

## **LAW NO 318 of April 20, 2001**

### **FIGHTING MONEY LAUNDERING**

#### **Article 1<sup>1</sup>**

Under the provisions of this Law, illicit funds are to be understood as any asset resulting from the commission of any of the following offences:

1. The growing, manufacturing, or trading of narcotic drugs.
2. Acts committed by associations of wrongdoers, that are specified by Articles 335 and 336 of the Penal Code, and internationally identified as organized crimes.
3. Terrorist acts, as specified in Articles 314, 315 and 316 of the Penal Code.
4. The financing or contribution to the financing of terrorism, terrorist acts, or terrorist organizations, in accordance with the concept of terrorism as specified by the Lebanese Penal Code.
5. Illegal arm trade.
6. The offences of theft or embezzlement of public or private funds or their appropriation by fraudulent means, counterfeiting, or breach of trust, affecting banks, financial institutions, and institutions listed in Article 4 of this Law, or occurring within the scope of their activities.
7. The counterfeiting of money, credit cards, debit cards or charge cards, or any official document or commercial paper, including checks.

#### **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 about the said source.
2. Transferring or substituting funds known to be illegal for the purpose of concealing or disguising their source, or helping a person involved in the offence to dodge responsibility.
3. Acquiring or holding illicit funds, using or investing such funds in purchasing movable or immovable assets, or in carrying out financial operations, while being aware of the illicit nature of these funds.

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<sup>1</sup>- The text of this Article was amended by Law No 547 of October 20, 2003.

### **Article 3**

Any person who undertakes money-laundering operations, or intervenes or participates in such operations, shall be punishable by imprisonment for a period of three to seven years, and by a fine of no less than twenty million Lebanese pounds.

### **Article 4**

Institutions not subjected to the provisions of the Banking Secrecy Law of September 3, 1956, including individual institutions, notably exchange institutions, financial intermediation institutions, leasing companies, collective investment schemes, insurance companies, companies promoting, building and selling real estate, and merchants of valuables (jewelry, precious stones, gold, works of art, antiques), must keep special records for operations that exceed the amount determined by the Banque du Liban in the regulations to be set out under Article 5 of this Law.

They must also ascertain, through official documents, the identity and address of each client, and must keep, for a period of no less than five years, photocopies of these documents, as well as photocopies of the operation-related documents.

### **Article 5**

Institutions subjected to the provisions of the Banking Secrecy Law of September 3, 1956 must control their operations with clients, in order to avoid being involved in operations that might conceal the laundering of funds resulting from any of the offences specified by this Law.

Within one month from the enforcement of this Law, Banque du Liban shall establish and publish regulations setting out the rules of such control and including, as a minimum, the following obligations:

- a. To ascertain the true identity of banks and financial institutions permanent clients and to determine that of the economic right owner when operations are carried out through proxies, through figureheads acting for individuals, institutions or companies, or through numbered accounts.
- b. To apply the same identity verification process to transient clients, when the value of the requested operation or series of operations exceeds a specified amount.
- c. To keep, at least for a five-year period after completing the operations or closing the accounts, photocopies of all operation-related documents, as well as photocopies of official documents relating to the identity of all parties concerned with such operations.

- d. To set up indicators revealing the existence of money-laundering operations, as well as the principles of due diligence, in order to detect suspicious operations.
- e. The commitment of banks and financial institutions to refrain from delivering incorrect statements which aim at misleading administrative or judicial authorities.
- f. The verification by banks and financial institutions auditors of the compliance of these institutions with the regulations to be set out under this Article, and the reporting of any violation to the Governor of Banque du Liban.

## **Article 6**

- 1. An independent, legal entity with judicial status shall be established at Banque du Liban, and shall discharge its duties without being under the authority of Banque du Liban. Its mandate is to investigate money-laundering operations, and to monitor compliance with the rules and procedures stipulated by this Law. It will be named “***the Special Investigation Commission***”, hereafter “***the Commission***”.
- 2. ***The Special Investigation Commission*** shall consist of:
  - The Governor of Banque du Liban or, in case of impediment, one of the Vice-Governors designated by him **Chairman**
  - The President of the Banking Control Commission or, in case of impediment, a member of this Commission designated by him. **Member**
  - The judge appointed to the Higher Banking Commission or, in case of impediment, the alternate judge appointed by the Higher Judicial Council for a period equal to the term of the initially appointed judge. **Member**
  - A member and his/her alternate appointed by the Council of Ministers upon proposal of the Governor of Banque du Liban.
- 3. ***The Special Investigation Commission*** shall appoint a full-time Secretary, who shall be responsible for the tasks assigned to him by ***the Commission***, for implementing its decisions and for directly supervising a special body of auditors designated by ***the Commission*** for the purpose of controlling and verifying on a continuous basis the implementation of the obligations mentioned in this Law. And the provisions of the Banking Secrecy Law of September 3, 1956 shall be opposed to none of them.

4. The mission of ***the Special Investigation Commission*** is to investigate operations that are suspected to be money-laundering offences, and to decide on the seriousness of evidence and circumstantial evidence related to any such offence or offences<sup>1</sup>.

It is the exclusive right of ***the Commission*** to decide the lifting of the banking secrecy in favor of the competent judicial authorities and the Higher Banking Commission represented by its Chairman, on accounts opened with banks or financial institutions and suspected to have been used for money-laundering purposes<sup>1</sup>.

