

Law No 44 of November 24, 2015
Fighting Money Laundering and Terrorist Financing

Single Article:

The draft law required by Decree No 8200 of May 24, 2012 (amending Law No 318 of April 20, 2001, on Fighting Money Laundering) is adopted, as amended by the subcommittee of the joint parliamentary committees and the Parliament.

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

The Law on Fighting Money Laundering and Terrorist Financing

Article 1

For the purpose of this Law, illicit funds include assets, tangible and intangible, movable and immovable, including any legal documents or instruments evidencing title to, or interest in, such assets, resulting from the commission of, or the punishable attempted commission of, or the participation in any of the following offences, whether in Lebanon or abroad:

1. The growing, manufacturing, or illicit trafficking of narcotic drugs and/or psychotropic substances according to the Lebanese laws.
2. The participation in illegal associations with the intention of committing crimes and misdemeanors.
3. Terrorism, according to the provisions of Lebanese laws.
4. The financing of terrorism or terrorist acts and any other related activities (travel, organizing, training, recruiting...) or the financing of individuals or terrorist organizations, according to the provisions of Lebanese laws.
5. Illicit arms trafficking.
6. Kidnapping, using weapons or any other means.
7. Insider trading, breach of confidentiality, hindering of auctions, and illegal speculation.
8. Incitation to debauchery and offence against ethics and public decency by way of organized gangs.
9. Corruption, including bribery, trading in influence, embezzlement, abuse of functions, abuse of power, and illicit enrichment.
10. Theft, breach of trust, and embezzlement.
11. Fraud, including fraudulent bankruptcy.
12. The counterfeiting of public and private documents and instruments, including checks and credit cards of all types and the counterfeiting of money, stamps and stamped papers.
13. Smuggling, according to the provisions of the Customs Law.
14. The counterfeiting of goods and fraudulent trading in counterfeit goods.
15. Air and maritime piracy.
16. Trafficking in human beings and smuggling of migrants.
17. Sexual exploitation, including sexual exploitation of children.
18. Environmental crimes.
19. Extortion.
20. Murder.
21. Tax evasion, in accordance with the Lebanese laws.

Article 2

Money laundering is any act committed with the purpose of:

1. Concealing the real source of illicit funds, or giving, by any means, a false justification regarding the said source, while being aware of the illicit nature of these funds.
2. Transferring or transporting funds, or substituting or investing the latter in purchasing movable or immovable assets or in carrying out financial transactions for the purpose of concealing or disguising the such funds' illicit source, or assisting a person involved in the commission of any of the offences mentioned in Article 1 to avoid prosecution, while being aware of the illicit nature of these funds.

Money laundering is a separate offence that does not necessitate a charge with the underlying predicate offence. Charging the offender with an underlying predicate offence shall not preclude the pursuing of any legal proceedings against the latter for a money laundering offence, in case of variation in the elements of the offences.

Article 3

Whoever undertakes or attempts to undertake or incites or facilitates or intervenes or participates in:

- 1- Money-laundering operations, shall be punishable by imprisonment for a period of three to seven years, and by a fine not exceeding twice the amount laundered.
- 2- Terrorist financing operations or any related activities, shall incur the penalties stipulated in Article 316 bis and Articles 212 to 222 of the Penal Code.

Article 4

Banks, financial institutions, leasing companies, institutions that issue and promote credit or charge cards, institutions that perform money transfers electronically, exchange institutions, financial intermediation institutions, collective investments schemes, and any other institution requiring a license or supervised by Banque du Liban, must comply with the obligations specified below and with the regulations issued by Banque du Liban for the purpose of implementing the provisions of this Law:

- 1- To implement Customer Due Diligence measures on permanent customers (whether natural persons or legal persons or unique legal arrangements), in order to check their identity on the basis of reliable documents or information or data.

- 2- To implement Customer Due Diligence measures on transient customers to verify their identity, if the amount of a single operation or series of operations exceeds the threshold designated by Banque du Liban.
- 3- To determine the identity of the beneficial owner and take the steps needed to verify this identity, on the basis of reliable documents or information or data.
- 4- To retain copies of related documents of all operations, and to retain information or data or copies of the customers' identification documents, for at least five years after performing the operations or ending the business relationship, whichever longer.
- 5- To continuously monitor and review the business relationship.
- 6- To apply the measures specified in Paragraphs 1 to 5 above to permanent and transient customers, whenever there are doubts regarding the accuracy or adequacy of declared customer identification data, or whenever there is a suspicion of money laundering or terrorist financing, regardless of any thresholds or exemptions that limits the implementation of these measures.
- 7- To take into account the indicators that flag the likelihood of a money laundering or terrorist financing operation, as well as the due diligence principles to detect suspicious operations.

