

BANQUE DU LIBAN

Basic Circular No 62

To Banks, Financial Institutions and Auditors

Attached is a copy of Basic Decision No 7274 of April 15, 1999, on dealing with non-resident sectors¹.

Beirut, April 15, 1999

The Governor of the Banque du Liban

Riad Toufic Salamé

Old numbering system: No 1719

¹ The title of this Decision was amended by Article 1 of Intermediate Decision No 8784 of July 14, 2004 (Intermediate Circular No 61).

BANQUE DU LIBAN

Basic Decision No 7274

Dealing with Non-Resident Sectors¹

The Governor of the Banque du Liban,

Pursuant to the Code of Money and Credit, notably the provisions of Articles 70, 76, 77, 79, 81 (Par. 6), and 174 thereof;

Pursuant to the Decision of the Central Council of the Banque du Liban, taken in its meeting of April 14, 1999,

Decides the following:

Article 1:²

- I- Banks and financial institutions resident in Lebanon, as far as each is concerned, are prohibited from:
 - 1- Receiving, from the non-resident financial sector (banks, financial institutions, money exchange institutions, financial intermediation institutions, and insurance companies, whether foreign or Lebanese operating abroad), deposits in Lebanese pound, including fiduciary deposits, and granting credits and opening credit and debit accounts in Lebanese pound for the said sector.
 - 2- Accepting or financing any kind of debt in any currency, which was originated outside Lebanon, except for:
 - a- Sovereign debenture bonds issued by the G-10 countries.
 - b- Debenture bonds rated “BBB” and above, issued by parties having an equivalent rating, provided their total value does not exceed 50% of the Tier 1 capital of the concerned bank or financial institution, and provided this ratio is reduced by an amount equivalent to the total nominal value of the operations performed on the

¹ The title of this Decision was amended by Article 1 of Intermediate Decision No 8784 of July 14, 2004 (Intermediate Circular No 61).

² The last amendment to this Article was made by Article 1 of Intermediate Decision No 10470 of July 9, 2010 (Intermediate Circular No 224).

structured financial instruments mentioned in Par.3 and 4, and the funds deposited abroad for a period of one year or more mentioned in Par. 5, Part I of this Article.

In case these bonds are guaranteed, the guarantor must be rated “BBB” and above.

The concerned banks and financial institutions may obtain a prior approval from the BDL Central Council on exceeding the above-mentioned 50% ratio. The Central Council’s approval depends on the following conditions:

- The concerned bank or financial institution must have a high solvency ratio.
 - The concerned bank or financial institution must comply with Good Governance principles, BDL regulatory Circulars, particularly the Circular on Corporate Governance and Basic Decision No 9286 of March 9, 2006 relating to the scientific, technical and ethical qualifications required for performing certain functions in the banking and financial sectors, and also with the circulars issued by the Banking Control Commission.
- c- Sovereign debenture bonds issued by the host country in its local currency and in which Lebanese banks and financial institutions’ affiliates in this country (branches and affiliated banks or financial institutions abroad) invest, provided the total value of these investments does not exceed the value of deposits held by these affiliates in the local currency.
- 3- Executing for their own account, with non-resident sectors, operations on structured financial papers and instruments, denominated in any currency, except for those specified in Paragraph 4 of this Article or those:
- a- Having an unconditional guarantee of the capital’s whole value.
 - b- Whose issuer or guarantor is rated “A” and above.
 - c- Having a total nominal value not exceeding the equivalent of 25% of the Tier 1 capital of the concerned bank or financial institution.
- 4- Executing for their own account, with non-resident sectors, operations on structured financial papers and instruments linked to foreign currency-denominated Lebanese Treasury bonds or certificates of deposit issued by the Banque du Liban (credit linked notes), except for those with conditions including:
- a- An unconditional guarantee of the capital’s whole value, at least when there is no credit event, notably the non-repayment of the said Treasury bonds and credit linked notes.
 - b- An “A” rating and above, for the issuer or the guarantor.
 - c- The obligation to reimburse in kind the said Treasury bonds and credit linked notes, by transferring their ownership to the client in case of a credit event, notably their non-repayment.
 - d- In the absence of an internationally recognized credit event, prices variations of Credit Default Swaps on Lebanese Treasury bonds shall not be considered as a credit event category that compels the issuer to reimburse in kind the said Treasury bonds by transferring their ownership to the client.

The total nominal value of these instruments must not exceed the equivalent of 10% of the concerned banks or financial institutions' Tier 1 capital, unless there is a prior approval by the BDL Central Council.

- 5- Investing abroad more than 10% of their Tier 1 capital in the form of deposits for a period of a year or more.

