Customs uses an electronic system housed in a secure central database to safeguard information and ensure it is used properly. The system is safeguarded with advanced protection techniques to ensure the secure and protected access to information. Access to information is restricted based on the specific job role of each user, ensuring appropriate and controlled access privileges.

Criterion 32.11 –

(a)-(b) In Kuwait, persons who transport currency or BNI related to ML or TF may be subject to the penalties for false disclosure (see c.32.5), or to the penalties for ML/TF offences. Such currency or BNI would be seized as described in c.32.8 and R.4.

Weighting and Conclusion

All criteria are met.

Recommendation 32 is rated compliant

Recommendation 33 – Statistics

In its last MER, Kuwait was rated non-compliant with former R.32 as no statistics were maintained.

Criterion 33.1 – Kuwait maintains comprehensive statistics in matters relevant to the effectiveness and efficiency of its AML/CFT system. The National Committee is responsible for carrying out the process of collecting AML/CFT statistical data on a regular basis related predicate offences through a dedicated team (Resolution 37/2013 Art. 23). Kuwait collects information from competent authorities on:

- i. STRs, received and disseminated.
 - ML/TF investigations, prosecutions, and convictions.
 - Property frozen, seized, and confiscated; and
 - Mutual legal assistance or other international requests for cooperation are made and received.

The KwFIU has established and operated a database that includes all information related to STRs, which will provide Kuwait with more detailed statistics related to the STRs (Resolution 1532/2013 Art.13).

Weighting and Conclusion

All criteria are met.

Recommendation 33 is rated compliant.

Recommendation 34 – Guidance and feedback

In its last MER, Kuwait was rated non-compliant with former R.25. Deficiencies related to the lack of guidance for brokerage companies, insurance companies and exchange organisations, and lack of feedback from competent authorities.

Criterion 34.1 –

Guidelines and feedback by authorities and supervisors

All relevant authorities and supervisors have issued guidelines to obliged entities on their obligations in the Law 106/2013, its Executive Regulation and other relevant instructions. CBK provides feedback, including clarifying any requirements, through letters, meetings, or other direct communication with obliged entities' compliance managers, the Kuwait Banking Association, and Union of Exchange Companies. CMA conducts awareness workshops providing feedback on compliance deficiencies and how they can be avoided. IRU provides a guide for detecting and reporting suspicious transactions.

Guidelines and feedback by FIU

The FIU has provided a wide variety of information and guidelines to obliged entities including user guides on submitting STRs, indicators of ML/TF for all sectors, as well as thematic indicators. The FIU holds periodic meetings with obliged entities to provide feedback on quality of STRs.

Weighting and Conclusion

All relevant Kuwaiti authorities and supervisors provide a range and feedback to obliged entities.

Recommendation 34 is rated Compliant.

Recommendation 35 – Sanctions

In its last MER, Kuwait was rated non-compliant with former R.17. Deficiencies related to a lack of clear designation of the authorities empowered to apply sanctions and lack of sufficient range of sanctions, amongst other deficiencies.

Criterion 35.1 –

R6 – TFS

The sanctions listed below for R.9 to 23 are available to supervisory authorities to impose on FIs, DNFBPs or any of their directors, board members, executive and supervisory management members for failure to comply with their TFS obligations.

These sanctions may be imposed on both individuals and legal persons. (Ministerial Resolution 141/2023 Art. 24(2)).

R8 – NPOs

MOSA has some sanctioning powers, allowing it to apply sanctions to NPOs. There are both financial and administrative penalties MOSA can apply, depending on the breach. MOSA can issue warning letters or suspend (for 6 months) an NPOs' license for collecting donations in case they collect donations in contravention of their obligations (Ministerial Resolution 128/2016, Art.17). In addition, MOSA can issue fines not exceeding fifty Dinars (approx. 150 EUR) per violation, or dissolve NPOs in case they fail to fulfil their financial obligations or if they breach any other provision under Law 24/1962 (Art. 27.3, 27.4 and 31). MOSA can also appoint a temporary board of directors to assume the responsibilities of the elected board of directors. In cases of breaches of fundraising obligations, for charities, MOSA is allowed to apply similar measures to charitable institutions and societies (Ministerial Resolutions 48/A and 49/A, 2015).

R.9 to 23 – Administrative Sanctions (FIs and DNFBPs)

Supervisory authorities have the ability to impose sanctions on FIs, DNFBPs or any of their directors, board members, executive and supervisory management members for failure to comply with their AML/CFT obligations; this includes both individuals and legal persons (Law 106/2013 Art. 15):

- Impose a fine on the violating financial institution not to exceed Dinars 500,000 (1,500,000 EUR) per violation.
- Ban individuals from employment within the relevant sectors for a period to be determined by the supervisory authority.
- Restrict the powers of directors, board members, executive or supervisory management members, and controlling owners, including appointing a temporary controller.
- Dismiss or replace the directors, members of the Board of Directors or of executive or supervisory management.
- Suspend, restrict or prohibit the continuation of the activity, business or profession.
- Revoke the license.
- Withdraw the license.

