قانون رقم (--) لسنة ---- بإصدار قانون التوريق

نحن حمد بن عيسى آل خليفة
ملك مملكة البحرين،
بعد الاطلاع على الدستور،
وعلى قانون التجارة الصادر بالمرسوم بقانون رقم (7) لسنة 1987 وتعديلاته،
وعلى المرسوم بقانون رقم (26) لسنة 1996 بشأن مدققي الحسابات،
وعلى قانون الشركات التجارية الصادر بالمرسوم بقانون رقم (21) لسنة 2001،
وعلى القانون المدني الصادر بالمرسوم بقانون رقم (19) لسنة 2001،
وعلى قانون مصرف البحرين المركزي والمؤسسات المالية الصادر بالقانون رقم (64) لسنة 2006،
أقر مجلس الشورى ومجلس النواب القانون الآتي نصه، وقد صدقنا عليه وأصدرناه:

المادة الأولى

يُعمل بقانون التوريق المرافق لهذا القانون.

المادة الثانية

على الوزراء – كل فيما يخصه – تنفيذ هذا القانون، ويبعد به اعتبارا من اليوم التالي لتاريخ نشره في الجريدة الرسمية.

ملك مملكة البحرين
حمد بن عيسى آل خليفة

صدر في قصر الرفاع:

بتاريخ: ______ هـ

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SECURITISATION LAW

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Article 1

1. “CBB” means the Central Bank of Bahrain.
3. “Securitisation” means the transaction by which a securitisation undertaking acquires or assumes, directly or through another undertaking, risks relating to claims, other assets, or obligations assumed by third parties or inherent to all or part of the activities of third parties and issues securities, whose value or yield depends on such risks.
4. "Securitisation undertakings" are undertakings which carry out the securitisation in full, and undertakings which participate in such a transaction by assuming all or part of the securitised risks - the acquisition vehicles, or by the issuing of securities to ensure the financing thereof the issuing vehicles and whose articles of incorporation, management regulations or issue documents provide that they are subject to the provisions of this law.
Article 3
This law only applies to securitisation undertakings situated in Bahrain. For the purposes of this law, securitisation companies which have their registered office in Bahrain and securitisation funds whose management company has its registered office in Bahrain are situated in Bahrain.

Section 1 - Securitisation Companies

Article 4
Securitisation companies must be set up as a Bahrain Stockholding Company (“BSC”), a With Limited Liability Company (“WLL”) or a [new Protected Cell-Company].

Article 5
The articles of incorporation of a securitisation company may authorise the Board of Directors to create one or more compartments, each compartment corresponding to a distinct part of its assets and liabilities.

Section 2 - Securitisation Funds and their Management Companies

Sub-section 1 - Securitisation Funds

Article 6
1. Securitisation funds consist of one or more co-ownerships (co-proprietes) or one or more fiduciary estates. The management regulations of the fund shall expressly specify whether the fund is subject to the co-ownership rules or to the trust and fiduciary rules.
2. Securitisation funds do not have legal personality. They are managed by a management company.
3. Securitisation funds which consist of one or more fiduciary estates are subject to the legislation of the trust and the fiduciary contracts.
4. The provisions of the Civil Code relating to co-ownership in undivided shares (indivision) do not apply to securitisation funds.

**Article 7**

1. The rights of investors in the fund, whether such investors act as joint owners or settlors, are represented by securities issued in accordance with the management regulations.

2. The ownership of registered securities is evidenced by an entry in the register held for such purposes by the management company. The transfer of such registered securities is effected by a declaration of transfer recorded in the register, dated and signed by the transferor and the transferee or evidenced as set out in the management regulations. The transfer of bearer securities is effected by mere delivery.

3. The management regulations may also authorise the management company to issue dematerialised securities represented by book entries in an account held with the management company or an authorised professional of the financial sector acting on its behalf.

**Article 8**

If provided for in the management regulations, a securitisation fund may consist of several compartments, each compartment corresponding to a distinct co-ownership or fiduciary estate.

**Article 9**

Debt instruments may be issued on behalf of the securitisation fund or one of its compartments.
Article 10

1. The management regulations of a securitisation fund shall contain at least the following provisions:
   - an indication whether the fund is set up in the form of a co-ownership or fiduciary estate, the name, object and duration, limited or unlimited, of the securitisation fund;
   - the name of the management company;
   - the specific administration and management rules which apply to it;
   - the possibility for the securitisation fund to consist of several compartments;
   - the circumstances in which the fund or one of its compartments will be in, or may be put into, liquidation;
   - the respective rights and obligations of the management company and, as the case may be, of the investors; and
   - the rules governing the assumption of risks and/or the issuance of securities, the procedures for amending the management regulations.

2. Securitisation funds, consisting of several compartments, may determine by separate management regulations, the characteristics of and the rules applicable to, each compartment.

3. The management regulations as well as subsequent amendments thereto must be lodged with the Commercial Registration Directorate at the Ministry of Industry and Commerce no later than [10] days following adoption of such regulations.

4. The provisions of such regulations are deemed accepted by the investors in the securitisation fund by the mere acquisition of securities issued by the fund.
**Article 11**
Without prejudice to Article 59, investors in a securitisation fund are only liable for the debts of the securitisation fund up to the assets of the fund and in proportion to their participation.

**Article 12**
The securitisation fund shall be liable only for the obligations expressly imposed upon it by its management regulations or which it has contracted in conformity with the latter. It shall not be liable for the debts of the management company or of the investors.

**Article 13**
1. The decision to liquidate a securitisation fund shall be made public by the management company within a period of 15 days from such decision. Publication shall be made through notices published in the Official Gazette and in at least two newspapers of adequate distribution, one of such newspapers being necessarily a Bahrain newspaper.

