

# Client Alert

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## Kuwait's Capital Markets Regime: Reduction in Fee for Marketing Foreign Investment Funds

In February 2010 the National Assembly of Kuwait passed Law No. 7 of 2010 on Establishing a Capital Markets Authority and Regulating Securities Activities (the Capital Markets Law). The accompanying Executive Regulations (also referred to as bylaws) entered into force on March 13, 2011 (the Regulations). Together, the Capital Markets Law and the Regulations completely overhauled the securities and capital markets laws in Kuwait.

Based on the equivalent law in Saudi Arabia, the Capital Markets Law was adopted as a response to calls for greater regulation and transparency in the Kuwaiti securities market. As a result of the Capital Markets Law, a new Capital Markets Authority (the Authority), monitored by the Prime Minister, was established to work alongside the new Stock Exchanges Court.

The Regulations had a negative impact on sponsors planning to market foreign investment funds to investors in Kuwait (see our *Client Alert 1240*: April 1, 2011). This *Client Alert* addresses the recent amendment reducing the fee for marketing foreign investment funds in Kuwait.

### Reduction of Fee: An Encouraging Step

After discussion with the industry, on June 4, 2012, the Authority passed Decision No. 4 of 2012 regarding the Amendment to the Fees Schedule (the Amendment). The Amendment sets out that "the marketing fee for foreign investment funds in Kuwait will now be limited to the fixed amount of KWD50,000 payable upon application and upon annual license renewal."

The Amendment changes the previous position, whereby the fee for marketing foreign investment funds in Kuwait was set at 1 percent of the total value of investment units.

The reduction of the fee is an encouraging step by the Authority, but more remains to be done. Although the Amendment may encourage foreign sponsors to actively market in Kuwait, rather than opting for an offshore approach, imposing any level of fee will continue to discourage sponsors from marketing foreign funds to investors in Kuwait. The fact remains that imposing such a fee is unusual and at odds with the approach adopted by most other jurisdictions. Also, the Amendment will primarily benefit larger foreign funds marketing into Kuwait, bringing no direct benefit to smaller investment vehicles. Nevertheless, the Amendment is a promising step forward for Kuwait and is hopefully the first in a series of changes to address the issues raised in our *Client Alert 1240*. We await future changes with interest.

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