Resolution No. (24) of 2012

Regarding Issuing Regulations of Registering Auditors in the Concerned Register with The Capital Markets Authority

Having Perused:

- Law No.7 of 2010 regarding the Establishment of Capital Markets Authority & Regulating Securities' Activity; and
- The Executive Bylaw of Law No. 7 of 2010 issued by CMA Board of Commissioners' Resolution No. 2-4 of 2011 on 3/3/2011; and
- CMA Board of Commissioners Resolution No. (8) of 2011 regarding issuing regulations of registering auditors in the concerned register with the Authority; and
- Based on the Board of Commissioners' Resolution passed in its meeting No. (29) of 2012 on 10/12/2012 regarding issuing regulations of registering auditors in the concerned register with the Capital Markets Authority.

The Following Was Resolved:

Article One

Issuing of regulations of registering auditors in the concerned register with the Capital Markets Authority shall be based on the attachments of this Resolution.

Article Two

No person Licensed by the Authority is allowed to appoint an auditor that is not registered with the Authority after the end of the settlement of situations period, which is provided for by Law No. 7 of 2010 or until 31/3/2013, whichever is farther, except for the fiscal year which has concluded on 31/12/2012.

Article Three

The application period for registration in the auditors' register, which has started on 2/10/2011, shall continue.

Article Four

Resolution No. (8) of 2011 regarding issuing regulations of auditors in the concerned register with the Authority shall be cancelled.

Article Five

All sectors heads shall execute this Resolution each in the competencies thereof from the date of issuance.

Regulations of Registering Auditors in the Concerned Register with The Capital Markets Authority

Within the frame of the provisions of Law No. 7 of 2010 concerning the establishment of Capital Markets Authority and Regulating Securities' Activity and its Executive Bylaw, and in view of the desire to set the rules and conditions to be fulfilled by auditors before registering in the concerned register in the Capital Markets Authority, it is decided to apply the regulations of registering auditors in the concerned register of the Capital Markets Authority as follows:

Article (1):

Auditors willing to register in the register with the Capital Markets Authority for the auditors of companies under the control of the Capital Markets Authority shall have to fulfill the requirements and conditions stated in this system.

Article (2)

Without prejudice to the provisions of Law No. 5 of 1981 concerning practicing the auditor profession, any auditor registered in the auditors' register with the Ministry of Commerce and industry may proceed to the Capital Markets Authority requesting his registration as an auditor for companies under the control of the Capital Markets Authority, provided he/she fulfills the following conditions:

1- To be registered in the auditors' register, class (A), in the Ministry of Commerce and Industry.
2- The practical expertise of the auditor in Kuwait shall not be less than 5 years in the field of auditing shareholding companies since his/her registration in the register of auditors with the Ministry of Commerce and Industry.
3- To enjoy the professional and technical efficiency, and the good reputation in the field of auditing, and not to have been deprived from practicing the profession or convicted with any penalties or

punishments due to mistakes in practicing the profession, or any other legal violations by any controlling or judicial authority.

Article (3)

The auditor that applies to Capital Markets Authority shall fulfill the following terms and conditions:

1- The number of employees working for the auditor shall not be less than five, one of whom at least is a professional partner fulfilling the conditions of the previous Article. Such employees are conditioned to:

  a. Be dedicated for working with the auditor.

  b. The percentage of Kuwaiti employees working in the team of auditing accounts there should be not less than 15% within one year as of the date of registering the auditor with the register of the auditors with the Capital Markets Authority, provided that this percentage shall reach 25% within four years, and that their total percentage shall not be less than 50% within ten years as of the date of registration.
  c. Members of the team of accounts auditing shall be holders of an academic certificate in the field of accounting, and the team shall include members with professional qualifications in the field of accounting, provided that there shall be a clear plan for training and professional development of staff. Professional qualifications in accounting, whenever used in this Resolution, shall mean those obtained after passing a professional test.
    d. The professional accounting qualification of the employee shall qualify him/her to practice the duties of an external auditor in the state in where he obtained the qualification from.
  e. The percentage of professional employees with experience of not less than five years in the auditing field shall not be less than 35% of the total number of the auditing team employees. Professional employees – whenever used in this Resolution – shall mean those who hold a professional qualification in accounting and a practical experience in the field of accounting not less than 5 years.
  f. The auditor shall be keen on the continuous practice of his/her staff, with the minimum training hours of 30 per year for the members of the auditing team.

2- Then number of clients for professional employees (including the partners) shall not in all times exceed:

a. Ten clients only for each accounting team leader who is considered as a professional employee with an experience of not less than seven years.
b. Seven clients only for each accounting team leader who is considered as a professional employee with an experience of not less than five years.

For the purposes of application of this Article, clients shall mean the companies subject to the control of the Authority or any other corporation or company whose capital is not less than K.D. three million.

Article (4)

The auditor shall have a professional code of conduct pursuant to the latest international practices like the professional code of conduct issued by the International Federation for Accountants (IFAC), and every employee in the auditing team shall sign this code and abide by the same.