2. Once the liquidation has commenced, the issuance of securities is prohibited under penalty of voidance, except for the sake of the liquidation.

3. Without prejudice to the preceding paragraph, the commencement of the liquidation is effective against third parties only as from the day of its publication in the Official Gazette, except if the securitisation fund can establish that such third parties had prior knowledge thereof. Third parties may however rely upon the liquidation prior to its publication.
Sub-section 2 - Management Companies

**Article 14**
The management company is a commercial company whose object is to manage securitisation funds and, as the case may be, to act as fiduciary of funds consisting of one or more fiduciary properties.

**Article 15**
1. The management company shall draw up the management regulations for the securitisation fund.
2. Without prejudice to the powers conferred upon a fiduciary-representative, the management company acts on behalf of the securitisation fund and its investors vis-a-vis third parties. It acts on their behalf in all judicial proceedings, whether as plaintiff or defendant, without having to disclose the identity of the investors, the sole indication that the management company is acting in such capacity being sufficient. As long as they are represented, the investors cannot individually bring actions which fall within the authority of the management company.

**Article 16**
The management company must perform its duties in an independent manner and in the sole interest of the securitisation fund and the investors. It may not use the assets of the securitisation fund for its own needs and it is liable towards the investors and third parties for the proper performance of its duties.

**Article 17**
The creditors of the management company or of the investors have no rights of recourse against the assets of the securitisation fund.
Article 18

The duties of the management company in respect of the securitisation fund shall cease:
- in the event of resignation or removal of the management company, provided that it is replaced by another management company, authorised, as the case may be, in accordance with the provisions of this law;
- if the management company has been declared bankrupt, has entered into a composition with creditors, has obtained a suspension of payment, has been put under court controlled management, or has been the subject of similar proceedings or has been put into liquidation;
- if, in the case of an authorised securitisation undertaking, the CBB withdraws the management company's authorisation; and
- in all other circumstances set out in the management regulations.

Chapter Two

Authorised Securitisation Undertakings

Section 1 - Obligation and Conditions for an Authorisation

Article 19

Securitisation undertakings which issue securities to the public on a continuous basis ("authorised securitisation undertakings") must be authorised by the CBB to exercise their activities.
Article 20

1. A securitisation undertaking shall be authorised only if the CBB approves its articles of incorporation or the management regulations of the securitisation undertaking, and, as the case may be, authorises its management company. Securitisation companies and management companies of securitisation funds must be appropriately organised and have adequate resources to discharge their legal and fiduciary duties prior to the CBB considering their authorisation.

2. The members of the administrative, management and supervisory vehicles of a securitisation company or a management company of an authorised securitisation undertaking, as well as its direct or indirect shareholders which are in a position to exercise a significant influence over the conduct of the business of such a company, must be of sufficiently good repute and have the experience or means required for the performance of their duties. To that end, the names of those persons, and of every person succeeding them in office, must be notified to, and approved by, the CBB prior to taking up their appointment.

3. Any change in control of the securitisation company or the management company, any replacement of the management company, as well as any amendment to the management regulations or the articles of incorporation are subject to the prior approval of the CBB.

المادة 20

1. يتم إجازة مؤسسة التوريق فقط في حال موافقة المصرف المركزي على النظام الأساسي أو على لوائح الإدارة الداخلية الخاصة بموضوع التوريق، وفي حال إجازة الشركة المديرة لها، حسب مقتضى الحال. ويجب أن تكون كل من شركات التوريق والشركات المديرة لصناديق التوريق منظمة بشكل ملائم وأن توفر لديها الموارد الكافية للقيام بالمهام القانونية والتعاقدية قبل أن يقوم المصرف المركزي بالموافقة على منح الإجازة.

2. على أعضاء الهيئات الإدارية والرقابية لشركة التوريق أو الشركة المديرة لمؤسسة التوريق المجازة، إضافة إلى المساهمين المباشرين أو غير المباشرين فيها، الذين يشغلون مناصب هامة ذات تأثير في سير عمل الشركة، أن يتمتعوا بسمعة حسنة وبالخبرات والمؤهلات المطلوبة للقيام بدورهم الفعال في الشركة. ولهذ الغاية، يجب إبلاغ المصرف المركزي بأسماء تلك الشخصيات والأشخاص المهمين الذين يشغلون مناصب مهم ويتصلون بهم، قبل أن يتم تعيينهم.

3. إن أي تغيير على السيطرة لدى شركة التوريق أو الشركة المديرة أو استبدال الشركة المديرة، أو أي تعديل على لوائح الإدارة الداخلية أو النظام الأساسي، كل ذلك يخضع لمواقة المصرف المركزي المسبقة.
Article 21

1. Authorised securitisation undertakings shall be entered on a list by the CBB. Such entry shall be tantamount to authorisation and shall be notified to the securitisation undertaking. The said list and any amendments made thereto shall be published by the CBB from time to time at the sole discretion of the CBB.

2. The entering and the maintaining on the list referred to in the preceding paragraph, shall be subject to compliance with all the provisions of laws, regulations and agreements which govern the securitisation undertaking, the operation of its vehicles and the distribution, placing or sale of the securities issued by the securitisation undertaking.

3. The fact that a securitisation undertaking is entered on the list referred to in the preceding article shall not under any circumstance be described in any way whatsoever as a positive assessment made by the CBB of the quality of the securities issued by it.

Section 2 - Supervision of Authorised Undertakings

Article 22

Authorised securitisation undertakings must entrust the custody of their liquid assets and securities with a suitable financial institution established or having its registered office in Bahrain.

Article 23

1. Authorised securitisation undertakings are supervised by the CBB which must in particular, ascertain that they comply with the law and their obligations.

