

Note: *This version does not include the amendments of Intermediate Circular No. 631 of July 19, 2022*

BANQUE DU LIBAN

Basic Circular 1

Addressed to Financial Intermediation Institutions

Attached is a copy of Basic Decision 12837 of 26 June 2018 on Fighting Money Laundering and Terrorist Financing.

Beirut, 26 June 2018

The Governor of Banque du Liban

Riad Toufic Salamé

Basic Decision 12837

Fighting Money Laundering and Terrorist Financing

The Governor of Banque du Liban,

Pursuant to the provisions of Law 44 of 24 November 2015 on Fighting Money Laundering and Terrorist Financing, in particular Article 4 thereof;

Pursuant to Law 234 of 10 June 2000 on Regulating the Financial Intermediation Profession;

Pursuant to Law 161 of 17 August 2011 on Capital Markets;

Pursuant to Basic Decision 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 the Regulations on Business Conduct in Capital Markets, issued on 10 November 2016 by the Capital Markets Authority of Lebanon;

Pursuant to FATF recommendations; and

Pursuant to the Decision of the Central Council of Banque du Liban, taken in its meeting of 20 June 2018,

Decides the following:

Article 1¹:

The following expressions shall mean:

Customer:

Any natural or legal person, whether a company or an institution 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.).

¹- This Article was amended by Article 2 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

Beneficial Owner:

Any natural person who ultimately owns or who exercises ultimate effective control, whether directly or indirectly, over the customer and/or the natural person on whose behalf operations are 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 2¹:

As far as each is concerned, financial intermediation institutions must refrain from keeping anonymous accounts or accounts in fictitious names, must adopt clear procedures for account opening, and must apply to customers and beneficial owners, regardless of the value of the operation, due diligence measures which include verifying the identity of their permanent and occasional customers, whether resident or non-resident, determining the nature of their business, understanding the ownership structure and/or control over the legal person, understanding and identifying the purpose and nature of the business relationship and/or the account opening, obtaining data on that purpose when needed, identifying the beneficial owner and the source of funds, and conducting ongoing monitoring of operations, particularly in the following cases:

- Before or when starting the business relationship or opening accounts of all kinds.
- All electronic funds transfers.
- When carrying out a single operation or several linked operations, whose total is equal to, or above 10,000 USD or its equivalent.
- Whenever a customer is suspected to attempt a money laundering or terrorist financing operation.

¹- This Article was added by Article 3 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

Article 3¹

Upon the identification of the beneficial owner:

First: With respect to the customer that is a legal person, the beneficial owners shall be identified and reasonable measures taken to identify them in the following manner:

- 1- To identify each natural person 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 natural person(s) identified as per Subparagraph 1 above is (are) the beneficial owner(s), or when no natural person holds 20% or more of the customer's capital, it is required to identify the natural persons who exercise 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 natural person is identified as per Subparagraphs (1) and (2) above, reasonable measures must be taken in order to identify and verify the identity of the persons holding senior management positions.

Second: 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- For 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 determined or verified, then the class of beneficiaries in whose favor the legal arrangement was established.
- Any other natural person who exercises an effective control over the trust through direct or indirect ownership or through other means.

The definitions included in the glossary of the FATF 40 Recommendations shall be adopted to identify the persons mentioned in this Subparagraph 1.

2- For other types of legal arrangements, including those arrangements similar to trusts, the persons holding positions similar to the positions specified in Paragraph "Second", Subparagraph 1 above, must be identified.

Third: Upon the identification of the beneficial owner, it is required to conduct the same due diligence measures applicable to customers, including those issued by the SIC.

¹- This Article was added by Article 3 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

Article 4¹:

To verify the identity of the customer and of the beneficial owner, the employee in charge of executing the operation must request from the customer the official documents or data below:

- a- For a natural person, a copy of the passport, ID card, extract of Civil Status, or residence permit.
- b- For a legal person, whether a company or an institution or a legal arrangement, a duly authenticated copy of the bylaws, the registration certificate, the ownership structure, the list showing the distribution of equities or shares (directly or indirectly), the list of authorized signatories, in addition to a copy of identity for the legal representative, the managers, and the natural persons who own, directly or indirectly, a controlling interest in the company's management, and the statement submitted by the beneficial owner to the Ministry of Finance and the Commercial Register.
- c- If the operation is carried out through a proxy, the original power of attorney or a certified copy thereof, in addition to a copy of the identification documents of both the customer and the proxy. The due diligence measures specified in Article 2 above must also be applied to the non-professional proxy.

