



## **Intermediate Circular No. 498**

### **Addressed to Banks, Financial Institutions and all Institutions specified in Article 4 of Law No. 44 of 24 November 2015 (Fighting Money Laundering and Terrorist Financing)**

Attached is a copy of Intermediate Decision No. 12826 of 13 June 2018 amending the following regulatory texts:

- The Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing, attached to Basic Decision No. 7818 of 18 May 2001, notified by Basic Circular No. 83, with respect to introducing provisions on how to define and identify the "Beneficial Owner".
- Basic Decision No. 7299 of 10 June 1999 (ATMs, credit and debit cards), attached to Basic Decision No. 63.
- Basic Decision No. 7548 of 30 March 2000 (Electronic Banking), attached to Basic Decision No. 69.
- Implementation Rules of the Law Regulating the Money Changer Profession, attached to Basic Decision No. 7933 of 27 September 2001, notified by Basic Circular No. 3 addressed to Exchange Institutions.
- Basic Decision No. 7540 of 4 March 2000 (Conditions for Establishing and Operating Leasing Companies), attached to Basic Circular No. 1 addressed to Leasing Companies.
- Basic Decision No. 12174 of 21 January 2016 (Conditions for performing lending operations pursuant to the provisions of Articles 183 and 184 of the Code of Money and Credit), attached to Basic Circular No. 2 addressed to specialized lending entities (or "Comptoirs").

Beirut, 13 June 2018

The Governor of Banque du Liban

Riad Toufic Salamé



### **Intermediate Decision No. 12826**

#### **1) Introducing provisions defining and identifying the "Beneficial Owner" in the Circular No. 83 on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing,**

2) and amending

Basic Decision No. 7299 of 10 June 1999,

Basic Decision No. 7548 of 30 March 2000,

The Implementation Rules of the Law Regulating the Money Changer Profession,

Basic Decision No. 7540 of 4 March 2000, and

Basic Decision No. 12174 of 21 January 2016

The Governor of Banque du Liban,

Pursuant to the Code of Money and Credit, in particular Articles 70, 183, and 184 thereof,

Pursuant to the provisions of Law No. 44 of 24 November 2015 (Fighting Money Laundering and Terrorist Financing), in particular Article 4 thereof,

Pursuant to Law No. 347 of 6 August 2001 (Regulating the Money Changer Profession in Lebanon), in particular Article 13 thereof,

Pursuant to Law No. 160 of 27 December 1999 (Regulating Leasing Operations), in particular Article 20 thereof,

Pursuant to Law No. 234 of 10 June 2000 (Regulating the Financial Intermediation Profession),

Pursuant to Law No. 161 of 17 August 2011 (Capital Markets),

Pursuant to Law No. 706 of 9 December 2005 (Collective Investment Schemes in Securities and all other Financial Instruments),

Pursuant to Basic Decision No 7818 of 18 May 2001 and its amendments (Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing),

Pursuant to Basic Decision No. 7299 of 10 June 1999 and its amendments (ATMs, credit and debit cards),

Pursuant to Basic Decision No. 7548 of 30 March 2000 and its amendments (Electronic Banking and Financial Operations),

Pursuant to Basic Decision No. 7933 of 27 September 2001 and its amendments (Implementation Rules of the Law Regulating the Money Changer Profession),

Pursuant to Basic Decision No. 7540 of 4 March 2000 and its amendments (Conditions for Establishing and Operating Leasing Companies),

Pursuant to Basic Decision No. 12174 of 21 January 2016 and its amendments (Conditions for performing lending operations pursuant to the provisions of Articles 183 and 184 of the Code of Money and Credit),

Pursuant to the Regulation on Business Conduct in Capital Markets, issued on 10 November 2016 by the Capital Markets Authority of Lebanon,

Pursuant to the FATF recommendations, in particular Recommendation 10 and the relevant interpretive note, and

Pursuant to the Decision of the Central Council of Banque du Liban, taken in its meeting of 6 June 2018,

**Decides the following:**

Article 1:

The text of Paragraph 1, Article 3, Section II of the Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing, attached to Basic Decision No. 7818 of 18 May 2001, shall be repealed and replaced with the text below:

“1- The following expressions shall mean:

Customer: any individual or legal person, whether a company or a partnership of any type, or any legal arrangement (e.g. a trust), or any body, organization or non-profit organization (mutual funds, cooperatives, welfare centers, charities, clubs, etc.).

Beneficial Owner: any individual who ultimately owns or who exercises ultimate effective control, whether directly or indirectly, over the Customer and/or the individual on whose behalf a transaction is carried out.

Indirect ownership and/or control include the situations where the ownership and/or control is exercised through a chain of ownership or by means of control other than direct control.”