Article 5

Institutions not subjected to the Banking Secrecy Law of September 3, 1956, particularly insurance companies, casinos, real estate dealers and agents, and merchants of valuables (jewelry, precious stones, gold, works of art, antiques), must keep records of operations that exceed the threshold designated by the "Special Investigation Commission" (hereinafter referred to as "the Commission") that was established pursuant to Article 6 of this Law. Such institutions must also comply with the obligations specified in Article 4 above and with the regulations and recommendations issued by "the Commission" for the purpose of implementing the provisions of this Law.

Certified accountants and notaries must implement these obligations, when preparing or carrying out on behalf of their customers any of the following activities:

- Buying and selling of real estate.
- Management of customers' movable and immovable assets, in particular transactions consisting of money accumulation and joint investment.
- Management of bank accounts and securities accounts.
- Organization of contributions for the establishment or management of companies.
- Establishment or management of legal persons or unique legal arrangements, and buying and selling of single person enterprise or companies.

The same obligations shall apply to lawyers when they carry out any of the above-mentioned activities. The implementation rules of these obligations shall be specified pursuant to a mechanism to be set by the Beirut Bar Association and the Tripoli Bar Association, taking into account the particularities and rules of the Legal Profession.

Article 6

An independent, legal entity with judicial status shall be established at Banque du Liban, referred to as “the Special Investigation Commission” or “the Commission”, which shall discharge its functions without being subject to Banque du Liban’s authority.

1. The “Special Investigation Commission” shall consist of:

- The Governor of Banque du Liban or, in case of impediment, one of the Vice-Governors he designates **Chairman**
- The judge appointed to the Higher Banking Commission or, in case of impediment, an alternate judge appointed by the Higher Judicial Council for a period equal to the term of the initially appointed judge. **Member**
- The Chairman of the Banking Control Commission or, in case of impediment, a member of the latter designated by its Chairman. **Member**
- A principal member and an alternate member appointed by the Council of Ministers upon proposal of the Governor of Banque du Liban, provided each of them has an experience of at least 15 years in financial or banking law. **Member**

2. The mission of the “Special Investigation Commission” is:

- To receive suspicious transaction reports (STRs) and requests of assistance; to investigate operations that are suspected to be money-laundering or terrorist financing offences; to decide on the seriousness of evidence and circumstantial evidence related to the commission of any such offence(s); to take in this regard the adequate decision, particularly the precautionary and temporary freezing of the suspicious accounts and/or transactions, for a maximum period of one year renewable once for six months concerning foreign requests of assistance, and for a maximum period of six months renewable once for three months concerning local STRs and requests of assistance.
- To ensure compliance by the parties referred to in Articles 4 and 5 above with the obligations stipulated in this Law and in the regulations issued in relation thereto, except for lawyers, certified accountants and notaries, without prejudice to the provisions of Paragraph 2 of Article 17 of this Law.

- To collect and retain the information received from the parties referred to in Articles 4 and 5 above, as well as the information received from Lebanese and foreign official authorities, and all other collected information, and to share such information with the Commission's counterparts, in its capacity as the competent authority and the official center to undertake such a task.
 - To issue regulations on the implementation of the provisions of this Law addressed to the parties referred to in Article 5 above, and to issue recommendations to all concerned parties.
3. After conducting the necessary audit and analysis, "the Commission" is the solely certified to decide:
- To permanently freeze the concerned accounts and/or transactions, and/or to lift the banking secrecy in favor of the competent judicial authorities and the Higher Banking Commission represented by its Chairman on accounts or transactions suspected to be related to money laundering or terrorist financing.
 - To keep suspicious accounts as traceable accounts.

"The Commission" may withdraw any of its decisions, in whole or in part, in case it obtains any new relevant information.

4. "The Commission" is entitled to:
- a- attach an encumbrance on the records and entries pertaining to movable or immovable assets, indicating that such assets are under investigation by "the Commission". The encumbrance shall be kept until doubts are erased or until a final decision in this regard is taken,
 - b- request the Public Prosecutor of the Court of Cassation to take preventive measures concerning the movable and immovable assets that have no records or entries, so as to prevent the use of such assets until a final judicial decision in this regard is taken,

when there is a suspicion that these assets are related to money laundering or terrorist financing, and/or during the precautionary, temporary freezing of suspicious accounts and/or transactions, as specified in Paragraph 2 of this Article, and/or during the permanent freezing of these accounts and/or transactions, as specified in Paragraph 3 of this Article.