2. The CBB supervision continues until the close of the liquidation of the securitisation undertaking.

المادة 21

1. يتم إدخال مؤسسات التوريق المجازة إلى قائمة خاصة بذلك لدى المصرف المركزي. وتكون عملية الإدخال متزامنة مع منح الإجازة ويتبع إبلاغ مؤسسة التوريق بذلك. كما يتم نشر القائمة وأية تعدلات تطرأ عليها من قبل المصرف المركزي من وقت لآخر وذلك وفق تقديره المطلق.

2. إن عملية الإضافة إلى القائمة والاحتفاظ بها، كما ورد في الفقرة السابقة، تخضع إلى الامتثال إلى جميع الأحكام الواردة في القوانين واللوائح والاتفاقيات التي تنظم مؤسسات التوريق، وسير أعمالها وعمليات توزيع، أو توظيف، أو بيع الأوراق المالية المصدرة من قبل مؤسسات التوريق.

3. لا يُنظر إلى حقيقة أن مؤسسة التوريق مدرجة في القائمة المشار إليها في المادة السابقة، تحت أي ظرف، على أنه تقييم إيجابي من قبل المصرف المركزي لجودة الأوراق المالية المصدرة من قبلها، بأي طريقة كانت.

القسم 2 – الرقابة على مؤسسات التوريق المجازة

المادة 22

يجب على مؤسسات التوريق المجازة بأن تعود بالأصول السائلة والأوراق المالية لديها إلى مؤسسة مالية ملائمة منشأة أو مقرها القانوني في البحرين.

المادة 23

1. يتم مراجعة مؤسسات التوريق المجازة من قبل المصرف المركزي والذي يتعين عليه التأكد من التزام تلك المؤسسات بالقانون وبالالتزامات الموكلة إليها.

2. يواصل المصرف المركزي عمله الرقابي إلى أن يتم الانتهاء من تصفية مؤسسة التوريق.
Article 24

1. The CBB may request from authorised securitisation undertakings, a periodical statement of their assets and liabilities and their operating results. The CBB shall, at its sole discretion, determine the format and overall content of those statements, and the parties whom the CBB considers appropriate to provide them.

2. The CBB may, at its sole discretion, require communication of any information or carry out on-site investigations and/or undertake on-site inspections at any time. The scope of such activities shall be determined by the CBB, and may include but not be limited to an inspection and review of all the documents of a securitisation company, a management company or a financial institution entrusted with the deposit of the assets of an authorised securitisation undertaking, which relate to the organisation, administration, management, or operation of such undertaking or to the valuation of and return on the assets, in order to verify compliance with the provisions of this law and the provisions set out in the management regulations or the articles of incorporation of the securitisation undertaking, and in the agreements relating to the issuance of securities, and the accuracy of the information it has been provided with.
Article 25

1. In the event that the CBB determines that an authorised securitisation undertaking is not complying with the provisions of this law, the management regulations, the articles of incorporation or the agreements relating to the issuance of securities, or that the rights attached to the securities issued by the securitisation undertaking may be impaired, it may direct the securitisation undertaking to remedy the situation within a period specified by the CBB.

2. If such directive is not complied with, the CBB may make its position on the findings under paragraph 1 public; prohibit any issuance of securities; request the listing of the securities issued by the securitisation undertaking to be suspended; withdraw its authorisation; and/or take the securitisation undertaking into administration pursuant to Part 10 of the CBB Law, and such securitisation undertaking shall be deemed to be a “licensee” of the CBB for the purposes of that Part of the CBB Law.

Article 26

If an authorised securitisation undertaking or its management company does not publish the commencement of its liquidation in accordance with Article 13, such publication is made by the CBB at the expense of the securitisation undertaking.

Section 3 - Decisions of the Central Bank of Bahrain

Article 27

1. Decisions of the CBB adopted in implementation of this law shall state the reasons on which they are based and, unless the delay entails risks, they shall be adopted after preparatory proceedings at which all parties are able to state their case.
2. Decisions rendered by the CBB may be challenged in the administrative court. Any action must, under penalty of foreclosure, be filed within one month of notification of the challenged decision. It is exempt from any stamp or registration duties. The administrative court shall render its decision based on the merits of the case.

Article 28

The decision of the CBB withdrawing the name of a securitisation undertaking from the list provided for in Article 21 shall by operation of law, as from the notification thereof to such undertaking, and until the decision has become final, entail for such undertaking suspension of any payment by said undertaking and prohibition for such undertaking, under penalty of voidance, to take any measures other than protective measures, except with the prior written authorisation of the CBB.

Article 29

1. The written authorisation of the CBB is required for all measures and decisions of the undertaking and, failing such authorisation, they shall be void.

2. The CBB may submit for consideration to the relevant authorities of the undertaking any proposals which they consider appropriate. They may attend the proceedings of the administrative, management, executive or supervisory bodies of the undertaking at any time, including without prior notification.
Article 30

The judgment provided for in Paragraph (1) of Article 38 of this law shall terminate the functions of the CBB which must, within one month after its replacement, submit to the liquidators appointed in such judgment a report on the use of the undertaking’s assets together with the accounts and supporting documents.

Chapter Three

Liquidation of Securitisation Undertakings

Section 1 - Provisions Common to Authorised and Unauthorised Securitisation Undertakings

Article 31

Securitisation undertakings shall, after dissolution, be deemed to exist for the purpose of their liquidation. All documents and other correspondence issued by a securitisation undertaking in liquidation shall clearly state that it is in liquidation.

Article 32

Each compartment of a securitisation undertaking may be separately liquidated without such liquidation resulting in the liquidation of another compartment.

