



**Basic Circular No 139**

**Addressed to Banks and Financial Institutions**

Attached is a copy of Basic Decision No 12625 of 21 July 2017 relating to the Common Reporting Standard.

Beirut, 21 July 2017

The Governor of Banque du Liban

Riad Toufic Salamé

# **BANQUE DU LIBAN**

## **Basic Decision No 12625**

### **Common Reporting Standard**

**The Governor of Banque du Liban,**

**Pursuant to the Code of Money and Credit, notably Articles 70, 174, and 182 thereof;**

**Pursuant to urgent Law No 55 of 27 October 2016 (Exchange of Information for Tax Purposes) relating to the automatic exchange of information in accordance with the obligations stipulated in any applicable international convention, notably Paragraphs “Sixth” and “Ninth” thereof,**

**Pursuant to Decree No 1022 of 7 July 2017, relating to the detailed implementation of Subparagraph 3, Paragraph Sixth of Law No 55 of 27 October 2016 (Exchange of Information for Tax Purposes),**

**In line with the international recommendations issued by the Global Forum on Transparency and Exchange of Information for Tax Purposes, and by the OECD; and**

**Pursuant to the Decision of the Central Council of Banque du Liban, taken in its meeting of 19 July 2017,**

**Decides the following:**

#### **Article 1: Definitions**

**First:** For the purpose of implementing the provisions of Law No 55 of 27 October 2016 (Exchange of Information for Tax Purposes) and the provisions of this Decision, the following definitions shall be adopted:

- (1) Law:** Law No 55 of 27 October 2016.
- (2) Decree:** the Decree relating to the detailed implementation of Subparagraph 3, Paragraph Sixth of Law No 55 of 27 October 2016 (Exchange of Information for Tax Purposes),
- (3) Standard:** the Common Reporting Standard for the automatic exchange of information and the related commentaries, which was approved by the OECD Council on 15 July 2014, and contains the reporting and due diligence procedures for the automatic exchange of information, including any subsequent amendment and explanation thereto published by the OECD.
- (4) Participating jurisdiction:** any jurisdiction listed in Table 3 of the Decree.

- (5) **Financial Institution:**
- a- Any bank, financial institution, company, or organism regulated by Banque du Liban and performing activities that are similar to those of the financial institution as defined in Section VIII of the Standard.
  - b- This definition excludes the branches located outside Lebanon of the financial institutions defined in Clause (a) above.
  - c- The definition in Clause (a) includes the branches operating in Lebanon of financial institutions that are not resident in Lebanon, and which perform the activities of the Financial Institution as defined in Section VIII of the Standard.
- (6) **Reporting Financial Institution:** any Financial Institution that is not a Non-Reporting Financial Institution, as defined below.
- (7) **Non-reporting Financial Institution:**
- a- Any Financial Institution as defined in Section VIII, Subparagraphs [B1 (a), (b), (d) and (e)] of the Standard; or
  - b- Any entity listed in Table 2 of the Decree.
- (8) **Financial account:** any account as defined in Section VIII of the Standard.
- (9) **Pre-existing account:** any financial account maintained by a Reporting Financial Institution on 30 June 2017.
- (10) **New account:** a Financial Account opened at a Reporting Financial Institution on or after 1 July 2017.
- (11) **High-value account:** a Pre-existing Account held by one or more natural persons/individuals, whose aggregate balance or value exceeds the amount of USD 1,000,000 on 30 June 2017 and 31 December 2017, or on 31 December of any subsequent year.
- (12) **Lower-value account:** a Pre-existing Account held by one or more natural persons/individuals, whose aggregate balance or value does not exceed the amount of USD 1,000,000 on 30 June 2017.
- (13) **Excluded account:**
- a- Any account as defined in Section VIII, Subparagraphs [C17 (a) to (f)] of the Standard; or
  - b- Any account listed as an Excluded Account in Table 1 of the Decree.
- (14) **Information return:** a report containing the information specified in Section I of the Standard.
- (15) **Account holder:** any person as defined in Section VIII, Subparagraph [E1] of the Standard.
- (16) **Controlling person:** any person as defined in Section VIII of the Standard.

