



Middle East and North Africa
Financial Action Task Force

Mutual Evaluation Report

Anti-Money Laundering and
Combating the Financing of Terrorism

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Lebanese Republic

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Preface

1. The evaluation of the anti-money laundering (AML) and combating financing of terrorism (CFT) regime of the Lebanese Republic was based on FATF Forty Recommendations 2003 on AML, and FATF Nine Special Recommendations on Terrorism Financing of 2001, and was undertaken using the AML/CFT Methodology of 2004¹. The evaluation was based on the laws, regulations and other materials provided by Lebanon, and information obtained by the evaluation team during its onsite visit to Lebanon from 9-20 February 2009, and thereafter. During the on-site mission, the evaluation team met with officials and representatives of all relevant Lebanese government agencies and the private sector. A list of the bodies met is set out in Annex 1 to the mutual evaluation report.

2. The evaluation was conducted by an evaluation team which consisted of two members from MENAFATF Secretariat: Mr. Adel Bin Hamad Al Qulish, MENAFATF Executive Secretary, and Mr. Imad Bayoumi Badr, Senior Officer at MENAFATF Secretariat in addition to other experts from some MENAFATF member countries specialized in criminal law, law enforcement and regulatory issues, namely Judge Abdulkarim Jadi – member of the Board of Directors of the Financial Information Processing Unit in the People's Democratic Republic of Algeria, Lieutenant Colonel Youssef Al Khalidi – Director of the International Anti-Drug Department in the State of Kuwait, Mrs. Habiba bin Salem – Assistant Director of the Legal Interests Department in the Financial Analysis Unit in the Tunisian Republic and Mrs. Alaa Alhamad – Controller at the Inspection Follow-up Department at Bahrain Central Bank in the Kingdom of Bahrain. The team reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems relevant to anti-money laundering (AML) and combating financing of terrorism (CFT) applied through financial institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs). The capacity, implementation and the effectiveness of all these systems were examined as well.

3. This report provides a summary of the AML/CFT measures in place in Lebanon as to the date of the onsite visit or directly thereafter. It describes and analyses those measures, rates Lebanon's compliance with FATF 40+9 Recommendations (see Table 1), and provides the action plan suggested to improve the AML/CFT regime (see Table 2).

4. The evaluation team extends its heartfelt gratitude and thanks to all the competent Lebanese authorities who facilitated the mission of the team in a thorough manner, and particularly His Excellency Mr. Riad Toufic Salameh, Governor of the Central Bank of Lebanon and President of the Special Investigation Commission and Head of the Higher Banking Commission, for his genuine help and assistance that enabled the team to carry out its mission successfully. Moreover, the team extends his thanks to Dr. Mohammed Baasiri, the Secretary² of the Lebanese Special Investigation Commission (SIC), and his assisting team for their cooperation and support for the team throughout the onsite visit and thereafter.

¹ As updated in October 2008

² Mr. Baasiri was appointed 3rd Vice Governor of the Central Bank of Lebanon during March 2009.

Executive Summary

1- Background Information

1. This report provides a summary of AML/CFT measures in place in the Lebanese Republic as to the date of the onsite visit or directly thereafter. It describes and analyses those measures, and rates Lebanon's compliance with FATF 40+9 Recommendations (see attached table about FATF recommendations compliance rating).

2. Lebanon is one of the most important banking and financial centers in the Middle East; its capital system and the Law of Banking Secrecy applied therein have attracted many capitals. In addition, the demographic and economic status of Lebanon has a special susceptibility in this regard. As to the crime rate, it is relatively low, despite the existence of some drug traffic and robbery activities. All such factors constitute together a certain level of risk in money laundering. As to the probability of terrorism financing, some risks related to terrorism activities have emerged by the presence of terrorist groups in addition to the execution of some terrorist operations.

3. In general, Lebanon has a legislative structure to criminalize money laundering and terrorism financing, whereby the cooperation of the Republic in combating the phenomenon of money laundering had a large impact on having its name delisted by FATF in 2002 from the list of non cooperative countries in combating money laundering, particularly after its legislations and systems have conformed to a certain extent to the international standards. The Lebanese legislator has criminalized the act of money laundering since 2001 and the act of terrorism financing since 2003. The legislator has as well established the legal framework required to put in place a financial intelligence unit (FIU), which is the Special Investigation Commission (SIC). It is worth mentioning that the AML Law has overlooked some of the requirements needed to finalize the combating system, among which including CFT within the SIC functions. Hence, main aspects of the legal framework necessary to establish a good AML system in Lebanon were covered.

4. Lebanon has established an AML system that includes many positive aspects; however, the most important comments to be highlighted are the non issuance of all legal instruments needed to comply with the main requirements stated in the 40 Recommendations and 9 Special Recommendations for AML/CFT, whereby and until date of the onsite visit and directly thereafter, no regulations representing the secondary legislations or other required enforceable means were issued. With regard to the regulatory and supervisory aspects, a number of instructions addressed to the different financial sectors were issued; they deal with a reasonable aspect of the international standards' requirements. On the other hand, the AML system in Lebanon did not cover all DFNBPs categories available in the Republic, in addition to not binding the categories covered by the law to some of the main requirements according to the international standards. It is worth mentioning that there is no regulatory and supervisory framework to combat terrorism financing.

2- Legal systems and related institutional measures

5. Lebanon has criminalized the act of money laundering by virtue of Law No. 318/2001 amended in 2003. The criminalization was correspondent to Vienna and Palermo conventions with respect to the material elements of the crime. As to the mental element, the legislator required expressly the existence of the knowledge element for all the forms of laundering except for hiding or providing false declaration considering that the knowledge element can be inferred from the material act itself. The Lebanese legislator has chosen the list approach which does not include all of the 20 crimes as required by the

methodology. Additionally, there is no definition of the properties at law and the team could not make sure if the authorities do not practically request the inexistence of the conviction to prove that the funds are illicit. The legislator punishes anyone who commits or contributes or participates in money laundering operations, but there is no criminalization for ML attempt. The legal persons shall be punished with criminal responsibility. The sanctions imposed against natural and legal persons are reasonable and proportionate. The effectiveness cannot be measured for the absence of evidence although 9 rulings were issued in ML.

6. With regard to terrorism financing, the Lebanese legislator has criminalized this act by virtue of Law no. 553/2003 but the definition was ambiguous while not defining what the financing act should include such as providing or collecting funds, as well as the framework of terrorism financing does not cover terrorist organizations and activities. Additionally, there are no indications to the term of funds, and thus, not defining whether these funds might be from a licit or illicit source. Each, the accomplice, the instigator and the involved in the crime of terrorism financing shall be punished in addition to punishing the attempt at terrorism financing. The sanctions imposed against natural and legal persons are reasonable and proportionate. It is worth mentioning that the crime of terrorism financing is considered as a predicate offence of ML, but the terrorism financing compared to the concept mentioned in the Convention for the Suppression of the Financing of Terrorism does not cover all aspects of a predicate offence to be included since it is considered as a predicate offence for money laundering. Additionally, the crime of terrorism financing shall not be applicable if a terrorist organization or terrorist act was financed outside Lebanon. The effectiveness cannot be judged in the absence of statistics.

7. The Lebanese Penal Code includes specific texts related to confiscation in general, in addition to specific texts listed in the AML law. The Lebanese legislator has put in this law a general text related to confiscating and resting the onus of proof with the indicted. By rendering a final ruling in any crime of the predicate offences, the funds and proceeds of crimes shall be confiscated in favor of the state and the indicted shall have to prove the legitimate source of such funds. It is worth mentioning that the effectiveness of the confiscation system was not proved as there are no statistics available.

8. There are no laws in Lebanon related to implementing UN Security Council Resolution 1267 (1999); and the implementation is limited to those procedures consisting in receiving the lists from the permanent representative of Lebanon to the UN at the Ministry of Foreign Affairs and distributing the same to the Ministry of Defense, Ministry of Interior, Ministry of Justice, Ministry of Finance (Directorate General for Real Estate Issues) and the Central Bank of Lebanon in order to take the appropriate action. As well, there are no declared procedures to discuss the requests of de-listing names and cancelling the freezing of funds or other assets of persons or entities de-listed at that time in accordance with the international requirements. Within resolution 1373 (2001), there are no laws to freeze funds or other terrorist assets for specific persons; and there are no specific laws and procedures to study and implement the procedures taken by virtue of freezing mechanisms in other countries. The SIC shall freeze accounts related to persons covered by Resolution 1373 but without any legal document.

9. With regard to the FIU in Lebanon (Special Investigation Commission), it was established in 2001 by virtue of the AML Law. According to the law provisions, it has all the powers needed to make the investigations in the transactions that are suspected to be related to money laundering and to decide about the seriousness of the evidence and proof of committing such crimes and to request information from the authorities subject to law provisions and any other judicial, supervisory, administrative and security authorities. It has also provided the banks and other reporting institutions with guidelines related to the reporting method. With respect to terrorism financing, the SIC shall freeze the accounts suspected to be related to terrorism financing and lift banking secrecy thereon; however, from the legal aspect, it lacks the basis that enables it to tackle issues in this regard. It is worth mentioning that the SIC has acquired many

main experiences whereby it has many technical experiences and has a large number of employees. Since 2003, Lebanon is member of Egmont Group.

10. The Public Prosecution of Cassation shall handle the preliminary investigation in crimes related to money laundering. As to terrorism financing, there is no specific authority responsible for ensuring pertinent investigations; the issue is however subject to the general rules like all other crimes considered by the competent judicial authority according to the venue of crime committed or the place of residence of the defendant or the place of arrest. Despite the high level of professionalism noticed, the law enforcement agencies lack necessary technical and human resources.

11. There is no implementation of the disclosure or declaration system for the cross border transportation of funds. The Directorate General of Customs has issued a note requesting the collection of information related to cash funds carried with passengers according to a specific form sent periodically to the SIC after the approval of the Public Prosecution of Cassation. There is no legal text regulating the control of entry or exit of funds or negotiable financial instruments.

3- Preventive Measures – Financial Institutions

12. Lebanon implements a number of preventive measures to combat money laundering in the financial sector, that reasonably meets the requirements listed in FATF recommendations, through Law No. 318/2001- and the system of controlling financial and banking transactions (the System) issued by the Central Bank of Lebanon and which is considered as a second legislation as per the Evaluation methodology and the circulars issued by the competent authorities; yet, the Lebanese legislative framework did not impose the compliance with the main requirements in some of the recommendations. No applied laws related to combating were issued to some financial institutions (exchange companies and finance lease companies).

13. AML Law and the circulars issued in this regard cover some requirements as to identifying and verifying the customers and beneficial owners, and applying Customer Due Diligence measures; however, other obligations were not detailed; while a high threshold was designated to carry out CDD measures for transactions related to life insurance premiums and to bind the financial institutions that are not subject to the banking secrecy law to identify customers when the transaction exceeds a specific amount.

14. Financial intermediaries, finance lease companies, insurance companies and exchange companies are not obliged to apply CDD measures in specific situations related to occasional operations, suspecting money laundering operations, and doubting the accuracy or sufficiency of the data previously obtained regarding data identification; they are not bound to identify the person who pretends to work on behalf of someone else, and verify the legal status of the legal person or the legal arrangement, and update information and identification data.

15. The obligations of financial institutions should be developed by obliging them to understand the ownership and control structure of the customer (legal person) particularly in the presence of legal texts that authorize issuing bearer shares, and identify the natural person who has full ownership or control over the customer (for the banks and credit institutions in cases other than the cases where a power of attorney is used) and obtain the information about the purpose and type of business relationship, and to apply enhanced due diligence measures to customers or high risk business relations, and abide by the measures to be taken regarding suspicious transactions or where due diligence measures towards customers and beneficial owners cannot be taken satisfactorily, and apply due diligence conditions to identify current customers as of the date on which Law 318 has become effective on basis of materiality and risk (for insurance companies, financial intermediaries, finance lease companies and exchange companies).

16. The financial institutions were not bound to establish appropriate measures for risk management in order to identify whether the future customer or the customer or the beneficial owner is identified as a PEP, and to establish policies and take sufficient measures to prohibit misuse of technology developments in money laundering and terrorism financing. There are no policies and procedures to deal with any specific risks related to business relations or non face-to-face transactions, and the scope of obligations related to the procedures of cross-border correspondent banking transactions is limited.

17. Regarding reliance on third parties, there are limited obligations on banks and credit institutions, whereby such obligations did not include the conditions to be available for third parties abroad so they can be relied on to apply due diligence measures with verifying the identity of non- resident customers, and request the banks and credit institutions to take required measures in order to obtain the information needed related to due diligence as to third parties, and hold them responsible for such verification, as well as the absence of a warning system for countries who did not adopt FATF recommendations.

18. The Lebanese banking system sets up a high banking secrecy by virtue of the Banking Secrecy Law; however, the text of Law 318/AML expressly excludes SIC which cannot, along with whomever it delegates to perform its tasks in any way specified by the legislator, be faced by the banking secrecy. Powers granted by Law 318 to the SIC enable lifting secrecy and exchanging information in favor of the competent local or foreign authorities. Regarding the electronic transfers, the Resolution of the Central Bank of Lebanon issued in 2005 provided for the requirements of SR VII related to the need to provide information about the originator of transfer; yet, the obligation of customer approval as per the provisions of the banking secrecy law may limit the commitment of the institutions to provide information to the local bank after completing the transaction, which requires binding the institutions to request such approval before executing the local transfer; and in the absence of such approval, the transaction shall be rejected.

19. Regarding the rules of keeping records and wire transfers, there are provisions which meet the related requirements; nevertheless, there is a high threshold for the transfers that require customer identification. There are no provisions binding the banks and intermediary credit institutions in the payment chain to keep records related to transfers for a period of 5 years; or binding exchange companies of Category A to adopt effective procedures based on risks to identify transfers with missing information.

20. Regarding the follow up of transactions and business relationships, there are commitments imposed on banks and credit institutions (except the absence of an obligation to keep reports related to unusual transactions for a period of 5 years), but there are no similar texts to monitor unusual transactions for financial intermediary, finance lease, insurance and exchange companies. On the other hand, the financial institutions shall be required to abide by the necessary measures regarding business relationships and transactions with persons (including legal persons and other financial institutions) from or in other countries that do not apply or insufficiently apply FATF recommendations, and it is necessary to have effective measures which ensure that the institutions are aware of the concerns related to the areas of weaknesses in AML and CFT in other countries; as well, if such transactions do not have an apparent or visible economic or lawful purpose and the other requirements for Recommendation 21.

21. With regard to reporting suspicious transactions, the law has obliged all financial institutions falling under its jurisdiction to do so; yet, the definition of illicit funds does not include the proceeds of all 20 crimes to be considered (as a minimum) as predicate offences for money laundering crimes. The FI's were not requested to report any transaction suspected to be related to terrorism financing crimes. There are no obligations as to reporting suspicious transactions attempts; from the practical aspect, the competency and efficiency of FI's in reporting is not up to the level required or appropriate, in light of the numerous reporting cases by banks, and its low number or even absence on part of the remaining institutions.

22. Legal protection from criminal and civil liability does not cover all institutions subject to Law 318, their directors, officers and employees in case of disclosure of information or reporting of concerns to the SIC. The SIC is charged with training and awareness, and explaining practical cases in detail to most of the institutions subject to law, issuing annual reports that include statistics as well as providing specific feedback. Thus, the feedback is deemed sufficient and appropriate to the reporting institutions.

23. Lebanon considered the usefulness of implementing a reporting system for the cash transactions that exceed a designated threshold and found it unnecessary; whereby the cash transactions that exceed USD 10,000 or its equivalent are kept in special records maintained by the FI's that are not subject to the Banking Secrecy Law and maintains as well copies of the ID documents of the executors of such transactions. As to the banks and credit institutions, they were obliged to request their customers to fill and sign the cash transactions slip, mentioning the value of amount, object and source of funds upon depositing cash amounts that exceed such amount or upon the occurrence of many cash deposits of amounts that are less than such amount and which total exceeds it.

24. On the other hand, not all FIs (except banks and credit institutions) are bound to put in place policies, procedures, and internal controls to fight money laundering and terrorism financing, and special measures related to managing the compliance (prepare certain arrangements appropriate for compliance management, establish an independent auditor position to test the same, appointing a compliance officer responsible for the abidance by AM/CFT criteria), while providing an ongoing training program for employees, and imposing high standards of integrity upon the recruitment of new employees. Practically, there is some disparity between the level of internal evidence related to FIs where some of the evidence included larger obligations than those imposed by law and are in accordance with the international standards requirements.

25. As to FIs dealing with countries that do not apply or sufficiently apply FATF recommendations, there are some limited obligations on banks and credit institutions, whereby not all the institutions were bound to oblige their subsidiaries and branches abroad to apply AML measures, while paying special attention to the institutions which have branches in such countries. As well, they were not obliged to adopt the highest criterion within the combating criteria when the same vary in the home country for the institutions which have branches abroad. Also, the FIs covered by law are not obliged to report when the branch or subsidiary company is unable to implement the fighting measures.

26. The Central Bank of Lebanon has set procedures to ensure that no shell banks are established, whereby the banks and credit institutions were bound to verify the identity and activity of their correspondents, and verify that they effectively exist according to proving documents obtained; and the rest of the FIs which might have banking relationships with correspondent banks were not bound by the same. Likewise, such institutions were not obliged to verify that their correspondents are not dealing with shell banks.

27. In terms of supervision and control, there is a general supervisory authority for all financial institutions and the SIC handles the supervision part in AML. As to imposing sanctions on the institutions violating law No. 318, there are no texts providing for the implementation of administrative sanctions.

4- Preventive Measures – Designated Non-Financial Businesses and Professions (DNFBPs)

28. Designated Non Financial Businesses and Professions in Lebanon include lawyers, accountants, notaries public, dealers in precious metals and dealers in precious stones, and real estate brokers; there is also one casino in Lebanon (Casino du Liban). Company service providers and trust funds categories are not available. Lebanon has covered dealers in precious metals and precious stones, and real estate brokers

by Law No. 318 only, in addition to another category, other than DNFBPs, which is the trade in antiques and antiquities.

29. There is no legal or regulatory framework to request the categories referred to and which are covered by law to abide by all the requirements of Recommendation 5. As well, there are no obligations related to requirements of Recommendations 6, 8, 9, 10 and 11, and reporting suspicious crimes related to terrorism financing. The effectiveness was limited for legal obligations due to the absence of an administrative authority that has the powers to impose sanctions for breaching such duties.

30. The legal protection does not cover the DNFBPs included in the law, their directors, officers, temporary and permanent employees when reporting any suspicion with bona fide; also there is no obligation on DNFBPs to put in place procedures, policies and measures of internal control for AML and to pay special attention for the business relationships and transactions that occur with persons in or from countries that do not apply or insufficiently apply FATF recommendations. There is no competent authority that has powers to impose sanctions and take appropriate measures upon any violation.

31. There is need to grant SIC the legal power to control the compliance of Casino du Liban with AML obligations. In general, there are no measures that prevent the criminals or their accomplices from owning substantial shares or controlling interests or becoming beneficial owners or holding administrative positions at Casino du Liban, and there are no guidelines that help DNFBPs apply AML requirements in effect.

32. Lebanon has taken measures to promote the establishment and use of updated and secure methods to perform financial transactions that are less prone to money laundering.

5- Legal Persons and Legal Arrangements & Non-Profit Organizations

33. All trading companies in Lebanon – except partnership companies – shall be subject to single binding rules namely the principle of their announcement, through registration at the competent commercial register related to the area of their office, this being the main source of information available about trading companies in Lebanon. Hence, there is no central commercial register that includes all data and information related to companies. It is worth mentioning that the way authorities verify that partners and shareholders are the beneficial owners, and the method of verifying information related to the beneficial owner is still unclear; in addition, there are no controls and measures that restrict the misuse of bearer shares in money laundering operations.