Article 33

The liquidator’s responsibilities include, but are not limited to, bringing and defending all actions on behalf of the securitisation undertaking, receiving all payments, granting releases with or without discharge, realising all the assets of the undertaking and re-employing the proceeds therefrom, issuing or endorsing any negotiable instruments, assessing and determining the validity and appropriateness of compounding or compromising claims.
**Article 34**

Sums and assets payable to investors who failed to present themselves at the time of the closure of the liquidation, shall be paid to the court to be held for the benefit of the persons entitled thereto.

**المادة 34**

بالنسبة للمبالغ والأصول مستحقة الدفع إلى المستثمرين ممن لم يتمكنوا من تقديم انفسهم في وقت إغلاق عملية التصفية، فإنه يتم دفعها إلى المحكمة لكي يتم الاحتفاظ بها لصالح الأشخاص الذين يستحقونها.

**Article 35**

1. The liquidators shall be responsible both to all appropriate third parties and to the securitisation undertaking itself for the discharge of their mandate and for any faults committed in the conduct of their activities.

2. Legal actions against the liquidators shall lapse five years after the date on which the facts upon which such actions are based occurred or, if fraudulently concealed, after the discovery of such facts.

**المادة 35**

1. يكون المصفون مسؤولون عن كل من الأطراف الخارجة الملائمة وعن مؤسسة التوريق ذاتها بشأن القيام بالمهام المولّدة منها فيما يتعلق بأخطاء كانت قد ارتكبت في سياق أعمالهم.

2. تنقضي الإجراءات القانونية المتخذة بحق المصفين بعد مرور خمس سنوات من تاريخ الوقائع التي اتخذت بموجبهما تلك الإجراءات، أو بعد اكتشاف تلك الوقائع في حال تم إخفاؤها بقصد الاحتيال.

**Section 2 - Provisions Specific to Authorised Securitisation Undertakings**

**Sub-section 1- Voluntary Liquidation of Authorised Undertakings**

**Article 36**

The liquidator of an authorised securitisation undertaking must have the necessary good repute and professional qualifications and must be authorised by the CBB.

**المادة 36**

يجب أن يتمتع المصرف في حالة مؤسسة التوريق المجازة بالسمعة الحسنة والمؤهلات المهنية اللازمة ويجب أن يكون مفوضاً من قبل المصرف المركزي.

**Article 37**

During the voluntary liquidation procedure, authorised securitisation undertakings remain subject to the supervisory oversight of the CBB.

**المادة 37**

تبقى مؤسسات التوريق المجازة خاضعة لرقابة المصرف المركزي طيلة فترة التصفية الاختيارية.
Sub-section 2 - Forced Liquidation of Authorised Undertakings

Article 38

1. The court dealing with commercial matters shall upon request from the CBB, pronounce the dissolution and order the liquidation of authorised securitisation undertakings whose entry on the list provided for in Article 21 has been definitely refused or withdrawn.

2. When ordering the liquidation, the court shall appoint a bankruptcy judge and one or more liquidators, subject to Article 71 below.

3. The court shall determine the method of liquidation. It may, at its discretion, render applicable the provisions applicable to the liquidation in bankruptcy. The liquidation method may be changed by a subsequent decision, either ex officio or at the request of the liquidator(s).

4. The judgment pronouncing the dissolution and ordering the liquidation is provisionally enforceable.

5. The judgments pronouncing the dissolution and ordering the liquidation of a securitisation undertaking shall be published in the Official Gazette and in two newspapers of adequate distribution as specified by the court, of which at least one must be a Bahrain newspaper. Such publications are made by the liquidator.

المادة 38

القسم الفرعي 2 – التصفية الإجبارية لمؤسسات التوريق المجازة

1. بناءً على طلب من المصرف المركزي، تقوم المحكمة المختصة بالمسائل التجارية بإعلان حل وتصفية مؤسسة التوريق المجازة التي تم سحبها أو رفض إدراجها في القائمة المنصوص عليها في المادة 21.

2. عندما تقضي المحكمة ببدء التصفية، تقوم بتعيين قاضي التصفية بالإضافة إلى واحد أو أكثر من المصففين، وذلك بما يخضع للمادة 71 من هذا القانون.

3. تقوم المحكمة بتخصيص طريقة التصفية. للمحكمة، وفق إرادتها المطلقة، أن تطبق الأحكام المعمول بها عند التصفية في حالة الإفلاس. ويجوز تغيير طريقة التصفية بموجب قرار لاحق سواء بحكم عملها أو بناء على طلب المصففين.

4. يعتبر قرار إعلان حل مؤسسة التوريق وأمر التصفية نافذًا بصورة مؤقتة.

5. يتم نشر قرار إعلان حل مؤسسة التوريق وأمر التصفية في الجريدة الرسمية وفي صحفتين على الأقل من الصحف المعروفة حسبما تحدده المحكمة. على أن تكون إحداهما صحيفة بحرينية. يقوم المصافي بطريقة نشر القرار.
**Article 39**

As from the date of the judgment, all legal actions related to movable or immovable property and all enforcement procedures over movable or immovable property can only be pursued, commenced or exercised against the liquidator. The judgment ordering the liquidation suspends all seizures effected by unsecured creditors and creditors not benefiting from preferential rights over movable or immovable property.

**المادة 39**

واعتبارا من تاريخ القرار، فإن جميع الإجراءات القانونية بشأن الأموال المنقولة أو غير المنقولة، وجميع إجراءات التنفيذ بحق الأموال المنقولة وغير المنقولة يمكن القيام أو البدء بها أو ممارستها بحق المصفي فقط. يؤدي قرار التصفية بتعليق جميع إجراءات الحجز المنفذة من قبل الدائنين غير المضمونين والدائنين غير المستفيدين من حقوق الأفضلية على الأموال المنقلة أو غير المنقلة.