**(17) Change in circumstances:** any change which yields additional information about a person's status or information that is inconsistent with such status. The expression "change in circumstances" shall also cover any change in, or addition to the information related to the Account Holder's account (including any addition, substitution, or other change in the Account Holder's status), or any change in the information related to any other account linked to the Account Holder's account (based on the financial accounts aggregation rules specified in Section VII, Subparagraphs [C1 to 3] of the Standard), in case that change or addition of information affects the Account Holder's status.

**Second:**

- 1- For the purpose of implementing Section I of the Standard, Reportable Jurisdiction shall mean any jurisdiction listed in Table 4 of the Decree.
- 2- For the purpose of implementing the due diligence procedures specified in Sections II through VII of the Standard and in this Decision, Reportable Jurisdiction shall mean any jurisdiction other than Lebanon and the United States of America.
- 3- For the purpose of implementing this Decision, the date to be specified in the definition of "Qualified Credit Card Issuer" in Section VIII, Subparagraph [B8] of the Standard, shall be 1 July 2017 inclusively.

**Third:** Any term or expression defined in the Standard but not in Paragraph "Second" of the Law or in this Decision, shall have the same meaning set forth in the Standard.

**Article 2: Due Diligence Obligations**

- 1- Reporting Financial Institutions shall comply with the following:
  - a- To establish, keep, and document the due diligence procedures stipulated in Sections II through VII of the Standard, as well as the procedures stipulated in Articles 2 and 3 of this Decision.
  - b- To identify reportable accounts by implementing the due diligence procedures stipulated in Sections II through VII of the Standard, without prejudice to Paragraph 2 of this Article.
  - c- To treat the financial account as a reportable account, as of the date it is identified as such, in accordance with the due diligence procedures stipulated in Sections II through VII of the Standard. In case no other time-limit is set, the account-related information shall be reported annually, as of the year following the year to which the information relates.

- d- For the purpose of this Decision, to treat an account with a negative balance or value as an account with a balance or value equal to nil.
  - e- For the purpose of determining the balance or value of an account opened at a Reporting Financial Institution, to convert the account's balance or value into the US dollar, at the official exchange rate set by Banque du Liban, so as to identify the accounts subject to a threshold on 30 June 2017, 31 December 2017, or 31 December of any subsequent year.
  - f- For the purpose of this Decision, to treat a Financial Account held by a person as partner in a partnership, and used by that person in that capacity, as an entity account.
  - g- Whenever a Reporting Financial Institution relies on information collected pursuant to AML/KYC procedures in order to identify the Controlling Person of the New Entity Account Holder (Section VI, Subparagraph [A2 (b)] of the Standard), these procedures must be consistent with the FATF-Financial Action Task Force Recommendations 10 and 25 (as adopted in February 2012).
- 2- Reporting Financial Institutions may adopt the following procedures:
- a- To apply the Residence Address Test to Lower Value Accounts held by natural persons/individuals, as defined in Section III, Subparagraph [B1] of the Standard.
  - b- To apply Section V, Paragraphs [A to C] of the Standard, to determine whether a Pre-existing Entity Account is subject to the due diligence procedures specified in Section V of the Standard.
  - c- Regarding New Entity Accounts, to rely solely on a self-certification from the Account Holder or from the Controlling Person, so as to determine whether a Controlling Person of a Passive NFE is a Reportable Person, as defined in Section VIII of the Standard.
- 3- The due diligence procedures with respect to the Standard's Sections and Paragraphs enumerated below, shall be implemented according to the following dates:
- a- Section III "Due diligence for Pre-existing Individual Accounts":
    - 1- Subparagraph [C6]: 30 June 2017
    - 2- Paragraph D: 31 December 2017 for High Value Accounts; and 31 December 2018 for Lower Value Accounts.
  - b- Section V "Due diligence for Pre-existing Entity Accounts":
    - 1- Paragraph A: 30 June 2017
    - 2- Paragraph B: 30 June 2017 concerning both dates
    - 3- Paragraph E :
      - Subparagraph [E1]: 30 June 2017 and 31 December 2018, respectively.