Article 5¹:

The financial intermediation institution must maintain information on the customer and the beneficial owner, in particular the full name, residential address, the address of the registered office for the legal entity, or, if different, the principal place of business, the occupation and financial situation, with copies of all the documents used to verify the foregoing, and the account files, for at least five years after the account is closed or the business relationship is ended, and all the records of operations, including business correspondence and the results of any analysis undertaken, for at least five years after the date of the operation, in a way that the content of these records may constitute, if necessary, evidence for legal action and prosecution in case of criminal activity.

¹- This Article was added by Article 3 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

Article 6¹:

Whenever the due diligence measures specified in Article 2 above, cannot be satisfactorily conducted on customers and beneficial owners, then no account should be opened or relationship started or operation performed, or the existing business relationship should be terminated; and notifying the SIC should be considered.

Article 7¹:

Financial intermediation institutions must conduct continuous due diligence measures on all their customers, in order to modify or add to the adopted KYC Form, any information resulting from any changes in the customer's situation, especially if there are doubts about the veracity or adequacy of previously obtained data, or in case there are subsequent changes in the identity of the customer or beneficial owner. Therefore, each institution is required to prepare an action plan with precise dates to fulfill these obligations.

Article 8¹:

Financial intermediation institutions are required:

- 1- In case they suspect that the customer is not the beneficial owner or if the customer states that the beneficial owner is a third party, to request from the customer a written statement that identifies the beneficial owner (true beneficiary), particularly the latter's full name, residential address, occupation, and financial situation, and to keep a copy of this statement and of the beneficial owner's identity throughout the period mentioned in Article 5 above. Doubts about the beneficial owner's identity arise in instances that include, but are not limited to, the following:
 - a- When a power of attorney is given to a non-professional person (e.g. other than a lawyer or a fully authorized representative or a financial intermediary) and no apparent relationship between the customer and the proxy justifies that power of attorney.
 - b- When the business relationship takes place through front institutions/companies.

¹- This Article was added by Article 3 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

- c- When the customer's financial situation is known to the employee executing the operation, and the amount of the intended operation is inconsistent with that financial situation.
 - d- When any other indicator draws the attention of the financial intermediation institution in the course of its business.
- 2- To notify promptly the Governor of Banque du Liban in his capacity as Chairman of the Special Investigation Commission, whenever they suspect or believe, based on reasonable or objective grounds, that the executed or attempted operation is related to money laundering or associated predicate offences, or to terrorist financing, terrorist acts, or terrorist organizations. Additionally, if a money laundering or terrorist financing operation is suspected, and they reasonably believe that performing the CDD measures will tip off the customer, it is then permitted not to pursue the CDD process and the SIC should be notified without delay.

Article 9¹:

Financial intermediation institutions are required:

- 1- To take appropriate steps to identify, assess and understand their ML/FT risks, and to apply, based on risk understanding, a risk-based approach to classify customers and operations according to the level of risk (low, medium, and high risk).
- For indicative purposes only, customer risk, country risk, and service risk are taken into account.
- 2- To put in place risk-based control measures and procedures, and at least to adopt for customers and beneficial owners, for PEPs as per FATF definition and their family members and close associates, and for operations classified as "high risk" according to risk scoring, the enhanced measures and procedures below for the purpose of risk management and mitigation:
- a- To increase and prioritize control, and to conduct enhanced ongoing monitoring of the business relationship.
 - b- To obtain more detailed information on customers and beneficial owners (Increased KYC Levels), in particular to determine the source of their wealth.