In addition, FIs, DNFBPs, or any board members or executive or supervisory management members that deliberately or through gross negligence violate or fail to comply with reporting requirements, compliance programme requirements or CDD requirements, can be fined up to 500,000 Dinars (1,500,000 EUR) per violation (Law 106/2013 Art. 33).

Specifically for shell banks, individuals and legal persons that deliberately or by gross negligence establish or attempt to establish a shell bank in the State of Kuwait or enters into a business relation with such bank can be punished by imprisonment for up to three years and a fine of no less than 5,000 Dinars and up to 500.000 Dinars (15,000-1,500,000 EUR). In the case where the offender is a legal person, a fine of no

less than 5,000 Dinars and up to 1 million Dinars shall be imposed (15,000 – 3,000,000 EUR) (Law 106/2013 Art. 34).

Specifically, for STRs, individuals and legal persons failing to make an STR or presenting false facts or concealing facts or disclosing information to a third party can be subject to imprisonment for up to 3 years and a fine of 5,000 to 500,000 Kuwaiti Dinars (15,000 – 1,500,000 EUR). Where the offence is committed by a legal person the fine goes up to a maximum of 1 million Kuwaiti Dinars (3,000,000 EUR). (Law 106/2013 Art. 35)

Criterion 35.2 – - This is covered in 35.1.

Weighting and Conclusion

There is a range of sanctions available for both natural and legal persons for non-compliance with the requirements of Recommendations 6 and 8 to 23; there remain some minor deficiencies relating to the dissuasive nature of some of the sanctions, e.g., fines not exceeding fifty Dinars (approx. 150 EUR) per violation for non-compliance with Recommendation 8 requirements for cases where severeness of violation may warrant this.

Recommendation 35 is rated largely compliant.

Recommendation 36 – International instruments

In its last MER, Kuwait was rated partially compliant with former R.35 and non-compliant with SRI as it had not ratified the 1999 UNCSFT convention, or fully implemented the Vienna and Palermo conventions.

Criterion 36.1 – Kuwait is a party to Vienna Convention ratified on November 3, 2000 (Law 5/2006 Art. 1), and the Palermo Convention ratified on May 16, 2006 (Law 5/2006 Art. 1). Additionally, Kuwait is a party to the Merida Convention ratified on December 4, 2006 (Law 47/2006 Art. 1) and the Terrorist Financing Convention ratified on February 14, 2013 (Law 85/2013 Art. 1).

Criterion 36.2 – Kuwait has implemented most of the relevant articles of the Vienna Conventions, Palermo Conventions, Merida Conventions, and Terrorist Financing Conventions (Constitution Art. 70). There are some shortcomings regarding the implementation of the Vienna Convention (see R.3).

Weighting and Conclusion

Kuwait is a party of the four conventions, but there are some shortcomings in implementation of the Vienna Convention (see R.3).

Recommendation 36 is rated largely compliant.

Recommendation 37 - Mutual legal assistance

In its last MER, Kuwait was rated largely compliant with former R.36 and non-compliant with SR.V because:

- TF was not criminalised,
- international cooperation on TF was slow,
- limited number of MLA cases on TF.
- limitations in the ability to provide cooperation by all concerned authorities,
- lack of overall effectiveness of the exchange of information relating to TF
- lack of statistics on MLA.

Criterion 37.1 – Kuwait has a partial legal basis enabling competent authorities to rapidly provide a wide range of MLA in the investigation, prosecution, and related proceedings of ML, TF, and other offences. International co-operation consists of MLA, letters rogatory, extradition and other forms of co-operation. Mutual Legal Assistance is provided by the PPO based on bilateral or multilateral agreements ratified by Kuwait or, in the absence of a treaty or agreement, in accordance with the principle of reciprocity (Law 106/2013 Art. 23).

Criterion 37.2 – The MOJ is the central authority for managing international judicial cooperation requests, including extradition and MLA. The PPO within the MOJ is the central judicial authority for MLA in criminal matters related to money laundering, predicate, or terrorism financing offences (Law 106/2013 Art. 23).

Kuwait has a guide (the Manual Guide) that outlines the process for receiving, prioritising, executing, and monitoring MLA requests. This guidance outlines clear processes in place for the timely prioritisation and execution of MLA requests (The Manual Guide, p.45). Additionally, the PPO has a system for receiving and managing requests. This system tracks all procedures and statistics related to requests.