5. "The Commission" requires from concerned persons and parties, whether public or private, to take the necessary measures to prevent the use of movable or immovable assets belonging to any names designated or to be designated on the national lists issued by the competent Lebanese authorities or any other lists it circulates concerning terrorism and terrorist financing and any acts related thereto.

The concerned persons and parties, whether public or private, must comply without any delay to this requirement.

6. “The Commission” shall meet, upon its Chairman’s call, at least twice a month and when needed. The legal quorum requires the presence of three members at least.
7. “The Commission” shall take its decisions at a majority of the attending members. In case of a tie, the Chairman shall have a casting vote.
8. “The Commission” shall appoint a full-time Secretary General, who shall be responsible for the tasks assigned to him by “the Commission”, for implementing its decisions and for directly supervising its regular and contractual staff and the persons delegated by “the Commission” for a specific mission. The provisions of the Banking Secrecy Law of September 3, 1956 shall not be opposed to any of them.
9. The members of “the Commission”, its regular and contractual staff, as well as the persons delegated by “the Commission” for a specific mission, shall be bound by the obligation of confidentiality.
10. “The Commission” shall set its operating rules, as well as the internal rules governing its regular and contractual staff, who are subject to private law.
11. The expenses of “the Commission” and its ancillary bodies shall be borne by Banque du Liban as part of the budget prepared by “the Commission”, provided the budget is approved by the Central Council of Banque du Liban.

Article 7

The parties referred to in Articles 4 and 5 of this Law, including certified accountants and notaries, when preparing or carrying out on behalf of their customers any of the activities mentioned in Article 5 above must promptly report to the Chairman of “the Commission” the details of operations undertaken or attempted to be undertaken that are suspected to be related to money laundering or terrorist financing.

The same obligations shall apply to lawyers, according to a mechanism to be set by the Beirut Bar Association and the Tripoli Bar Association, taking into account the particularities and rules of the Legal Profession.

The supervisors of the Banking Control Commission must, through the Chairman of the latter, report to the Chairman of “the Commission” any operations they suspect to be related to money laundering or terrorist financing and which they are aware of while performing their duties.

The auditors of the parties referred to in Article 4 above must promptly report to the Chairman of “the Commission” the details of the operations they suspect to be concealing money-laundering or terrorist financing and which they are aware of in the course of performing their work.

Article 8

- 1- “The Commission” shall convene after receiving information from the parties referred to in Article 7 above, or after receiving information from Lebanese or foreign official authorities.
- 2- After the assessment and analysis of the information relating to the case under examination, “the Commission” shall either decide to take notice, or conduct the required investigation, particularly by auditing the accounts or operations, or investigating the suspicious assets. “The Commission” shall conduct its investigations through a delegated person chosen amongst its members or its concerned officers, or through its Secretary General or an appointed auditor. All these persons shall perform their duties subject to confidentiality obligations, and without being opposed to the provisions of the Banking Secrecy Law of September 3, 1956.
- 3- Upon the completion of its audit and analysis, “the Commission” shall take its decisions in accordance with the provisions of Paragraphs 2, 3, and 4 of Article 6 of this Law.
- 4- If “the Commission” decides to lift the banking secrecy off the concerned accounts and/or to freeze them permanently and/or to request the maintain of the prohibition to dispose of the assets, it shall send a certified true copy of its decision to the Public Prosecutor of the Court of Cassation, the Higher Banking Commission through its Chairman, the concerned party, and the concerned local or foreign bodies, either directly or by the same means/body through which the information was received.
- 5- In case the Public Prosecutor of the Court of Cassation decides to drop the case of money laundering and discontinue the proceedings, the frozen accounts and all other assets shall be deemed free. The decision to drop the case shall be notified to “the Commission”, and the latter shall not be entitled to maintain the lifting of the banking secrecy, the freezing and the prohibition to dispose of the assets, and shall immediately notify the concerned banks and any other concerned parties thereof. However, if “the Commission” finds, before implementing the decision, any new evidence or circumstantial evidence that justifies the maintain of the freezing, of the prohibition to dispose of the assets, and of the lifting of the banking secrecy, then it must send a justified report, along with the documents containing such evidence or circumstantial evidence to the Public Prosecutor

of the Court of Cassation who may decide, where applicable, to widen the investigation in light of the new information.

- 6- In case the Instruction Judge or the Chamber of Accusation issues a final decision dismissing any legal prosecution, as well as in the case of a final judgement or decision that ceases the legal proceedings or states the innocence of the holders of frozen accounts or assets not to be disposed of, these accounts and assets shall be deemed free, and a copy of the judgement or decision shall be notified to “the Commission” through the Public Prosecutor of the Court of Cassation. “The Commission” shall in turn notify the ruling or the decision to the concerned banks and other concerned parties. “The Commission” shall not be empowered to lift again the banking secrecy off the accounts or to reinstate the freezing decision and to prevent again the use of the accounts and assets, covered by the decision dismissing the legal prosecution, except through the mechanism stipulated in Article 127 of the Code of Criminal Procedures.

