

Lebanese Republic
Chamber of Deputies
Expedited Law No. (44) of 24/11/2015
Official Gazette No. (48) of 26/11/2015

Law
on combatting money laundering and the funding of terrorism

Single Article

The draft law included in Decree No. (8200) of 24 May 2012 (amendment to Law No. (318) of 20/04/2001 on money laundering), as amended by the sub-committee stemming from the joint parliamentary committees and the Chamber of Deputies, has been ratified.

This Law shall enter into force upon its publication in the Official Gazette.

Law
on combatting money laundering and the funding of terrorism

Article (1)

Within the meaning of this law, illegal funds shall be defined as material or immaterial assets, whether movable or immovable, and shall include legal documents and files that prove the right of ownership over these assets or any part thereof, resulting from the perpetration or attempted perpetration of a crime that is punishable by law, or from participation in any of the following crimes, regardless of whether they are committed inside or outside of Lebanon:

1. The illegal cultivation, manufacturing or trade of drugs and psychotropic substances in accordance with Lebanese law.
2. Participation in illegal gatherings with the purpose of committing crimes or misdemeanours.
3. Terrorism in accordance with the provisions of Lebanese law.
4. The funding of terrorism, terrorist acts, or acts related thereto (travel, organisation, training, recruitment...) or the funding of terrorists or terrorist groups in accordance with the provisions of Lebanese law.
5. The illegal trafficking of arms.
6. Kidnapping by use of force of arms or any other means.
7. The exploitation of pertinent information and disclosure of secrets, as well as obstruction of the freedom of sales through illegal bidding and speculation.
8. Incitement to debauchery and affronting public morals and ethics through organised gangs.
9. Corruption, which shall include bribery, the exploitation of influence, embezzlement, and use of one's position, the harmful use of authority and the illegal accumulation of wealth.
10. Burglary, breach of trust and embezzlement.
11. Fraud, which shall include crimes of fraudulent bankruptcy.
12. The forgery of documents and public and private bonds, including cheques and all types of credit cards, as well as counterfeiting currency, stamps and stamp duties.
13. Smuggling in accordance with the provisions of Customs Law.
14. The counterfeiting of goods and cheating in the trade thereof.
15. Piracy on air and sea navigation.
16. Human trafficking and the smuggling of migrants.
17. Sexual exploitation, including the sexual exploitation of children.
18. Environmental crimes.
19. Blackmailing.
20. Murder.
21. Tax evasion under Lebanese law.

Article (2)

Money laundering shall be considered any action that has the following intended goal:

1. Concealing the true source of illegal funds, or providing false justification for this source through any possible means, with knowledge of the illegal nature of the funds in question.
2. The transfer, movement or exchange of funds, the employment thereof to purchase movable or immovable assets or to make monetary transactions for the purpose of hiding

or concealing the illegal source thereof, or with the intention of assisting any person involved in the commission of any of the crimes stipulated in Article (1) to escape prosecution, with knowledge of the illegal nature of the funds in question.

The crime of money laundering shall be considered an independent crime and shall not require the perpetrator be convicted of an original crime. Similarly, conviction for an original crime shall not preclude the prosecution of the same person for the crime of money laundering in the event that a discrepancy is found in the elements of the crime.

Article (3)

1. Anyone who engages, attempts to engage, incites, facilitates, joins or participates in money laundering transactions shall be sentenced to imprisonment for a period between three to seven years and shall have to pay a penalty of no more than the amount in question in the laundering case.
2. Anyone who engages, attempts to engage, incites, facilitates, joins or participates in the funding of terrorism and acts related thereto shall be sentenced to the punishment stipulated in Article (316) *bis* and Articles (212) to (222) in the Penal Code.

Article (4)

Financial banks and institutions, money loaning companies, institutions that issue and market debit and credit cards, institutions that deal with monetary transfers electronically, banking institutions, brokerage companies, collective investment agencies, and any institutions that are subject to the licensing and monitoring of Banque du Liban, shall abide by the obligations designated below and the organising texts issued by Banque du Liban for the purposes of the enforcement of the provisions of this law:

1. Implement the procedures of due diligence for permanent customers (regardless of whether they are natural or legal persons or a special legal structure) in order to verify their identities by employing the recorded documents, information and data.
2. Implement the procedures of due diligence for temporary customers in order to verify their identities if the transaction or series of transactions they are carrying out exceeds the value specified by Banque du Liban.
3. Identify the identity of the holder of the economic right and take the necessary steps to verify it by employing the recorded documents, information and data.
4. Maintain copies of documents related to all transactions, as well as the information, data and copies of documents related to the identity of persons that have been customers for a minimum of five years after completing transactions or ending the customer relationship, whichever is longest.
5. Continuously monitor and review transactions.
6. Implement the procedures stipulated in abovementioned Items (1) to (5) on permanent and temporary customers when suspicion arises surrounding the validity or appropriateness of the information provided on identity, as well as when suspicion of money laundering or funding terrorism arises. The procedures shall be implemented independently of any ceilings or exceptions that may limit the implementation thereof.
7. Take into consideration the indicators that signal possible money laundering transactions or transactions related to the funding of terrorism, and exercise the principles of caution and diligence in order to expose the suspected transactions.