34. Regarding trust funds, the Lebanese legislator has created since 1996 kind of a trust deed that represents a legal arrangement. But such deed is subject to some transparency since the elements of its creation are based on the following: specifying the name, place of residence and profession of the contractor and the beneficiary; in addition, appointed auditors shall verify the fiduciary debts. The right to conclude trust deeds shall be limited to banks and credit institutions only. The evaluation team could not verify if the competent authorities can have timely access to adequate, accurate and up-to-date information about the beneficial owners and the control share in the trust deed.

35. There are 2 types of Non Profit Organizations in Lebanon: the associations and the public service institutions. Associations in Lebanon are subject to the Law of Associations. The Department of political issues, parties and associations at the Office of political and electoral affairs related to the Directorate General of political issues and refugees at the Ministry of Interior controls such associations. As to the public service institutions, their accounts are subject to the control of the Authority of public service institutions. It is to mention that the control is only limited to the security aspect. In addition, there is no mechanism for immediate exchange of information between all related competent authorities in order to

take preventive or investigative measures upon suspecting or when there are reasonable grounds to suspect any exploitation of any nonprofit organization for terrorism financing purposes. It is worth mentioning that there is no sufficient awareness on part of nonprofit organizations, their employees and their supervisory bodies of the risks of using such organizations in operations related to financing of terrorism.

6- National and International Cooperation

36. Two mechanisms were established to guarantee the official cooperation and coordination at the national level between the policy makers, the SIC, the law enforcement agencies, the supervisory authorities in addition to other related authorities, namely: the "National Coordination Committee for Anti-Money Laundering" and the "National Coordination Committee for the Suppression of the Financing of Terrorism". All related authorities are represented in both committees. In general, coordination and cooperation seem to be effective at the operational and policy levels. Regarding efficiency, it is worth mentioning that there is a good level of national cooperation, even if bilaterally, since there is an important cooperation between the Special Investigation Commission (SIC) and the Central Bank of Lebanon (BDL), and between the SIC and Law Enforcement Agencies (LEAs). It is worth noting that the promotion of cooperation and coordination between the concerned parties in combating terrorism financing is not confirmed.

37. Lebanon ratified both UN conventions: 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and 2000 UN Convention against Transnational Organized Crime (Palermo Convention). Lebanon did not, to date, adhere to 1999 UN convention for the Suppression of Terrorism Financing.

38. The principle in effect in Lebanon, in the mutual legal assistance field, is the judicial cooperation in all fields based on agreements; where no such agreement exists, Lebanon shall adopt the principle of reciprocity. In addition to the general rules, the AML law granted SIC's Secretary the right to contact the foreign authorities in order to request information. As to other fields, it is related to the agreements concluded between Lebanon and other countries. However, such procedures are not applicable in the case of terrorism financing crime; thus, they are subject to the general rules in effect for the assistance requests related to other crimes.

39. The agreements referred to above did not include any complicated conditions that hinder the abidance by the principle of offering legal assistance required. The judicial authorities have stated that the procedures of legal assistance go through the diplomatic channel in both directions, which means that they might take time for being completed. There are no clear arrangements as to coordinating the seizure and confiscation procedures between Lebanon and other countries; Lebanon has not as well considered the possibility of establishing a fund for confiscated assets where all confiscated assets or part thereof are deposited to be used for the purposes of law enforcement agencies, health care, education or other convenient purposes.

40. Regarding criminals extradition, Lebanon is considered as highly cooperative and overcomes any legal or practical obstacle that precludes offering assistance in cases where both countries criminalize the main act of crime. The Lebanese citizen shall not be extradited rather brought before the Lebanese courts. The persons to be extradited, who have committed money laundering and terrorism financing crimes shall be subject, in terms of the requests of their extradition, to the same rules imposed on the wanted persons who have committed all types of crimes, unless a special agreement is signed between Lebanon and another country regarding the crime of money laundering and terrorism financing in particular. It is worth mentioning that the ML crime does not cover all main wanted crimes, which affects the ability of the country to offer international cooperation in this regard. The effectiveness of such issue in money

laundering or terrorism financing cannot be judged as there is no case related to the extradition of criminals.

41. Regarding other forms of international cooperation, it is made with most counterparts whereby exist between the Banking Control Commission (BCC) and many supervisory authorities around the world, memoranda of understanding (MOUs) in accordance with the principle of supervision issued by Basel Committee. The SIC has the right to request information from judicial, supervisory and security authorities, if a request is made by a foreign counterpart. Information can be exchanged according to the procedures of legal and judicial cooperation between competent security authorities. It is worth mentioning that there is no exchange of information practically between the Customs and counterparts in other countries.

Mutual Evaluation Report

1- General

1-1 General Information on the Lebanese Republic

42. The Lebanese Republic (Lebanon) is an Arab country located in the Middle East, west of Asia. It borders Syria to the north and east, Palestine (Occupied Territories) to the south and the Mediterranean Sea to the west. Lebanon covers an area of 10452 km² and is administratively divided into 6 provinces: Beirut (the capital), Mount Lebanon, the North, Beqaa, Nabatiyeh and the South. Lebanon includes 18 recognized confessions. According to the UN estimation in 2008, the population is around 4.1 million; about the double are expatriates, with a population density of approximately 360 persons/km². The literate persons reach 87.4% and most Lebanese people speak Arabic, French and English, in addition to other languages less used such as Armenian, Kurdish and Syriac. The national currency is the Lebanese Pound (Lebanese Lira), where each LBP 1000 is equal to around USD 0.67.

43. Lebanon is an independent and sovereign country that obtained its independence in 1943. The Lebanese Constitution was issued in 1926 during the French mandate, and was amended several times. However, the major and latest amendment was made following the Taef Summit for national reconciliation in October 1989. The Constitution as amended in 1990 stipulates that Lebanon is a multi-party republic, based on multiple religious groups. The constitution also included the principles of the separation, balance and cooperation of the 3 constitutional powers.

44. The President of the Republic and the Prime Minister shall undertake the executive powers. The President is elected by the Parliament for a 6-year term, and the Prime Minister is appointed by the President according to the mandatory parliamentary deliberations. Then, the Prime Minister carries out the parliamentary deliberations to form the government and signs along with the President the government formation decree. The executive power shall be granted collectively to the Council of Ministers.

45. The Lebanese Parliament shall undertake the legislative powers. It consists of 128 deputies, elected by people directly by secret ballot for a term of 4 years. The seats are apportioned equally between Muslims and Christians, and their representation is allocated according to each rite and to regions. The Speaker is elected by the Parliament for 4 years and can be re-elected each time the Parliament decides so.

46. The judicial system consists of ordinary and extraordinary courts. Religions have their confessional Personal Status Courts. The ordinary courts are divided into criminal and civil courts. There are the first instance courts within the judicial structure base. The judgments of the first instance courts may be referred to the courts of appeal. The confessional courts are divided into Sharia, Sunni, Shiite, Druze and ecclesiastical courts, which settle the personal matters for each religion including cases such as marriage. Moreover, the Sunni, Shiite and Druze confessional courts settle the heritage cases of the religion they represent. In addition, there are other courts having specialized judicial powers, including arbitration committees, the juvenile courts, the real estate court, the Customs authority, the military courts and the court of justice. The court of cassation is the final court of appeal and has a Public Prosecution Department. Besides hearing the appeals filed from the lower courts, the court of cassation considers the

judicial disputes between the extraordinary and ordinary courts or between two types of extraordinary courts. Moreover, it monitors the judgments issued by the confessional courts in terms of respecting the Code of procedures and the public order. On the other hand, the administrative courts (Shurah Council) have the power of settling the cases related to disputes between the individuals and the state. The Constitutional Council renders judgments related to explaining the constitution and the elections disputes.

47. Lebanon occupies a remarkable and reputable banking position in the region due to the vitality of its banks and the size of the deposits. Banks activities depend on the local transactions of the residents and particularly the transactions of the Lebanese people working abroad. The large size of the banking sector represents around threefold the gross national product. Moreover, the Gross National Product is around 29 BN USD³ although Lebanon is not an oil-state. And the Lebanese civil community is known as an investment commercial community. The fact that Lebanese people are spread all over the world helped building worldwide commercial relations and the remittances from the Lebanese community abroad (especially the community working in the Gulf) represent around 20% of the national product.

48. The Lebanese trade balance is permanently in deficit whereas the exports do not cover more than 35% of the imports. However, the balance of payments supported by the Lebanese immigrants' remittances and by the investment flows covers the trade deficit and records a remarkable annual excess. While the foreign currency reserves in Lebanon reached around 20 BN USD, the public debt reached around 41.5 BN USD, 55% of which is in Lebanese Pound⁴. This debt resulted from the cost of the treasury bills and of the rebuilding process following the Lebanese war that resulted in economic paralysis and destruction, and following the occupation and the recurring and chronic Israeli hostilities, the last of which (in 2006) caused huge damages.

49. The services sector (commerce, transportation, financial sector, tourism, etc.) represents about two thirds of the national product, whereas it is regarded as one of the most important economic Lebanese sectors, especially tourism and banks. The Lebanese capital system and the Banking Secrecy Law adopted attracted many capitals, not to forget the country's attractive nature, as well as the tourist and cultural activities which make it a touristic region that interests many tourists even during crises. Around 65% of the manpower works in the services sector, which contributes by around 67.3% of the national product.

50. Regarding the agricultural sector, although Lebanon's nature is suitable for agriculture for the abundance of water and fertile lands (the highest rate among Arab-Asian countries) and despite the use of technology and modern means; the investment rate in food industry is weak and does not attract more than 12% of the manpower and the product of agriculture does not exceed 6% of the GNP, which is the lowest rate in comparison with the other economic sectors. The most important Lebanese agricultural products are: apple, peach, orange, lemon and olive.

51. The agricultural sector ranks third after the industrial sector, which is booming in some of its aspects despite the difficulties it is facing, whereas the industrial sector occupies around 26% of the manpower and contributes to around 15% of the national product. The most important industries are: foodstuffs, textile, chemicals, cement, wood, metals and jewelry industries, in addition to other natural materials such as limestone, iron ore and salt. The most important crafts are: straw, pottery, ceramic, glazing, copper, textile and wood industry.

52. Lebanon was affected during the war and thereafter by corruption. It is worth mentioning that bribery in the private sector is criminalized by Article 354 of the Lebanese penal code and the sanction imposed on committing the same is two months to 2 years of imprisonment in addition to imposing a fine,

³2008, Reference: World Bank website: <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GDP.pdf>

⁴ In 2008, as stated by the Lebanese Authorities.

provided that the physical or moral damage are proved. Accordingly, the scope of bribery in the private sector is more limited than that in the public sector, for example in the case of disclosure of secrets or information that causes damage to the work. Moreover, the Lebanese legislation criminalizes the misappropriation and embezzlement of public funds pursuant to article 359 of the penal code and imposes on each employee who has conducted embezzlement a sanction of imprisonment from 3 months to 3 years other than the fine. Moreover, in case of embezzlement as a result of adding untrue details in bills or falsifying or damaging accounts, papers and deeds for hiding misappropriation (article 360 of the penal code), temporary hard labor other than fine shall be imposed. Lebanon has ratified the UN Anti-corruption Agreement pursuant to Law No. 33 dated 16 October 2008 in addition to the issuance of Law No. 32 of 16 October 2008, which entrusted the SIC with the powers of investigating corruption cases in application of the agreements and laws in force related to anti-corruption, especially the UN Anti-corruption Agreement.

53. The Lebanese Transparency Association is a non-governmental organization established as a local branch of the International Transparency Organization in May 1999 for combating the different forms of corruption and encouraging the good governance principles. In 2006, this association issued the Lebanese corporate governance standards for encouraging the companies to adopt a set of standards and practices that may improve their performance, competition, entrance to the foreign markets and the diversity of capitals. This association established on 9 March, 2009 the Lebanese Center for Corruption Victims, which is the first of its kind in the Middle East and Arab countries. It aims at educating the citizens about their rights and provides them with the information that helps them take judicial procedures against the corruption cases they were victims of.

54. According to the international indicators of the Public Management System issued by the World Bank, which cover 212 countries and regions, the report issued by Lebanon in this respect for the period from 1996-2007 states that 37% of the countries and regions obtained degrees less than Lebanon in giving opinion and accountability and that 28% of them obtained degrees less than Lebanon in the political stability and absence of violence. Moreover, Lebanon was the first country in terms of governmental efficiency whereas 67% of the countries and regions obtained a degree less than Lebanon in this respect. Regarding the other three dimensions, Lebanon came in the middle ranking.

1-2 General Situation of Money Laundering and Financing of Terrorism

55. There are no real estimations for the size of ML transactions in Lebanon. The Lebanese authorities consider that the largest part of illicit funds results from criminal acts committed outside Lebanon, as the statistics published by the SIC (FIU in Lebanon and hereinafter referred to as the “Commission” or the “SIC”) in its annual reports indicate that the aforementioned cases related to drugs form only a small percentage of the total cases; and that the cases related to counterfeiting and embezzlement range between 40 to 50% of the total cases, the largest part of which occurred abroad, where the authorities submitted an assistance request regarding the same; and most cases addressed by the SIC do not show the existence of the laundering crime inside Lebanon but abroad.

56. The Lebanese Authorities stated that the most important crimes resulting in illicit funds are currency counterfeiting and drugs traffic, whereas they stated that there are some suspicious cases about the commitment of the crime of laundering money proceeding from drug traffic. These cases are considered by the Public Prosecution in cooperation with the SIC, and all of them originated from crimes committed abroad. Drug traffic in Lebanon is limited to 150 dealers, the average value of the business of each, ranges between 4 to USD 5 million. The Internal Security Forces works in coordination with the

Lebanese Army to combat drug cultivation; however, Lebanon is facing challenges related to alternative drug cultivation and control of the cross-border money transfer. The local authorities do not recognize and identify the methods and means usually used in Lebanon for ML, and it is worth mentioning that the total amount of remittances received from abroad is very high (around \$0.75 BN) as a result of the increase in the number of the individuals of the Lebanese community abroad, which represents approximately double the population inside Lebanon.

57. Regarding TF operations, big terrorist operations caused the death of prominent political figures such as Prime Minister Rafic Hariri in 2005 in addition to Nahr Al-Bared terrorist operations against the army along with the explosions that preceded and followed them. All of the foregoing shows the presence of organized terrorist groups in Lebanon, with a large possibility of the existence of financing sources that support those groups either from inside Lebanon or from abroad. However, the Lebanese authorities stated that the financing process is ambiguous and assumed that the financing resources are generated outside Lebanon. In terms of the FT risk, no specific figures are available in this field; nevertheless, the team fears that those risks exist based on the recurring terrorist attacks that have hit Lebanon during the last years. The authorities stated that the justice is considering a number of filed FT cases.

1-3 Overview of the Financial Sector

58. The financial sector in Lebanon is comprised of banks (that represent the largest part (around 97%) of the financial sector's size), financial institutions⁵, financial intermediaries, insurance companies, finance lease companies and exchange companies.

59. The bank's main activity is using the funds it receives from people in credit operations for its own account. Moreover, it can perform the credit operations⁶ and financial management for others. Besides that, the bank performs the financial intermediary operations and contributes to establishing specialized companies that manage the mutual investment funds or to establishing mutual investment companies as part of its own money. Moreover, the bank performs all the operations connected with or completing its objectives according to the provisions of the applicable laws and regulations. However, the bank may not perform for its own account operations on the derived financial instruments unless for precautionary purposes only. To obtain a license from the BDL, the bank should be an anonymous company registered at the commercial register. The Banking Control Commission of Lebanon (BCCL) monitors the banks while the SIC undertakes the supervisory authority in terms of AML/CFT. There are 65 banks registered at the Central Bank of Lebanon (BDL) (9 of which are foreign commercial banks); by the end of 2008, the total assets of these banks reached around LBP 149, 449 BN (equivalent to USD 99.6 BN).

60. The credit institutions' activity includes performing the different types of credit operations, whether from the funds of the private institution or the funds those institutions obtain from the banks and the other "credit institutions" or through issuing the debt securities. Such institutions may also perform, primarily or secondarily, other operations such as the credit operations, the financial intermediary operations, the

⁵ The financial sector in Lebanon includes a type of licensed institutions called "the financial institutions (FIs)", which means the institutions the main subject of which is lending, and which will be called hereinafter "the credit institutions" in order to avoid the ambiguity that might result from the coincidence of their name with the general concept of the FIs known in the AML/CFT international standards. This name will be used to express that kind of institutions along with the money transfer companies licensed as FIs as well.

⁶ The credit operation is the operation that occurs based on a contract according to which a natural or legal person, called the originator, gives a person called the trustee the right to manage and dispose, for a limited period, of rights or movable funds called the financial assets. The practice of credit operations is limited to banks and FIs registered at the Central Bank of Lebanon where it is possible that the credit operations and the financial management for others constitute the main subject of these banks and FIs.

finance lease operations, the establishment or contribution to establishing and managing mutual investment funds or contribution to mutual investment companies or marketing and promoting financial instruments belonging to collective investment authorities, managing the real estate assets, assisting in the issuance of deeds and financial rights, marketing the same or ensuring the subscription therein. Such type of institutions may not receive deposits for acquisition purposes; however, they may accept credit deposits to manage and dispose of the same in credit operations. They may not as well exercise any commercial or industrial activity which is different than the credit activity or financial intermediary or credit transactions or finance lease operations. To be licensed by the Central Bank of Lebanon (BDL), the credit institution should be an anonymous company registered at the commercial register. The Banking Control Commission of Lebanon (BCCL) monitors the banks while the SIC undertakes the supervisory authority in terms of AML/CFT. The number of such institutions is 45 while their total assets amounted by the end of 2008 to LBP 1249 BN (equivalent to USD 833 million).

61. The insurance and reinsurance companies in Lebanon are called the insurance and reinsurance authorities, which are the companies and institutions that perform all or some of the insurance and reinsurance operations such as the operations, the execution of which is related to humans' life, disability and senility; formation of funds which include or do not include life insurance, which occur through contracts, according to which the company undertakes to pay an amount or specific amounts on a specific date or dates or as a result of periodical withdrawals occurring like the lottery draws, in consideration of a premium or periodical premiums; the mutual investment operations through collecting cash funds paid by non-shareholders for the purpose of investing them in various investments and mutually as well as securing the loans, credits and guarantees; and taking precautions against the damages resulting from fire dangers, earthquakes, lightning, hurricanes, winds, tornadoes, cold weather, explosions, strikes, revolutions, plane and other aircraft's crash as well as transportation danger, hull insurance for aircrafts and ships, dangers resulting from all the accidents, civil liabilities, vehicles, work emergencies, personal accidents, medical treatment, robbery, breach of trust, professional risks, among other risks not provided for explicitly by this law, as well as taking precautions against the damages resulting from the agricultural dangers and emergencies.