Article 9

The Chairman of “the Commission” or any person delegated by the Chairman may directly communicate with any Lebanese or foreign authority (judicial, administrative, financial, or security) in order to request information or take cognizance of the details of previously conducted investigations that are linked or related to ongoing investigations by “the Commission”. The concerned Lebanese authorities must promptly respond to this information request, and shall not be subject to any confidentiality obligation.

Article 10

The Chairman of “the Commission” or any person delegated by the Chairman may directly request from the parties referred to in Articles 4 and 5 above to provide “the Commission” with all the documents and information needed to perform its duties. Such parties must respond to this request within a reasonable period of time.

Article 11

Reporting entities, as well as their Board members, officers and employees, are prohibited from disclosing or insinuating to anyone that a suspicious transaction report or other relevant information is submitted or intended to be submitted to “the Commission”, or that “the Commission” is inquiring about customers or auditing their operations or accounts.

Article 12

Within the scope of their work, the Chairman, members, staff and delegates of “the Commission”, shall enjoy immunity. Thus, they may not be prosecuted or sued, neither collectively nor individually, for any civil or criminal liability related to the performance of their duties, including offences specified by the Banking Secrecy Law of September 3, 1956, except in case such secrecy is breached.

The parties referred to in Articles 4 and 5 above and their staff, as well as the supervisors of the Banking Control Commission and auditors, shall also enjoy the same immunity in performing their duties under the provisions of this Law or according to the decisions of “the Commission”, particularly when they report in good faith to “the Commission” the details of operations they suspect to be related to money laundering or terrorist financing.

Article 13

Any party that violates the provisions of Articles 4, 5, 7, 10, and 11 of this Law shall be punishable by imprisonment for a period of two months to one year and by a fine not exceeding one hundred million Lebanese pounds, or by either penalties.

“The Commission” may address a warning to the parties who are in violation of the provisions of the regulations issued for the purpose of implementing this Law, and may request from these parties periodic reports about the measures taken to rectify their situation. “The Commission” may as well, in case of violation, refer the parties mentioned in Article 4 to the Higher Banking Commission, and correspond with the supervisory or oversight authorities concerning the parties mentioned in Article 5.

The Higher Banking Commission may impose on the parties that were referred to it a fine for non-compliance with the regulations issued for the purpose of implementing this Law, provided this fine does not exceed two hundred times the official minimum wage. Fines shall be collected to the benefit of Banque du Liban.

The foregoing shall not preclude the enforcement of the administrative penalties stipulated in Article 208 of the Code of Money and Credit on the parties referred to in Article 4, nor shall it preclude the enforcement of the sanctions stipulated in all other laws and regulations on the parties referred to in article 5.

Article 14

The movable or immovable assets that are proved, by a final Court ruling, to be related to, or derived from, a money-laundering or terrorist financing offence, shall be confiscated to the benefit of the State, unless the owners of the said assets prove in a Court of Law their legal rights thereupon.

The confiscated assets may be shared with other countries, whenever the confiscation results directly from coordinated investigations or cooperation between the concerned Lebanese authorities and the concerned foreign body(ies).

Article 15

The reservations specified in Paragraphs 2, 3 and 4 of Article 1 of Law No 426 of May 15, 1995, on authorizing the ratification of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, are repealed, as well as the provisions of Article 132 of Law No 673 of March 16, 1998, on Narcotic Drugs and Psychotropic Substances.

Article 16

Upon the enactment of this Law, all provisions that are contrary to, or are in contradiction with the provisions of this Law, especially those specified in the Banking Secrecy Law of September 3, 1956, and those of Law No 673 of March 16, 1998, on Narcotic Drugs and Psychotropic Substances, shall cease to be applicable.

Article 17 (Final Provisions)

The auditors of banks, financial institutions and other companies and institutions specified in Article 4 of this Law must verify the compliance by all these companies and institutions with the provisions of this Law and with the implementation regulations issued in relation thereto, and must also notify the Chairman of “the Commission” of any violation thereof.

The Ministry of Justice, the Beirut Bar Association, the Tripoli Bar Association, and the Certified Accountants Association, shall be responsible for verifying the compliance by notaries, lawyers, and certified accountants, as far as each is concerned, with the measures stipulated in this Law and in the implementation regulations issued in relation thereto.

Article 18

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

Beirut, November 24, 2015

Promulgated by the Council of Ministers

The President of the Council of Ministers

Signed: Tammam Salam