Article (5)

The auditor who applies for registration with the Capital Markets Authority shall submit a written application accompanied with the following details:

1- His basic details including the name, the date of registration in the register of accounting auditors with the Ministry of Commerce and Industry, his main domicile and details of communication.
2- Certificate of registration in the register of accounting auditors with the Ministry of Commerce and Industry.
3- List of the signatory authorized persons and samples of their signatures.
4- List of the partners and professional employees working for him, their nationalities, academic and professional qualifications and practical experience.
5- The number of clients that he is auditing their accounts at the time of submitting the application, with a statement for each of them.
6- It's approved organizational structure.
7- A brief statement of the internal regulations and policies, and the technical systems used.
8- Submitting a written statement in which he undertakes to:
   a. Review Law No. 7 of 2010 and its Executive Bylaw.
   b. Abide by all the laws, regulations, and instructions organizing companies under the supervision of the Capital Markets Authority and the auditing profession in the State of Kuwait.
   c. Abide by providing all the information and details required by the Capital Markets Authority.
   d. Abide by informing the Capital Markets Authority upon losing any of the requirements or conditions stated in the above Articles.

e. Abide by not accepting any other tasks that include a conflict of interests.
f. Abide by not accepting any tasks that affect the honor of the profession.
g. Pay the applicable fees to the Capital Markets Authority.

The Board of Commissioners of the Capital Markets Authority shall issue a resolution concerning the registration application within one month as of the date of submitting the application by the auditor, as complete and fulfilling all the above mentioned requirements. In case of refusal, the resolution shall be reasoned.

Article (6)

The auditor of companies subject to the control of the Capital Markets Authority shall take the following into consideration:

1- When the auditor has a license to work in the field of providing consultancy, he shall separate completely between the teams working in auditing and those working in providing consultancy.
2- Not to provide additional services to the company, except for those required by the auditing profession, and is completely banned from providing services that affect his independence and neutrality like consultancy services or the internal auditing services during practicing the works of external auditing.
3- To review the details of his work plan, and the results of the auditing process with the internal auditing committee in the company, which guarantees giving him the full right to view all the documents necessary for performing the tasks of account auditing.
4- To discuss his opinions with the internal auditing committee in the company prior to submitting the annual accounts to the Board of Directors to take decision in their concern.
5- The account auditor registered in the account auditors register with the Capital Markets Authority shall be appointed for one fiscal year, renewable annually for the maximum period of four successive years. It is possible to appoint one of its partners for the same periods. Such periods are calculated as of the date of registration in the register.
6- To inform the Board of Directors of the company and the shareholders about any important issues like:

a. How appropriate and effective are the internal auditing systems and internal regulations applicable in the company, and how far they are applied, in line with the auditor's report for the management of the company “management letter”.

b. The ability of the company to continue practicing its businesses.

7- To inform the Board of Directors of the company of any violations discovered or any suspected non-conformity with the laws, regulations and directives applicable or with the Articles of Association of the company. In case of any important and material violations, the auditor shall also inform the Capital Markets Authority and the ordinary annual General Assembly of the company.

Article (7)

The Capital Markets Authority is entitled to review the work of the auditor registered with it to inspect the aspects related to auditing the accounts of the companies under the control of the Capital Markets Authority pursuant to the international standards of financial reports and the requirements of disclosure requirements issued by the Capital Markets Authority, and that the auditor has relied on reasonable basis in issuing his report pursuant to the international standards of financial reports, and the policies and procedures of quality control pursuant to such standard.

Article (8)

The auditor registered with the Capital Markets Authority shall abide by submitting an annual report in June every year, including the human resources available to him throughout the year, the activity of auditing, consultancy, and other services he introduced to companies subject to the control of the Capital Markets Authority, and the training activity throughout the year, in addition to risk estimation, risk management, and quality control; provided that the report shall include how far is he abiding with the provisions of item (2) of Article (3) of these regulations.

Article (9)

The Board of Commissioners of the Capital Markets Authority may, pursuant to a reasoned resolution, suspend the auditor registered with the Capital Markets Authority for a certain period of time, from auditing the accounts of the companies subject to the control of the Authority.

The auditor shall continue to perform his tasks until the meeting of the annual General Assembly even if he was removed from the register of auditors with the Capital Markets Authority after his appointment.

The auditor who has been suspended from auditing the accounts of accompanies under the control of the Capital Markets Authority may submit an application to the Authority requesting to resume this activity, pursuant to the conditions set by the Capital Markets Authority.

Article (10)

The Board of Commissioners of the Capital Markets Authority may, pursuant to a reasoned resolution, remove the auditor registered in the register with the Capital Markets Authority if he violated the provisions of Articles (2) and (3), or if his registration was removed or cancelled from the register of accounting auditors with the Ministry of Commerce and Industry, or if a final verdict was issued against him in a moral or trust crime.

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