Article (5)

Institutions that are not subject to the Law on banking secrecy of 03/09/1956, whether insurance companies, casinos, real estate agents and brokers, sellers of high-cost goods (ornaments, gemstones, gold, works of art, antiques) shall maintain records of the transactions that exceed the value specified by the Special Investigation Commission (“Commission”), established by virtue of Article (6) of this Law. These institutions must abide by the obligations stipulated in Article (4) and the organising texts and recommendations issued by the Commission for the purposes of applying the provisions of this Law.

Chartered accountants and judicial notaries shall implement these obligations when preparing or executing on behalf of their customers any of the following services:

- The sale and purchase of real estate.
- The management of customers’ moveable and immovable assets, especially transactions for the formation of funds and joint investment.
- The management of banking accounts and securities accounts.
- The organisation of private contributions by establishing or managing companies.
- The establishment or management of legal persons or those of any other legal framework; the sale and purchase of individual institutions or commercial businesses.

Lawyers, when providing the services specified above, shall be subject to the same obligations designated above. The norms for applying these obligations shall be specified by virtue of a mechanism established by the lawyers’ unions in Beirut and Tripoli, and shall take into consideration the special nature of the legal profession and its systems.

Article (6)

An independent commission of judicial nature shall be established in Banque du Liban. It shall enjoy legal personality and shall not be subject, when exercising its functions, to the authority of the Bank. Hereinafter it shall be called the “Special Investigation Commission” or “Commission.”

1. The Special Investigation Commission shall be comprised of the following:

- The governor of the Banque du Liban. In the event of their inability to attend, they shall be represented by one of their deputies.

President

- The appointed judge in the Higher Banking Commission. In the event of their inability to attend, they shall be represented by an alternate judge that shall be appointed by the Higher Judiciary Council for a period equivalent to the period of the original judge’s appointment.

Member

- President of the Bank Monitoring Committee. In the event of their inability to attend, they shall be represented by a member of the aforementioned committee.

Member

- One original member and one alternate appointed by the Council of Ministers on the basis of the completion of the governor of Banque du Liban. They shall have experience of no less than 15 years in the field of financial or banking law.

Member

2. The duties of the Special Investigation Commission:

- Receive notices and requests for assistance, investigate transactions that are suspected to be crimes of money laundering or terrorism funding, determine the level of seriousness of evidence or clues in the commission of any of such crimes, take the appropriate decisions in their regard, especially the temporary precautionary freezing of accounts and/or suspected transactions. This shall be carried out for a maximum period of one year, which may be extended for a one-time duration of six additional months for incoming requests for assistance from abroad and for a maximum duration of six months that may be extended for a one-time duration of three additional months for incoming domestic notices and requests for assistance.
- Verify that the designated persons mentioned in Articles (4) and (5) abide by the obligations stipulated in this Law and the organising texts issued on the basis thereof, with the exception of chartered lawyers and accountants and judicial notaries, subject to the provisions of Paragraph (2) of Article (17) of this Law.
- Gather and archive information collected from the designated persons mentioned in Articles (4) and (5) and the information collected from the Lebanese or foreign official authorities, as well as any other information, exchange this information with the Commission's counterparts in its capacity as the appropriate authority and official centre for implementation.
- Issue the organising texts related to the execution of the provisions of this Law for the designated persons mentioned in Article (5), and issue recommendations for all relevant entities.

3. After performing the necessary inspection and analysis, the Commission shall maintain the sole right to decree the following:

- The permanent freezing of accounts and/or designated transactions and/or lifting banking secrecy on behalf of the competent judicial authorities and the President of the Higher Banking Commission for accounts or transactions suspected to be related to money laundering or terrorism funding.
- Maintain the traceable nature of suspected accounts.

The Commission shall maintain the right to appeal in part or in full on any decision taken thereby in the event that new facts become available in this regard.

4. The Commission shall have the right to:

- Indicate records and entries belonging to moveable or immovable assets to highlight funds that are the subject of an investigation being performed by the Commission. This indication shall remain until the reasons for suspicion are lifted or a final decree is issued in this regard.
- Request that the public prosecutor take precautionary measures in relation to moveable and immovable assets for which no record or entry exists, for the purpose of utilising them until a final judicial decree is issued in this regard.