- Subparagraph [E2]: 30 June 2017
- c- Upon the implementation of the Standard, Section III-Subparagraph [C6], Section V- Paragraphs A and B and Subparagraph [E2], and Section VIII-Subparagraph [C15], and only for that purpose, the expressions “the last day of any subsequent year” and “31 December of any subsequent year” shall mean “31 December 2017 and 31 December of any subsequent year”.

### **Article 3: Reporting Obligation**

- 1- The Reporting Financial Institution shall directly submit to the Ministry of Finance an Information Return that contains the information relating to the calendar year 2017 and to each subsequent calendar year, with respect to each financial account identified as a reportable account maintained by the Reporting Financial Institution at any time during the year. Banque du Liban shall remain the sole regulatory body in charge of the sound implementation of the Law, the Decree, and this Decision.
- 2- In case a Reporting Financial Institution applies, during a calendar year, the due diligence procedures set forth in Article 2 of this Decision, and if no account is identified as a reportable account, then such Reporting Financial Institution shall submit an Information Return evidencing that it maintains no such reportable accounts in respect of that year.
- 3- The Reporting Financial Institution shall submit an electronic Information Return directly to the Ministry of Finance, no later than 30 June of the year following the reporting calendar year. This Information Return shall then be forwarded to the competent authority of the relevant jurisdiction specified in Table 4 of the Decree, no later than 30 September of the year following the reporting calendar year, provided the first information exchange takes place at the latest by 30 September 2018.

### **Article 4: Records**

- 1- Each Reporting Financial Institution must retain the records it has received or has prepared pursuant to the provisions of this Decision, including any documentary evidence and self-certification submitted by the account-related person.
- 2- Under this Decision, each Reporting Financial Institution that retains electronic records must keep these records in an electronically readable format throughout the period specified in Paragraph 4 below.
- 3- Under this Decision, each Reporting Financial Institution that has obtained or has created records in a language other than Arabic, must provide, upon request and at its own expense, a translation of such records into Arabic.

- 4- Under this Decision, each Reporting Financial Institution must keep the records and documents relating to the entries received or created pursuant to this Decision, for a minimum period of 10 years:
- a- For the self-certification submitted by the account-related person: starting from the closing date of the concerned Financial Account.
  - b- In all other cases: starting from the end of the last calendar year referred to in the record.

**Article 5: Control and Review of Books and Records**

In addition to their respective authority and for the purpose of controlling the proper implementation of this Decision, Banque du Liban and/or the Special Investigation Commission (SIC) may request the Reporting Financial Institution to provide, within a period of no less than 14 days, any information and copies of any books, records, or documents.

**Article 6: Anti-avoidance**

If a person enters in any arrangements or engages in practices that could be considered as being mainly or secondarily intended to avoid any obligations imposed by law or under this Decision, that person shall remain subject to the obligation he/she has attempted to avoid, as if he/she has neither entered in any such arrangements nor engaged in any such practices.

**Article 7: Sanctions**

Each Reporting Financial Institution that contravenes the provisions of this Decision or fails to comply with the obligations thereof, shall be subject to the fine stipulated in the applicable laws, without prejudice to the right of Banque du Liban and/or the SIC to impose administrative sanctions and financial penalties pursuant to the Code of Money and Credit and to Law No 44 of 24 November 2015.

**Article 8: Interpretation**

The provisions of this Decision must be read and implemented in accordance with the Standard and its commentaries and with each amendment thereto.

**Article 9:    Date of Enforcement**

This Decision shall come into effect as of 1 July 2017.

**Article 10:**    This Decision shall be published in the Official Gazette.

Beirut, 21 July 2017

The Governor of Banque du Liban

Riad Toufic Salamé