Criterion 37.3 – There are no laws that prohibit or make MLA subject to unreasonable or unduly restrictive conditions. The Manual Guide sets out certain requirements and limitations in relation to MLA. For example, the State may refuse to provide MLA if it would compromise sovereignty, security, public order, or fundamental interests. The State may also refuse if the act is not a crime on its territory, if it is political, or if it would violate double jeopardy. Similarly, A request for legal assistance may be refused if it relates to a crime that is already under investigation or prosecution in the State, if it would violate the principle of double jeopardy, if the criminal case has lapsed, or if it would require the State to implement coercive measures that are not permitted under its laws. The State may also refuse if the act in question is only considered a crime under military law.

Criterion 37.4 – There is no legal provision or procedural/operational requirements preventing the rejection of MLA assistance solely (a) on the grounds that the offence involves fiscal matters; or (b) on the grounds of secrecy or confidentiality requirements on FIs or DNFbps.

Criterion 37.5 – There is no legal requirement for competent authorities in Kuwait to maintain the confidentiality of any MLA request for cooperation and information exchange with foreign counterpart authorities to the extent necessary for its

implementation and the requirements of justice. This includes bilateral agreements on MLA in criminal matters, which may have provisions on confidentiality and limits of use. However, the Manual Guide sets out how competent authorities should handle information confidentially.

Criterion 37.6 – Kuwait requires dual criminality to execute any MLA requests they receive. However, this is based on the Manual Guide, which is not a legal instrument.

Criterion 37.7 – There is no requirement for criminality to be deemed satisfied regardless of whether both countries place the offence within the same category of offence.

Criterion 37.8

(a)-(b) According to the Manual Guide, Kuwaiti authorities are able to exercise all powers and investigative techniques available to them in response to MLA requests which does not include powers to conduct undercover operations, accessing computer systems and effect controlled delivery. These available powers include the search and seizure of information, documents, or evidence from financial institutions (FIs), natural or legal persons; the taking of witness statements; the seizure, recovery, or confiscation of funds; and a range of other investigative techniques.

Weighting and Conclusion

Kuwait is able to provide a wide range of MLA in relation to ML, and TF and associated predicate offence investigations prosecutions and related proceedings, but a significant amount of the international cooperation lacks a legal basis, since it is based on the Manual Guide, which is not a legal instrument. There is no provision preventing the refusal of MLA on the grounds of fiscal matters or the secrecy and confidentiality requirements of FIs and DNFBPs. In addition, dual criminality is required and there is no requirement for criminality to be deemed satisfied regardless of whether both countries place the offence within the same category of offence. These deficiencies are weighted as minor.

Recommendation 37 is rated largely compliant.

Recommendation 38 – Mutual legal assistance: freezing and confiscation

In its last MER, Kuwait was rated largely compliant with requirements on freezing and confiscation in relation to MLA because not did not allow for value-based confiscation.

Criterion 38.1 – Kuwait has the authority to act in response to requests by foreign countries to identify, trace, freeze, seize, or confiscate funds relating to ML, TF, and predicate offences (Law 106/2013 Art. 23). Kuwait established the International Cooperation Prosecution to execute MLA requests and conduct the necessary investigations to take any required procedure, including seizing items, searching persons and properties and freezing proceeds of crime or funds used in committing the crime (Order 15/2019 Art. 3(6) & 3(7)). However, Kuwait's international cooperation in this area does not extend to all elements noted in the sub-criteria of criterion 38.1 (b, c, d, e). Also, there are no timelines to take "expeditious" action in implementing the requests.

Criterion 38.2 – Kuwait can provide assistance in relation to non-conviction-based confiscation, proceedings and related provisional measures if the perpetrator has deceased (Law 106/2014 Art 40). However, Kuwait cannot provide assistance in case of non-conviction-based proceedings in relation to flight, absence, or where the perpetrator is unknown.

Criterion 38.3 – Kuwait has (a) arrangements for coordinating seizure and confiscation actions with other countries, as well as (b) mechanisms for managing and disposing of property that has been frozen, seized, or confiscated (Law 106/2013 Art. 22-23). The International Cooperation Prosecution was established within the PPO. The main role of this department is to respond to any correspondence received from the Ministry of Foreign Affairs and Interpol, coordinate with the authorities, and facilitate their duties in relation to extradition requests, stolen vehicle seizure requests, and MLA. The International Prosecution also provides the authorities with the necessary data to perform their duties (Order 51/2019 Art. 3(9)).

Criterion 38.4 – Kuwait can share confiscated funds with other countries if a person or group of people is tried in a foreign state for a crime and is convicted, and the funds involved are owned by the state or one of its entities or persons (The Manual Guide, chapter six).

Weighting and Conclusion

Kuwait has an established processes for coordinating and seizure and confiscation and managing and disposing of frozen, seized or confiscated property. However, MLA does not extend to all the elements noted in the sub-criteria of 38.1. Additionally, Kuwait cannot provide assistance in non-conviction-based proceedings related to flight, absence, or when the perpetrator is unknown. These shortcomings are given significant weighting in the context of Kuwait.