62. To obtain an operation license from the Ministry of Economy and Trade in Lebanon, each insurance authority should be an anonymous company and should meet different conditions related to its capital, the scope of its activity and the qualification of its managers. Moreover, at least 70% of its capital should consist of nominal shares. The documents required for obtaining the license include a copy of the memorandum of association, the by-laws, the statement of the lines of operations the authority wishes to practice, a document proving the amount of the paid up capital and its allotment, an economic feasibility study issued by an independent office of studies, in which the expectations of the company's business over the 3 years following the licensing are shown, and the curriculum vitae for the members of the Board of Directors of the authority, its general director and the actuary adopted by it. The supervisory authority is the Insurance Control Committee at the Ministry of Economy and Trade; while the supervisory authority in terms of the AML/CFT is the SIC. There are 54 (national and foreign) authorities licensed to work in Lebanon by the Ministry of Economy and Trade, whereas the licensed brokers and agents are divided into 975 agents, 115 individual brokers and 250 intermediaries. The statements of the Ministry of Economy and Trade indicate that the total premium of those authorities reached LBP 1170 BN (equivalent to around USD 776.2 BN) in 2007, 64% of which belong to the insurance sector other than life insurance, and 36% belong to life insurance.

63. Regarding the financial Intermediaries field, some companies perform this activity as a normal profession whether for their own account or the account of their clients, whereas they are allowed to perform the financial transactions on the different financial instruments or the traded tangible values, especially instant, term and future transactions as well as transactions on the rights of choice and exchange as along with transactions on all the derived or combined instruments in everything related to

all types of shares, debt security, government bonds, bonds issued by all the individuals in the public sector, certificates of deposit, currencies, precious metals and commodities. Moreover, they can manage the securities portfolios and all the tangible values including the previously mentioned transactions according to the conditions specified by the Central Bank of Lebanon (BDL). In addition, they can promote the foreign or national investment authorities and encourage any investor, in any way, to invest his money in it provided that he is made aware of the risks, charges and commissions accompanying the proposed investment and after providing him with all the information that may affect his decisions and financial liabilities. On the other side, the Intermediaries institution working in Lebanon may not accept deposits for appropriation and re-lending the same, performing a certain trade or industry or activity different than the Intermediaries activity, and granting loans; however, it can grant facilities connected to the operations it carries out provided that it establishes its conditions through an explicit and detailed written contract. The financial intermediaries are licensed by the Central Bank of Lebanon (BDL) provided that they shall be anonymous companies registered at the commercial register. These companies are controlled by the BCCL whereas the SIC controls the AML/CFT side. There are 12 financial intermediaries in Lebanon, the total assets of which amounted at the end of 2008 to around 57 BN LBP (equivalent to 38 Million USD).

64. The exchange companies in Lebanon are divided into two categories: category (A) may purchase and sell foreign currencies against any foreign currency or the Lebanese Pound as well as securities and coins; they may buy and sell gold pieces, alloys and coins; buy and sell cheques and travelers cheques; perform cash transfers, including the transfers done electronically provided that a special license is obtained from the Central Bank of Lebanon (BDL); ship the securities, provided that the company's capital is not less than 250 Million LBP in order to be listed under this category. Category (B) may buy and sell foreign currencies in return of any other foreign currency or the Lebanese Pound; buy and sell coins and gold alloys below 1000g; buy and sell travelers cheques provided that the amount of the cheques which are still under collection does not exceed, at any time, 10, 000 USD or its equivalent in the other currencies and that the minimum company's capital in this category shall be 100 Million LBP. All money exchangers of both categories are licensed by the Central Bank of Lebanon (BDL); it is not compulsory for the money exchanger company to be an anonymous company; yet, it should be registered at the commercial register. These companies are controlled by the money exchange department at the BCCL whereas the SIC controls the AML/CFT aspect. There are 383 exchange companies in Lebanon, 13% of which fall under category (A).

65. There are money transfer companies in Lebanon that transfer money from Lebanon to abroad and receive the remittances sent to them. They may use the electronic transfer means. The total number of such companies is 9; the total remittances received by the end of 2008 amounted to around 756 Million USD, while the sent remittances reached around 346 Million USD.

66. Regarding the finance lease companies, the transactions allowed for these companies are leasing different kinds of equipments, devices and vehicles bought by the lessor to rent them out while maintaining their property, provided that they shall give the lessee the right to own them at a price agreed upon, and the conditions of which shall be set upon making the contract, taking into consideration, even if partially, the installments paid for rent. The institutions allowed to perform the finance lease operations are specialized Lebanese anonymous companies, which objectives are limited to performing "finance lease" operations and complementary relevant operations, and the branches of foreign anonymous companies, the main object of which is performing finance lease operations, and the "credit institutions" registered at the Central Bank of Lebanon (BDL). These companies are licensed by the Central Bank of Lebanon (BDL) and controlled by the BCCL, while the SIC controls the AML field. The finance lease activity represents a slight percentage of the financial sector, whereby there are two companies only providing the finance lease services at a small size.

67. The legal environment in Lebanon allows the existence of what is called “the collective investment authorities of the tangible values and all financial instruments”, which are authorities the purposes of which are limited to the collective investment of the received funds provided that this investment is made according to the principle of risk distribution. The investment depends on the authority’s objective, whereas it is possible that the investment involves ordinary shares, foreign shares, bonds, preference shares, financial instruments against precious metals, or related to specialized investments, or treasury bills or a varied set of the above mentioned shares and bills. The Collective Investment Authority may take the form of a mutual investment company or a mutual investment fund, the assets of which shall be managed by a specialized company. However, to date, these authorities do not exist.

1-4 Overview of the DNFbps

68. The DNFBP sector in Lebanon includes the lawyers, the chartered accountants, the notaries public, the dealers in precious metals and precious stones and the real estate agents. Moreover, there is one casino in Lebanon, Casino du Liban. The existence of two categories of company service providers and trust funds mentioned in the definition of DNFBP as per FATF within the definition list attached to the AML 40 recommendations issued by the FATF was not revealed to the evaluation team. There exists in Lebanon the antiques and antiquities trade, which is covered by the AML law.

69. Law Profession: There are two bars in Lebanon: one in Beirut with around 9000 lawyers affiliated, and another bar in Tripoli with 1104 lawyers registered. The names of the lawyers who have offices all over Lebanon shall be registered in Beirut Bar, except those located in North Lebanon, whereas their names shall be registered in Tripoli Bar. Registering in one of these two bars is a main condition for practicing the law profession in Lebanon, and it is not possible to register a lawyer’s name in both bars or in one of them and in a foreign one. Each lawyer registered in the list of practising lawyers should have an office within the scope of the bar to which he belongs. Pursuant to the provisions of article (15) of the Code of Legal Practice issued on 11 March, 1970, it is prohibited to combine legal profession with:

- Any job or public service except the membership of the parliament, the municipality and administrative councils as well as all the jobs and services fulfilled without consideration
- The commercial, industrial and journalistic businesses (except the law or scientific journalism) and all the profit professions in general.
- Presidency or vice-presidency or the management of companies of different types.
- Activities of the experts at the courts or other authorities or commissions.
- The works that contradict with the lawyer’s independence or affect his dignity.
- Presidency of the parliament or the cabinet.

70. The Lebanese Association of Certified Public Accountants (LACPA) figures indicate the presence of 1634 certified accountants in Lebanon, knowing that part of them do not practice the profession, while the number of established offices is 845. The Ministry of Finance undertakes to perform a periodical rating for the certified accountants. The latest rating indicates the presence of 40 accounting offices rated as internal audit offices and 12 offices rated as external audit offices (authorized auditors). The LACPA grants the license for those who wish to practice the profession provided that they shall first obtain a Baccalaureate degree and pass 4 tests, 2 of which in accounting, the third in auditing and the fourth in law. Moreover, they should be subject to a 3-year training period by one of the registered auditors entitled to sign the financial statements. The LACPA includes a disciplinary council that imposes sanctions and the members of which are elected from the members of the LACPA.

71. There are 226 notaries public registered in the personnel (the available number), while the number of practitioners is 172. Article 2 of the notaries public regulation and the notarization fees (Law No. 337

issued in June 1994) defined the notary public in Lebanon as a public officer authorized within his competence to perform the activities mentioned in the Law and other laws and actions requested by any concerned party. The notary public is related to the Ministry of Justice (MoJ) but does not receive from the government any salary or compensation; instead, he receives his fees from the clients pursuant to the provisions of this law. Thus, the notary public is not considered a complete public officer nor completely independent. The trainee notary is appointed after passing a special test, pursuant to a decree at the Minister of Justice's proposal, then he follows a six months training session, during which he is attached to one of the notarization departments by a decision from the Minister of Justice. Following this period, the trainee notary shall automatically be an original notary public without the need to issue any decision.

72. The notary public is subject to inspection by employees from the MOJ staff of the third category at least under the supervision of the Director General of the MOJ, by a decision from the Minister of Justice. The latter may ask the Central Inspection Board to authorize financial inspectors to financially inspect the notary public departments. On 25 August, 2008, the Ministry of Justice issued a decision based on the Notaries Public Law No. 337 (issued on 8 June, 1994) and the notarization fees, requiring the assignment of three judges attached to the MOJ for the administrative and financial inspection of the notaries public, whereas the judges shall submit a monthly report to the Minister of Justice. However, until 2008, this procedure has not been carried out; instead, the Judiciary Inspection Body tackles the complaints lodged about notaries public. The sanctions range from warning to blame to a final prohibition from practicing the profession. All the inspection reports shall be submitted to the MOJ. The notary public shall perform the following duties:

- Organizing and certifying the attribution provided for in the Code of Obligations and Contracts and, generally, every deed not prohibited by the law or is not exclusively, pursuant to a special text, among the powers of another public officer, while keeping the original copy and giving the concerned persons copies of the same.
- Accepting and keeping the attribution, the documents and the deposits in kind as well as delivering the depositors a certified copy of the statement drafted by him, including the deposit conditions and the description of the deposit.
- Mentioning a valid date on the deed submitted to him.
- Reporting all the notifications and warnings directly and accepting the real offer and the deposit pursuant to the provisions of article 822 and the Code of Civil Proceedings.
- Certifying the signature of the translator of the deeds.
- Numbering the pages of the books and records of the dealers and the self-employed as duly provided for in the Commercial Law.
- Taking and keeping the fingerprints and certifying the identity of the concerned.
- Seeking the assistance of the direct officers and the Internal Security Forces for performing all the notifications issued by his department.

73. Although the subscription therein is not mandatory, the Syndicate of Gold and Jewellery in Lebanon, which was established in 1946, includes currently 400 members thanks to its activities and practices. Its board is comprised of 12 members, including the president, the vice-president, the secretary and the treasurer and is elected secretly and democratically. The Syndicate is not regarded as a supervisory authority but is only a representation of the practitioners of the profession, whereas anyone who wants to practice this profession should be first registered at the commercial register. The size of the annual gross sales revenue is approximately 200 Million USD, 140 Million USD of which represents the value of the raw materials and the remaining value is an industrial value, according to the statements of the Ministry of Economy and Trade. The SIC supervises the AML aspect in the jewelry industry.

74. The real estate agents sector in Lebanon is based on companies registered as shareholding companies or limited liability companies of various sizes, the activities of which vary from real estate trading, to real

estate brokerage or the real estate development. Moreover, some of those companies provide consultancy or public services such as buildings maintenance. The real estate agent plays the role of a broker between the seller and the buyer, whereas through meeting both of them, he gets acquainted accurately with the request of each party and gets to know them whether they were a natural person, through perusing the original copy of the identity as a minimum, or what proves the foundation of the legal person and whoever is authorized on its behalf. The real estate agents are supervised by the SIC regarding the AML.

75. In 1994, Casino Du Liban, which is a Lebanese Shareholding Company of an exclusive privilege, obtained a license of exploiting a casino, whereas in the following year it was granted an exclusive right to exploit the gambling games in Lebanon for 30 years. The largest shareholder in this company is Intra Investment Co., of which the Central Bank of Lebanon (BDL) and the Ministry of Finance own 45%, and this is a sufficient percentage for the CENTRAL BANK OF LEBANON (BDL) to be an indirect shareholder in the Casino. The Casino includes 1200 employees and there are no Lebanese casinos (internet casinos). SIC supervises the Casino regarding the AML field although it is not covered by Law No. 318.

1-5 Overview of Commercial Laws and Mechanisms governing Legal Persons and Legal Arrangements

76. Companies in Lebanon are regulated by the Land Trade Law issued by the decree-law No. 304 on 24 December, 1942. The commercial companies in Lebanon are divided into two types: **the partnership**, in which the personal consideration prevails, and it is formed of a limited number of persons known to each other, none of them is allowed to assign his share to another person without the agreement of the others. Moreover, the death or bankruptcy of one of them or the loss of their capacity or their retreat initially leads to winding up the company. The most remarkable form of these companies is the joint partnership company, where the partners shall be jointly responsible for its debts not only in terms of their shares in the company but also regarding their personal funds. The partnerships also include the simple partnership company, which includes two types of partners: (a) the authorized partners, who are joint partners as the joint partnership company; (b) the limited partners, whose responsibility is limited to the value of their shares in the company. Their shares shall not be assignable. The company's management is limited to the authorized partners without the limited partners; if the latter interfere in the management, they become liable like the authorized partners for all their funds. There is another type of partnerships: the joint-venture company. It is a company that does not appear to others and the effect of which remains limited among the partners. Moreover, it does not have a commercial name and has no corporate personality like the remaining companies.

77. **Capital companies**: They are the companies established for raising money from the savers in order to accomplish the important economic projects, whereas the financial consideration shall be preceding the personal consideration which loses its importance except in some rare cases in which the articles of association restrict the freedom of dealing in the company's shares or keeps for the company or for the shareholders the privilege of gaining new or assigned shares. The most important form of these companies is the anonymous company, which is a shareholding company, the capital of which is divided into shares of equal value and in which the responsibility of the shareholder is limited to the value of his shares. These shares are usually of low value, reachable by the public and negotiable in the commercial ways, i.e. merely by delivering the bearer shares or assigning in the company's book the nominal shares, whereas these companies may issue bearer shares. Moreover, the capital companies include the share limited partnership company, which resembles the simple partnership company and is different from it in that the shares of its limited partners are negotiable shares such as the shareholding companies' shares.

This company combines the financial and personal consideration. The capital companies also include: the holding, the offshore and the limited liability companies, which will be introduced later.

78. Regarding the establishment of companies in Lebanon, all the commercial companies – excluding the joint-venture companies – should be established by a written contract encompassing the general contractual conditions of consensus and capacity. When necessary, others may prove by any way the existence of the company or any text related thereto (article 43 of the Commercial Law). Moreover, the constituent deeds of all the commercial companies – except the joint-venture companies – should be published by making the transactions mentioned hereinafter; otherwise they are considered void (article 44 of the Commercial Law).

79. The company's contract is different from other contracts, whether the civil or commercial contracts, since it provides for the incorporation of a new legal person, independent of the partners and which owns a special financial entity different from the partners' entity and consists of the shares those partners offer as a capital for the company to be used in achieving its agreed upon purposes. This legal person is called "the company". All the commercial companies – except the joint-venture companies – are legal persons. The companies which headquarters are located in Lebanon, regardless of their nationality, should be registered at the competent commercial register of the region where the headquarters are located. Moreover, the company's manager or the members of its Board should request the registration within the month following its establishment.

80. Regarding the foreign commercial companies that have a branch or an agency in Lebanon, each one of such companies should be registered at the commercial register except the anonymous companies and the share limited partnership company which are covered by the provisions of the High Commissioner's decision No. 96 dated 20 January, 1926. Before opening the branch or the agency, whoever manages the company should submit two copies of a written declaration to the Office of the Court, including his signature and all the aforementioned data. Moreover, he should add his first name, family name, date and place of birth, and nationality. All the changes related to the subjects to be registered should be recorded. Upon replacing the branch manager, the new manager's first name, family name, date and place of birth and nationality along with all the required data should be recorded. Regarding the company's object, article 847 of the Code of Obligations and Contracts stipulates that each company should have a legal purpose, as each company, the purpose of which violates the morals or the public order or the law, shall be definitely voided. Similarly, every company, the object of which includes things that are non negotiable, non salable or purchasable, shall be considered as void.

81. The **shareholding anonymous company** in Lebanon is characterized by the joint responsibility of its founders for the obligations made and the expenses spent for establishing the company. The number of the founders of the company should not be less than 3 and its capital should not be less than 30 Million LBP, provided that quarter of the amount is paid upon registration, whether in cash or in kind. The partners shall be called "shareholders" and shall only be responsible by law for the company's debts in the ratio of their shares. The shareholding company may issue shares and share transferable securities. Any person who has been declared bankrupt without being rehabilitated in the course of the last 10 years preceding the establishment of the company, or any person convicted in Lebanon or outside Lebanon for committing any crime may not take part in establishing a shareholding company. The company is established by the general constituent assembly, which appoints the first members of the Board of Directors and the appointed auditors if they were not appointed by virtue of the company's articles of association. It is stipulated that the majority of the members of the board should be Lebanese citizens chosen among the shareholders who own the minimum percentage of the shares set by the company's articles of association. This minimum number of shares shall serve as "security shares". The member of the board may own a larger number of shares; however, he is obliged to resign from the Board of Directors if the number of his shares is less than the "security shares".

82. The headquarters of each shareholding company established in Lebanon should be located in Lebanon. The founders should publish the information related to the establishment of the company in the official gazette and in two newspapers, one of which is a local daily journal and the other economic. The clarifications included in the public announcement should be listed in the personal subscription document, the share certificate, the posters, the circulars and the publications, while mentioning the issue numbers of the newspapers in which the public announcement was published. Before each invitation sent to the public for subscription in the company's capital, the founders should announce the same in the official gazette and in two newspapers along with publishing the following information: the company and its vision, the signature and address of all the founders, the address of the headquarters and the branches, the company's objectives, the capital's value, the share's nominal value and the first payment of its price, the value of the in kind advances, the profit policy, whether it is distributed or added to the capital, the conditions for distributing the dividends, the number of the members of the Board of Directors and their salaries as fixed in the company's articles of association and their powers.

83. The Board of Directors is comprised of 3 members at least and 12 members at most; it is responsible for the company's operations. The salaries of its members shall be formed either from an annual salary or a percentage of the net profits or from both. The Board shall elect one of its members as the chairman, entrusted with executing the Board's resolutions. The Chairman of Board may not be a member of more than 6 Boards of Directors of companies headquartered in Lebanon. If he was over 70 years old, this number should be reduced to 2 companies only. Whereas, if the Chairman of the Board was a foreign citizen, he should have a work permit.

84. Two appointed auditors are elected, one of them is from the general assembly and the other from among the accountants affiliated to the court of first instance. They are responsible for controlling continuously the company's work progress. Moreover, they may peruse all the contracts, the accounting books and request information from the members of the Board of Directors. The appointed auditors shall submit to the general assembly a report on the company's balance sheet and on the proposed dividends.

85. The shareholding general assemblies should be held at least once a year, whereas each shareholder should have a number of votes equal to the shares he owns. If the shareholder possesses nominal shares since 2 years at least, his votes will multiply; whereas, if he could not attend the assemblies, he may authorize another shareholder to attend the meetings and vote in his name. The ordinary general assembly is held at the end of each fiscal year for settling the financial accounts and the activities of the Board of Directors; allocating the dividends; appointing the members of the Board of Directors and/or the appointed auditors at the end of their term.

86. The **Limited Liability Company** combines the features of partnership and company, whereas this mixed company consists of 3 to 20 partners except in the case of shares inheritance. In such case, the number of partners may reach a maximum of 30 partners; if the number exceeds this limit, the company should become a shareholding company in two years or it should be wound up. Since the stocks are not issued as shares, the partners possess a specific percentage of the company and they should be responsible for the company's debts in the ratio of the share each of them owns. The company's name should be always followed by the expression "with limited liability" and the capital's value, both of which should be mentioned clearly on all other printings, advertisements, publications and documents issued by the company. The company's capital should not be less than 5 Million LBP fully paid upon registration. Where the capital exceeds 30 Million LBP, an auditor should be appointed. All limited liability companies of any capital should appoint a lawyer.