**Article 40**

The liquidator may not grant security interests over the assets of the securitisation undertaking or transfer such assets for security purposes without the authorisation of the court. The court may grant such authorisation to the liquidator at any time during the liquidation proceedings in respect of all or part of the assets of the securitisation undertaking.

**المادة 40**

لا يجوز للمصفي أن يمنح حقوق ضمان على أصول مؤسسة التوراق أو نقل تلك الأصول لأغراض الضمان دون موافقة المحكمة. للمحكمة أن تمنح المصفي الموافقة في أي وقت خلال مدة إجراءات التصفية فيما يتعلق بكل أو بعض أصول مؤسسة التوراق.

**Article 41**

After payment or deposit with the court of sums sufficient to pay the debts, the liquidator shall distribute to the investors the sums or assets to which they are entitled.

**المادة 41**

بعد دفع المبالغ الكافية لتسديد الديون أو إيداعها لدى المحكمة، يقوم المصافي بتوزيع المبالغ أو الأصول على المستثمرين أصحاب الحقوق.

**Article 42**

The court may at any time request the liquidator to deliver a report on the status of the liquidation. It shall determine the costs and the fees of the liquidators and may grant them advances.

**المادة 42**

للمحكمة في أي وقت أن تطلب من المصافي أن يقدم لها تقريرا عن وضع التصفية. وتحدد المحكمة تكاليف وأتعاب المصفين ويحق للمحكمة أن تمنحهم سُلفا.

**Article 43**

In case of the absence of or insufficiency of assets, as determined by the bankruptcy judge, all procedural documents shall be exempt from court.

**المادة 43**

في حال عدم وجود أو عدم كفاية الأصول، حسب ما يحدد قاضي الإفلاس، تكون جميع الوثائق الإجرائية معفية من رسوم المحكمة والتسجيل.
Article 44

1. When the liquidation is completed, the liquidator shall deliver a report to the court on the use made of the assets of the undertaking and shall submit accounts and evidence in support.

2. The court shall appoint one or more independent auditors to examine the documents. After receipt of the report from the independent auditor, it renders its judgment on the management by the liquidator and on the close of the liquidation.

3. Its decision shall be published in accordance with Article 38 here above and shall also indicate:
   - the place designated by the court where the corporate books and records must be kept for at least five years; and
   - the measures taken in accordance with Article 34 with respect to the deposit with the court of sums and assets to which creditors and investors are entitled and which could not be disbursed.

Article 45

Any legal actions against the liquidators, in their capacity as such, lapses five years after the publication of the close of the liquidation proceedings.
TITLE III
Securitised Risks
Chapter One
Assumption of Risks

Article 50

1. Risks relating to the holding of assets, whether movable or immovable, tangible or intangible, as well as risks resulting from the obligations assumed by third parties or relating to all or part of the activities of third parties are capable of being securitised.

2. The securitisation undertaking may assume those risks by acquiring the assets, guaranteeing the obligations or by committing itself in any other way.

3. Securitisation transactions governed by this law do not constitute activities governed by laws and regulations for insurance.

Article 51

Securitisation undertakings may acquire and, subject to the conditions set out in Article 58 hereafter, transfer claims and other assets, existing or future, in one or more transactions or on a continuous basis.

Article 52

1. The assignment of an existing claim to or by a securitisation undertaking, becomes effective between the parties and against third parties as from the moment the assignment is agreed on, unless the contrary is provided for in such agreement.

2. A future claim which arises out of an existing or future agreement is capable of being assigned to or by a securitisation undertaking provided that it can be identified as being part of the assignment at the time it comes into existence or at any other time agreed between the parties.
3. The assignment of a future claim is conditional upon its coming into existence, but when the claim does come into existence, the assignment becomes effective between the parties and against third parties as from the moment the assignment is agreed on, unless the contrary is provided for in such agreement, notwithstanding the opening of bankruptcy proceedings or any other collective proceedings against the assignor before the date on which the claim comes into existence.

Article 53

1. The claim assigned to a securitisation undertaking becomes part of its property as from the date on which the assignment becomes effective, notwithstanding any undertaking by the securitisation undertaking to reassign the claim at a later date. The assignment cannot be recharacterised on grounds relating to the existence of such an undertaking.

2. The assignment to or by a securitisation undertaking entails, except if otherwise agreed, the transfer of the guarantees and security interests securing such claim, and its enforceability by operation of law against third parties, without any further formalities.

3. The assigned debtor is validly discharged from its payment obligations by payment to the assignor as long as it has not gained knowledge of the assignment.

Article 54

An assignment prohibited by the agreement out of which the assigned claim arises or which for other reasons does not comply with the provisions of such agreement is not effective against the assigned debtor unless: the assigned debtor has agreed thereto; the assignee legitimately ignored such non-compliance; and/or the assignment relates to a monetary claim.
Article 55

The law governing the assigned claim determines the assignability of such claim, the relationship between the assignee and the debtor, the conditions under which the assignment is effective against the debtor and whether the debtor's obligations have been validly discharged. The law of the jurisdiction in which the assignor is located governs the conditions under which the assignment is effective against third parties.

Article 56

The articles of incorporation, the management regulations of the securitisation undertaking, an assignment agreement or any other agreement may grant to the assignor a right over all or part of the assets of the securitisation undertaking which are available after payment of all other creditors.

Chapter Two

Management of Risks

Article 57

The securitisation undertaking may entrust the assignor or a third party with the collection of claims it holds as well as with any other tasks relating to the management thereof, without such persons having to apply for an authorisation under the legislation on the financial sector.