¹- This Article was added by Article 3 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

- c- To obtain the approval of the Senior Management for entering into, or continuing, a business relationship with customers, and for executing operations, in a way that is commensurate to the specified level of risk.
 - d- To review periodically the relationship with customers.
 - e- To make continuous peer comparisons.
 - f- To set up an adequate system so as to determine whether the customer or beneficial owner is a PEP.
- 3- To take into account the duration and the soundness of the business relationship with the customer.
 - 4- To use software programs in order to conduct the controls needed as per the adopted scoring.
 - 5- To have the Senior Management adopt a special policy that is based on the requirements specified in this Article, in order to classify and manage risks and determine the control measures to be applied by the concerned parties.
 - 6- To document and keep the risk assessment findings, to update the assessment when necessary, and to provide it to the supervisory authorities when needed.

Article 10¹:

Financial intermediation institutions are required to put in place and adopt an efficient internal control system that includes the appointment of a Compliance Officer at the management level, who has sufficient AML/CFT expertise, and whose mission consists in:

- 1- Establishing and, if necessary, developing AML/CFT guidelines that take into account the obligations mentioned in this Decision, with consideration to the structure and departments of the institution, and establishing as well the KYC Form mentioned in Article 7 above, and submitting them both to the Senior Management for approval and adoption.
- 2- Conducting scrutiny of operations undertaken throughout the course of the relationship with customers to ensure that the operations performed are consistent with the institution's knowledge of the customers, their business and risk profile, including, where necessary, the source of funds.

¹- This Article was added by Article 3 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

- 3- Ensuring that documents, data or information collected under the CDD process are kept up-to-date and are appropriate, by reviewing the existing records, particularly for high-risk categories of customers; and documenting his/her work in the necessary periodic reports to be submitted to the Senior Management.
- 4- Conducting due diligence measures on existing business relationships in a timely manner, and on the basis of materiality and risk, taking into account whether and when these measures have previously been undertaken, and the adequacy of data obtained.
- 5- Ensuring the sound implementation and the efficiency of the procedures in place for fighting money laundering and terrorist financing, and monitoring accounts (through specialized software, if necessary, showing ML/FT indicators) in order to make sure that there are no suspicious operations, and documenting his/her work in the necessary periodic reports to be submitted to the Senior Management.
- 6- Conducting enhanced due diligence measures that are commensurate to the level of risk, on business relationships and operations performed with natural and legal persons (including financial institutions) from countries against which the FATF calls for such action, provided that the FATF website is periodically reviewed for that purpose, especially after each FATF plenary meeting.
- 7- Verifying that AML/CFT programs are implemented across the financial group and cover all branches and majority-owned subsidiaries of that group. These programs should include the following measures:
 - a- Policies and procedures for sharing information on customer due diligence and ML/FT risk.
 - b- The obligation to provide customer, account, and operation information from branches and majority-owned subsidiaries at the group level, when necessary for AML/CFT purposes, including analysis reports and reports on activities that appear unusual. Similarly, the branches and subsidiaries should receive, at the group level, such information from the Compliance Officer, as relevant and appropriate to risk, analysis of information, reports, and unusual operations.
 - c- The need to put in place adequate safeguards on the confidentiality and use of information exchanged, of which to prevent informing or tipping off the customer.

Article 11¹:

Financial intermediation institutions must not enter into, or continue a correspondent relationship with a shell bank. When establishing a relationship with a foreign correspondent bank, it must verify that the latter really exists, based on gathered documentary evidence, that it does not deal with shell banks, has a good reputation, is subject to a sound control, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action, and applies efficient and effective AML/CFT measures.

In addition to the foregoing, the financial intermediation institution must implement the measures below:

- Obtain the Senior Executive Management's approval before establishing correspondent banking relationships.
- Verify the nature of the business of the foreign respondent bank.
- Determine the respective responsibilities of both the institution and the foreign respondent bank.
- With respect to "payable-through accounts", be satisfied that the respondent bank has conducted CDD on the customers having direct access to accounts of the correspondent bank, and that it is able to provide relevant CDD information upon request.

Article 12¹:

Financial intermediation institutions must set and keep up-to-date a centralized data repository for the information collected on money laundering and terrorist financing, which includes, at least, the names circulated by the SIC, and those of the holders of suspicious accounts reported by the institution.