Recommendation 38 is rated partially compliant.

Recommendation 39 – Extradition

In its 3rd Round MER, Kuwait was rated largely compliant with requirements relating to extradition because the assessment team was unable to assess the effectiveness of the extradition system in the ML/TF area.

Criterion 39.1 –

(a) There is no legal basis for extradition in Kuwait. According to Kuwait's Manual Guide ML/TF are extraditable offences in Kuwait and extradition requests relating to ML/TF can be executed without undue delay. (Law 106/2013 2013 Art. 23). The procedures and terms for extradition requests are detailed in the Manual Guide for International Cooperation in Penal Matters (The Manual Guide, chapter two, p.21-31), which is not a legal basis.

(b) Kuwait has a case management system with clear processes for the timely execution of extradition requests. Those processes include registration, assignment, review, execution, and prioritisation as necessary (The Manual Guide, p.23-26). The Manual specifies that follow-up on extradition matters is done on a monthly basis to expedite the process (The Manual Guide, p.27).

(c) Kuwait does not place unreasonable or unduly restrictive conditions on the execution requests, according to the manual Guide, which is not a legal instrument. However, Kuwait may refuse requests in certain circumstances, including if the person requested holds the nationality of the State, if the person is a political refugee, if the crime is political, if the crime is related to gender, religion, nationality, or political opinion, or if the person has already been tried for the same crime in Kuwait (The Manual Guide, p.22-23).

Criterion 39.2 –

(a)-(b) Kuwait does not extradite its citizens and political refugees (Constitution Art. 46). However, the PPO may refer the citizen to the judiciary if they commit a criminal act outside of Kuwait, provided that the act was also criminal in Kuwait, the citizen has not been tried or their sentence has not been carried out abroad ((Law 16/1960 Art. 12)). This is no provision for the country requesting the extradition to request cases to be submitted to the competent authorities.

Criterion 39.3 – In Kuwait dual criminality is a condition of extradition. Determination of whether the act for which extradition is requested constitutes a punishable crime in the laws of both states is not affected if the crime is listed under a different name or description or if its elements differ in their laws.

Criterion 39.4 – Kuwait has simplified extradition mechanisms in cases where the accused consents to being extradited and waives the following of extradition procedures. This waiver must be confirmed in an official investigation report.

Weighting and Conclusion

Kuwait can execute extradition requests without delay, but significant parts of the extradition process are based on the Manual Guide, which is not a legal basis. In addition, there is no provision for foreign jurisdictions to request cases to be submitted to competent authorities in cases where extradition is not executed (e.g., for nationals and political refugees).

Recommendation 39 is rated largely compliant.

Recommendation 40 – Other forms of international cooperation

In its last MER, Kuwait was rated partially compliant with requirements for other forms of international cooperation because the FIU was not able to exchange information with its counterparts and there was insufficient controls and safeguards to ensure that information is used only in an authorised manner. The CBK had limited international cooperation and required approval from the PPO to share information. The KSE also had insufficient international cooperation, and MOCI and KSE lacked clear gateways for sharing information, safeguarding confidentiality and being able to share information about fiscal matters. In addition, a lack of statistics was also highlighted.

Criterion 40.1 – Competent authorities in Kuwait can cooperate with foreign counterparts in a range of ways relating to ML, TF, and associated predicate offences. This can be done both spontaneously and upon request. (Law 106/2013 Art.14(5), 19, 23); Resolution 1532/2013 Art. 9(g)).

Criterion 40.2 – (a-e) The competent authorities in Kuwait have a lawful basis for providing cooperation and are authorised to use efficient means to cooperate. Kuwait has clear and secure gateways, mechanisms, or channels that facilitate and allow for the transmission and execution of requests. Exchanges take place through secure gateways, channels, and mechanisms, which are also available to supervisors and law enforcement authorities, including through membership in Interpol channels. Additionally, Kuwait has processes for the prioritisation and timely execution of international cooperation requests and clear processes for safeguarding the information received (Law 106/2013 Art. 14(5), 16, 19, 23) (Law 1/1993 Art. 25) (Law 17/1960 Art. 75) (Law 32/1968 Art. 82(3)) (Resolution 1532/ 2013 Art.13) (KwFIU Manual (T/M/1/2016)).

Criterion 40.3 – Competent authorities in Kuwait bilateral and multilateral agreements or arrangements to cooperate and exchange information on ML, TF, and related predicate offences with their foreign counterparts and can also cooperate in accordance with the principle of reciprocity (Law 106/2013 Art. 14(5) & 23).

