

Intermediate Circular No 523

Addressed to Banks and Financial Institutions

Attached is a copy of Intermediate Decision No 13093 of 7 August 2019, amending the “Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing (AML/CFT)” attached to Basic Decision No 7818 of 18 May 2001 (notified by Basic Circular No 83).

Beirut, 7 August 2019

The Governor of the Banque du Liban

Riad Toufic Salamé

Intermediate Decision No 13093

Amending “the Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing (AML/CFT)”

The Governor of Banque du Liban,

Pursuant to the provisions of Law No 44 of 24 November 2015 (Fighting money laundering and terrorist financing), particularly Article 4 thereof;

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

Pursuant to the powers vested in the Governor to ensure the smooth running of Banque du Liban, based on the principle of the continued functioning of public utilities,

Decides the following:

Article 1:

The text of Article 2 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for Fighting Money Laundering and Terrorist Financing” attached to Basic Decision No 7818 of 18 May 2001, shall be repealed and replaced with the text below:

“The bank shall not enter in, or pursue a correspondent banking relationship with a shell bank. When establishing a relationship with a correspondent bank abroad, the bank must ascertain that the correspondent bank really exists, based on submitted documentary evidence, that it does not deal with shell banks, has a good reputation, is subject to a sound control, and implements sufficient and effective procedures to fight money laundering and terrorist financing.

In addition to the foregoing, the bank must implement the following measures:

- 1- Obtain the approval of the Senior Executive Management prior to establishing new correspondent relationships.

- 2- Verify the nature of the business of the foreign respondent bank.
- 3- Determine the respective responsibilities of both the bank and the respondent bank.
- 4- With regard to payable-through accounts opened by foreign correspondent banks, to take adequate steps to be satisfied that these banks have conducted the due diligence measures towards customers having direct access to the accounts of the correspondent bank, and to verify that these banks are able to provide, upon request, the relevant due diligence information.”

Article 2:

The beginning of Paragraph (2) of Article 3 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 far as each is concerned, banks must refrain from keeping anonymous accounts or accounts in fictitious names. They must adopt clear procedures for account opening and conduct due diligence measures, such as verifying the identity of their permanent and transient customers, whether resident or non-resident, and identifying the nature of their business, understanding the ownership structure and/or control over the legal person, understanding the purpose and nature of the business relationship 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:

The text of Paragraphs (3) and (5) of Article 3 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:

“3- The employee in charge of executing the operation must conduct the due diligence measures, including the verification of the customer’s identity, regardless of the amount involved, if he/she notices that, on the same account or on multiple accounts held by the same person, several operations are being carried out for amounts that are separately less than the threshold specified in Paragraph (2) of this Article but whose aggregate value totals or exceeds USD 10,000 or its equivalent. The same identity verification must take place if the employee suspects one of the customers of a money laundering or terrorist financing attempt.”

“5- The bank must keep information on the customer and the beneficial owner, in particular the full name, residential address, occupation and financial status, in addition to copies of all the documents used to verify the above-mentioned information and to the accounts files, for at least five years after closing the account or ending the business relationship. It must also keep all operations-related documents, including business correspondence and the results of any

conducted analysis, for at least five years after performing the operation, in a way that these records constitute evidence, when needed, in case of prosecution for criminal act.”

Article 4:

A seventh paragraph shall be added to Article 3 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:

“7- When opening numbered deposit accounts for their clients, in accordance with Article 3 of the Banking Secrecy Law of 3 September 1956, banks must exclusively utilize numbers and/or letters to identify these accounts, and refrain from utilizing pseudonyms; they must also conduct all relevant due diligence measures.”

Article 5:

A paragraph shall be added to Article 5 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:

“- It has reasonable grounds to believe that conducting due diligence measures will alert the customer to the bank’s suspicions about the existence of a money laundering or terrorist financing operation. In this case, the bank is allowed not to pursue this process.”

Article 6:

The text of Paragraph (1) of Article 7 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 bank must conduct enhanced due diligence measures, including to enquire from the customer about the source and destination of funds, the object of the operation, and the identities of both the beneficiary and the beneficial owner, when the operation is characterized by the following:

- a) The operation is carried out in exceptionally complicated circumstances. In this respect, the bank must assess the said circumstances, not only in relation to the nature and type of the operation, but also in relation to its apparent purpose.
- b) The operation seems to have no economic rationale or legitimate purpose, especially when there is a discrepancy between the operation and the customer’s occupation, or even between the operation and the customer’s habits and personality.
- c) When one of the operation’s counterparties is a national or a resident of countries that do not apply or insufficiently apply the FATF Recommendations. This shall be verified

through a periodic review of the FATF website, particularly after every FATF plenary meeting.”

Article 7:

The text of Paragraph (b) of Article 8 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:

“b) To monitor, through the units and sections mentioned in Article 11 of these Regulations, the accounts opened and operations carried out, by utilizing specialized software programs for the control of accounts and operations that correspond to any of the above-mentioned indicators, based on customer profiling, and also to retrieve (daily, weekly, monthly, annual) reports on such accounts and operations.”

Article 8:

The text of Paragraph (1-b) of Paragraph “First” of Article 9 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:

“b) Politically Exposed Persons (PEPs) according to the FATF definition.”

Article 9:

The text of Paragraph “Second” of Article 9 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:

“Second: Establish risk-based control measures and procedures, and at least adopt for customers and beneficial owners, for Politically Exposed Persons and their family members and close associates, as well as for operations classified as “high risks” according to risk scoring, the following enhanced measures and procedures:

- 1- To raise awareness about the importance and prioritization of increased supervisory examination, and to conduct enhanced ongoing monitoring of the business relationship.
- 2- To obtain more detailed information about customers and beneficial owners (Increased KYC Levels), in particular to determine the source of their wealth.
- 3- To obtain the approval of the Senior Management for establishing or pursuing a business relationship with customers and executing operations, in line with the specified risk level.
- 4- To review periodically the relationship with customers.