II- In order to implement the rules stipulated in Part I of this Article, the following percentages and bases shall be adopted:

- 1- The total value of operations specified in Part I, Paragraph 2 (Subparagraph b) and Paragraph 3, and carried out with a single issuer must not exceed 10% of the concerned banks or financial institutions' Tier 1 capital.
- 2- The rating given by Standard & Poor's, or the equivalent rating given by other reputable, international rating agencies, provided the lower credit rating is adopted.
- 3- Ratings shall be adopted as of the operation execution date. In case the rating is downgraded, the concerned bank or financial institution must liquidate the relevant positions or inform the Banking Control Commission. The latter may impose the liquidation of such positions within a specified time limit, or assess the usefulness in case they are maintained, with possible request of special provision building, as the case may require.
- 4- In order to compute the ratios mentioned in Part I, Paragraph 2 (Subparagraph b), Paragraph 3 (Subparagraph c), and Paragraphs 4 and 5 of this Article, the investments of banks and financial institutions' affiliates abroad within the portfolio of debenture bonds, structured papers and financial instruments, structured papers and financial instruments linked to foreign currency-denominated Lebanese Treasury bonds or certificates of deposit issued by the Banque du Liban (credit linked notes) and funds deposited abroad for a period of one year or more, shall be computed in the numerator, while the consolidated net Tier I capital shall be computed in the denominator.
- 5- When placing bids, banks and financial institutions are prohibited from exceeding the 50% ratio mentioned in Part I, Paragraph 2 (subparagraph b) above and the 10% ratio mentioned in Part II, paragraph (1).
- 6- The total value of operations mentioned in Part I, Paragraph 2 (subparagraph b) and Paragraphs 3, 4, and 5 must not exceed 50% of the concerned banks or financial institutions' Tier 1 capital.

Article 2:

The prohibition stipulated in Article 1 of this Decision does not govern:

- 1- The guarantees given by the non-resident financial sector for loans in Lebanese pound, granted for ascertained investments or commercial activities in Lebanon.
- 2- The value of checks that are collected in Lebanese pound on behalf of the non-resident financial sector and are converted into a foreign currency within 72 hours.

Article 3:

Resident banks may, on behalf of the non-resident financial sector, subscribe to Lebanese Treasury bills, according to the following conditions:

- 1- The source of funds must be foreign-currency deposits, converted into Lebanese pounds for this specific purpose.
- 2- To provide the BDL Department of Financial Operations with the names of non-resident financial institutions that intend to subscribe to Treasury bills, and to obtain the BDL prior approval for any such subscription and its size.

Article 4:

The Banque du Liban may subscribe to Lebanese Treasury bills on behalf of the non-resident financial sector, in case the condition stipulated in Article 3, Paragraph 1 of this Decision is met.

Article 5:

When, as a result of executing specific operations, banks and financial institutions know that they have accounts in Lebanese pound held by non-resident financial intermediation institutions and insurance companies, or fiduciary deposits in Lebanese pound received from the non-resident financial sector, they must immediately communicate the detailed status of these accounts to the Banking Control Commission and the BDL Department of Statistics and Economic Research.

Article 6¹:

Banks and financial institutions must immediately deposit at the Banque du Liban a minimum special reserve in Lebanese pounds equivalent to the total value of operations contravening the provisions of Article 1 of this Decision. Such reserve must be deposited for a one-month period for each daily balance, in a zero-interest, special account, to be named “Reserve for Deposits, Loans and Accounts in Lebanese Pound of the Non-Resident Financial Sector”.

¹ This Article was amended by Article 3 of Intermediate Decision No 10341 of December 22, 2009 (Intermediate Circular No 211).

Article 7¹:

The Banque du Liban shall collect from banks and financial institutions not complying with the provisions of Article 6 a penalty interest, to be computed according to the provisions of Article 77 of the Code of Money and Credit and the relevant regulatory texts issued by the Banque du Liban.

Article 8:

In addition to the stipulations of Articles 6 and 7 above, appropriate legal and administrative measures and procedures shall be applied to banks and financial institutions that do not comply with the provisions of this Decision.

Article 9:

Auditors must verify that the concerned banks and financial institutions are fulfilling the obligations stipulated in this Decision, and must report any violation to the Banking Control Commission and the BDL Department of Statistics and Economic Research.

Article 10:

The following regulatory texts issued by the Banque du Liban are repealed²:

- Circular 249 of November 7, 1979, addressed to banks
- Decision 6140 of April 4, 1996, attached to Circular 1421 of April 4, 1996, addressed to banks and financial institutions
- Decision 6569 of April 24, 1997, attached to Circular 1517 of April 24, 1997, addressed to banks
- Decision 7217 of February 4, 1999, attached to Circular 1696 of February 4, 1999, addressed to banks, financial institutions and exchange institutions.

Article 11:

This Decision shall become effective upon its issuance and shall be published in the Official Gazette.

¹ This Article was amended by Article 4 of Intermediate Decision No 10341 of December 22, 2009 (Intermediate Circular No 211).

² The numbers of the Circulars are given according to the old numbering system.

Beirut, April 15, 1999

The Governor of the Banque du Liban

Riad Toufic Salamé