5. ***The Commission*** meets, upon its Chairman's convening, at least twice a month and when needed. The legal quorum requires the presence of three members at least.
6. ***The Commission*** shall take its decisions at a majority of the attending members. In case of a tie, the Chairman shall have a deciding vote.
7. ***The Commission*** shall establish, within one month from the issuance of this Law, its own functioning rules and the regulations governing its regular and contractual staff who are subjected to private law, notably the obligation of confidentiality.

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<sup>1</sup>- Refer to Law 32 of October 16, 2008 whose unique article stipulates the following:

**Unique Article:**

The Special Investigation Commission established pursuant to Law 318 of April 20, 2001 on Fighting Money Laundering, shall have the exclusive right to freeze and lift banking secrecy on bank accounts, in accordance with applicable anti-corruption agreements and laws, particularly the United Nations Convention against Corruption, provided the rules and principles specified in Law 318 are adopted.

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

Baabda, October 16, 2008

Signed: Michel Sleiman

Promulgated by the President of the Republic

The President of the Council of Ministers

Signed: Fouad Siniora

The President of the Council of Ministers

Signed: Fouad Siniora

The expenses of ***the Commission*** and of its ancillary bodies shall be borne by Banque du Liban within the budget prepared by ***the Commission***, provided it is approved by BDL Central Council.

## **Article 7**

1. The concerned parties referred to in Articles 4 and 5 of this Law must immediately report to ***the Commission*** the details of operations they suspect to be concealing money laundering.
2. The controllers of the Banking Control Commission must, through their Chairman, report to ***the Commission*** any operations they suspect to be concealing money-laundering and which they are aware of while discharging their duties.

## **Article 8**

1. Upon receiving information from the concerned parties mentioned in Article 7, or from official Lebanese or foreign authorities, ***the Commission*** shall convene immediately.
2. After perusing the received information, ***the Commission*** shall, within a period of three working days, take a temporary decision to freeze the suspected account (s) for a one-time renewable period of five days, when the source of funds remains unknown or is suspected to proceed from a money-laundering offence. During the said period, ***the Commission*** shall investigate the suspected account (s) either directly or through a delegated person chosen amongst its members or its concerned officers, or through its Secretary or an appointed auditor. All designated persons shall discharge their duties under the obligation of confidentiality, and the provisions of the Banking Secrecy Law of September 3, 1956 shall be opposed to none of them.
3. After completing its investigations and during the temporary freezing period of the suspected account (s), ***the Commission*** shall take a final decision on whether to free the said account (s) if the source of funds is not found to be illicit, or to lift the banking secrecy regarding the suspected account (s) and maintain the freezing. If, at the end of the period stipulated in Paragraph 2 above, ***the Commission*** does not render any decision, the said account (s) shall be automatically deemed free. ***The Commission's decisions*** are not subject to any ordinary or extraordinary form of administrative or judicial review, including review in case of abuse of power.
4. In case of a decision on lifting the banking secrecy, ***the Commission*** shall send a duplicate of its justified final decision to the State Prosecutor of the Supreme Court, the Higher Banking Commission through its Chairman, the concerned party, the concerned

bank, and the concerned foreign authority, either directly or through the official party through which the information was provided.

## **Article 9**

The Chairman of ***the Commission*** or any of the members delegated by the Chairman may directly communicate with any Lebanese or foreign authority (judicial administrative, financial, or security authority) in order to request information or know the details of previous investigations that are linked or related to ongoing investigations by ***the Commission***. And the concerned Lebanese authorities must immediately respond to such an information request.

## **Article 10**

***The Commission*** shall establish a central body named ***the Financial Intelligence Administrative Unit***, which will function as the competent authority and the official center for monitoring, collecting and archiving information on money-laundering offences, and for exchanging information with foreign counterparts.

***The Financial Intelligence Administrative Unit*** shall periodically provide ***the Commission*** with all available information on money-laundering offences.

***The Commission*** shall determine the number of the members of this Unit, their functions and their compensation. It shall take against them disciplinary measures and terminate their employment in case of breach of duty, without precluding the possibility of civil or criminal prosecution.

All these persons shall be submitted to the same obligations as the members of ***the Commission***, especially the obligation of confidentiality.

## **Article 11**

Except for ***the Commission***'s decision to lift banking secrecy, the reporting obligation stipulated by this Law and incumbent upon any natural person or legal entity is absolutely confidential.

This absolute confidentiality shall also apply to the documents submitted for reporting, and to the documents related to each stage of the investigation and its procedures.

## **Article 12**

Within the scope of their work under the provisions of this Law, the Chairman and members of *the Commission*, and *the Commission's* staff and delegates, shall enjoy immunity. In consequence, they may not be prosecuted or sued, neither collectively nor individually, for any civil or criminal liability related to the discharging of their duties, including offences specified by the Banking Secrecy Law of September 3, 1956, except in case this secrecy is disclosed.

In discharging their duties under the provisions of this Law, or according to the decisions of the Commission, the Bank and its staff shall enjoy the same immunity.

## **Article 13**

Any person who violates the provisions of Articles 4, 5, 7 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 ten million Lebanese pounds, or by either penalty.

## **Article 14**

The movable or immovable assets that are proved, by a final court ruling, to be related to, or proceeding from, offences listed in Article 1 of this Law, shall be confiscated and forfeited to the State, unless the owners of the said assets prove in court their legal rights thereupon.

## **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 entry into force of this Law, any provision that is contrary to, or at variance 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 operative.

## **Article 17**

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

Babda, April 20, 2001

Signed Emile Lahoud

Promulgated by the President of the Republic

The President of the Council of Ministers

Signed Rafic Hariri

The President of the Council of Ministers

Signed Rafic Hariri