

# UBO RESOLUTION IN KUWAIT

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From **MENA**  
to the **World**

## UBO Resolution in Kuwait

with

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With Suzan Taha

On 4 January 2023, the Ministry of Commerce and Industry ("MoCI") issued resolution 4/2023 to outline the procedures for determining the identity of the actual beneficiary of corporate entities in Kuwait (the "UBO Resolution"). The UBO Resolution was published in Kuwait Official Gazette on 8 January 2023 and will enter into effect on 1 April 2023.

LegalcommunityMENA sat down with senior associate **Ali Boshehri** from [Meysan Partners](#), who walked us through the recent changes and their impact on businesses.

### **What is the purpose of this new law?**

The UBO Resolution aims to contribute to the development of the business environment and the country's capabilities and economic standing in accordance with international requirements by instituting general and comprehensive obligations on corporate entities and persons acting for and within such corporate entities to disclose their actual beneficiaries (also known as ultimate beneficial owners) to MoCI and imposes penalties on the companies that fail to comply with the disclosure

requirements within the time-limits prescribed therein.

The UBO Resolution includes other aspects that relate to the maintenance of a shareholders' register, obligations of the Commercial Registry Department, a person's right to seek a court order to amend the UBOs register, publication matters, and international cooperation with foreign authorities.

The UBO Resolution defines the actual beneficiary (the "UBO") as any natural person who – directly or indirectly – owns 25% of the company, or has voting shares equal to or more than 25% of the company's voting shares, or is able to control the company in any way possible, such as, for example, by having the right to appoint or remove directors of the company.

### **How does this new law impact business?**

Companies will need to comply with the main requirements set out in the UBO Resolution, which includes maintaining a register of Ultimate Beneficial Owners (UBOs) containing their personal information, as well as information about how they became the ultimate beneficial owner of the company and when they stopped being one (if applicable).

Companies must also take reasonable measures to obtain accurate information about their UBOs and submit the UBOs Register to the Commercial Registry Department at the Ministry of Commerce and Industry. Failure to comply with the UBO Resolution could result in the company being unable to obtain or renew any MoCI license. The information in the UBO Registers will also be made publicly available. The UBO Resolution also requires nominee directors/managers to disclose their capacities as nominees to the company and the company to provide such information to the Commercial Registry Department.

The law prohibits the registration or execution of any document relating to a change of ownership unless the transferee submits a statement confirming whether the transfer will result in a change of actual beneficial ownership of the company and provides the new UBO's details to be included in the UBO Register. Companies must submit the UBOs Register within sixty days of the effective date of the UBO Resolution and at various other points in time, including when incorporating, renewing a commercial license, or amending the company's articles.

### **How does this new law interact with other laws or regulations?**

The MoCI issued the UBO Resolution to further implement the extensive provisions of the Combatting of Money Laundering and Financing of Terrorism Law (106/2013) as amended and its executive regulations ("AML-CFT Law"), and in line with the steady enactments by MoCI, and other regulators including the Ministry of Finance, the Capital Markets Authority and Central Bank of Kuwait, which have all issued similar resolutions and circulars to implement the AML-CFT Law on the entities they supervise and regulate.

In 2013, Kuwait enacted the AML-CFT Law to keep up with the developing nature of money laundering and terrorism financing internationally. Chapter 1 of the AML-CFT Law includes comprehensive precautionary and preemptive provisions that aim to prevent or discover money laundering activities, and which impose on certain public and private institutions requirements to

ascertain the beneficial owners of regulated entities and clients.

Based on these provisions of the AML-CFT Law, MoCI issued several resolutions regulating the activities of the currency exchange sector, the insurance sector, the real estate sector, and the jewelry retail sector to ensure that both the actual clients and transactors within these sectors, and their sources of funds are ascertained.

Companies that are directly subject to the AML-CFT Law, namely financial institutions or designated non-financial businesses or professions, are subject to the AML-CFT Law's criminal penalties, when proven to be in violation of this UBO Resolution.

### **Are there any exemptions or exclusions under this new law?**

The UBO Resolution is not applicable to state-owned companies or companies owned by state-owned companies.

The obligation on a company to take reasonable measures to identify its UBOs is not applicable to listed companies or a company majority-owned by a listed company.

### **About Ali Boshehri**

A senior associate in the litigation division at Meysan Partners. He has a diverse range of experience, including criminal law, civil litigation, and construction law issues. Boshehri provides counsel on various legal areas such as engineering, trade, entrepreneurship, international shipping, and white-collar criminal defense. He offers guidance on all aspects of civil law and has assisted both local and international companies with corporate and contractual disputes.

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