Article 13¹:

As far as each is concerned, financial intermediation institutions are required:

- 1- To review constantly, through available software, any update on the website of the General Directorate of Internal Security Forces (www.isf.gov.lb) in relation to the names designated on the national list of natural persons, legal persons, and entities involved in terrorism or terrorist financing; and to implement without delay the SIC decisions on

¹- This Article was added by Article 3 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

freezing the funds or accounts or operations, including attempted ones, relating to these names, or other assets that are owned or controlled (directly or indirectly, jointly...) by these names; and to provide the SIC, within 48 hours at most, with evidence on this action, and with the information available in this respect.

- 2- To notify the SIC in case of similarity between the name of a customer and any designated name and details included in the national list mentioned in Paragraph 1 of this Article.

Article 14¹:

Financial intermediation institutions are required:

- 1- To keep a special registry with the names of the persons that open or activate accounts by proxy; such registry must determine the customer/representative relationship.
- 2- To impose, when hiring employees, high standards for honesty, integrity, and skills.
- 3- To provide ongoing training to employees, and to involve the concerned officers and employees in seminars, workshops, and lectures, to keep them abreast of the latest AML/CFT methods.
- 4- To request their staff, subject to liability, not to inform customers when the SIC investigates or scrutinizes their operations, until the SIC issues a decision to this effect.
- 5- To adopt as a minimum, for the Lebanese financial intermediation institutions' branches and majority-owned subsidiaries operating abroad, the measures specified in this Decision. In case this proves impossible due to a conflict with the provisions of the binding laws and regulations in force at the location of the branch or subsidiary, appropriate additional measures to manage ML/TF risks should be applied and the SIC informed thereof.
- 6- To verify, when relying on a third party, that the latter is regulated and supervised, and meets the FATF due diligence and record-keeping requirements; to ensure also that the information needed to identify the customer and the beneficial owner and to understand the nature of the business, as well as copies of identification data and other relevant documentation relating to the CDD requirements will be made available from the third party immediately and without delay. In all cases, the ultimate responsibility for CDD measures remains with the party relying on the third party, whether the third party is

¹- This Article was added by Article 3 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

located inside or outside Lebanon, taking into consideration, upon such reliance, risk mitigation measures, in particular for risks associated with countries that do not or insufficiently apply the FATF Recommendations.

- 7- To identify and assess the ML/TF risks that might arise in relation to the development of new products and new business practices, including new service delivery mechanisms, and in relation to the use of new or developing technologies for both new and pre-existing products. A risk assessment should also take place prior to the launch or use of these products or business practices or technologies, and appropriate measures taken to manage and mitigate those risks.
- 8- To apply FATF Recommendation 7 in terms of conducting the necessary reviews and freezing immediately the related funds or accounts or operations, including attempted ones, or other assets; to provide the SIC, within 48 hours at most, with evidence on this action and with the information available in this respect; and in case of similarity to notify the SIC and assess the associated risks.

Article 15¹:

Financial intermediation institutions must consider, for indicative purposes only, that the indicators listed below, if not justified, point out to the possible existence of ML/FT offences:

- Fast withdrawal of funds deposited for a short period in the account.
- Transfer of funds to recipient financial or banking institutions other than the originating ones, especially those located in different countries.
- The customer purchases bank notes at a high rate, then to sell them at huge losses.
- Customer's financial operations show the existence of a continuous loss pattern.
- Dormant account activated with no apparent reason.
- Customer's operations have no apparent economic reason.
- Customer intends to invest in a product, while having no knowledge of its specificities or performance.
- Investment in long-term products, followed shortly afterwards by the liquidation of accounts, regardless of fees or penalties.
- A sudden change in the customer's account movement, which is inconsistent with its usual activity.
- The customer opens several accounts for a number of companies over which he has control.

¹- This Article was added by Article 3 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

Article 16¹:

This Decision shall come into force upon its issuance.

Article 17²:

This Decision shall be published in the Official Gazette.

Beirut, 26 June 2018

The Governor of Banque du Liban

Riad Toufic Salamé

¹ - The numbering of this Article has become 16 instead of 2, by Article 1 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).

² - The numbering of this Article has become 17 instead of 3, by Article 1 of Intermediate Decision 13386 of 23 December 2021 (Intermediate Circular 603).