Criterion 40.4 – There are feedback mechanisms in place for some competent authorities (CBK, CMA, and Custom through the FIU) (Law 106/2013 Art. 14(5)) to provide timely feedback from requesting authorities. However, not all competent authorities have access to these mechanisms.

Criterion 40.5 – Kuwait does not prohibit or place unreasonable or unduly restrictive conditions on the provision of exchange of information or assistance on the grounds listed in a-d. (Law 106/2013 Art. 14(5), 18, 19) (KwFIU Manual (TM/M/1/2016)).

Criterion 40.6 – Kuwait has controls and safeguards to ensure that information exchanged by competent authorities is used only for the purpose for which it was requested or provided unless prior authorisation has been given by the requested competent authority (Law 106/2013 Art. 14(5), 16) (The Manual Guide, chapter five p.43).

Criterion 40.7 – As noted in criterion 40.2, competent authorities in Kuwait must maintain the confidentiality of any international cooperation requests, as well as the information contained within them, consistent with both parties' obligation concerning privacy and personal data protection (Law 106/2013 Art. 14(5), 18, 23). However, there is no basis to refuse to provide information if the requesting competent authority cannot protect the information effectively.

Criterion 40.8 – Competent authorities in Kuwait are able to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically (Law 106/2013 Art. 14(5), 18, 19, & 23).

Criterion 40.9 – The KwFIU has an adequate legal basis to provide cooperation on ML, TF offences, and associated predicate offences. The KwFIU is able to seek or share information of specific as well as general nature regarding ML, TF, and predicate offences (Law 106/2013 Art. 19) (Resolution 1532/2013 Art. 9(g)). The KwFIU can also exchange this type of information following the Egmont Principles for Information Exchange.

Criterion 40.10 – The KwFIU is required to provide feedback to foreign counterparts on the use of information upon request (KwFIU Manual No. (T/M/U/1/2016)).

Criterion 40.11 – The KwFIU has the power to exchange (a) all information received or collected as KwFIU; as well as (b) any other information that it has the power to obtain or access directly or indirectly from domestic sources, with its foreign counterparts in accordance with the principle of reciprocity (Law 106/2013 Art. 19). See R.29 for further information.

Criterion 40.12 – The financial supervisors (CBK and CMA) have a legal basis for providing international cooperation related to the supervision of FIs for AML/CFT purposes to foreign counterparts (Law 32/1968 Art. 14(5)) (Law 32/1968 Art. 82(3)).

Criterion 40.13 – The CBK and CMA can exchange with their foreign counterparts all information domestically available to them, including information held by FIs under their supervision, in a manner proportionate to their respective needs (Law 106/2013 Art. 14(5)) (Law No. (32) of 1968 Regarding Concerning Currency, the Central Bank of Kuwait and the Organisation of Banking Business Art. 82(3)).

Criterion 40.14 – The CBK and CMA are required to exchange relevant AML/CFT information with their foreign counterparts, in particular with supervisory authorities that have a shared responsibility for FIs operating in the same financial group (Law 106/2013 Art. 14(5)) (Law 32/1968 Art. 82(3)).

This information includes:

- i. Domestic legislative and regulatory system and general information on the financial sectors;
- ii. Prudential information, such as information on the FI's business activities, BO, management, and fit and properness standards; and
- iii. AML/CFT information, such as internal AML/CFT procedures and policies of FIs, customer due diligence information, customer files, samples of accounts, and transaction information.

Criterion 40.15 – The CBK and CMA are able to collect information on behalf of their foreign counterparts, and when necessary, authorise the ability to conduct inquiries themselves in the country, to facilitate effective group supervision (Law 106/2013 Art. 14(5)) (Law 32/1968 Art. 78).

Criterion 40.16 – There is no requirement for financial supervisors to ensure they have prior agreement from of the requested financial supervisor for dissemination of information. Any arrangements for cooperation and communication between Kuwait's financial supervisor and foreign counterparts are set out in individual MoUs.

Criterion 40.17 – LEAs in Kuwait can share domestically available information with foreign counterparts under rules established under bilateral or multilateral agreements ratified by the State or on the basis of reciprocity. This includes information relating to ML, TF, and associated predicate offences, including identification and tracing of the proceeds and instrumentalities of crime (Law 106/2013 Art. 23).

Criterion 40.18 – There is no legal provision or established procedure for LEAs to be able to use their powers including investigative techniques to conduct inquiries on behalf of foreign counterparts and exchange relevant information. However, Kuwait is a member of Interpol and may use the arrangements between Interpol countries to exchange requested information.

Criterion 40.19 – There are no legal, procedural or operational provisions to enable LEAs to form joint investigation teams.

Criterion 40.20 – Competent authorities can exchange information indirectly with non-counterpart authorities, provided that the competent authority makes clear the purpose and on whose behalf the information is being requested (Law 106/2-13 Art. 14(5) & 19) (Resolution 1532/2013 Unit Art. 9(g)).