Article 58

1. A securitisation undertaking cannot assign its assets except in accordance with the provisions laid down in its articles of incorporation or its management regulations.
2. In the event that the assignor or the third party to which the collection of claims has been entrusted becomes subject to insolvency proceedings, such as bankruptcy, controlled management, judicial liquidation or any other proceedings affecting the rights of creditors generally, the securitisation undertaking is entitled to claim any sums collected on its behalf prior to the opening of such proceedings, without the other creditors having any rights to such amounts, and notwithstanding any claims raised by the bankruptcy receiver, the controlled management commissioner or the liquidator.

3. The security undertaking may not, by any means whatsoever, create security interests over its assets or transfer its assets for guarantee purposes, except to secure the obligations it has assumed for their securitisation or in favour of its investors, their fiduciary-representative or the issuing vehicle participating in the securitisation. Security interests and guarantees created in breach of this Article are void by operation of law.

4. Except if otherwise agreed, security interests and guarantees shall, by operation of law, extend to the proceeds of the assets assigned or over which security interests have been granted, to any funds received in payment and to the assets in which they are invested.

5. The beneficiaries of pledges over claims gain possession of such claims by entering into the agreement creating such collateral rights. The debtors of the pledged claims are however validly discharged from their payment obligations by payment to the securitisation undertaking as long as they have not gained knowledge of the pledge.

6. In case the assignor or the third party entrusted with the collection of claims becomes subject to insolvency proceedings, such as bankruptcy, controlled management, judicial liquidation or any other proceedings affecting the rights of creditors generally, the securitisation undertaking is entitled to claim any sums collected on its behalf prior to the opening of such proceedings, without the other creditors having any rights to such amounts, and notwithstanding any claims raised by the bankruptcy receiver, the controlled management commissioner or the liquidator.

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9. The beneficiaries of pledges over claims gain possession of such claims by entering into the agreement creating such collateral rights. The debtors of the pledged claims are however validly discharged from their payment obligations by payment to the securitisation undertaking as long as they have not gained knowledge of the pledge.

6. In case the assignor or the third party entrusted with the collection of claims becomes subject to insolvency proceedings, such as bankruptcy, controlled management, judicial liquidation or any other proceedings affecting the rights of creditors generally, the securitisation undertaking is entitled to claim any sums collected on its behalf prior to the opening of such proceedings, without the other creditors having any rights to such amounts, and notwithstanding any claims raised by the bankruptcy receiver, the controlled management commissioner or the liquidator.

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6. In case the assignor or the third party entrusted with the collection of claims becomes subject to insolvency proceedings, such as bankruptcy, controlled management, judicial liquidation or any other proceedings affecting the rights of creditors generally, the securitisation undertaking is entitled to claim any sums collected on its behalf prior to the opening of such proceedings, without the other creditors having any rights to such amounts, and notwithstanding any claims raised by the bankruptcy receiver, the controlled management commissioner or the liquidator.
TITLE IV
Investors and Creditors

Chapter One
Rights of Investors and Creditors

Article 59

1. The rights of the investors and of the creditors are limited to the assets of the securitisation undertaking. Where such rights relate to a compartment or have arisen in connection with the creation, the operation or the liquidation of a compartment, they are limited to the assets of that compartment.

2. The assets of a compartment are exclusively available to satisfy the rights of investors in relation to that compartment and the rights of creditors whose claims have arisen in connection with the creation, the operation or the liquidation of that compartment.

3. As between investors, each compartment shall be treated as a separate entity, except if otherwise provided for in the constitutional documents.

Article 60

1. If provided for in the articles of incorporation, the management regulations or the issuance agreement, a securitisation undertaking may issue securities whose value or yield is linked to specific compartments, assets or risks, or whose repayment is subject to the repayment of other instruments, certain claims or certain categories of shares. If the acquisition vehicle is different from the issuing vehicle, the value, the yield and the conditions of repayment may also be linked to the assets and the liabilities of the acquisition vehicle. Such links and conditions pertaining thereto must be stated in all relevant documents.
2. Notwithstanding any provision to the contrary, the voting rights attached to shares which do not have an equal value is proportionate to the portion of the share capital represented by such shares. The voting rights attached to notes and other debt instruments are always proportionate to the portion of the debt they represent.

**Article 61**

1. The articles of incorporation, the management regulations of a securitisation undertaking and any agreement entered into by the securitisation undertaking may contain provisions by which investors and creditors accept to subordinate the maturity or the enforcement of their rights to the payment of other investors or creditors or undertake not to seize the assets of the securitisation undertaking nor, as the case may be, of the issuing or acquisition vehicle, and not to petition for bankruptcy thereof or request the opening of any other collective or reorganisation proceedings against them.

2. Proceedings initiated in breach of such provisions shall be declared inadmissible.

**Article 62**

1. The conditions of issuance and of reimbursement of securities issued by a securitisation undertaking are binding upon the latter and upon the investors and are effective against any other person, including in case of liquidation of one or more compartments, bankruptcy and generally any proceedings affecting creditors’ rights generally, without prejudice however to the rights of creditors which have not given their consent thereto.

2. The same applies to any specific conditions accepted by creditors for payment of their claims.
3. In case of the issuance of debt instruments by a securitisation fund, the management company of the fund exercises the rights and assumes the obligations of the issuing company or its board of directors.

Chapter Two
Fiduciary - Representatives

Section 1 - Rights and Powers of Fiduciary - Representatives

Article 63
The investors and the creditors of a securitisation undertaking may entrust the management of their interests to one or more fiduciary-representatives. This law applies only to fiduciary-representatives having their registered office in Bahrain.

Article 64
1. The instrument by which a fiduciary-representative accepts its mission must define its rights and its powers, in particular its powers of representation, specify the groups of investors or creditors on behalf of which it acts and provide for a procedure for its replacement.