Article 2:

The beginning of Paragraph 2, Article 3, Section II of the Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing, attached to Basic Decision No. 7818 of 18 May 2001, shall be repealed and replaced with the text below:

“2- As applicable, banks shall adopt clear procedures for account opening and apply due diligence measures, which include verifying the identity of their permanent and transient customers, whether resident or non-resident, identifying the nature of their business, understanding the ownership structure and/or control over the legal person and the purpose and nature of the business relation and/or the account opening, identifying the “Beneficial Owner” and the source of funds, and monitoring operations on a continuous basis, particularly in the following cases:”

Article 3:

Paragraph 2 bis below shall be added to Article 3, Section II of the Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing, attached to Basic Decision No. 7818 of 18 May 2001, and shall read as follows:

“2 bis- Upon identifying the “Beneficial Owner”, the same Due Diligence measures applicable to “Customers” shall apply, including those issued by the Special Investigation Commission.”

#### Article 4:

Article 9 bis below shall be added to Section III of the Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing, attached to Basic Decision No. 7818 of 18 May 2001, and shall read as follows:

#### “Article 9 bis:

- I- With respect to “Customer” that is a legal person, the Beneficial Owners shall be identified and reasonable measures taken to identify them in the following manner:
- 1- Identify each individual who holds, whether directly or indirectly, 20% or more of the capital of the legal person.
  - 2- In case of doubt as to whether the individual(s) identified pursuant to Subparagraph 1 above is (are) the Beneficial Owner(s), or when no individual holds 20% or more of the Customer’s capital, the individual who exercises control over the legal person through other means (e.g. holding a majority of voting rights or the rights to appoint or dismiss the majority of the administrative or regulatory body at affiliated entities...).
  - 3- When no individual is identified pursuant to Subparagraphs (1) and (2) above, reasonable measures shall be taken in order to identify and verify the identity of the persons holding senior management positions.
- II- With respect to “Customers” that are legal arrangements, the Beneficial Owners shall be identified and reasonable measures taken to identify them, in the following manner:
- 1- With regard to trusts, each of the persons below shall be identified:
    - The Settlor
    - The Trustee
    - The Protector
    - The Beneficiary; and if the latter’s identity is not identified or verified, then the class of beneficiaries in whose favor the legal arrangement was established.
    - Any other individual exercising an effective control over the trust through direct or indirect ownership or through other means.  
The definitions stated in the glossary attached to the FATF 40 Recommendations shall be adopted to identify the persons mentioned in this Subparagraph 1.
  - 2- With respect to other types of legal arrangements, including those arrangements similar to trusts, the persons holding positions similar to the positions specified in Paragraph II, Subparagraph 1, shall be identified.”

#### Article 5:

Subparagraph 8 below shall be added to Paragraph I, Article 12, Section V of the Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing, attached to Basic Decision No. 7818 of 18 May 2001, and shall read as follows:

- “8- Maintain and update a special register with the names of the “Beneficial Owners” that were identified relative to each “Customer/individual” and only when the “Customer/individual is not the Beneficial Owner himself and to each “Customer/legal person”.

Article 6:

Article 5 bis below shall be added to Basic Decision No. 7299 of 10 June 1999, and shall read as follows:

“Article 5 bis:

Institutions that issue credit and debit cards shall comply with the applicable laws and with BDL regulations, particularly AML/CFT laws and regulations, including with respect to the definition and identification of the Beneficial Owner.”

Article 7:

The text of Paragraph 8, Article 5 of Basic Decision No. 7548 of 30 March 2000, shall be repealed and replaced with the text below:

“8- Shall comply with the applicable laws and with BDL regulations, particularly AML/CFT laws and regulations, including with respect to the definition and identification of the Beneficial Owner.”

Article 8:

Article 16 below shall be added to the Implementation Rules of the Law Regulating the Money Changer Profession, attached to Basic Decision No. 7933 of 27 September 2001, and shall read as follows:

“Article 16:

Exchange institutions shall comply with the applicable laws and with BDL regulations, particularly AML/CFT laws and regulations, including with respect to the definition and identification of the Beneficial Owner.”

Article 9:

The text of Paragraph 1, Article 10 of Basic Decision No. 7540 of 4 Mars 2000 shall be repealed and replaced with the text below:

“1- Leasing companies shall comply with the AML/CFT law and with the relevant BDL regulations, including with respect to the definition and identification of the Beneficial Owner.”

Article 10:

The text of the third clause of Article 12, Basic Decision No. 12174 of 21 January 2016 shall be repealed and replaced with the text below:

“related to fighting money laundering and terrorist financing, including with respect to the definition and identification of the Beneficial Owner.”

Article 11:

This Decision shall enter into force upon its issuance.

Article 12:

This Decision shall be published in the Official Gazette.

Beirut, 13 June 2018

The Governor of Banque du Liban

Riad Toufic Salamé