- 5- To make continuous peer comparisons.
- 6- To set up an adequate system in a way to determine whether the customer or beneficial owner is a Politically Exposed Person.

Article 10:

Subparagraph (p) shall be added to Paragraph (2) of Article 11 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:

- “p) To verify that programs against money laundering and terrorist financing are applied at the group level, including at the level of all the group’s branches and majority-owned subsidiaries. These programs should include the following measures:
- Policies and procedures for sharing information about customer due diligence measures and money laundering and terrorist financing risks.
 - The mandatory provision of information regarding customers, accounts, and operations from branches and subsidiaries, when it is necessary for AML/CFT purposes. This information should include analytical reports and reports on activities which appear unusual. Similarly, the branches and subsidiaries of the group must receive such information from the Compliance Unit when relevant and appropriate to risk management, analytical reports, and reports on unusual operations.
 - Adequate safeguards on the confidentiality and use of exchanged information must be in place, including safeguards to prevent tipping-off.

Article 11:

The text of Paragraph (5) of Article 11 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:

“5- Regarding the Head of the Transfers Section:

- a) To verify transfers received by customers’ accounts, particularly electronic transfers that do not include the name of the originator (ordering customer) or of the beneficiary (beneficiary customer), and that exceed a specified amount and do not follow a specific pattern relative to the nature and size of the customer’s activities; to verify also the accounts through which recurrent or unusual transfers are made, including the validity of their source of funds.
- b) To report to the “Compliance Unit”, through the AML/CFT Branch Officer, any suspicious transfer that may involve money laundering or terrorist financing operations.
- c) To keep for a five-year period at least, a record with all the information accompanying an incoming cross-border transfer, if the bank is unable to transmit such information upon the execution of a domestic transfer related to the incoming transfer.”

Article 12:

The text of Subparagraph (c) of Paragraph (6) of Article 11 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:

“c) To report to the Compliance Unit, through the AML/CFT Branch Officer, any suspicious cash deposit that may involve money laundering or terrorist financing operations, if the relevant supporting documents cannot be obtained.”

Article 13:

The text of Subparagraph (d) of Paragraph (8) of Article 11 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:

“d) To make personally, or to request from the Branch Accounts Officer to make periodical visits to customers, so as to be informed of their business and assess their accounts’ movements, then prepare the relevant report with a copy to be sent to the Compliance Unit in case that report indicates the occurrence of unusual operations.”

Article 14:

The text of Article 12 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:

“First: Each bank is required:

- 1- To establish a computerized central archive for information collected about money laundering and terrorist financing operations that includes, at least, the names circulated by the Special Investigation Commission (SIC), and those of holders of suspicious accounts reported by the bank itself. The bank must also notify the SIC of any account opened subsequently by any of these persons, whether directly, indirectly, or by proxy, as long as the SIC has not taken a decision stating that there are not, at the present time, reasonable grounds for the doubts arisen relative to any of these persons.
- 2- To train the employees on a continuous basis, and involve the persons in charge of the training program as well as the concerned employees in relevant seminars, workshops and lectures, in a way to keep them abreast of the latest AML/CFT methods.

- 3- To not close any suspicious account before referring to the SIC.
- 4- To maintain a special registry with the names of the persons that open or activate accounts by proxy; such registry must determine the customer/representative relationship.
- 5- To impose, for employees' recruitment, the highest standards of honesty, integrity and efficiency.
- 6- To request their staff, subject to liability, to maintain absolute confidentiality and to not tip-off or permit to tip-off customers or any other party that the bank has notified or will notify the SIC in case of proven or suspicious ML/TF operations, or that the SIC is investigating or inquiring about their operations or accounts, until the SIC decides to lift banking secrecy on the said accounts and to notify the concerned parties.
- 7- When resorting to intermediaries such as brokers and introducers, or to a third party belonging to the same financial group, to deal only with the intermediaries that meet the criteria required from banks and financial institutions towards their customers, and to promptly obtain from them the information required under the due diligence principle, as well as copies of any necessary documents upon request, provided that the bank is ultimately the party responsible of these measures; to remain also vigilant when dealing with third parties located outside Lebanon, and take into consideration the available information about the risk level of the countries in which these parties are located, particularly those that do not apply or insufficiently apply the FATF Recommendations.
- 8- To maintain and update a special register with the names of the Beneficial Owners that were identified relative to each "Customer/natural person" and only when the Customer is not the Beneficial Owner himself, and relative to each "Customer/legal person".
- 9- To identify and assess ML/TF risks that might arise due to the development of new products and new business practices, including new mechanisms for service delivery, and due to the use of new or developing technologies for both new and pre-existing products. To assess those risks prior to the launch or use of the new products, business practices, or technologies, and take appropriate measures to manage and mitigate those risks.

Second: Lebanese banks' branches and majority-owned subsidiaries operating abroad are required to adopt, as a minimum, the procedures specified in these Regulations. In case this proves to be impossible due to the incompatibility of these Regulations with the binding applicable laws and regulations in the branch or subsidiary's host country, the bank must inform the SIC.

Third: Each Lebanese bank must conduct due diligence measures towards the customers of any of its overseas branches, whenever executing an operation or opening an account in Lebanon for any of these customers, even if these overseas branches are already conducting due diligence measures.”

Article 15:

This Decision shall enter into force upon its issuance.

Article 16:

This Decision shall be published in the Official Gazette.

Beirut, 7 August 2019

The Governor of Banque du Liban

Riad Toufic Salamé