87. This company is formed when the partners' shares are divided, their complete value is fully released and is deposited at the banks. The founders should announce explicitly in the company's articles of association that all these conditions are met. This company is subject to the same rules of publication to

which the shareholding company is subject. Moreover, the company's articles of association should be notarized at the notary public's and signed upon submitting the same to the commercial register of the area in which it is kept. The company shall be run by a manager or several managers selected among the partners or others, and are appointed by virtue of the company's articles of association or a subsequent deed for a specific or non-specific period. The managers may be dismissed by a decision of the general assembly or by a judicial decision. In case a manager was dismissed for illegal reasons, he shall be entitled to obtain a compensation for the damages.

88. At the end of each year, the managers submit a report on the company's business, including a full financial report. This report is sent to the partners inviting them within 6 months from closing the annual accounts to holding a general assembly in which the managers' activities are verified and ratified. The partners are notified of the holding of the assemblies through announcements published in two daily newspapers or registered mail addressed to them one month before the date of the meeting. The copies of the documents shall be signed at least 20 days from date of the meeting at the company's headquarters, so the partners will be able to peruse them and ask the managers any related questions during the general assembly.

89. The **partnership company** performs its business under a commercial title including two types of partners: the first type includes the authorized partners who are entitled to perform its administrative business and are responsible in their personal capacity and jointly for settling the company's debts. The second type includes the limited partners who provide the funds and are bound only by the percentage of their contribution. The partnership companies are divided into two types: the simple partnership and the share limited partnership.

90. The limited partnership is announced for the public under a commercial title that only includes the names of the authorized partners; if there is only one authorized partner, it is possible to add the word "and partners" to his name. However, if the limited partner overlooks listing his name under the company's title, he shall be responsible as an authorized partner before every bona fide third person. The limited partnership shall be subject to the rules set for establishing and winding up the partnership companies even in the issues related to the limited partners.

91. Regarding the share limited Partnership Company, its capital is divided into shares and the limited partner shall be subject to the legal system to which the shareholder in the anonymous companies is subject. Whatever its legal subject may be, the share limited partnership company is subject to the commercial law and related practices. Moreover, the legal rules of the anonymous companies shall be applicable to the establishment and progress of the business of the share limited partnership company. The number of the appointed auditors should be at least 3, including the chartered accountant appointed by the chief judge of the court by virtue of a decision. They may not be appointed by the authorized partners. The articles of association define the term of the board of control; the first board shall be appointed for a term of one year.

92. All obligations imposed by the law on the members of the Board of Directors of the anonymous company shall be applied to the managers of the share limited partnership company. The authorized partners, whether all or one or a number of them is/are managing the company's business on behalf of everyone, shall be subject to the same legal system the members of the joint partnership company are subject to. The limited partner may not interfere in the management of the company's business with others even if his interference is based on a power of attorney. Should he violate the provisions of this prohibition, he shall be jointly held liable with the authorized members for the obligations arising from their administrative work, and the liability laid upon him shall be either limited to the results of the activities in which he interfered or including all the company's debts against the rate and size of such activities.

93. The **Holding company** shall be registered as a shareholding company. The word “holding” should appear clearly next to its name. Moreover, the latter should be registered at the commercial register pursuant to the provisions of the commercial law. In fact, the company’s business is limited to buying stocks or shares in Lebanese or foreign shareholding or limited liability companies or to participating in establishing the same. The holding company may manage the companies in which it owns partnership or shareholding shares. It is possible to subscribe in its capital in a foreign currency, provided that all accounts and balance sheets are regulated in the same currency. This company is exempted from tax on its profits and dividends. It may own patents, licenses, trademarks and reserved rights as well as assigning them to Lebanese or foreign companies. Moreover, it can grant loans to other companies in which it has partnership or shareholding shares and guarantee those companies against others. It can also own properties provided that they are exclusively allocated to the needs of its business and in conformity with the Lebanese law. However, it cannot own directly more than 40% of two companies operating in the same field in Lebanon, but this principle does not apply to investments outside Lebanon. This company shall be governed similar to the anonymous (shareholding) company and shall be subject to the same provisions (shall be run by managers and shall hold annual general assemblies for its shareholders).

94. The company’s headquarters should be located in Lebanon where it should keep its accounts; however, the meetings of the board of directors and the general assembly may be held abroad if permitted by the company’s articles of association. The company may be satisfied with publishing the fiscal year’s balance sheet, the names of the members of the Board and the appointed auditors in the commercial register of the holding companies. The Board of Directors should comprise two Lebanese citizens at least. If the Chairman of the Board is not Lebanese and living abroad, he does not need a work permit. Nevertheless, the annual ordinary general assembly should be held in Lebanon in a maximum period of 5 months from the end of the fiscal year as specified in the company’s articles of association. If so stipulated in the articles of association of the holding company, the ordinary general assembly may be held twice a year, whereby a main appointed auditor residing in Lebanon is elected for 3 years. Unlike the anonymous companies, this company shall be exempted from the obligation of appointing an additional appointed auditor.

95. **Offshore companies** are companies practicing activities outside Lebanon, but their headquarters may be inside or outside Lebanon. Their banking accounts may be kept in the Lebanese Pound or in any other currency. The offshore company shall be regulated under the same provisions applied to the anonymous company, but an automatically renewable bank guarantee covering the payment of the concerned company’s liabilities in favor of the government should be added to the documents submitted to the Commercial Register. The offshore company has a preferential fiscal treatment considering its system which is limited to a certain scope. It is registered according to the provisions of the commercial law, whereas the registration at the commercial register is mandatory. The Chairman of the Board does not need a work permit if he is a foreigner; but, the Board should include two Lebanese natural persons at least and the company should elect a main appointed auditor resident in Lebanon for at term of 3 years at least.

96. The offshore company may use the free-zones to store the imported merchandise to be exported, rent offices and purchase properties deemed necessary for its activity. It can also prepare the studies and consultations which will be used outside Lebanon at the request of the institutions situated abroad. The company may not be involved in any industrial, banking or insurance business and may not establish a “holding” company or perform any commercial business within the Lebanese territories. Moreover, it may not make any profit or income from movable or immovable funds existing in Lebanon or through providing services to institutions located in Lebanon, except the income of its banking accounts.

97. The **joint-venture company** is different than the other commercial companies since its entity is limited to the contracting parties; and it is not set for being known by others; the agreements made among

the concerned persons determine freely the mutual rights and duties among the partners as well as the distribution of profits and losses among them, while maintaining the application of the general principles of the company's contract. The joint-venture companies are not subject to the publication procedures imposed on the other commercial companies and shall not be regarded as a corporate person. Moreover, third parties should not have a legal connection except with the partner with which they made a contract. The company may not issue assignable or negotiable shares or deeds in favor of the partners.

98. Whereas, **the joint partnership company** is the company that operates under a certain title. It consists of two or several persons responsible severally and jointly for the company's debts. The memorandum of association may be official and may include a special signature, whereas, in the latter case, copies equal to the number of partners should be issued. During the month in which the company is established, a copy of the memorandum of association should be submitted to the Office of the Court of First instance in the region where the company's headquarters are located. Furthermore, during the same period, the company should be registered at the competent commercial register in the region of its headquarters. This publication should be brief and include the name of each of the partners, family name, nationality, place of residence; the company's title, form, object, original headquarters, branches and agents' headquarters, its capital, the value attributed to the in kind contributions of the partners; the names of the partners or the authorized signatories; the date of establishment and the term of the company.

99. In case the memorandum of association is amended later on, a new copy thereof should be submitted to the Office of the Court. Moreover, if the amendments concern others, they should be registered at the commercial register. Failing to deposit the memorandum of association at the Office of the Court or to register the same at the commercial register, shall lead to the nullity of the company and thus all the partners shall be held jointly liable upon the occurrence of a damage. Each partner of the joint partnership company is regarded as if he is dealing personally in business under the company's title – since each one of them acquires the legal capacity of a dealer. The bankruptcy of the company shall lead to the personal bankruptcy of all partners. The company's title shall include the names of all the partners or the names of some of them along with adding the word "partners". All partners are entitled to manage the business unless the company's articles of association or a subsequent deed stipulates that the management shall be entrusted to one partner or several partners or another person, even if not related to the company. The managers may carry out all the required activities for running the company's project in an organized way unless their powers were limited according to the company's articles of association. Moreover, the managers may not make any agreement for their own benefit with the company in which they have or one of them has a direct interest except by virtue of a special authorization from the partners, renewed each year, when necessary.

100. Here below is a presentation of the types of companies (registered in 2008) in Lebanon according to the statistics sent by the commercial register: the public shareholding companies, the limited liability companies, the joint partnership companies, the limited partnership companies, the simple share partnerships, the holding companies and the offshore companies.

The Companies Registered as per the Type of Register

Province	Type of Register	2005	2006	2007	2008 (Incomplete Statistics)
Beirut	Public	1375	1250	1168	1507
	Private	15	23	29	32
	Holding	187	238	236	321
	Offshore	426	419	527	726

Mount Lebanon	Public	2123	2237	2246	635
	Private	103	55	24	9
Bekaa	Public	224	234	275	69
	Private	28	27	27	4
North	Public	448	577	617	160
	Private	22	20	20	8
South	Public	269	268	309	84
	Private	3	0	0	0
Nabatiyeh	Public	123	119	115	0
	Private	1	0	0	0

1-6 Overview of Strategy to Prevent Money Laundering and Terrorist Financing

(a) AML/CFT Strategies and Priorities

101. The evaluation team has not perused the documents about the strategies, priorities, policies and objectives of the current government, related to AML/CFT. However, the **National Coordinating Committee for AML (NCCAML)** was established pursuant to the Council of Ministers' decision No. 2 dated 24/10/2002 for coordinating the policies among the authorities in terms of AML, exchanging expertise and information, and organizing the appropriate training sessions. It includes one of the Vice-Governors of the Central Bank of Lebanon (BDL) (Chairman), deputized by the Governor, the secretary of the SIC, one of the members of the BCCL deputized by the Chairman of the BCCL, a person deputized by the Prosecutor General attached to the Court of Cassation, a person deputized by the Director General of the Customs and a person deputized by the Director General of the Internal Security Forces (members). On 12/9/2007, this committee was expanded to include representatives of the Ministries of Justice, Finance, Interior & Municipalities, Foreign Affairs & Emigrants and Economy & Trade as well as Beirut Stock Exchange, according to the Cabinet's resolution No. 105.

102. Moreover, the **National Coordinating Committee for CFT (NCCCFT)** was established by the Cabinet's resolution No. 106 dated 12/9/2007, based on the 9 SR issued by FATF and UNSCR 1373 & 1267 and UN Convention for the Suppression of Terrorism Financing and for the mutual evaluation purposes as mentioned in this decision. The committee includes a representative of the Ministries of Interior & Municipalities (Chairman), Justice, Finance and Foreign Affairs & Emigrants; the Public Prosecution attached to the Court of Cassation, the SIC and the BDL (members). The evaluation team has received a letter from the Chairman of the committee (Director General of the Internal Security Forces) on the summary of the activities of the committee, indicating that the committee's meetings are attended by the members and by representatives of the Directorate General of the Internal Security Forces, the General Directorate of General Security, the Directorate General of State Security, the Office of Associations' Control at the Ministry of Interior and the Customs. This committee has by-laws that determines the required quorum for its meetings; the periodicity of these meetings; the mechanism for taking decisions and specifying the committee's headquarters; authorizing its chairman to send a report to the Office of the Prime Minister and to the Minister of Interior & Municipalities. The letter also included establishing a secretariat for the committee. It also indicated that the main objective for founding the committee is combating the financing of terrorism and that the general strategy is about complying with the international standards, activating coordination between the competent bodies and increasing the level of the abilities and qualifications, in addition to the steps the committee has taken in this regard, being sending letters to the Council of Ministers about the need to adhere to the UN convention on the

suppression of terrorism financing, to the Ministry of Interior and Municipalities in order to prepare a study regarding the compliance with SR VIII, to the President of NCCAM with regard to the draft law related to cross-border money carriers, to the Minister of Justice to prepare a study about the compliance with international recommendations and agreements related to combating financing of terrorism. The Lebanese authorities have stated that this committee held in 2008 six meetings.

(b) The Institutional Framework for Combating Money Laundering and Terrorist Financing

103. The Lebanese Republic has taken practical steps for ensuring the safety of the financial sector and its protection against the ML/FT risks. By virtue of Law No. 318, the **Special Investigation Commission (SIC)**, was established; it consists of the Governor of the BDL (chairman), the President of the Banking Control Commission, the judge appointed to the Higher Banking Commission (members) and a member appointed by the Council of Ministers. The SIC also has a Secretary who heads 4 units: Financial Investigation Administrative Unit; Audit & Investigation Unit; Compliance Unit; Information Technology & Security Unit. The SIC shall investigate the operations suspected of being related to ML crimes and report the extent to which the evidence and presumptions related to these crimes or one of them are serious. The Financial Investigation Administrative Unit is regarded as the good reference and the official center for observing and gathering the information related to the ML crimes as well as keeping and exchanging them with its peer foreign bodies; whereas, the role of the Audit & Investigation Unit is controlling the execution of the obligations provided for in the law and verifying them continuously.

104. The SIC investigates the application of the AML procedures and ensures that the institutions comply appropriately with the laws, circulars and notices related to combating at the financial sectors (banks, “ credit institutions” (including the companies of issuing and managing the payment and credit cards’ system), financial intermediaries, finance lease companies, money exchangers, e-money transfer companies and insurance companies) and the non-financial sectors (Casino du Liban, real estate marketing and building companies, high-value merchandise dealers (precious stones, gold, antiques and antiquities).

105. In the **Ministry of Finance**, the Directorate General for Real Estate Affairs circulates the lists of the suspicious names (received from the Ministry of Foreign Affairs) to the Real Estate Registration Offices in order to verify and confirm that the terrorists do not own assets in Lebanon, as well as it cooperates with the SIC to provide information useful for the investigation regarding the suspicious transactions reports (STRs).

106. The department of political affairs, parties and associations at the political and electoral affairs office of the **Directorate General of Political Affairs and Refugees** in the Ministry of Interior undertakes the preparation of the texts required for giving the Certificate of Knowledge (Certificat prise de connaissance) or establishing and monitoring the associations, parties and clubs, and verifying that their activities do not contradict with the purpose for which they were established.

107. The **Ministry of Foreign Affairs & Emigrants** is the link between the UN (Counter-terrorism Committee) and the foreign parties from one side and the competent governmental parties and the Central Bank of Lebanon (BDL) from another side, whether regarding the judicial cooperation requests or the extradition of criminals or reporting the Security Council’s resolutions. Moreover, the Ministry is regarded as an intermediary between the permanent mission of Lebanon to the UN and the competent units and the foreign embassies in Beirut and the embassies of Lebanon abroad. The Ministry is represented in the two national coordinating committees for AML/CFT according to the Cabinet’s two resolutions Nos.105 and 106 of 2007.

108. **Central Bank of Lebanon (BDL)**: The Central Bank of Lebanon/Banque du Liban has the legal power to licensing and controlling the banks, the credit institutions, the money exchangers, the financial intermediaries, the finance lease companies, the money transfer companies and the collective investment authorities.

109. **The Banking Control Commission of Lebanon (BCCL)** is the controlling authority that supervises all the banks, “credit institutions” and the institutions licensed by the Central bank of Lebanon (BDL). It was established pursuant to the provisions of article 8 of the law No. 28/67 issued on 9 May, 1967 regarding amendment and completion of the legislation related to the banks as well as establishment of a mixed institution for ensuring the bank deposits. It is an independent Banking Controlling Committee, the activities of which are not subject to the powers of the Central Bank of Lebanon (BDL).

110. The **Directorate General of the Internal Security Forces** includes – among other departments – the Judicial Police which consists of the General Criminal Investigations Division, including the Drugs Repression Bureau; the Special Criminal Investigations Division, including the Financial Crimes and Money Laundering Repression Bureau; and the Anti-Terrorism and Serious Crimes Bureau. Moreover, the Directorate General of the Internal Security Forces is comprised of the Staff, which includes the International Relations Department.

111. The **Public Prosecution attached to the Court of Cassation** represents the right of public prosecution; the powers of the general prosecutor at the court of cassation includes all the public prosecution judges, whereas the prosecutor refers to them, according to their competence, the reports and minutes he receives regarding a certain crime and asks them to prosecute. The Public Prosecution attached to the Court of Cassation undertakes taking all the necessary legal procedures regarding AML as an execution of the AML law issued by virtue of the law No. 318 of 2001, through the judicial police bodies (Customs and Internal Security Forces) and in cooperation with the public prosecutions of appeal, the Financial Public Prosecution and the government commissioner at the military court; while studying and taking the suitable judgments regarding the files referred to it by the SIC and the judicial assistance requests sent by different foreign parties in terms of AML.

112. Regarding the **Directorate General of Customs**, a branch related to the Office of Smuggling Control and Inspection called “the Anti-drugs and Anti-money Laundering Department” was established, the duty of which is investigating the possession and smuggling of narcotic drugs, synthetic substances, and the similar substances prohibited according to the applicable laws. Moreover, it is responsible for providing coordination and exchanging information and requests between this department – through the communication officer - Head of the Office of Smuggling Control and Inspection, who undertakes reporting to the SIC – and the other concerned bodies about the people who commit or are suspected of committing crimes covered by the AML law issued under the law No. 318 of 2001 and any operations suspected of hiding ML.

113. According to the provisions of article 47 of the law regulating insurance authorities, “**the Insurance Control Committee**” (ICC) shall be established at the Minsitry of Economy and Trade.

(c) Approach concerning risk

114. Lebanon has not evaluated the risks related to the ML/TF activities in the different sectors, whether the financial sector or the DNFBPs sector, in the light of which any sectors were exempted from the AML procedures and measures according to a study or a research on the risk degrees related to their activities. Moreover, none of these sectors was given any additional importance through intensifying the level of the general policies and trends of the combating system in Lebanon.

115. The Lebanese authorities stated the issuance of an announcement⁷ related to relying on the risk-based methodology in the due diligence procedures for verifying the clients' identity; it includes guidelines clarifying the way of performing this duty. The regulations valid during the evaluation team's visit do not rely on the risk-based methodology in implementing the preventive measures and Law No. 318 has not exempted a specific sector from applying its provisions.

116. Through the onsite visit, the evaluation team found out that each, the Compliance Unit in the SIC and the BCC, depend on the risk-based approach, particularly, in identifying the priorities of the institutions for which both units will pay the onsite investigation visits.

(d) Progress since the last mutual evaluation

117. Although not being evaluated before, FATF listed Lebanon's name in the list of AML non cooperative countries and regions in June 2000 for many reasons, the most important of which are: the absence of legal legislations for AML in addition to the presence of legal provisions protecting the banking secrecy according to the evaluation based on the 25 criteria. On 20 April, 2001, AML law No. 318 of 2001 was issued, according to which the SIC was established. The provisions of the law included a definition of the ML crime and the sanctions imposed on its authors, and it exclusively granted the SIC the powers to lift the banking secrecy. Lebanon's name was removed from the list in 2002. In 2003, important developments took place in many fields, including the affiliation of the SIC to the Egmont Group in July.

⁷ This announcement was issued by the Central Bank of Lebanon (BDL) pursuant to an Intermediary Circular No. 190 dated 9 May, 2009, including an amendment of the system controlling the financial and banking operations of the AML (system), whereas some articles were added, such as those related to binding banks and credit institutions to adopt the risk-based approach for rating the clients and the transactions according to 3 risk degrees (limited, average and high), taking into consideration in particular, but without limitation to, the risks of the client, the country and the services, in addition to establishing measures and procedures for the corporeal control on the risks and adopting certain measures and procedures regarding the clients and the "high-risk" transactions. However, the announcement will not be adopted in this report since it was issued 7 weeks following the onsite visit.

2- LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2-1 Criminalization of Money Laundering (R. 1 & 2)

2.1.1 Description & Analysis

118. **Legal Framework:** The Lebanese Republic has criminalized the ML crime pursuant to Law 318/2001, promulgated by the Lebanese Parliament on 20/4/2001 regarding the AML in Lebanon⁸. Subsequent amendments were made to this law by virtue of law No. 547 of 20/10/2003. It is worth mentioning that Lebanon has previously criminalized the ML act in the Narcotic Drugs, Psychotropic Substances and Precursors Lebanese Law No. 673/98, article 132 thereof. The definition of this act was narrow as it meant concealing or hiding the illicit source of the movable or immovable funds or the resources **resulting from the narcotic drugs, the psychotropic substances and the precursors crimes only**. This article was cancelled by virtue of article 15 of law No. 318.

119. **ML Criminalization:** Article 2 of law No. 318 defined the ML act as follows: “money bleaching includes any act aiming at: 1- **Concealing** the real source of the illicit funds or presenting a false justification of this source in any way. 2- **Transferring or exchanging the funds** knowing that they are illicit, for the purposes of concealing or hiding their source or assisting a person involved in committing the crime in escaping punishment. 3- **Possessing or using or investing the illicit funds** for purchasing movable or immovable funds or for performing financial transactions knowing that they are illicit.”The definition was consistent in terms of the crime’s physical elements of the ML with the content of the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (Vienna Convention) and the UN Convention Against Transnational Organized Crime 2000 (Palermo Convention).

120. **Laundered Assets:** Law 318 does not comprise an explicit definition for the assets, but indicates that the funds resulting from the crimes specified by law are illicit, and that the confiscation includes the movable and immovable funds and the funds related to the crimes or proceeding there from. This reference is general and not specific since the ML crime extends to include any kind of assets, regardless of their value, which represent, directly or indirectly, proceedings resulting from a certain crime. It is worth mentioning the presence of a definition of the funds in the Drugs Law (1998), which were defined as “any type of assets, corporeal or non-corporeal, movable or fixed, tangible or intangible, as well as the legal documents or the deeds that prove their possession and the rights related thereto.

121. **Proving that assets are the proceeds of a crime:** There is no text in Law No. 318 that requires convicting a certain person for a predicate crime of the crimes listed in article 1 upon proving that the assets result from a crime; such concept cannot be deduced from any other text. It is worth mentioning that law enforcement agencies stated the general rules for proving are the applicable ones in this regard without stipulating the proof of the illicit assets as a condition; whereby, and in order to activate the public case in ML till its last phases, no final conclusive judgment of prosecution in the predicate offence

⁸ The Lebanese legislator used the money bleaching expression as an indication to ML.

shall be mandatory. But to verify the same, interpretations should be referred to. The evaluation team did not receive the rulings issued in this regard.

122. Scope of predicate offences: The Lebanese legislator listed in article 1 of law 318 the crimes from which the funds resulting are regarded as illicit. These crimes are exclusively as follows:

1. Drug cultivation or manufacturing or trafficking.
2. The acts committed by the evil groups, provided in article 335 and 336 of the Penal Code, which are regarded internationally as organized crimes. According to the previously mentioned articles, these acts include establishing an association for committing felonies on people or funds or discrediting the state's power or reputation or harming its civil or military or financial or economic institutions. Moreover, it includes the persons who walk across the streets to steal from the pedestrians and assault people or funds or perpetrate any theft acts.
3. Terrorist crimes provided for in articles 314, 315 and 316 of the Penal Code.
4. Funding or contributing to funding terrorism or terrorist acts or terrorist organizations as per the terrorism concept as mentioned in the Lebanese Penal Code.
5. Illicit arms trafficking.
6. Theft or misappropriation of public or private funds or expropriating them by fraudulent means or by counterfeiting or breaching the trust of the banks as well as the financial institutions and the institutions mentioned in article 4 of this law or within the scope of its business.
7. Forging currencies, credit and debit cards, general or commercial papers, including cheques.

123. The Lebanese legislator has chosen the risk-approach for referring to the predicate crimes of the ML crime, without adopting a specific type of crimes based on their risks or the imprisonment punishment applied thereto, but added to the predicate crimes a set of dangerous crimes. However, it is worth mentioning that the predicate crimes mentioned in the Lebanese law do not include a number of crimes categories which should be considered as predicate crimes of ML according to the categories of the predicate crimes mentioned in the list of definitions issued by FATF (the 20 crimes). Therefore, the predicate crimes list did not include the following crimes: (1) Racketeering; (2) Trafficking in human beings and migrant smuggling; (3) Sexual exploitation, including sexual exploitation of children; (4) Illicit trafficking in stolen and other goods; (5) Corruption and bribery; (6) Counterfeiting and piracy of products; (7) Environmental crimes; (8) Murder, grievous bodily injury; (9) Kidnapping, illegal restraint and hostage-taking ; (10) Smuggling; (11) Piracy; (12) Insider trading and market manipulation. In addition, the list has restricted (13) the forgery, fraud and theft crimes to those occurring to the banks and financial institutions; therefore, these categories of crimes occurring to institutions other than the banks or the financial institutions and the institutions mentioned in article 4 of law 318 shall not be included as a part of the predicate crimes. It is worth mentioning that the crime of terrorist financing is a predicate offense in the Lebanese Law but its scope is limited as it will be revealed in the description of SR.II.

124. Predicate Offenses committed outside the Lebanese territories: The Lebanese law related to AML has not differentiated in listing the predicate offences leading to ML between the acts that occur inside Lebanon and those occurring abroad; thus, the general rules should be referred to concerning the Lebanese courts' power for hearing the crimes that occurred abroad, especially article 20 of the Penal Code, which stipulates that: "the Lebanese Law shall be applicable to every Lebanese citizen who is an author or a provoker or interferer, who has committed outside Lebanon a felony or misdemeanor punishable by the Lebanese Law". Article 23 of the Penal code stipulates that: "the Lebanese laws shall be also applicable on each foreign or stateless person living or found in Lebanon, who has committed a felony or a misdemeanor being an author or has contributed by abetting or interfering in the crime". The Lebanese authorities informed the evaluation team that they launch their investigations in terms of ML even if the predicate crimes were committed outside Lebanon, which is the case of most of the crimes. In one of the cases, the crime was committed in a foreign country (Switzerland) and the Lebanese judicial

authorities worked with the Swiss counterparts when they were notified accordingly; thus, they froze and confiscated the funds.

125. **Laundering one's own illicit funds:** In fact, law 318 does not include anything that exempts the author of a predicate crime leading to the ML crime from the criminalization of the latter; according to the provisions of this law, the ML perpetrator shall be prosecuted whenever the criminal elements provided for in article 2 of this law are available, whether this person was the author of the predicate crime or not; whereby this person shall be prosecuted in case he was the author of this crime and he shall be prosecuted for the ML crime whenever he committed the acts leading to the same.

126. **Ancillary offences:** Pursuant to article 3 of law No. 318, whoever has committed or interfered or participated in ML operations shall be imprisoned from 3 to 7 years and fined at least 20 Million LBP, knowing that any legislative fault in this law shall be resolved in the general law, attached to the Lebanese General Penal Code, particularly in chapter 3 thereof, related to the responsibility or the criminal responsibility, whereas the provisions that cover the issues related to the author, the accomplice, the interferer and the abettor are mentioned in chapter 2 under the title "the criminal participation" (article 212-222). Article 212 of the Penal Code defined the author as the person who has brought about the elements that form the crime or has directly contributed to committing it. Furthermore, Article 217 stipulated that the person who induces or tries to induce another person in any way to commit a crime shall be considered an abettor and shall be subjected pursuant to article 218 to the punishment of the crime he wanted to commit.

127. Whereas, regarding the attempt, when the private law does not include a text, it should be referred to the Penal Code, which stipulates in article 202 that "attempting a misdemeanor or a petty misdemeanor shall not be punished except in the cases explicitly stipulated by law." Since the ML crime is regarded as a misdemeanor where its punishment (imprisonment) is a misdemeanoral sanction (article 39 of the Penal Code); therefore, the fact that the AML law does not comprise the attempt means that the ML attempt is not criminalized.

128. **Natural persons' liability:** the Lebanese legislator stipulated in article 2 of law 318 that ML comprises each act aiming at: 1- concealing the real source (...); 2- Transferring or exchanging the funds **knowing that** they are illicit; 3- Possessing or using or investing the illicit funds for purchasing movable or immovable funds or for performing financial transactions **knowing that** they are illicit." Therefore, the Lebanese legislator stipulated explicitly the presence of the knowledge element stating that the funds are illicit upon transferring or exchanging or possessing or using or investing them for purchasing movable or immovable funds or for performing financial transactions, without mentioning the knowledge element of the source of the illicit funds regarding other forms of the ML crime; i.e, in the case of concealing the real source of the illicit funds or giving a false justification about this source; the legislator considered that, in such case, the availability of the knowledge element can be inferred from the physical action itself: the act of concealment or the false justification.

129. It is worth mentioning that the criminal intentional element in terms of the ML act can be concluded similar to all the crimes criminalized under the Lebanese Penal Code and inferred from the physical data and facts presented in the case as well as its circumstances from which the evidence and presumptions on the crime's mental element can be deduced; article 179 of the Criminal procedure law stipulated that: "It is possible to prove the prosecuted crimes through all the proving ways unless a text is mentioned otherwise. The judge estimates the evidence to establish his personal belief."

130. **Legal person liability:** No explicit text was mentioned in law No. 318 where the legal person shall hold the penal liability; however, the Lebanese legislator has admitted the criminal liability for the legal persons and established this principle within the framework of the general provisions in the Penal Code

(articles 98 to 111). Moreover, article 210 of the Penal Code stipulated that the corporate authorities are responsible from the penal point view for the activities of their managers and members of their management or their representatives or workers when they perform these activities in the name of the mentioned authorities or any of their means. These authorities cannot be convicted except with fine, confiscation and publication of the judgment. If the law stipulates a predicate crime other than the fine, the latter shall be replaced by the mentioned crime. Even if legal persons are subject to the criminal liability for ML, this does not preclude the possibility of taking the corresponding criminal or civil or administrative procedures in Lebanon.

131. **ML sanctions:** Pursuant to the provisions of article 3 of law No. 318, “any person who has committed or interfered or participated in ML operations **shall be imprisoned from 3 to 7 years and fined at least 20 Million LBP** (equivalent to around 13,000 USD). Moreover, **the movable and immovable funds** which are proven by a final judgment to be related to any of the predicate crimes of ML or to be the proceeding originated there from” **shall be confiscated**. Whereas, regarding the legal person, article 210 of the Penal code stipulated that it cannot be punished except with the fine, confiscation and the publication of the judgment. In addition, article 108 of the Penal Code authorized the “judge to suspend the corporate person from work if the manager or members of management or its representatives or workers perpetrated in its name or by one of its means a deliberate felony or misdemeanor punishable by 2 years of imprisonment at least”. Moreover, article 109 stipulates the possibility of dissolving the mentioned authorities if they do not abide by their articles of association or if the purpose of their establishment was violating the laws or was in fact targeting such purpose. Therefore, the sanctions imposed for the natural and legal persons seem dissuasive, especially that the confiscation sanction is added thereto. It seems as well proportionate when compared to the crimes sanctions' imposed on the funds listed in articles (635 – 676) of the Penal Code.

132. **Statistics:** The Lebanese authorities stated that 9 judgments related to ML crimes have been previously rendered, 5 of which were issued in 2003 and 4 in 2004, but the team did not receive any copies thereof. There are no provisions issued pursuant to law No. 673 of 1998. Hereafter statistics issued by the Public Prosecution of Cassation related to money laundering crimes.

	2003	2004	2005	2006	2007	2008	Total
Cases received by SIC, on which the banking secrecy was lifted	31	19	9	9	7	10	85
No. of ML cases	-	-	6	14	14	4	38
Cases referred to the competent courts	6	10	6	3	1	1	27
Judgments rendered	5	4	-	-	-	-	9

2.1.2 Recommendations and Comments

133. **The Lebanese authorities are recommended to:**

- Define the assets.
- Ensure not stipulating conviction in the predicate crime for proving that the funds are practically the proceeds of a crime

- Expand the scope of the predicate offences to include: (1) Racketeering; (2) Trafficking in human beings and migrant smuggling; (3) Sexual exploitation, including sexual exploitation of children; (4) Illicit trafficking in stolen and other goods; (5) Corruption and bribery; (6) Counterfeiting and piracy of products; (7) Environmental crimes; (8) Murder, grievous bodily injury; (9) Kidnapping, illegal restraint and hostage-taking; (10) Smuggling; (11) Piracy; (12) Insider trading and market manipulation. (13) Crimes of forgery, fraud and theft;
- Provide for the attempt in AML law.

2.1.3 Compliance with Recommendations 1 & 2

	Rating	Summary of factors underlying rating
R.1	PC	<ul style="list-style-type: none"> • Absence of a definition for the assets. • Inability of the authorities to practically prove that it is not necessary for the conviction to exist in the predicate crime in order to prove that the funds are illicit. • The predicate crimes do not include all the 20 crimes according to the methodology. • Not criminalizing the ML attempt. • Few number of judgments for the cases received, which may affect the estimation of the efficiency.
R.2	LC	<ul style="list-style-type: none"> • It is difficult to judge the efficiency of the sanctions since the team did not obtain a copy of the judgments issued.

2-2 Criminalization of Terrorist Financing (SR. II)

2.2.1 Description and Analysis

134. **Criminalization of Terrorist Financing:** The Lebanese Legislator criminalized the TF act pursuant to law No. 553/2003, whereby article 316 (bis) was added to the Lebanese Penal Code, stipulating that: “whoever finances or contributes to financing terrorism or the terrorist acts or the terrorist organizations, intentionally and by any direct or indirect means, shall be punished by temporary hard labor for a period varying between at least 3 years but not exceeding 7 years in addition to a fine of at least the paid amount but that does not exceed three times the amount”.

135. The provisions mentioned in article 316 (bis) include the full or partial financing by any means, direct or indirect, of terrorism or terrorist acts or terrorist organizations. It is noted that the definition of the TF was ambiguous as it has not included explicitly the act of **providing or gathering funds** as mentioned in article 2 of the Convention for the Suppression of Terrorism Financing. In addition, the scope of the TF crime does not include **using the funds through a terrorist**, but is restricted to TF or the terrorist acts or the terrorist organizations, as well as there is no indication to the funds’ expression. However and although, there is no definition for the funds or any indication that they might be from a licit or illicit source, the financing expression is “broad” and therefore it might include financing from a licit or an illicit source.

136. It is noted that the above-mentioned article does not stipulate that the TF crimes request using the funds in effect for committing or attempting to commit a terrorist act (acts) or that the funds are related to a certain terrorist act (acts).

137. Regarding the attempt, and when the private law does not include a text, it should be referred to the Penal Code, whereby articles 200, 201 and 202 of this Code cover in general the attempt, as article 200 stipulated that each attempt to commit a felony that has started with acts aiming directly at committing them shall be regarded like the felony if it is only prevented from being perpetrated by circumstances beyond the author's control. Since the TF crime is regarded a felony as its punishment (temporary hard labor) is a criminal punishment (article 39 of the Penal Code), the attempt of TF shall be automatically regarded as a crime. Whereas, regarding the criminal participation, the general provisions mentioned in the Penal Code (article 212 to 222) shall be applied; therefore, the participant, the abettor and the interferer in the TF crime shall be punished under the law.

138. **ML Predicate offense:** The TF crime is regarded as a predicate crime of ML pursuant to law No. 547 dated 20/10/2003, which amended article 1 of law No. 318/2001. However, we should not ignore that the TF definition is ambiguous, whereby it is not clear whether such definition includes the elements of providing or gathering funds. Moreover, the act which might be committed by a terrorist shall be excluded from the scope of criminalization; therefore, according to the Convention for the Suppression of Terrorism Financing, TF does not cover all the aspects of the predicate crime which is supposed to be included for being a predicate crime for ML.

139. **Jurisdiction for TF offense:** Article 316 (bis) of the Penal Code has not indicated whether it is applicable to the author of a TF crime who is not present at the same country where the organization he assisted or intended to assist, exists or in the country where the terrorist acts occurred or might have occurred.

140. **The mental element of the TF offense:** When the Lebanese legislator defined the TF, he referred to the intentional element when he mentioned that the financing act means anyone who intentionally (...) finances or contributes to financing. The intentional element in the TF crime can be inferred as in all the punishable crimes according to the Lebanese Penal Code through the physical attributes and objective factual circumstances presented in the case from which the evidence and presumptions on the crime's mental element can be deduced, whereas article 179 of the Criminal procedure law stipulated that: "it is possible to prove the prosecuted crimes through all the proving ways unless a text is mentioned otherwise... the judge considers the evidence to establish his personal belief."

141. **Legal person's liability:** No explicit text has been mentioned in article 316 (bis) that determines the elements or the criminal liability of the legal person; and thus it should be referred to the general rules as pursuant to the provisions of article 210 of the Lebanese Penal Code, "the corporate authorities are liable from the penal point of view for the activities of their managers and members of their management or their representatives or workers when they perform these activities in the name of the mentioned authorities or by one of their means... Even if legal persons are subject to the criminal liability for TF, this does not preclude the possibility of taking the corresponding criminal or civil or administrative procedures in Lebanon.

142. **Sanctions:** TF is punished by the temporary hard labor for a period of 3 years at least but not exceeding 7 years in addition to a fine not less than the paid amount and not more than 3 times the amount (article 316 (bis) of the Penal Code). For the natural person, these sanctions are regarded fair and to a certain extent proportionate in comparison with the sanctions of other similar crimes; however, according to article 210 of the Penal Code regarding the legal persons, they may not be convicted except with a fine, confiscation and publication of the judgment; if the law stipulates a predicate punishment

other than the fine, the fine shall be replaced by the mentioned crime. In addition, article 108 of the Penal Code authorized “the judge to suspend the legal person from work if a manager or the members of their management or their representatives or workers perpetrated in their name or by one of their means a deliberate felony or misdemeanor punished by 2 years of imprisonment at least”.. Moreover, article 109 stipulates the possibility of dissolving the mentioned authorities if they do not abide by their articles of association or if the purpose for which it was established violates the laws or was in fact targeting such purpose. In addition, article 14 of the law No. 318 stipulated the confiscation of the movable and immovable funds which are proven by virtue of a final judgment to be related to the predicate crimes, and thus the confiscation punishment shall be imposed on the TF crime being a predicate crime of the ML crimes. Therefore, the sanctions imposed on the legal persons may be regarded as dissuasive and proportionate.

143. **Statistics:** There are no special provisions in the TF field. The team could not obtain any statistics regarding setting action in motion or the existence of investigations in cases related to financing terrorism.

2.2.2 Recommendations and Comments

144. **The Lebanese authorities are recommended to:**

- Include the act of financing to the forms of providing or gathering funds as mentioned in article 2 of the Convention for the Suppression of Terrorism Financing.
- Expand the scope of the TF crime to include the use of funds by a terrorist.
- Define the funds and determine that they might have proceeded from a licit or an illicit source.
- Stipulate the implementation of the TF crime in case of financing terrorism or a terrorist act or a terrorist organization outside Lebanon.