Weighting and Conclusion

Kuwait is able to share a range of international cooperation in relation to ML/TF and predicate offences, However, not all competent authorities can provide feedback to requesting authorities and there is no basis to refuse information if a requesting authority cannot protect the information.

Furthermore, financial supervisors lack a requirement to obtain prior agreement from of the requested financial supervisor before disseminating information. Additionally, there is no basis for LEAs to be able to use their powers including investigative techniques to conduct inquiries on behalf of foreign counterparts. There are also no legal, procedural or operational provisions to enable LEAs to form joint investigation teams.

Recommendation 40 is rated largely compliant.

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	LC	<ul style="list-style-type: none"> There is no established mechanism to disseminate the results of the risk assessment to all competent authorities. Lawyers and independent legal professionals that carry out certain activities and some types of DPMS are not subject to all AML/CFT obligations required by the FATF Standards.
2. National cooperation and coordination	LC	<ul style="list-style-type: none"> There is no mechanism to ensure cooperation and coordination between relevant authorities to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules and other similar provisions (e.g., data security/localisation).
3. Money laundering offences	LC	<ul style="list-style-type: none"> Offences mentioned under Art. 3(1)c subpoint ii) of the Vienna Convention are not covered under Kuwait's law. Not all 21 predicate offences are listed under Kuwait's law, including illicit trafficking in stolen goods.
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> There is no clear measure enabling competent authorities to identify, trace and evaluate property that is subject to confiscation.
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> There is no specific provision to cover the financing of the travel of individuals for the purpose of the perpetration, planning, preparation, participation in terrorist acts, or for providing or receiving terrorist training.
6. Targeted financial sanctions related to terrorism & TF	NC	<ul style="list-style-type: none"> There is no legal basis for the implementation of TF TFS.
7. Targeted financial sanctions related to proliferation	NC	<ul style="list-style-type: none"> There is no legal basis for the implementation of PF TFS.
8. Non-profit organisations	PC	<ul style="list-style-type: none"> The subset of organizations that fall within the FATF definition on NPOs that are likely to be at risk of TF abuse has not been identified. Supervision is applied to all NPOs which is not risk based. Measures applied to NPOs have not been assessed for adequacy or proportionality. The NPO sector is not periodically reassessed. Contacts and procedures to respond to international requests for information regarding NPOs suspected of TF have not been identified.
9. Financial institution secrecy laws	C	<ul style="list-style-type: none"> All criteria are met.
10. Customer due diligence	LC	<ul style="list-style-type: none"> Apart from banks and exchange companies, FIs are not required to identify and verify the identity of the person acting on behalf of the customer. Securities companies and securities companies are not required to identify the BO or take reasonable measures to identify the BO using relevant information, data obtained from reliable sources. CDD measures do not apply to legal arrangements. Securities companies and currency exchange organisations are not required to take CDD measures to understand the ownership and control structure of the customer. Apart from banks, there is no requirement to understand the nature of the customer's business, only of the business relationship. Currency exchange organisations are not required to identify beneficial owners of legal persons and verify their identity on the basis of documents, data or information from a