2. That instrument is binding, without any other formality being required, on all investors and creditors which have accepted, or can reasonably be deemed to have accepted, the appointment of the fiduciary-representative. The subscription or the acquisition of a security issued by a securitisation undertaking designating a fiduciary-representative constitutes acceptance of the fiduciary-representative and of its mission.

3. In case of issuance of debt instruments by a securitisation fund, the management company of the fund exercises the rights and assumes the obligations of the issuing company or its board of directors.
Article 65
1. Unless otherwise provided for, investors and creditors which have appointed a fiduciary-representative are represented by it in all their relations with the securitisation undertaking and third parties connected to the securitisation. As long as they are represented, they cannot individually exercise the rights the management of which they have entrusted to the fiduciary-representative.

2. Within the limits of the powers the investors and the creditors have entrusted to it, the fiduciary-representative may initiate on their behalf all proceedings and defend their interests, including in judicial proceedings, without having to disclose their identity, the sole indication that it acts in its capacity as fiduciary-representative being sufficient.

Article 66
Where a securitisation undertaking issues debt instruments, it may entrust a fiduciary-representative with the functions of representing the holders of such instruments and freely determine its powers, notwithstanding any provisions of the Commercial Companies Law to the contrary.

Article 67
1. The fiduciary-representative may also be granted by the investors and the creditors the power to act in their interest in a fiduciary capacity, in accordance with the legislation on the trust and on fiduciary contracts. The assets and rights which it acquires for the benefit of investors and creditors form a fiduciary property separate from its own assets and liabilities as well as from any other fiduciary property it may hold.
2. The fiduciary-representative may in particular in such capacity accept, take, hold and exercise all security interests and guarantees and receive all payments to be made to the investors and the creditors which have granted such powers to it, as if it were itself the holder of the investors' and creditors' claims, any payments made to it constituting a valid discharge for the debtor.

Article 68

The securitisation undertaking may assign to the fiduciary-representative, on the terms agreed between them, all or part of its rights and actions arising from a contract entered into with a third party. The assignment is effective against the other party to such contract and against all other third parties, as from the moment in time it has been entered into and it cannot be challenged.

The other party to such contract is however validly discharged by payments made to the assigning undertaking for as long as it did not have knowledge of the assignment.

Article 69

Any fiduciary-representative which substitutes for itself a third party for the exercise of the rights and actions which have been assigned to it, is not liable for any damages caused by such third party, unless it had not been granted the power of substitution or it has chosen a person notoriously incompetent or insolvent.

The assigning undertaking and, notwithstanding their representation by the fiduciary- representative, investors and creditors may act directly against the substituted third party.
Article 70
The articles of incorporation or the internal rules of a securitisation undertaking may authorise a fiduciary-representative to request in court, on serious grounds, the replacement, on a provisional or permanent basis, of the management vehicles of such undertaking, the management vehicles of the management company, where applicable, or of the management company itself.

Article 71
In case of voluntary or compulsory liquidation of a securitisation undertaking or of one of its compartments, and except if otherwise provided for in the instrument of appointment, the fiduciary-representative shall act as liquidator on behalf of the investors and the creditors by whom it has been appointed.

Article 72
Unless otherwise provided for in the instrument of appointment, the liability of the fiduciary-representative vis-à-vis the investors and creditors on whose behalf it acts shall be assessed as if it were a remunerated agent.

Article 73
1. In case of replacement of a fiduciary-representative all rights and actions held by it in the interest of investors and creditors are transferred, by operation of law and without any other formalities, to the new fiduciary-representative.
2. The resigning fiduciary-representative shall not be absolved of its responsibilities until such time as the new fiduciary-representative is appointed.
Article 74
1. Upon a reasoned request from a represented investor or creditor, establishing the existence of serious grounds, the CBB may, at its sole discretion, provisionally or permanently replace a fiduciary-representative.
2. Unless otherwise provided for in the instrument of appointment, any other means of revocation or replacement are excluded.

Section 2 - Mandatory Approval of Fiduciary-Representatives

Article 75
1. The fiduciary-representatives subject to this law must be approved by the CBB.
2. They may not exercise any activities other than their principal activity except on an accessory and ancillary basis.

Article 76
1. The approval for the exercise of the activity of a fiduciary-representative can only be granted to joint-stock companies having a share capital.
2. The approval is subject to the CBB being informed of the identity of the direct or indirect shareholders, whether they are natural persons or legal entities.
3. In order to obtain approval, the members of the administrative, management and supervisory bodies as well as the shareholders referred to in the preceding paragraph, must demonstrate to the satisfaction of the CBB, their professional and personal repute. Such repute shall be assessed on the basis of their judicial records and all elements which can demonstrate that the persons concerned are of good character and beyond reproach.
4. The persons in charge of the management

المادة 74
1. يجوز للمصرف المركزي، وفق تقديره الخاص، وبناءً على طلب مقدم من قبل مستثمر أو دائن ممثل، ولأسباب خطيرة، أن يقوم باستبدال الوكيل المؤتمن سواء بشكل دائم أو مؤقت.
2. ما لم يرد خلاف ذلك في وثيقة التعيين، فإنه يتم استبعاد أي وسيلة أخرى من وسائل العزل أو الاستبدال.

المادة 75
1. يجب الحصول على موافقة المصرف المركزي على تعيين الوكلاء المؤتمنين الخاضعين لهذا القانون.
2. لا يحق للوكلاء المؤتمنين ممارسة أية أنشطة غير نشاطهم الرئيسيّة باستثناء ما يكون وفق أساس ملحق أو تابع لنشاطهم.