2.2.3 Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	PC	<ul style="list-style-type: none"> • The financing act is not clearly included in the form of providing or gathering funds. • Restriction of the TF crime to TF or to terrorist acts or terrorist organizations. • Absence of a definition for the funds, while determining that they might be from a licit or an illicit source. • Not implementing the TF crime in the event of financing terrorism or a terrorist act or a terrorist organization outside Lebanon. • Difficulty to estimate the efficiency in the absence of statistics.

2-3 Confiscation, Freezing and Seizing of Proceeds of Crime (R.3)

2.3.1 Description and analysis

145. **General Framework:** The Lebanese Penal Code has included provisions of confiscation whereas paragraph 1, article 69 stipulated that “it is possible in addition to keeping the rights of the bona fide others to confiscate **all the things resulting from a deliberate felony or misdemeanor or which were used or were prepared for committing them**”. Pursuant to the provisions of article 98 of the mentioned law: “Shall be confiscated everything which is manufactured or owned or sold or used illicitly even if it is

not possessed by the defendant or the convicted or the prosecution did not result in a judgment. If what should have been confiscated is not seized, the convicted or the defendant shall be given a grace period for presenting the same or else he should pay double its value as determined by the judge. When needed, the court may seek the assistance of an expert for estimating the value to be paid, which is collected by the same means adopted to collect fines". Therefore, what has been stipulated in the general law forms a general rule applied to all the crimes of the deliberate criminal or misdemeanoral description in addition to the various special laws that stipulated texts related to the confiscation of the crimes' proceeds. Article 156 of the Drugs Law No. 673 of 16/3/1998 stipulated that "...the court requires the confiscation of the proceedings which are supposed to be a result of the crime as well as the movable or immovable funds which resulted from transferring or exchanging the proceedings of the crime".

146. Moreover, article 14 of the AML law No. 318 included special provisions for confiscation, as it stipulated that "the movable and immovable funds which are proved by virtue of a final judgment to be related to any of the crimes mentioned in article 1 of this law or to be the proceeding originated as a result of those crimes shall be confiscated in favor of the state unless their owners prove their legal rights of possession. It is worth mentioning that the Lebanese legislator has established a general provision regarding the confiscation and rest of the onus of proof with the defendant, as immediately after rendering the judgment on any of the predicate crimes, the funds and proceedings are confiscated and the defendant should prove that the funds are legal.

147. Confiscation of properties related to ML or TF or other predicate offences, including properties of corresponding value: It has been previously indicated that article 14 of the AML law No. 318 provided for the confiscation of the movable and immovable funds related to the predicate crimes mentioned in article 1 of the same law, i.e. those resulting from drugs' cultivation or manufacturing or trafficking; from the acts committed by the evil groups, considered internationally as organized crimes; from financing or contributing to financing terrorism or terrorist acts or terrorist organization; illicit arms trafficking; theft; misappropriation of public or private funds or expropriation of those funds by fraudulent means or by falsification or breaching the trust of the banks as well as the financial institutions and the institutions mentioned in article 4 of this law or within the scope of its business; forging currencies, credit and debit cards, general or commercial papers including the cheques. Moreover, the movable and immovable funds proceeding from that crime shall be confiscated. Therefore, the Lebanese legislator established a wide scope for implementing the confiscation's sanction, which shall be necessarily imposed on the TF crime as well. In addition, it is worth noting the presence of a judicial interpretation issued by the Court of Cassation, Chamber 6, on 28/10/2004, stating that nothing precludes the application of the confiscation provisions provided for in AML law, even if it does not convict the person with ML crime.

148. Identification and tracking of assets, subject of confiscation: There is nothing that explicitly indicates granting powers to the law enforcement agencies or the FIU or the other competent authorities for determining and tracking the assets subject to, or might be subject to, confiscation or which are suspected of being proceeds of crimes. The Lebanese authorities, however, informed the evaluation team that tracking the assets shall include all the concerned authorities, including the General Directorate of Real Estate, which has already received requests which were responded to through correspondences with the SIC. It added that if the SIC finds that there are doubts that the funds resulting from the crimes committed specified in article 1 of Law 318 were used to purchase movable and immovable assets such as real estate, buildings, residential apartments, vehicles, boats, cars, industrial and agricultural equipment, metallic alloys of high value and other things, the SIC may review the concerned authority in order to confiscate such items according to the procedures legally permissible.

149. Provisional procedures: Pursuant to the general laws provided for in the Criminal Procedure Law regarding the various types of crimes, chapter 4 of this law mentioned several provisions under the title

“in moving and inspection and finding evidence.” Article 98 granted the examining magistrate the right to move with his clerk to physically examine the crime scene or inspect one of the houses searching for criminal materials or things useful for the investigation, whereby if during inspection, he seizes criminal materials or things that help the investigation, he should describe both of them and states their nature accurately. Moreover, he should keep the seized materials and things according to their nature and seal them with the Investigation Department’s seal. If the seizures consist of books, documents and statements of account, they shall be placed in envelopes sealed with the Department’s seal and kept at the Investigation Department after attaching a statement of its contents. If the seizures were alloys or securities, they shall be placed in envelopes sealed with the Department’s seal and kept in the Ministry of Justice’s box after attaching the statement of its contents. If during inspection, secret documents are seized, they shall be numbered and only the examining magistrate and their owner may peruse the same.

150. Protection of third parties’ rights: Article 69 of the Lebanese Penal Code explicitly addressed the issue of the bona fide others and provided them with the legal protection upon rendering judgments of confiscation. Similarly, the legislator took some action when he stipulated the confiscation pursuant to the provisions of article 14 of law No. 318, whereby he allowed third parties whose movable or immovable assets are confiscated to establish their legal rights related thereto under the law. In this respect, the general rules of proof which are provided by the applicable law are applicable.

151. Powers to void actions: The AML law has not included explicitly a special text tackling the contracts which might have addressed movable or immovable funds resulting from predicate crimes mentioned in this law. Therefore, the general rules provided for in the Lebanese Code of Obligations and Contracts shall be referred to. Article 201 stipulated that if the contract’s reason is undisclosed, the contract shall be originally annulled, whereas the undisclosed reason is the reason that violates the public order, the ethics and the mandatory provisions of the law. Article 196 added that the obligation which has no reason or has a false or undisclosed reason shall be regarded as if it did not exist, and leads to considering the contract belonging to it non-existing as well and what was paid can be redeemed. Moreover, article 192 stipulated that each contract requiring something not allowed by the law shall be void.

152. Additional element: Besides the special text mentioned in the AML law, which stipulated explicitly in article 14 the confiscation of the movable and immovable funds which are proven, under a final judgment, to be related to any of the predicate crimes leading to ML. Article 69 of the Penal Code stipulated that “everything which is manufactured or owned or sold or used illicitly even if it is not possessed by the defendant or the convicted or the prosecution did not result in a judgment, shall be confiscated”.

153. Statistics: The evaluation team has not obtained any statistics related to confiscation even regarding the predicate crimes. It did not as well obtain the value of assets or funds that were confiscated for the 9 cases, regarding which ML judgments were rendered.

2.3.2 Recommendations and Comments

2.3.3 Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R. 3	LC	<ul style="list-style-type: none"> The authorities could not establish the efficiency of the confiscation system, particularly with the absence of statistics.

2-4 Freezing of Funds used for Terrorist Financing (SR.III)

2.4.1 Description and Analysis

154. **Freezing of funds pursuant to the SC/RES/1267:** SR. III requires the execution of the SC/RES/1267 (1999) pertaining to the freezing of terrorist funds or other terrorist assets of the persons designated by the UN Al-Qaida and Taliban Sanctions Committee by taking all the appropriate and needed procedures to meet the requirements of the effectiveness of this decision, being legally binding inside Lebanese territories. This can be done by a law or regulations, but there are no special laws in Lebanon related to the implementation of the SC/RES/1267 (1999). However, the Lebanese authorities indicated to the evaluation team that the MOFA receives the lists from the permanent representative of Lebanon at the UN; these lists are distributed over the MOD, the MOI, the MOJ, the MOF (General Directorate for Real Estate Affairs) in addition to the Central bank of Lebanon (BDL) in order to take the suitable procedures.

155. Then, the authorities, each within its competence, shall perform the following: the General Directorate of the Internal Security Forces shall circulate a permanent inspection and investigation report and inquire about any judicial or criminal records after obtaining the permission of the Public Prosecution attached to the Court of Cassation; the MOI shall circulate these lists to the Car Registration Department for seizing the vehicles registered under the names of those persons pursuant to the rules permitted under the law and for being aware of any future attempt of registering any vehicle under the name of those persons; these lists shall be circulated over the Directorate of General Security for arresting any of those persons in case they tried to pass across the border stations; in the Ministry of Defense, the Directorate of Intelligence shall carry out the investigation and inspection on those persons and arrest them according to the rules permitted by law; in the MOJ, these lists shall be circulated to the commercial register for verifying if any of those persons owns or runs a company and for being aware of any future attempt. In addition, these lists shall be circulated over the notaries for verifying if any of those persons benefits from any power of attorney / contract concluded for their own benefit and for being aware of any attempt of concluding any contracts/powers of attorney for the persons whose names are listed; the Ministry of Finance shall circulate these lists over the land register secretariats with the purpose of placing a sign of non-disposal of any assets for the concerned persons in case they were registered in their names and the names of companies belonging to them according to the law. The SIC established at the Central Bank of Lebanon (BDL) shall circulate these lists over all the institutions mentioned in articles 4 and 5 of the law No. 318 in order to freeze any accounts opened in the name or names of those persons; lift the banking secrecy related thereto against the competent judicial authorities; and prohibit those persons from executing transactions through those institutions. It is worth mentioning that the reporting authorities have informed the SIC that no accounts were opened, no services were provided and no relationships were established with any of the persons or companies mentioned in such lists.

156. **Freezing the assets pursuant to the SC/RES/1373:** Within the context of the RES. 1373 (2001), there are no special laws and procedures for freezing the terrorist funds or the other terrorist assets for the designated persons nor there are special laws and procedures for studying and executing the procedures taken according to the freezing mechanisms in other countries. However, the Lebanese authorities stated in this regard that they are dealing with the names they receive pursuant to the RES 1373 in the same way they deal with the different external assistance requests, whereby they implement the mechanisms provided for in the Criminal Procedures Law and the special laws, including law No. 318, regarding investigating and gathering evidence in the terrorism and financing terrorism operations. It is worth mentioning that there is no legal text which allows the authority or any other party to freeze the funds and other assets related to the resolution 1373; yet article 8 – Para 2 of Law 318 stipulated that the authority may freeze the suspected account/accounts if the source of funds is still unknown or if it is suspected to

be resulting from ML crime only. However, the SIC freezes the accounts in case it finds out that the evidence and presumptions are reliable concerning the perpetration of terrorism and TF crimes without any legal grounds.

157. The general rules pertaining to freezing do not include an explicit text stating that the freezing might extend to funds or other assets owned fully or jointly by the author and controlled directly or indirectly by the designated persons or the terrorists or the financiers of terrorism or terrorist organizations; the same applies to the funds or the other assets derived or resulting from the mentioned funds.

158. In the urgent cases, such as the extradition of criminals, the Public Prosecution attached to the Court of Cassation shall be directly contacted, and in most cases, the lists are sent to all such authorities, especially the MOJ, the MOF and the Central Bank of Lebanon (BDL), concerning the SC resolutions pertaining to freezing and confiscation. Moreover, the Lebanese authorities stated that Lebanon has not yet joined the UN Convention for the Suppression of Terrorism Financing (1999) since one of the ministries has some reservations regarding the translation of paragraph 5, clause 1 of article 2 on resisting the foreign occupation.

159. The Lebanese authorities stated that when the SIC receives any requests of inquiry about accounts, funds and assets belonging to persons pertaining to terrorism or terrorists, it circulates the names of the persons among all the financial institutions operating in Lebanon (banks, credit institutions, financial intermediaries, money exchangers,...) requesting them to inform the SIC immediately of any accounts, including those accounts which were previously opened and were closed, safe boxes, banking transactions (cheques, remittances, credits, financial instruments...) and others, belonging directly or indirectly to any of those persons. Moreover, the SIC freezes any accounts or transactions or assets and lifts the banking secrecy before the competent judicial authorities on any accounts, if existing. The Compliance Unit shall review the extent to which the institutions subject to the reporting obligation, comply with what was previously mentioned, through verifying:

- The presence of programs that allow exploring or observing the electronic transfers executed either according to a request from or in favor of any of those persons.
- That the reporting institutions have a computerized database on the persons whose names are listed in those lists.
- That the employees of those institutions review the mentioned database before opening any account and before executing any transaction according to the request of or in favor of any natural or legal person.

160. Lebanon had no declared procedures for considering the requests of delisting names and canceling the freezing of funds or other assets of the persons or the entities whose names were then canceled in conformity with the international obligations. However, the Lebanese authorities stated that the competent authorities shall take a decision to cancel the freezing (funds or assets) upon receiving from the committee established according to RES 1267 what indicates the delisting of the names. On the other hand, when the competent authorities receive requests in this regard from the persons and the entities, these requests shall be sent to the committee established pursuant to the RES 1267 to take the suitable decision in this regard.

161. Regarding cancellation of freezing the funds or the other assets of the persons or the entities who have been affected without intention by the freezing mechanism at that time, after verifying that the person or the entity is not the target person, the Lebanese authorities stated that a decision is taken to cancel the freezing whether the mistake of specifying the concerned person was committed by the SIC or the other local authorities after verifying that the concerned is not the target person. However, the evaluation team did not find out that these procedures are declared.

162. Moreover, there is no suitable mechanism in Lebanon that defines the licensing procedures by using the funds or the other assets, which were frozen under the SC/RES/1267 (1999), and which decides that this use is necessary for covering basic expenses or paying certain kinds of fees or services expenses and fees or unusual expenses. Moreover, there are no appropriate procedures through which a person or entity whose funds or other assets were frozen can object to this procedure to have it reconsidered through a judicial authority; however, the Lebanese authorities stated that the concerned person may object to the freezing decision before the Public Prosecution which studies the case presented for taking the right decision after referring to the SC committee established according to paragraph 6 of the SC/RES/1267. It is worth mentioning that no funds or assets have been frozen to date and thus no objection requests have been submitted. However, it is worth noting that since there are no special laws for the implementation of RES 1276, this procedure is then insufficient.

163. **Statistics:** The authorities have indicated that an amount of 3301 LBP (equivalent to 2 USD) was frozen pursuant to the SEC/RES 1373.

2.4.2 Recommendations and Comments

164. The Lebanese authorities are recommended to:

- Establish a legal system that covers the procedures of freezing the funds and the assets of the people whose names are mentioned pursuant to the SC/RES/1267.
- Establish declared procedures to discuss the requests of de-listing, cancellation of frozen funds or other assets for persons or entities, who or which were de-listed in accordance with international standards.
- Establish a suitable mechanism that defines the procedures for licensing the use of funds or other assets that were frozen by virtue of SC Resolution 1267, which decides that such use is necessary to cover main expenses or to pay specific types of fees or expenses and fees against services or exceptional expenses.
- Establish effective laws for freezing the terrorist funds or other terrorist assets of the persons designated according to the RES 1373.

2.4.3. Compliance with Special Recommendation III

	Rating	Summary of Factors underlying rating
SRIII	PC	<ul style="list-style-type: none"> • Absence of a legal system that covers the procedures of freezing the funds and the assets of the people whose names are mentioned pursuant to the SC/RES/1267. • Absence of announced procedures for de-listing, cancellation of frozen funds or other assets for persons or entities, who or which were de-listed at that time. • Absence of suitable mechanism that defines the procedures for licensing the use of funds or other assets that were frozen by virtue of SC Resolution 1267, which decides that such use, is necessary to cover main expenses or to pay specific types of fees or expenses and fees against services or exceptional expenses. • Absence of effective laws for freezing the terrorist funds or other terrorist assets of the persons designated according to RES 1373.

Authorities:

2-5 The Financial Intelligence Unit and its functions (R.26)

2.5.1 Description and Analysis

165. **Establishment of the FIU:** The FIU was established in Lebanon in the Central Bank of Lebanon (BDL) pursuant to AML law No. 318, whereby article 6 thereof stipulated the following: An independent, legal entity with judicial status shall be established at the Banque du Liban, and shall discharge its duties without being under the authority of the Banque du Liban. Its mandate is to investigate money-laundering operations, and to monitor compliance with the rules and procedures stipulated by this Law. It will be named hereafter “the Special Investigation Commission” or “**the Commission**”. According to paragraph 4 of the mentioned article 6, the SIC’s duty shall be to investigate the operations suspected of **being ML crimes** and report the extent to which the evidence and presumptions of the committal of these crimes or any of them are serious. The right to decide lifting the banking secrecy in favor of the competent judicial authorities and the Higher Banking Commission represented by its Chairman, on the accounts opened at the banks or the financial institutions and which are suspected of being used for **ML purposes** shall be limited to the SIC. In addition, article 7 has imposed the obligation of reporting details of transactions which the reporting authorities suspect that “**they hide ML**” only.

166. It is worth mentioning that the Commission's activity is restricted to ML only, although the Lebanese authorities stated that Law 318 has granted “the Commission” the power to conduct investigations about suspicious transactions related to ML, among which the crimes of terrorism and financing of terrorism, being 2 predicate crimes for ML. The Commission is the official authority competent in TF; The evaluation team confirms that entrusting the commission with the task to conduct investigation in suspicious operations does not mean that such mission is extendable to the predicate crimes, including TF crime, as there should be an express legal authorization related thereto.

167. **Guidelines to the reporting authorities:** According to article 7 of law No. 318, banks, credit institutions, financial intermediaries, finance lease companies, insurance companies, real estate promotion and construction companies, dealers in the high-value merchandise and collective investment authorities should immediately inform the SIC of the details of the transactions which they suspect they hide ML. Moreover, the appointed auditors working for the BCCL are required to notify the SIC through the Chairman of the transactions they peruse in the event of performing their duties, which they suspect of hiding ML. Pursuant to the notice No. 3 of 16 October, 2001 amended by the notice No. 6 of 12 November, 2004, all banks and institutions bound to report the ML operations upon reporting the details of the operations they are sure or suspicious of hiding ML, are requested to attach to their letter addressed to the Chairman of the SIC a report on the concerned operation, drafted according to the form attached to this notice in addition to all the documents related to this operation. The information should be sent in a closed envelope, carrying clearly the expression “Top Secret” and sent according to the cases determined by law and the by-laws to the SIC’s Chairman –Governor of the Central Bank of Lebanon (BDL) – or to the SIC’s Secretariat (Notice No. 2 of 20 July, 2001). The suspicious transaction form includes the following information:

- Name and address of the reporting person (if he is an individual).
- Name and type of the reporting institution's activity in addition to the names of the persons who signed the report and their position (Chairman of the Board of Directors, company's manager, authorized signatory, etc..)
- General information about the suspicious person or institution.
- Nature of the commercial or professional activity.
- Type of the crime.
- General information related to the transaction and the suspicious accounts

168. It is worth mentioning that the SIC has provided the banks and the reporting institutions with directions concerning the reporting method, without providing the appointed auditors working for the BCCL bound to report as well with any special directions of the same, as the notices issued by the SIC are addressed to the banks and the reporting institutions. It is worth noting that the inclusion of the auditors of the BCCL is an additional measure for the methodology; the Lebanese authorities stated as well that the presence of BCC President as a member of the SIC is enough to be aware of the obligations imposed on the BCCL, with regard to the reporting method since the guidelines issued by the Commission by virtue of Notices 2, 3 and 5 are issued with his approval and in his presence. Practically, the BCCL has reported 19 cases to the SIC until 2008.