The above shall apply in the event of suspicion that these funds are related to money laundering or the funding of terrorism, and/or throughout the duration of the temporary precautionary freezing of accounts and/or suspected transactions, as is stipulated in Item (2) of this Article and/or during the duration of the permanent freezing of these accounts and/or transactions, as stipulated in Item (3) of the same article.

5. The Commission may request that the relevant persons and official and private entities take the necessary measures to prevent the use of moveable or immovable assets belonging to the included persons, or to persons listed on national regulations issued by the competent Lebanese authority or any other regulations circulated on the topic of terrorism, the funding of terrorism, and any actions related thereto.
The official and private relevant persons and entities shall comply with this request without delay.
6. The Commission shall meet at least two times per month in response to an invitation from its President and when necessary. The Committee meeting shall not be considered legal unless a minimum of three members are present.
7. The Commission shall make decisions through a majority vote of the present members. If the votes are tied, the President shall have the deciding vote.
8. The Commission shall appoint a General Secretary that shall be solely devoted to executing the duties assigned thereto, implementing the decisions thereof, and directly supervising the users thereof and contractors therewith, as well as the persons that represent them in the execution of a particular task. When dealing with any of these persons, the General Secretary shall not consider the provisions of the law on banking secrecy issued on 03/09/1956.
9. Members of the Commission, the employees therein, contractors therewith and representatives thereof shall be subject to the obligation to maintain secrecy.
10. The Commission shall implement a system for its workflow, as well as a system for the users thereof and contractors therewith that are subject to the special law.
11. Banque du Liban shall bear responsibility for the expenses accrued by the Commission and by the apparatuses affiliated therewith as part of its budget, which shall be drafted pursuant to the approval of the Central Council of Banque du Liban.

Article (7)

The persons designated in Articles (4) and (5) of this Law, including chartered accountants and judiciary notaries, when preparing or executing transactions for customers related to the activities listed in Article (5), must notify the President of the Commission immediately of the details of the executed transactions or those for which an attempted transaction was made and that are suspected to be connected to money laundering or the funding of terrorism.

The obligations indicated in the above paragraph shall apply to lawyers in accordance with the mechanism implemented by the lawyers' unions in Beirut and Tripoli. The special nature of the legal profession and its systems shall be taken into consideration.

Inspectors in the Bank Oversight Committee shall notify the President of the Commission through the President of the Committee of any transactions they oversee while executing their duties and that they suspect to be related to money laundering or the funding of terrorism.

The auditors of the institutions mentioned in Article (4) of this Law shall immediately notify the President of the Commission of the transactions they oversee while executing their work and that they suspect to be concealing money laundering or the funding of terrorism.

Article (8)

1. The Commission shall meet after receiving information from the persons mentioned in Article (7) or after receiving information from the competent Lebanese or foreign authorities.
2. After evaluating and analysing the available information of the case presented, the Commission shall make a decision by either taking notice or performing the necessary investigation in that regard, especially by inspecting the accounts and transactions and verifying the suspected funds. The Commission shall perform its investigations through its representative members, personnel, General Secretary or any of the auditors appointed thereby. Each of these persons shall perform their duties, provided that they maintain confidentiality and without consideration of the provisions of the law on banking secrecy issued on 03/09/1956.
3. After the completion of the functions of inspection and analysis, the Commission shall make its decisions in accordance with the provisions of Items (2), (3), and (4) of Article (6) of this Law.
4. When deciding to lift the banking secrecy of specific accounts and/or permanently freeze them and/or request a continued ban on the use of funds, the Commission shall send a copy of its decision to the public prosecutor, the President of the Higher Banking Commission, the stakeholder, and the local and foreign entities responsible for this decision, either directly or through the source through which the information was obtained.
5. In the event that the public prosecutor in the Court of Cassation decides to archive the documents in money laundering cases and not proceed with the public lawsuit, the frozen accounts and all funds shall be considered unfrozen. The decision to archive shall be relayed to the Special Investigation Commission, which may not maintain the lifted banking secrecy and freezing of accounts, nor may it maintain the ban on the use of funds. The Commission must immediately notify the banks and other relevant entities of its decision. If new evidence or clues become apparent before the execution of the decision that may justify maintaining the freezing of the accounts, the ban on the use of funds, and the lifting of banking secrecy, the Commission shall send a reasoned report. Attached thereto shall be the documents that contain this evidence or clues, and it shall be sent to the public prosecutor in the Court of Cassation that has the power, upon necessity, to expand the investigation in light of the new information.
6. In the event that an investigation magistrate or the indictment entity issues an irrevocable decision prohibiting trial, or in the event that an irrevocable ruling or decision is issued nullifying the sentence or acquitting the owner of the frozen accounts and funds, then the accounts and funds shall be freed and a copy of the ruling or decision shall be sent to the Special Investigation Commission through the public prosecutor of the Court of Cassation. The Commission must notify the banks and other relevant entities of this ruling or decision. The Commission may not lift the banking secrecy another time, nor may it re-freeze the accounts and prevent the use of the accounts and funds included in a decision

prohibiting trial, except by following the mechanism stipulated in Article (127) of the Code of Criminal Procedure.