Recommendations	Rating	Factor(s) underlying the rating
		<p>reliable and independent source; finance companies and securities companies are only partially required to meet these requirements.</p> <ul style="list-style-type: none"> • FIs do not take into account whether and when CDD measures have previously been undertaken when applying CDD measures to existing customers. • There is no general prohibition of simplified due diligence where specific higher risk scenarios apply, except for banks when effecting transactions where the customer's activity is associated with a business relationship in high-risk countries. • Apart from banks, FIs do not have the ability to discontinue the CDD process to report an STR in order to prevent tipping off.
11. Record keeping	LC	<ul style="list-style-type: none"> • There is no requirement for records to be made available swiftly.
12. Politically exposed persons	LC	<ul style="list-style-type: none"> • No measures are in place to identify the source of funds and wealth for beneficial owners who are identified as foreign PEPs.
13. Correspondent banking	C	<ul style="list-style-type: none"> • All criteria are met.
14. Money or value transfer services	C	<ul style="list-style-type: none"> • All criteria are met.
15. New technologies	PC	<ul style="list-style-type: none"> • Kuwait lacks a systematic approach to identifying and assessing the ML/TF risks associated with the development of new technologies. • Apart from banks and exchange companies, FIs are required to conduct such as risk assessment, but not until after the new technology or service is deployed. • Kuwait has not taken a risk-based approach to ensure that measures to prevent or mitigate ML/TF are commensurate with the risks identified. • The efforts to identify and address unlicensed VASPs are limited. Additionally, there is limited legal framework for providing formal international cooperation in this area.
16. Wire transfers	LC	<ul style="list-style-type: none"> • There is no requirement for the consideration of both sides of MVTS transactions when considering the submission of an STR. • There is no requirement to file an STR in any country affected by the suspicious wire transfer and make relevant transaction information available to the Financial Intelligence Unit.
17. Reliance on third parties	PC	<ul style="list-style-type: none"> • There is no mechanism to consider available information on the level of country risk in determining whether and/or how an entity in another country can be used for reliance. • The law does not specify under what circumstances relevant competent authorities may consider that the requirements of 17.1 and 17.2 are met for financial institutions that rely on a third party that is part of the same financial group.
18. Internal controls and foreign branches and subsidiaries	PC	<ul style="list-style-type: none"> • Only banks, financial companies, exchange houses, and securities companies are required to implement AML/CFT policies, procedures, and controls. These requirements are not based on the size or ML/TF risks of the business. • There are shortcomings in providing account and transaction information, as well as safeguards to prevent tipping off, within group-wide AML/CFT programs.
19. Higher-risk countries	PC	<ul style="list-style-type: none"> • There is no requirement for enhanced due diligence measures commensurate with the identified risk level. • Kuwait's obligation to identify high-risk countries does not require that countermeasures are proportionate to the risks, and it's not obligated to take action upon FATF's call. • The measures to ensure that FIs are advised of concerns about weaknesses in other countries' AML/CFT systems lack consistency.
20. Reporting of suspicious transaction	C	<ul style="list-style-type: none"> • All criteria are met.
21. Tipping-off and confidentiality	LC	<ul style="list-style-type: none"> • Kuwait's legal framework lacks clarity regarding the protection afforded to FIs, directors, and individuals. Specifically, it's unclear whether this protection applies regardless of the occurrence of illegal activity and knowledge of the underlying criminal activity.
22. DNFBPs: Customer due diligence	LC	<ul style="list-style-type: none"> • Kuwait did not meet the requirements outlined in Recommendations 10.4, 10.9, 10.10, and 10.20 of the AML/CFT framework. • Minor deficiencies relating to the swift provision of information to competent authorities and maintaining a record of analysis undertaken on information obtained remain. • There is a minor deficiency relating to the identification of source of funds and wealth for beneficial owners who are identified as foreign PEPs. • DNFBPs are required to conduct such as risk assessment, but not until after the new technology or service is deployed.

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> There is no requirement or mechanism, at the country level, to consider available information on the level of country risk when determining whether and/or how a third party in another country can be used for reliance.
23. DNFBNs: Other measures	LC	<ul style="list-style-type: none"> The application of internal controls related to providing certain information exhibits deficiencies. Kuwait's framework for high-risk countries has several shortcomings, these include an absence of a requirement for countermeasures to be proportionate to the identified risks and no obligation to act upon requests from the FATF.
24. Transparency and beneficial ownership of legal persons	PC	<ul style="list-style-type: none"> Kuwait has not conducted a formal and comprehensive assessment of the ML/TF risks associated with legal persons. Legal persons are not explicitly required to submit information regarding their legal status. Sanctions for non-compliance with beneficial ownership information requirements are currently limited to FIs and DNFBNs. There are no sanctions for non-compliant legal or natural persons outside these categories.
25. Transparency and beneficial ownership of legal arrangements	LC	<ul style="list-style-type: none"> Mechanisms are lacking to ensure Waqf information remains accurate, up-to-date, and undergoes timely updates. Authorities lack the ability to provide swift cooperation. Waqf trustees are not mandated to disclose their status to FIs and DNFBNs. There are no legal consequences for trustees who fail to fulfill their obligations, nor are there sanctions for failing to provide information as required under Recommendation 25.1.
26. Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> Minor deficiencies with respect to 'fit and proper' testing: Measures vary across sectors, definitions of a criminal are incomplete, and beneficial ownership coverage is inconsistent. Lack of a consistent risk-based approach to supervision. Gaps in the frequency of supervisory reviews by some authorities. Supervisors are not required to consider FIs' AML/CFT risk profiles in response to major events or developments.
27. Powers of supervisors	C	<ul style="list-style-type: none"> All criteria are met.
28. Regulation and supervision of DNFBNs	PC	<ul style="list-style-type: none"> Kuwait does not cover all the crimes and does not cover holding a significant or controlling interest (or BO). MOCI is still developing its risk-based supervision framework.
29. Financial intelligence units	LC	<ul style="list-style-type: none"> The KwFIU does not receive information except for transaction or attempted transaction involving proceeds of crimes or funds linked to ML or TF and access to the KwFIU facilities is not limited. The KwFIU does not use dedicated, secure and protected channels for the dissemination.
30. Responsibilities of law enforcement and investigative authorities	LC	<ul style="list-style-type: none"> Kuwait does not empower competent authority to expeditiously identify and trace property that could be subjected to freezing and seizing
31. Powers of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> All criteria are met.
32. Cash couriers	C	<ul style="list-style-type: none"> All criteria are met.
33. Statistics	C	<ul style="list-style-type: none"> All criteria are met.
34. Guidance and feedback	C	<ul style="list-style-type: none"> All criteria are met.
35. Sanctions	LC	<ul style="list-style-type: none"> There are some minor deficiencies relating to the dissuasive nature of some of the sanctions.
36. International instruments	LC	<ul style="list-style-type: none"> There are some shortcomings in implementation of the Vienna Convention, which is related to R.3.s
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> There is a lack of a legal basis for a significant amount of international cooperation. This is because it is often based on Manual Guides, which is not a legal basis. No provision exists to prevent the refusal of MLAs on grounds related to fiscal matters or the secrecy/confidentiality requirements of FIs and DNFBNs. The dual criminality is required and there is no requirement for criminality to be deemed satisfied regardless of whether both countries place the offence within the same category of offence.