169. **FIU timely access to information:** The SIC's President or whoever authorized from the SIC's members has the full power under article 9 of law 318 to contact all the Lebanese or foreign authorities (judicial – administrative – financial – security) for requesting information or perusing the details of the investigations which have been done on the issues connected or related to investigations performed by the SIC. The Lebanese authorities should respond immediately to the information request. It is worth mentioning that a special division (the Anti-drugs and Anti-money Laundering Department) within the Customs Department was established for providing coordination and exchange of information through the liaison officer authorized to provide the SIC with the information it requests. In addition, the commercial register secretariat responds to the inquiry requests sent from the SIC for investigation purposes; It appeared through the onsite visit that there are some competent official authorities, such as the Customs Department, the security authorities and the MOJ that require the permission of the Public Prosecution for providing any other authority, including the SIC, with the information. The authorities have confirmed that this may not hinder the timely access to information, since such approval is given, in most cases, through a phone call and does not take more than few minutes; the Commission did not face to date any obstacle in obtaining timely access to information.

170. **Additional information from reporting parties:** Pursuant to paragraph 4, article 6 of law No. 318/2001, the SIC has the full powers to perform the investigations about the transactions suspected of being ML crimes. In addition, article 8 of law No. 318/2001 authorized the SIC to perform its investigations about the account or the suspicious accounts either directly or through any of its members or its concerned officials whom it authorizes or through its Secretary or whoever it appoints from among the appointed auditors. Thus, the SIC may request information from the reporting authorities. Moreover, the mentioned article 9 authorizes the President of the SIC or whoever he authorizes to contact the Lebanese financial authorities for requesting information. Practically, the SIC sends official letters to the parties entrusted with the reporting obligation, where it requests to be provided with the additional information needed to finalize the investigations.

171. **Dissemination of information:** If the SIC has reasons to suspect ML operations, it shall take a decision to lift the banking secrecy and freeze the account or the suspicious accounts and it shall send, pursuant to article 8, clause 4 of the law No. 318, a true copy of its justified final decision to the Higher Banking Commission and the Public Prosecutor attached to the Court of Cassation to continue the

investigations. Moreover, it shall send to the latter its report pertaining to the suspicious account or suspicious transaction. After the file is sent to the Public prosecution attached to the Court of Cassation , one of the public lawyers of the Prosecution shall perform investigations related to the case and hear the concerned persons suspected of performing ML operations; if the investigation is completed and the suspicions were established, the file shall be sent to the competent Public Prosecution in the Lebanese regions depending on the competence of each for prosecution according to the applicable rules; the public lawsuit shall be set in motion by the competent Public Prosecution against the participants and interferers in the crime and the file shall be duly sent to the competent examining magistrate.

172. Operational independence: The Law stipulates (Clause 1, article 6) that the SIC is an independent legal entity with judicial status, the duties of which are not regulated by BDL's authority. However, it is worth mentioning that pursuant to clause 7 of the same law, the SIC has an independent budget funded by the Central Bank of Lebanon (BDL) after being specified by the SIC and accepted by the Central Council of the Central Bank of Lebanon (BDL), and thus, the issue of the extent to which the commission is independent due to the condition of approval of the Central Council on the budget is raised. In addition, clause 6 of the same article stipulates that the SIC's decisions shall be taken by a majority of votes; in the event of tie votes, the Chairman's vote shall be the casting-vote. Since the Chairman is the Governor of the Central Bank of Lebanon (BDL), and since he has both functions, this mixture provokes the issue of the extent to which the decisions taken this way are independent. The Lebanese authorities consider it evident to have the budget's approval subject to another party; the purpose of having to get the approval on the SIC's budget from the Central Bank of Lebanon (BDL) which has financial independence and does not fall under the administrative and operational supervisory rules of the public sector institutions is a guarantee to limit any exclusive decisions by the President. The authorities added that among the independence and autonomy guarantee as well, is the non subjugation of the SIC members to the powers of the president. Therefore, there is no subordination between such members and the SIC President ; thus, the mechanism of casting the president's vote is among the internal procedures and its purpose is to avoid failing any decision making in the event of tie vote and not affecting the decision making process.

173. Protection of information held by FIU: Pursuant to article 6, clause 7, of law No. 318, the SIC has established internal by-laws for the progress of its work, for its employees and contractual employees as well as those subject to the private law, especially the obligation of confidentiality. Moreover, article 11 of law No. 318 stipulates that except for the SIC's decision to lift banking secrecy, the reporting obligation stipulated by the present Law is absolutely confidential. This absolute confidentiality shall apply to any reporting, natural or moral person, as well as to the documents submitted for this purpose, and to the documents and procedures related to each stage of the investigation. In completion of the obligation of confidentiality, the organizational structure entrusts the Information Technology & Security Unit at the Commission with establishing the safety measures for the information and programs as well as ensuring their effectiveness. In addition, the Commission has taken special security measures so that access to its headquarters would not be permitted except for specific persons authorized to do that. The SIC has a special entrance different than the Central Bank of Lebanon (BDL)'s entrance whereas none of the employees of the Central Bank of Lebanon (BDL) may enter the SIC's headquarters unless authorized to do so. Moreover, it is indicated that the SIC has a private room to keep the reports inside an electronic safety box; the Lebanese authorities stated that there is a server which has a private communication line for safe communication.

174. Publication of periodical reports: Since its establishment (2001), the SIC has issued 8 annual reports including statistical information on the cases it has received and information on the Commission's activities, especially, for example but without limitation to, the tasks of ensuring the compliance of the reporting institutions with the required obligations through the visit of the Compliance Unit as well as the statistics on rating compliance related thereto and to the level of reporting the suspicious transactions; in

addition to issuing notices, training the employees, raising awareness, coordinating between the concerned bodies and the international cooperation as well as a brief description of some sanitized cases.

175. **Membership of Egmont Group:** Lebanon was accepted as a member in July 2003 during the 11th Plenary Meeting held by Egmont Group in Sydney, Australia. Being an active member in Egmont Group, the Commission has joined the teamwork concerned with information technology and expansion of the Group, whereas it has sponsored the affiliation of several FIUs to the Group.

176. **Egmont Group’s principles of exchange of information among FIUs:** According to article 10 of law No. 318, “the Financial Investigation Administrative Unit” will function as the competent authority and the official centre for monitoring, collecting and archiving information on money-laundering offences, and for exchanging information with foreign counterparts; the exchange of information is done through the Egmont Secure Web. The Lebanese authorities indicated that the exchange of information is done practically with all the FIUs which joined the Egmont Group. Moreover, the Lebanese authorities indicated that the SIC has signed 21 cooperation agreements with counterparts units, according to the request of the foreign countries whereby article 10 has fully authorized the SIC to exchange information without the need for a Memorandum of Understanding. Below is a table including the requests sent or received in 2005-2008:

	2005	2006	2007	2008
Requests Sent	114	25	32	119
Requests Received	66	59	67	53

177. **Structure and resources:** The SIC is comprised of: (1) the Governor of the (BDL), or his authorized representative in case of his absence (Chairman); (2) the President of the Banking Control Commission, or his authorized representative from among the members of the mentioned Commission in case of his absence (member); (3) the judge appointed to the Higher Banking Commission, or an alternate judge appointed by the Supreme Judicial Council for a period equal to the period of the appointment of the original judge, in case he could not attend (member); an original and an alternate member appointed by the Council of Ministers according to the decision of the BDL’s Governor. The Commission shall meet by convocation of its Chairman twice a month at least and whenever deemed necessary. These meetings shall not be legal unless attended by three members at least. The SIC shall take its decisions at a majority of the attending members; in case of a tie, the Chairman’s vote shall be the casting vote. Moreover, the Commission shall appoint a full-time Secretary who shall be responsible for the tasks assigned to him by the Commission, and for implementing its decisions. The Secretary shall directly supervise a special body of auditors designated by the Commission for the purpose of controlling and verifying the implementation of the obligations mentioned in the said law. The said control shall be done on a continuous basis. And none of these shall be bound by the provisions of the Banking Secrecy Law of September 3, 1956.

178. The SIC is comprised of 4 units: (1) the audit and investigation unit; (2) the financial investigation administrative unit; (3) the compliance unit; (4) the information technology and security unit; (5) the Secretariat and the clerk. All of the foregoing are supervised by the SIC’s Secretary, whose roles include (1) receiving, directly or through the Commission’s President, all the reports on the transactions raising suspicion on the possibility of occurrence of ML operations; (2) informing the concerned parties of the Commission’s decisions after their acceptance; (3) executing and following up on the Commission’s decisions through the competent units; (4) submitting the reports prepared by the competent units on its duties, to the Commission and stating an analytical opinion regarding them; (5) following up on the local and foreign laws and regulations as well as recommending if the Commission should amend those laws

and regulations applied in Lebanon to activate the fight against ML crimes; (6) giving recommendations to the Commission regarding the amendment of the procedures of controlling financial and banking operations for AML purposes and the ways of introducing methods of internal auditing to all sectors, especially the agricultural, industrial, commercial, and service sectors, for preventing ML through the same; (7) following up the administrative affairs of the Commission's employees, supervising and auditing its expenses through the person he delegates for this purpose; (8) executing the Commission's decisions aiming at establishing the cooperation between the SIC and the foreign institutions similar thereto.

179. **Audit & Investigation Unit (AIU):** Its functions include:

- Auditing as per Commission mandate accounts subject of suspicious transactions reports and in other accounts suspected to conceal money-laundering operations.
- Gathering evidence on operations that may constitute money-laundering offenses
- Submitting to the Commission, through the Secretary, reports on both audited accounts and investigations that relate to operations suspected to constitute money laundering
- Informing the "Financial Investigation Administrative Unit" of their reports on suspicious accounts and operations, to be entered on their databank.
- Informing the "Compliance Unit" of their reports on suspicious accounts and operations, to be taken into consideration when carrying out assignments at concerned banks and financial institutions.

180. **The Financial Investigation Administrative Unit:** it is entrusted with the following tasks:

- Gathering information from various sources concerning suspicious transactions related to money laundering, especially those under investigation and forwarding them to concerned parties, through the Secretary, with the approval of the Commission.
- Establishing a databank that contains information on investigations related to suspicious transactions, names of persons involved or suspected in money laundering operations and indictments against individuals that committed such crimes to be organized by sector and by geographic distribution. Information on money laundering operations shall be classified by source:
 - Information received from institutions covered by the Banking Secrecy Law of September 3, 1956 (banks, financial institutions), may be provided to judicial authorities or foreign competent authorities only by a decision of the Commission.
 - Information received from institutions not covered by the Banking Secrecy Law of September 9, 1956 (money dealers, brokerage firms.) may be provided to asking authorities in accordance with procedures decided by the Commission
 - Monitoring domestic and foreign laws and regulations and recommending to the Commission, through the Secretary, amendments to be made to those enforced in Lebanon to enhance fighting money laundering.
 - Coordinating with the "Information Technology & Security Unit" on building and updating the Commission's website.
 - Carrying out requested studies.
 - Submitting to the Commission, through the Secretary, recommendations on ways to introduce internal auditing procedures to all sectors, namely in agriculture, industry, trade and services, in order to prevent the introduction of money laundering practices to these sectors.

181. **Compliance Unit:** it is entrusted with the following tasks:

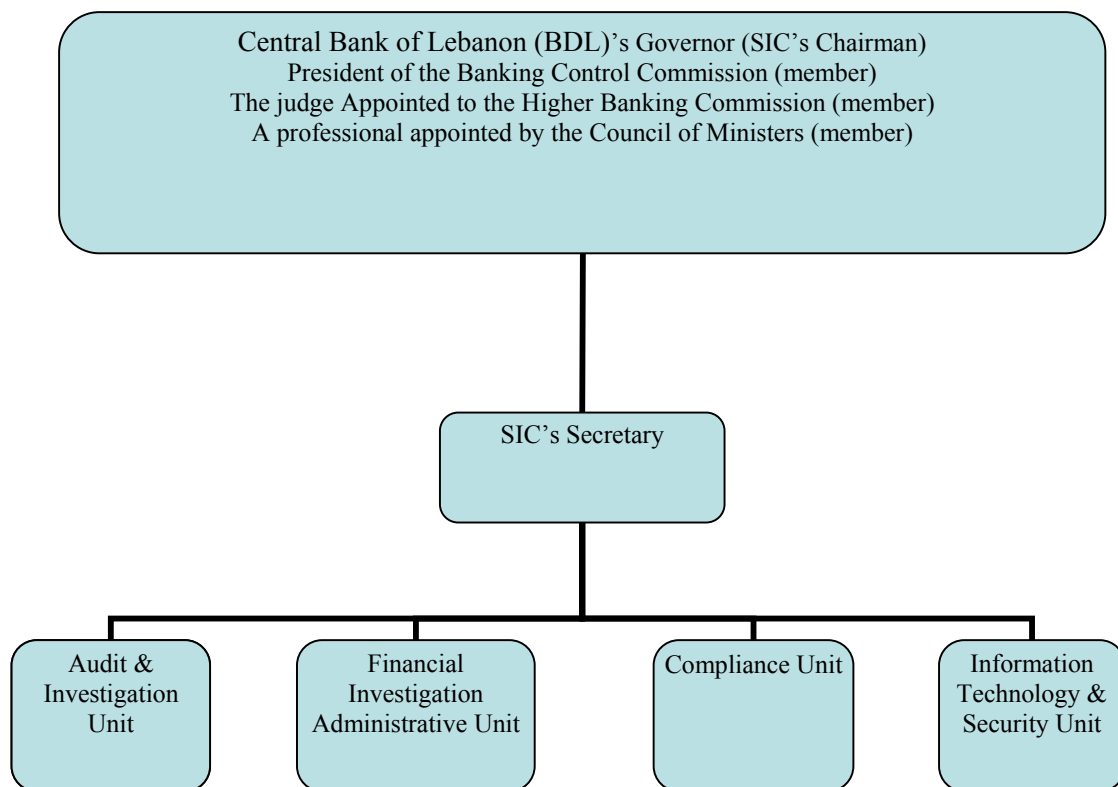
- Auditing and examining banks, finance companies and other reporting entities, as per commission mandate, to ensure compliance with:

- Law No. 318 (Fighting Money Laundering).
- The Regulations on the Control of Financial and Banking Operations attached to the basic decision No. (7818) dated 18 May 2001 and its amendments).
- Special Investigation Commission Circulars.
- Banque du Liban prospective Circulars on Fighting Money Laundering
 - Preparing reports and periodic statistical data that reflect compliance of banks, finance companies and other reporting entities with the anti-money laundering regulations and informing the Commission through the Secretary of its findings.
 - Asking through the Secretary, as per commission mandate that banks, finance companies and other reporting entities take corrective measures when instances of non-compliance or partial compliance are noted and follow up on the implementation of the required corrective measures.
 - Provide the “Financial Investigation Administrative Unit “with briefings on the reports made about the findings of its audit, to be entered in its database.
 - Suggesting procedural measures to the Secretary aimed at enhancing supervision for fighting money laundering.
 - Submitting to the Commission, through the Secretary, suggestions to amend the regulations on to the Control of Financial and Banking Operations For Fighting Money Laundering
 - Verifying that external auditors forward the reports subject paragraph 1 of article 13 of the regulations on the Control of Financial and Banking Operations for Fighting Money Laundering to the Governor of the Central Bank within the specified period and ensure, through the Secretary, that banks and financial institutions implement the required corrective measures mentioned in those reports.
 - Contacting external auditors, through the Secretary, to ensure that they are implementing the requirements stipulated in basic Decision 7818 dated 18/5/2001, this shall be done after comparing Compliance Unit reports with those of external auditors.

182. **Information Technology & Security Unit:** it is entrusted with the following tasks:

- Installing and maintaining servers, computers, and all technical equipment.
- Developing, updating and maintaining required IT programs in-line with the work needs of the various units and also those relating to the databank, security and monitoring equipment.
- Setting up security procedures for data and programs, and ensuring their efficiency.
- Building a website for the purpose of highlighting Lebanon's AML policies and providing technical assistance for periodic updates.
- Analyzing and implementing IT programs for the purpose of exchanging information with local and foreign authorities concerned with fighting money laundering.
- Controlling access to the SIC Secretariat offices.
- Operating and managing the monitoring system

The following diagram shows the structure of the SIC:



183. The SIC has a budget funded by the Central Bank of Lebanon (BDL) after being established by the Commission and agreed upon by the Central Council. Through the onsite visit to the SIC's headquarters, it has appeared that the financial resources are sufficient; the same was revealed through the participations of the SIC's employees in many sessions, conferences and seminars held inside and outside the country and through the technical supplies.

184. **Integrity of FIU's employees:** Pursuant to the law of the SIC's employees on July 4, 2001, article 5, chapter 1 of the appointment conditions, it was stipulated that the employee nominated for a job in the SIC's staff should satisfy the following conditions: (1) he should enjoy his civil rights and not be subject to the prohibitions provided for in article 127 of the Code of Money and Credit; (2) he should hold the diplomas and have the qualifications that Secretaries, Heads of administrative units and related employees should have; (3) the appointment should not be decided unless preceded by an investigation on the nominee's ethical and professional situation.

185. The SIC is comprised of 27 employees in addition to 5 administrators and 5 clerks. There are 7 employees in the Financial Investigation Administrative Unit, 7 employees in the Audit & Investigation Unit, 10 employees in the Compliance Unit and 3 in the Information Technology & Security. All the employees are specialists and holders of university degrees. Moreover, some of them hold Master degrees and others have PHD degrees.

