

Resolution No. (49) of 2021 Regarding Financial Derivatives Transactions

Having Perused:

- Law No. (7) of 2010 Regarding the Establishment of the Capital Markets Authority and Regulating Securities Activities and its Executive Bylaws, and their amendments; and
- CMA Board of Commissioners Resolution passed in its meeting No. (13) of 2021 held on 14/04/2021.

The Following Was Resolved

Article (1)

Module One (Glossary) and Module Eight (Conduct of Business) and Module Eleven (Dealing in Securities) of the Executive Bylaws of Law No. (7) of 2010 Regarding the Establishment of the Capital Markets Authority and Regulating Securities Activities and their amendments are hereby amended pursuant to Annex (1) attached to this Resolution.

Article (2)

Companies whose objectives include brokerage in financial derivatives transactions, or those companies that market services related to financial derivative trading, shall apply to adjust their situation pursuant to Law No. (7) of 2010 Regarding the Establishment of the Capital Markets Authority and Regulating Securities Activities and its Executive Bylaws and their amendments, and the Authority's regulations issued in this regard. This shall be through the submission of an application for a license during a transitional period of one year maximum from the issuance date of this Resolution.

Article (3)

The Authority is responsible for supervising financial derivatives transactions according to the definition of the security and financial derivative, which are transacted in the State of Kuwait, starting from the issuance of this Resolution and according to the provisions of Article Two above.

Article (4)

The services provided in relation to financial derivative brokerage and its marketing services are limited to professional clients only.

Article (5)

It is prohibited to offer or issue financial derivatives in the State of Kuwait, unless the Authority decides otherwise.

Article (6)

The concerned bodies shall execute this Resolution, each within its jurisdiction. This Resolution shall come into force from the date of issuance, and it shall be published in the Official Gazette.

Prof. Ahmad A. Al-Melhem

Issued on: 19/04/2021

Annex No. (1)

Module	Article	Amendment Type	Before Amendment	After Amendment
One				
	Financial Derivatives	Amending definition	Financial instruments, the value of which is derived from the value of the relevant assets such as Shares, Bonds, commodities and currencies, which are purchasable, sellable and tradable similarly to Shares or other financial assets.	Financial instruments, the value of which is derived from the value of the relevant assets such as Shares, Bonds, commodities and currencies, which are purchasable, sellable and tradable similarly to Shares or other financial assets. Financial Derivatives are considered securities subject to the provisions of the Law and these Bylaws.
	Security	Amending definition	any instrument – in any legal form - that evidences ownership of a share in a financial transaction and that is negotiable pursuant to a license from the Authority, such as: a. shares issued or proposed to be issued in the capital of a company; b. any instrument that creates or acknowledges a debt issued or to be issued by a company; c. loans, Bonds,	any instrument – in any legal form - that evidences ownership of a share in a financial transaction and that is negotiable pursuant to a license from the Authority, such as: a. shares issued or proposed to be issued in the capital of a company; b. any instrument that creates or acknowledges a debt issued or to be issued by a company; c. loans, Bonds, Sukuks and other instruments that can be converted shares

			<p>Sukuks and other instruments that can be converted shares in a the capital of a company;</p> <p>d. all public Debt Instruments that are tradable and issued by the various government entities or public institutions or authorities;</p> <p>e. any right, option or derivatives relating to Securities;</p> <p>f. Units in a Collective Investment Scheme;</p> <p>g. any paper or instrument considered by the Authority as a Security for the purposes of implementing this Law and the Bylaws.</p> <p>Not to be considered as Securities are commercial papers such as cheques, promissory notes, bills of lading, letters of credit, cash transfers and instruments negotiated by banks exclusively between each other, insurance policies and rights arising from retirement funds established for the benefit of the beneficiaries therefrom.</p>	<p>in the capital of a company;</p> <p>d. all public Debt Instruments that are tradable and issued by the various government entities or public institutions or authorities;</p> <p>e. any right, option or derivatives relating to Securities;</p> <p>f. Units in a Collective Investment Scheme;</p> <p>g. Financial instruments whose value is derived from assets or price references, specifically the value of shares, bonds, commodities, currencies and interest rates, and can be bought, sold and traded in a manner similar to Shares or any other financial assets.</p> <p>Not to be considered as Securities are commercial papers such as cheques, promissory notes, bills of lading, letters of credit, cash transfers and instruments negotiated by banks exclusively between each other, insurance policies and rights arising from retirement funds established for the benefit of the beneficiaries therefrom.</p>
Eight				

	2-1	Amending Article	This Chapter shall apply to <u>Licensed Persons</u> for the following activities: 1. <u>Investment Portfolio Manager.</u> 2. <u>Collective Investment Scheme Manager.</u> 3. <u>Subscription Agent.</u> 4. <u>Custodian.</u>	This Chapter shall apply to <u>Licensed Persons</u> for the following activities: 1. <u>Investment Portfolio Manager.</u> 2. <u>Collective Investment Scheme Manager.</u> 3. <u>Subscription Agent.</u> 4. <u>Custodian.</u> 5. <u>Securities Broker not registered in the Securities Exchange.</u>
	2-2-1	Adding Article		The services provided in relation to <u>Financial Derivatives</u> brokerage and its marketing services are limited to <u>Professional Clients</u> only.
Eleven				
	2-1	Amending Article	No <u>Securities</u> may be issued, either directly or indirectly, or offered unless approved by the <u>Authority.</u>	No <u>Securities</u> may be issued, either directly or indirectly, or offered unless approved by the <u>Authority.</u> <u>Financial Derivatives</u> related to interest rates linked to the Kuwaiti dinar or to the exchange rates of the Kuwaiti dinar shall not be issued without the approval of the <u>Central Bank.</u>