Recommendations	Rating	Factor(s) underlying the rating
38. Mutual legal assistance: freezing and confiscation	PC	<ul style="list-style-type: none"> The MLA does not extend to all the elements noted in the sub-criteria of 38.1. Kuwait cannot provide assistance in case of non-conviction-based proceedings in relation to flight, absence, or where the perpetrator is unknown.
39. Extradition	LC	<ul style="list-style-type: none"> Extradition often lacks a legal basis because it relies on Manual Guides, which is not a legal basis. There is no provision for foreign jurisdictions to request cases to be submitted to competent authorities in cases where extradition is not executed.
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> Not all competent authorities in Kuwait can provide feedback to requesting countries on their inquiries. There is no legal basis for Kuwait to refuse information requests if the requesting country cannot guarantee the protection of the shared information. There is no requirement for financial supervisors to ensure they have prior agreement from of the requested financial supervisor before disseminating information. The LEAs cannot use their investigative techniques to conduct inquiries on behalf of foreign counterparts. There are no legal, procedural, or operational frameworks in place to enable LEAs in Kuwait to form joint investigation teams with foreign counterparts.

Glossary of Acronyms²⁵

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
BNI	Bearer negotiable instrument
BO	Beneficial ownership
CBK	Central Bank of Kuwait
CDD	Customer Due Diligence
CMA	Capital Markets Authority
DNFBP	Designated non-financial businesses and professions
DPMS	Dealers in Precious metals and stones
DPRK	Democratic Republic of North Korea
EDD	Enhanced Due Diligence
ESW	Egmont Secure Web
FI	Financial institutions
GAC	General Authority of Customs
GCC	Gulf Co-operation Council
GDP	Gross Domestic Product
INTERPOL	International Criminal Police Organisation
IRU	Insurance Regulatory Unit
ISIL/ISIS	Islamic State of Iraq and the Levant
KYC	Know-Your-Customer
KwFIU	Kuwait Financial Intelligence Unit
LEA	Law Enforcement Agency
LLC	Limited-Liability Company
MENAFATF	Middle East and North Africa Financial Action Task Force
ML	Money-Laundering
MLA	Mutual Legal Assistance
MLRO	Money laundering reporting officer
MOCI	Ministry of Commerce and Industry
MOF	Ministry of Finance
MOFA	Ministry of Foreign Affairs
MOI	Ministry of Interior
MOJ	Ministry of Justice
MOSA	Ministry of Social Affairs and Labour
MVTS	Money or value transfer service
NAMLC	National Anti-Money Laundering Committee
Nazaha	National Anti-Corruption Commission
NCB	National Central Bureau for Interpol
NCTC	National Counter Terrorism Centre

²⁵ Acronyms already defined in the FATF 40 Recommendations are not included in this Glossary.

NPO	Non-profit Organisation
NRA	National Risk Assessment
OIC	Organization of the Islamic Conference
PEP	Politically Exposed Person
PF	Proliferation Finance
PPO	Public Prosecutors Office
SSD	State Security Department
STR	Suspicious Transaction Report
TC	Technical Compliance
TCSP	Trust and Company Service Provider
TF	Terrorism Finance
TFS	Targeted Financial Sanctions
IT	Information Technology
UAE	United Arab Emirates
UBO	Ultimate Beneficial Owner
UNCTC	United Nations Counter-Terrorism Committee
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
USD	United States Dollar
VASP	Virtual Asset Service Provider
WMD	Weapons of Mass Destruction



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Anti-money laundering and counter-terrorist financing measures - Kuwait

Fourth Round Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CTF) measures in place in Kuwait as at the time of the on-site visit from 5-22 November 2023.

The report analyses the level of effectiveness of Kuwait's AML/CTF system, the level of compliance with the FATF 40 Recommendations and provides recommendations on how their AML/CFT system could be strengthened.