

NO. () of 2007

LAW REGARDING SECURITIES

I. INTRODUCTION

The proposed Law Regarding Securities (Law) is intended to provide a permanent foundation for regulation of Iraq's securities markets. The Law would replace the Interim Law on Securities Markets (Interim Law), which was adopted in 2004 pursuant to Order No. 74, and amended pursuant to Order No. 100.

Iraq requires a permanent securities law for several reasons. First, the Interim Law was intended only as a temporary measure to permit the opening of the Iraq Stock Exchange (ISX), subject to oversight of an interim Iraq Securities Commission (Interim Commission). The term of the Interim Commission is limited until a new permanent securities law is established; accordingly, the Law is necessary to establish a permanent securities regulator for Iraq's securities markets. Chapter Two of the Law provides for a five-member Securities and Exchange Commission (Commission), addresses the authority given to the Commission, how its members are selected and to whom the Commission is accountable to in the Government of Iraq.

Second, because the Interim Law was intended primarily to facilitate the opening of the ISX, the Interim Law does not address a number of areas that normally should be included in a country's securities law. The Law builds upon the Interim Law and provides a more comprehensive basis for sound securities regulation including:

- Provisions for the appointment by the Prime Minister of five Commission members, including a Chairman and Deputy Chairman, with staggered five-year terms and safeguards as to their independence, with accountability to the Prime Minister;
- A broader definition of securities necessary to address transactions in financial instruments not covered by the Interim Law;
- Provisions for the direct licensing of brokers and other financial intermediaries by the securities regulator;
- Provisions for financial intermediaries to be licensed as dealers who may engage in securities transactions for their own account;
- Provisions that extend the Interim Law's requirements for the listing of securities on licensed securities markets and the making of public offers of securities, as well as setting forth prospectus and registration statement disclosure requirements for such;
- Disclosure and reporting provisions that reflect international best practices for listed securities and securities of other companies that have both more than 100 owners and more than an amount of total assets specified by rules of the Commission;
- Provisions that require the ISX and the Iraq Securities Depository (Depository) to be licensed as self-regulatory organizations (SROs) under the

Law so that, subject to Commission oversight, they may take on greater responsibility the day-to-day regulation of activities relating to ISX trading and clearing and settlement of securities transactions;

- Provisions that would permit an organization of Iraq securities brokers or dealers to apply for similar SRO status;
- Provisions for fair governance of the ISX, the Depository and any other licensed securities market;
- Provisions addressing expansion of the ISX to include other market participants; establishment of the Depository (currently a division of the ISX) as an independent, member-owned entity; and possible conversion of the ISX to for-profit status;
- Provisions for the clearing and settlement of securities transactions on a book entry, delivery vs. payment, basis within a time frame consistent with international best practices;
- Prohibitions on insider trading, market manipulation and other forms of securities fraud that conform to international best practices;
- Provisions granting more comprehensive investigative and enforcement authority to the Commission, including the establishment of a Hearing Tribunal within the ISC to assist in deciding administrative enforcement matters; and
- Provisions that permit investors to bring private law suits for damages sustained as a result of fraudulent securities activities.

Third, a new law is necessary to establish a securities regulatory regime that is in accordance with international best practices. Adoption of the Law would ensure a regulatory regime that permits Iraq's securities markets to be compared favorably in terms of fairness, transparency and investor protection with other markets in the Middle East and Gulf States.

The Law has been prepared by a working group comprised of representatives of the Interim Commission, the ISX and U.S. consultants, including staff members of the U.S. Securities and Exchange Commission. In drafting the Law, the working group was guided by three general principles:

- The Law should be designed to address the current stage of development of Iraq's securities markets, but it should also provide a sound framework for further development of the markets.
- The Law should be consistent with international best practices as set forth in the Objectives and Principles of Securities Regulation (IOSCO Principles) of the International Organization of Securities Commissions (IOSCO) with the expectation that the Securities Commission will become a member of IOSCO.¹

¹ IOSCO is the world's professional association of securities regulators. Its members include securities regulators from over 100 countries. Presently, securities regulatory bodies in all of the principal Middle East and Gulf States countries are members of IOSCO, except for Iraq, Iran and Kuwait. The IOSCO Principles consist of three objectives, which are included among the General Objectives in Article 2.A of

- The Law should draw upon best practices of securities regulation reflected in the securities laws of neighboring countries. In this regard, the working group looked primarily at Jordan and Saudi Arabia, both of which have recently adopted modern securities laws. Attached to this Memorandum is a chart generally comparing provisions of the Law with the Jordanian and Saudi Arabia statutes.

The Law consists of 85 articles, which are set forth in 11 chapters as follows:

Chapter One	Fundamental Principles (Articles 1-5)
Chapter Two	Regulatory Oversight (Articles 6-16)
Chapter Three	Public Offer of Securities (Articles 17-28)
Chapter Four	Responsibilities Related to Publicly Held Securities (Articles 29-35)
Chapter Five	Securities Markets (Articles 36-43)
Chapter Six	Licensing and Regulation of Brokers, Dealers, Underwriters, Best Efforts Underwriters, Investment Advisors and Investment Managers (Articles 44-56)
Chapter Seven	Securities Associations (Article 57)
Chapter Eight	Depository (Articles 58-67)
Chapter Nine	Investigations, Commission Actions, Court Proceedings, Sanctions and Remedies (Articles 68-81)
Chapter Ten	Fraud, Market Manipulation, and Insider Trading (Articles 82-83)
Chapter Eleven	Miscellaneous Provisions (Articles 84-85)

An explanation of each of these chapters and the related articles is included below.

the Law, and thirty principles, which have been taken into consideration in drafting other articles of the Law. The IOSCO Principles as well as a Methodology that IOSCO has developed to measure and benchmark a country's implementation of the IOSCO Principles may be found in the list of IOSCO pronouncements included in the public library section of IOSCO's website: www.iosco.org.