المادة 76
1. يتم منح الموافقة على ممارسة أنشطة الوكيل المؤتمن فقط للشركات المساهمة التي لها رأسمال مساهم به.
2. تكون الموافقة خاضعة بإبلاغ المصرف المركزي بمهم المساهمين المباشرين أو غير المباشرين، سواء كانوا أشخاصاً طبيعياً أو اعتبارية.
3. من أجل الحصول على الموافقة، يجب على أعضاء الهيئات الإدارية والرقابية بالإضافة إلى المساهمين المشاركة في القفرة السابقة تقديم ما يثبت سمعتهم المهنية والشخصية، بالحذ الذي يقبل به المصرف المركزي. ويكون تقييم تلك السمعة استناداً إلى سجلات قضائية وجميع المعطيات التي يمكن أن تبين بأن الأشخاص المعنيين من ذوي الأخلاق الحسنة وال بعيدة عن الشبهات.
4. يجب على الأشخاص المسؤولين عن الإدارة أن يمتعوا
must possess adequate professional experience.

**Article 77**

The application for approval must be addressed in writing to the CBB and must contain all other information necessary for its assessment, and in particular precise information on the administrative and accounting structure of the applicant.

**Article 78**

1. The approval is granted after review of the compliance with the requirements of this law by the CBB.

2. The decision taken on the application for approval shall be reasoned and shall be notified to the applicant within three months of the receipt of the application or, if the application is incomplete, within three months of the receipt of all the information necessary for the decision to be taken. In any event, a decision shall be taken within six months of the receipt of the application, failing which the absence of a decision will be deemed equivalent to a refusal. The decision may be challenged, within a period of one month, under penalty of foreclosure, in the administrative court, which decides on the merits of the case.

3. The approval is granted for an unlimited period of time.

**Article 79**

1. Any changes in the identity of the persons who have to meet the legal requirements of professional repute and experience must be authorised in writing in advance by the CBB. For this purpose, the CBB may request all necessary information on the persons who have to meet the legal requirements. The decision of the CBB can be challenged, within a period of one month, under the penalty of foreclosure, in the administrative court, which decides on the merits of the case.

2. The decision of the CBB can be challenged, within a period of one month, under the penalty of foreclosure, in the administrative court, which decides on the merits of the case.

3. The approval is granted for an unlimited period of time.

4. The approval is granted for an unlimited period of time.
the administrative court, which decides on the merits of the case.

2. A new approval is required prior to any change of the objectives, name or legal form.

**Article 80**

1. The approval lapses if it is not used for an uninterrupted period exceeding six months.
2. The approval is withdrawn if the conditions on which it was granted are no longer met.
3. The approval is withdrawn if it was obtained by means of false declarations or by any other irregular means.
4. The decision to withdraw the approval may be challenged, within a period of one month, under penalty of foreclosure, in the administrative court which decides on the merits of the case.

**TITLE V**

**Sanctions**

**Article 81**

The CBB may impose upon the directors, managers and officers of authorised securitisation undertakings or of a fiduciary-representative, and the liquidators in case of a voluntary liquidation of an authorised securitisation undertaking, a fine not exceeding BD20,000 in the event they refuse to provide the financial reports and the requested information or where such documents prove to be incomplete, inaccurate or false, as well as in case the existence of any other serious irregularity is established.

1. The approval lapses if it is not used for an uninterrupted period exceeding six months.
2. The approval is withdrawn if the conditions on which it was granted are no longer met.
3. The approval is withdrawn if it was obtained by means of false declarations or by any other irregular means.
4. The decision to withdraw the approval may be challenged, within a period of one month, under penalty of foreclosure, in the administrative court which decides on the merits of the case.

**المادة 80**

1. تنتهي صلاحية الموافقة إذا لم يتم استخدامها دون انقطاع لمدة تتجاوز ستة أشهر.
2. يتم سحب الموافقة في حال الانتهاك بالشروط المطلوبة التي منحت الموافقة بموجبها.
3. يتم سحب الموافقة إذا تبين أنه تم الحصول عليها بموجب تقديم تصريحات خاطئة أو من خلال أية وسائل غير نظامية أخرى.
4. ويجوز الطعن في قرار سحب الموافقة خلال شهر أمام المحكمة الإدارية، وهي المحكمة التي تصدر قرارها بشأن استحتاكات القضية، تحت طائلة الرهن.

**المادة 81**

يحق للمصرف المركزي أن يفرض غرامة لا تتجاوز قيمتها 20000 دينار بحريني على الأعضاء، والمدراء والمسؤولين لدى مؤسسات التوريق المجازة أو لدى ممثل الائتمان، والمصفيين في حالة التصفية الإختيارية لمؤسسة التوريق المجازة، وذلك في حالة رفضهم تقديم تقارير مالية وكانت المعلومات المطلوبة أو كانت مثل تلك الوثائق غير مكتملة، أو غير دقيقة أو خاطئة، أو في حالة وجود أية مخالفات جسيمة.
TITLE VI
Amending and Transitory Provisions

Chapter One
Amending Provisions

Article 82
The definition of “financial institutions” in Article 1 of the CBB Law shall be amended to include securitisation undertakings and to fiduciary-representatives acting in connection with such an undertaking.

Article 83
The CBB shall be the competent authority for the prudential supervision of credit authorised securitisation undertakings, and fiduciary-representatives acting in connection with a securitisation transaction.

Article 84
The powers of the CBB under the CBB Law are unaffected by this Law, save that the provisions of Title II Chapter 3 of this Law (pertaining to liquidation) shall take priority over Articles 144-155 of the CBB Law.

Chapter Two
Transitory Provision

Article 85
This law does not apply to securitisation transactions or undertakings set up prior to its entry into force, unless the parties involved explicitly decide otherwise by modifying the constitutional documents of the relevant securitisation undertaking by inserting an explicit provision to that effect.