Article (9)

The President of the Commission or representative thereof shall be in direct touch with all Lebanese or foreign authorities (judicial, administrative, financial, security) in order to request information or review the details of investigations that it has performed on matters related to the Commission's investigations. The relevant Lebanese authorities shall respond to the request for information immediately, without the need to invoke the secrecy obligation in its regard.

Article (10)

The President of the Commission or representative thereof shall directly request that the designated person mentioned in Articles (4) and (5) provide the Commission with all necessary documents and information needed to execute their duties. Those persons must respond to this request within a reasonable timeframe.

Article (11)

Persons bound by the reporting obligations and members of the board of directors, as well as the responsible personnel and employees thereof, shall be prohibited from revealing or implying to anyone about the provision or intended provision of a report on the suspected transaction, or information connected to the Special Investigation Commission or the inquiries of the Commission into any of its customers or its inspection of their transactions or accounts.

Article (12)

The President of the Commission, as well as the members, employees, and representatives thereof shall enjoy immunity within the scope of their work, whereby they may not be indicted or prosecuted for any civil or criminal liability related to the execution of their duties, including the crimes stipulated in the law on banking secrecy issued on 03/09/1956, except in the event of the disclosure of banking secrecy.

The relevant personnel mentioned in Articles (4) and (5), the employees thereof, the inspectors working in the Bank Inspection Committee, as well as auditors shall enjoy the same immunity while executing the obligations entrusted thereto by virtue of this Law or by virtue of the decisions of the Commission, especially when reporting with good intentions to the Commission about the details of the transactions they suspect to be connected to money laundering or the funding of terrorism.

Article (13)

Anyone who violates the provisions of Articles (4), (5), (7), (10), and (11) of this Law shall be sentenced to imprisonment for a period between two months and one year and a penalty that shall not exceed 100,000,000 LBP or either of these two punishments.

The Commission may send a warning to entities that violate the provisions of the organising texts issued to implement the provisions of this Law. It may request organised reports therefrom about the measures being taken to correct such conditions. It may also refer these entities to the Higher Banking Commission for matters regarding the persons specified in

Article (4) and contact the guardianship and supervision authorities in regards to the violators mentioned in Article (5).

The Higher Banking Commission may impose a financial penalty for persons transferred thereto due to their violation of the organising texts issued to implement the provisions of this law. This penalty shall not exceed 200 times the minimum official limit for wages and shall be collected on behalf of Banque du Liban.

The abovementioned shall not prevent the implementation of the administrative penalties stipulated in Article (208) of the Code of Money and Credit in regards to the persons mentioned in Article (4). It shall also not prevent the implementation of the penalties stipulated in all of the laws or systems in regards to the persons mentioned in Article (5).

Article (14)

Moveable and immoveable assets that are proven by virtue of a final verdict to be related to a crime of money laundering or the funding of terrorism or obtained as a result thereof shall be confiscated on behalf of the State, provided that the owners do not judicially confirm their legal rights thereto.

The confiscated assets may be divided up between other countries when the confiscation is the direct result of coordinated investigations or cooperation undertaken by the relevant Lebanese authorities and the relevant foreign entity or entities.

Article (15)

The reservations stipulated in Paragraphs (2), (3) and (4) of Article (1) of Law No. (426) on authorising the ratification of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances issued on 15/05/1995 shall be repealed, as shall Article (132) of Law No. (673) of 16/03/1998 on Narcotic Drugs and Psychotropic Substances.

Article (16)

Upon the entry of this law into force, all provisions in violation of or inconsistent with the contents thereof, especially those specified in the Banking Secrecy Law issued on 03/09/1956 and in Law No. (673) of 16/03/1998 on Narcotic Drugs and Psychotropic Substances shall cease to be operative.

Article (17)

Closing Provisions

The auditors of banks, financial institutions, and all companies and institutions stipulated in Article (4) of this Law shall verify that these companies and institutions abide by all of the provisions of this Law, as well as by the organising texts issued on the basis thereof. They shall notify the President of the Commission of any violation in this regard.

The Ministry of Justice, the lawyers' unions in Beirut and Tripoli, and the chartered accountants' union shall be entrusted with the duty of verifying that the judicial notary, as well as the chartered lawyers and accountants, while performing their duties, abide by the procedures stipulated in this Law and in the organising texts issued on the basis thereof.

Article (18)

This Law shall enter into force upon its publication in the Official Gazette.