186. **Training for FIU staff:** The SIC's employees shall be subject to AML /CFT training sessions in addition to several sessions inside and outside Lebanon. Moreover, the SIC encourages its employees to go deeply into the AML/CFT techniques through financing their participation in becoming a Certified

Anti-Money Laundering Specialist (CAMS). Below is a table of the training sessions the SIC's employees have attended during the past 4 years:

2008					
Number	Job Level	Training Session's Title	Training Party	Training Location	Date of the Session
1	One Legal Expert	MENAFATF DNFBPs and PEPs workshops	MENAFATF	Algiers-Algeria	February 18-20
2	-One ITS Officer -One Financial Investigator	The AML/CFT Workshop for The Financial Sector	AMF-IMF	Abu Dhabi-UAE	March 9-13
1	-One Compliance Examiner -One Senior Analyst	Interdiction and Investigation of Bulk Cash Smuggling	The U.S. Treasury's Office of Technical Assistance, the Department of Homeland Security, the U.S Immigration and Customs Enforcement, and the U.S. Customs and Border Protection	Amman-Jordan	March 10-13
8	-One Senior Analyst -One Financial Investigator -Two Legal Experts -Two Compliance Examiners -One Analyst -One Assistant Analyst	Countering the Financing of Terrorism	UK National Terrorist Financial Investigation Unit (NTFIU)	In-house (SIC)	March (1 day)
3	-Head of AIU -Deputy Head of AIU -One Senior Compliance Examiner	Australia FIU's experience, examination procedures, and AML/CFT awareness programs	AUSTRAC (FIU Australia)	Australia	May 5-9
4	-One Financial Investigator -One Legal Expert -One Compliance Examiner -One Analyst	Financial Crimes	FFIEC (Federal Reserve)	Washington-USA	June 3-13
1	One Audit Examiner	The Anti-Money Laundering	MENAF Financial Regulators' Initiative	Casablanca-Morocco	July 21-25

		Examination Seminar	and Financial Services Volunteer Corps (FSVC)		
1	One Senior Compliance Examiner	The Financial Crimes Training Course	UK Police Academy	UK	September 15-26
3	Three Financial Investigators	5 th Annual ACAMS European AML Conference & Exhibition	ACAMS	Prague-Czech Republic	November 17-19
2007					
2	-One Legal Expert -One Compliance Examiner	Combating Money Laundering and the Financing of Terrorism in the Financial Sector	AMF-IMF	Abu Dhabi-UAE	March 4-8
2	-One Legal Expert -One Financial Investigator	Financial Crimes	FFIEC (Federal Reserve)	Washington-USA	May 1-4
2	-One Analyst -One Compliance Examiner	On-site examination of a national bank in the US.	Office of the Comptroller of the Currency (OCC)	Colombia - Washington, DC-USA	29 May-29 June
11	-Deputy Head of AIU -One Principal Financial Investigator -Two Financial Investigators -Two Senior Analysts -One Analyst -Two Legal Experts -One ITS Officer -One Compliance Examiner	The Universal Framework against Terrorism & Money Laundering & The Financing of Terrorism	UNODC	Beirut-Lebanon	September 17-21
4	-Head of Compliance -Two Financial Investigators -One Legal Expert	Training the Assessors	MENAFATF-World Bank-IMF	Qatar	November 11-15
1	One Principal Analyst	The Middle East-North Africa International Money Laundering/Terrorist Financing Conference &	UAB and ACAMS	Dubai-UAE	December 9-11

		Exhibition			
2006					
1	One Audit Examiner	Financial Crimes	FFIEC (Federal Reserve)	Washington-USA	March 25-28
6	-Head of AIU -Deputy Head of AIU -Two Financial Investigators -One Senior Compliance Examiner -Two Compliance Examiners	Training the Trainers	MENAFATF-World Bank	Cairo-Egypt	April 2-6
1	One Legal Expert	The new legal structure of the French FIU (TRACFIN)	TRACFIN (FIU France)	France	April 5-7
2	Members from all Units	Leadership & Creativity	Central Bank of Lebanon	Beirut-Lebanon	April (1 day)
10	-Deputy Head of AIU -Two Principal Analyst -Two Analysts -One ITS Officer -One Senior ITS Officer -One Senior Compliance Examiner -Two Legal Experts -One Assistant Analyst	AML	UK National Terrorist Financial Investigation Unit (NTFIU)	In-house (SIC)	April 11-12
2	-One Senior ITS Officer -One Senior Compliance Examiner	On-site examination of a national bank in the US.	Office of the Comptroller of the Currency (OCC)	Washington, DC-USA	15 May-2 June
1	One compliance Examiner	UNODC workshop	UNODC	Cairo-Egypt	October 1-4
2	-Head of FIU -One Senior Analyst	Canadian FIU's experience, examination procedures, and AML/CFT awareness programs	FinTRAC (FIU Canada)	Canada	November 23-24

2	Two Senior Analysts	FATF Workshops on "ML through the Real Estate Sector" and "Terrorist Financing" <i>Part of the "Joint Experts' Meeting on Typologies"</i>	FATF	Shanghai-China	November 28-30
2005					
2	-One Senior ITS Officer -One Compliance Examiner	AML	AMF-IMF	Abu Dhabi-UAE	January 10-12
1	One Compliance Examiner	Financial Crimes	FFIEC (Federal Reserve)	Washington-USA	March 21-24
All	Members from all Units	Fighting Drug Trafficking	The Lebanese Internal Security Forces	In-house (SIC)	July (1 day)
2	Members from all Units	Islamic Banking	Banque du Liban	Beirut-Lebanon	August (1 day)
All	Members from all Units	Recent Techniques & Methods used by Wrongdoers	The Lebanese Customs	In-house (SIC)	October (1 day)
2	-Deputy Head of AIU -One Financial Investigator	Regional training programs	AMF-IMF	Abu Dhabi-UAE	November 12-17
5	-Two Senior Analysts -One Financial Investigator -One Legal Expert -One Senior Compliance Examiner	Training the Assessors	MENAFATF-FATF-IMF-World Bank	Kuwait	December 17-21

187. Statistics:

Table 1: Distribution of the STRs received by the SIC from the reporting parties

Source of "STR"	2005	2006	2007	2008
Banks	62	63	64	74
Exchange Companies	0	1	0	1
Credit Institutions	0	1	0	0
Total	62	65	64	75

Table 2: Distribution of the STRs according to their stance

	2005	2006	2007	2008
Sent to the Public Prosecutor of Cassation / providing the concerned authorities with the needed information	13	11	11	18
The SIC has decided that the provisions of law No. 318 do not apply	48	54	53	49
Under Investigation	1	0	0	8
Total	62	65	64	75

188. **Implementation and efficiency:** It is noted that the SIC works effectively in the ML and TF field as it has lifted the secrecy on accounts related to TF. The Lebanese authorities indicated that the SIC has been informed by the Anti-Terrorism and Serious Crimes Bureau at the General Criminal Investigations Division of the Judicial Police of the Internal Security Forces of three cases related to TF, whereas in one of them, the banking secrecy was requested to be lifted on the accounts. Moreover, the concept of reporting TF at the reporting institutions is limited to reporting in case the clients' names match with those included in the lists of the suspicious names issued by the SC. The SIC's statistics included 4 cases reported as TF suspicion, 2 of which are related to RES 1595 issued by the SC and the last two do not have any relation with the Security Council resolutions. Thus, the SIC works on the TF cases without any legal cover.

189. The two tables below show the amounts frozen by the SIC with regard to ML & TF crimes by the end of 2008.

Money Laundering:

Year	No. of Cases	Amounts frozen in USD
2001	1	1,304
2002	3	1,367
2003	10	3,953,979
2004	10	1,365,521
2005	7	1,626,173
2006	6	1,244,801
2007	3	94,378
2008	5	80,152
Total	45	8,367,675

Terrorist Financing:

Year	No. of Cases	Amounts frozen in USD
2007	2	47,695
2008	1	41,967
Total	3	89,662

2.5.2 Recommendations and Comments

190. **The Lebanese authorities are recommended to:**

- Grant the Commission legal powers to include TF crimes within the scope of its competencies.

2.5.3 Compliance with Recommendation 26

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R. 26	LC	<ul style="list-style-type: none">• Limitation of the Commission's legal competency in ML without TF.

2-6 Law Enforcement, Prosecution and other Competent Authorities – the Framework for the Investigation and Prosecution of Offences, and for Confiscation and Freezing (R. 27 & 28)

2.6.1 Description and Analysis

191. **Designation of ML/FT investigative authorities:** The Public Prosecution of Cassation has the right of preliminary investigation of the ML crimes in Lebanon, as according to the provisions of article 8, paragraph 4 of law No. 318, the SIC shall send a true copy of its justified final decision according to which it decides lifting the banking secrecy on the accounts suspected of ML to the Public Prosecutor of Cassation, the Higher Banking Commission represented by its Chairman, the concerned person and the concerned bank. Practically, the report of the Audit and Investigation Unit affiliated to the SIC shall be attached to the decision sent to the Public Prosecution of Cassation regarding these accounts.

192. The Public Prosecutor with the Court of Cassation issued the Circular No. 30/S/2002 on 4 June, 2002 according to which the Public Prosecution attached to the Court of Appeal, the financial Public Prosecution and the government commissioner at the Military Court were asked to provide the *Commission* with the information available related to ML crimes according to the provisions of AML law, and with the necessary information through the Public Prosecution at the Court of Cassation in order to investigate the banking accounts of the defendants and the transactions occurring, and which are suspected of being used in laundering the illicit funds.

193. On the 26th of February, 2003, and after consulting the Central Bank of Lebanon (BDL)'s Governor, in his capacity as the SIC's President, the Public Prosecutor with the Court of Cassation set some practical procedures for coordinating between the SIC and the liaison officer at the Internal Security Forces, designated for providing this coordination; accordingly, the SIC shall be provided at its request and after obtaining the approval of the Public Prosecution of Cassation with the information available on the persons and authorities, subject of investigation; the information incoming to the Judicial Police by the local or foreign authorities and related to ML operations according to the provisions of article 1 and 2 of the AML law; and the investigations performed with those accused of such operations. Moreover, the SIC shall be informed of the details of the investigations already conducted by the security bodies on the issues related or connected to investigations done by the SIC according to the provisions of article 9 of the AML law.

194. Moreover, the Public Prosecution of Cassation provides the SIC with all the documents and information related to the allegations against the persons prosecuted for one of the crimes from which illicit funds might result and which forms a ML crime pursuant to the law. The SIC shall receive those documents and information from the competent judicial authorities to investigate the banking accounts of

the defendants and the transactions occurring thereon while taking the appropriate procedures and decisions pursuant to the legal requirements. On the other hand, the Prosecution receives all the SIC's requests and sends them to the competent judicial authorities or the judicial police in order to obtain the information needed for the investigation performed by the Commission.

195. The Public Prosecution of Cassation may also seek the assistance of the Financial Crimes and Money Laundering Repression Bureau at the Internal Security Forces in the investigations regarding the requests received through the foreign Interpol offices or the foreign embassies in Lebanon for obtaining information on cases related to ML crimes; whereas if a ML crime is detected, the Public Prosecution shall be informed. The Public Prosecution of Cassation shall receive a true copy of the justified final decision taken by the SIC upon agreeing on lifting the banking secrecy on suspicious accounts which were the subject of a reporting followed by investigation in this regard. Whereas, the financial Public Prosecution (financial Public Prosecutor assisted by financial public lawyers) undertakes, at the Public Prosecution of Cassation, following up several crimes, especially what results from violating the banking laws, what harms the country's financial position and the misappropriation of public funds.

196. Pursuant to the provisions of the applicable Lebanese penal codes, the Public Prosecution of Cassation shall take over the rogatory letters related to ML crimes incoming through the applicable diplomatic ways. Moreover, it studies the requests of judicial assistance even in the absence of a bilateral or multilateral judicial agreement in application of the principle of reciprocity. In case the Public Prosecution of Cassation suspects the presence of ML crime's elements pursuant to the provisions of the Lebanese law, the case shall be sent to the SIC for performing the legal requirement and the latter shall report its decision to the Public Prosecution of Cassation so that it can reply to the assistance request. In case this suspicion was not available, the competent judge shall be entrusted with the execution of the legal assistance request according to the normal rules in light of the provisions of the Code of Criminal Procedures without submitting the file to the SIC.

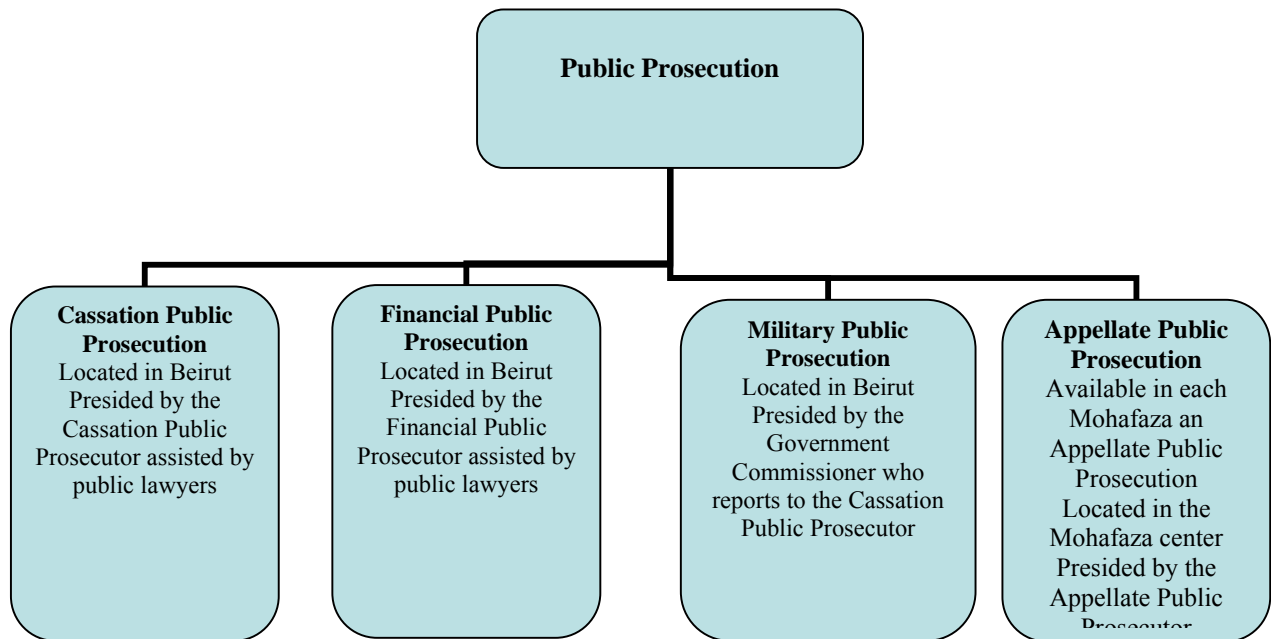
197. After the Cassation Public Prosecution receives the file, law No. 318 has not specified any mechanism or special procedures to be followed for executing its provisions regarding the Public Prosecution and the judicial police's role. Therefore, the general penal codes, especially the Code of Criminal Procedures, are adopted whereas the Public Prosecutor with the Court of Cassation shall authorize one of the general lawyers at the Public Prosecution to investigate the ML crimes and submit a report about the findings in order to take the appropriate decision. The general lawyer entrusted at the Public Prosecution shall study the case and hear the statements of the concerned people, bank managers and all the persons concerned with these accounts. In conclusion, the entrusted lawyer shall submit his report to the Public Prosecutor, who takes one of the following decisions: (1) submitting the papers to the competent Public Prosecution for prosecuting those involved in the ML crime; (2) keeping the papers due to the insufficiency of evidence on the presence of the ML crime; (3) keeping the papers for the lack of the legal elements for the ML crime; at the same time, he shall keep the right of prosecuting the people involved in the crime, for interfering and contributing to the concealment of the crime aspects and disbursement of funds resulting there from, pursuant to the normal Penal Procedures if it is established that the committal of this crime is made according to a judgment rendered by the competent judiciary authorities. Thus, in case of a suspicion, the case shall be sent to the competent Public Prosecution in the Lebanese regions according to the jurisdiction of each for due prosecution according to the applicable rules; the public case shall be filed by the competent Public Prosecution against the authors, the participators and the interferers and the case shall be duly sent to the competent examining magistrate.

198. It is noted that it is the right of the **Public Prosecution** that files the lawsuit after investigating the crimes, especially through the **judicial police**, to file the public lawsuit on and prosecute the author; the law has entrusted the Public Prosecution's judges exclusively with the powers of prosecution, except in cases specified by the law. Whereas, regarding the investigation, it is about gathering evidence on the

accusations against the perpetrator and is done by the **examining magistrate**: in this case, he studies the provided evidence and decides to ban the trial or send the perpetrator to the competent court to have the judgment rendered against him. These authorities have many guarantees and powers for accomplishing their job perfectly, such as: interrogating the defendant (article 31 of the Criminal Procedures Law and articles 74-84) in addition to moving, inspecting, gathering evidence (articles 31, 33 and 47 and articles 98-105), hearing the witnesses (articles 31 and 47 and 85 to 97) in addition to the possibility of rendering decisions for prosecuting, summoning and arresting (articles 106-112). The investigating authorities in terms of ML in Lebanon could be limited to the following:

- 1- The Public Prosecution
- 2- The Examining Magistrate
- 3- Some of the authorities of the judicial police.

199. **Public Prosecution**: It is the authority authorized by law to practice the common right case (article 6 of the Criminal Procedures Law). It is independent of the executive authority and its duties consist of a mixture of judicial duties (investigation, examination and objection of judgments) and non-judicial duties (supervising the judicial police's duties and the execution of judgments). The criminal Procedures Law has regulated the Public Prosecution hierarchically and placed on top the Public Prosecutor of the Court of Cassation, whose powers cover all the Public Prosecution's judges. The Public Prosecution is divided as follows:



200. **Cassation Public Prosecution**: The Public Prosecutor at the Court of Cassation shall undertake the following duties: (1) requesting the invalidation of the criminal judgments and the decisions pursuant to the rules set forth by this law; (2) requesting the determination of the authority and requesting the transfer of the case from one court to another; (3) prosecuting the crimes referred to the judicial council; (4) prosecuting the crimes committed by the judges, whether resulting from the job or not; (5) representing the Public Prosecution at the Court of Cassation and the judicial council; (6) preparing the files of criminals extradition and sending them to the Minister of Justice attached with reports; (7) setting up a detailed report attached to the file of the person convicted with the capital punishment when sent to the Special Amnesty Committee, including all the duties and powers mentioned in this law and other laws.

201. **Financial Public Prosecution:** Within the limits and rules provided for in article 21 of the decree-law No. 150 of 16/9/1982, the financial Public Prosecutor shall have all the duties and powers the Public Prosecutor at the Court of Cassation towards the judges related to him, the Public Prosecutors of Appeal and the judicial police, within the scope of his specific duties and powers. The main financial Public Prosecution's powers include: prosecuting; performing the jobs of the judicial police with his assistants and the individual examining magistrates (seizure – examination – investigation of the red-handed cases); submitting the applications and handling court defense; appealing the examining magistrate's decisions; receiving the notifications and complaints; seeking the assistance of the banking, tax and financial specialists for investigating the financial crimes at the banks and in the shareholding companies. Whereas, the financial Public Prosecution's powers regarding the jurisdiction include the following: (1) crimes arising from violating the provisions of the tax and fees laws; (2) crimes related to the banking laws, financial institutions and stock exchange, especially those provided for in the Code of Money and Credit; (3) crimes related to the shareholding companies' laws and the embezzlement crimes that harm the civilians; (4) crimes that harm the country's financial position or the Lebanese or foreign banking instruments, currency, papers, stamps and seals forgery ; (5) misappropriation and embezzlement of public funds; (6) bankruptcy crimes.

202. **Military Public Prosecution:** It is responsible for prosecuting the crimes which are within the jurisdiction of the military judiciary. The government commissioner at the military court and his assistants shall practice the duties of the Public Prosecutor of Appeal.

203. **Appellant Public Prosecution (APP):** In addition to some special duties in case of the red-handed case, the APP's duties include: (1) investigating the felonies and misdemeanors and tracking the persons who contributed to committing them. It may directly ask the assistance of the security forces upon performing its duties. It should, upon finding out about a serious crime, immediately notify the Prosecutor at the Court of Cassation and execute his instructions; (2) sett action in motion and follow up on the common interest lawsuit; (3) represent the Prosecution at the courts of appeal and felonies as well as execute the judgments rendered by it; (4) issue an inspection and investigation report including his ID and the crime attributed to him, if the sued or suspected person or the person whose residence is unknown is not found; (5) upon carrying out the inspection and investigation report, the Prosecution that issued the same should be immediately contacted; (6) the inspection and investigation report shall automatically abate 10 days from the date of its issuance, unless the Prosecutor decides to extend it for 30 days after which it shall automatically abate ; (7) abate the criminal provisions or ban or suspend their execution pursuant to the provisions of article 147 of the Penal Code; (8) all the duties entrusted therewith by this law and the other laws.

204. **Examining magistrate:** The law has regulated the investigative authorities and stipulated that the Investigation Department in each province (Mohafazat) should include a first examining magistrate (chairing the department) as well as one or more examining magistrates. Moreover, the law stipulated that one of the civil courts of appeal shall undertake the roles of the prosecuting authority in each province (article 3 of the Criminal Procedures Law). The initial investigation of the crimes aims at detecting the perpetrators and at gathering evidence on the charge which the perpetrator is accused of, and finally, sending the defendants to the competent court for trial. The preliminary investigation is mandatory regarding felonies while it depends on the estimation of the Prosecution regarding the misdemeanors.

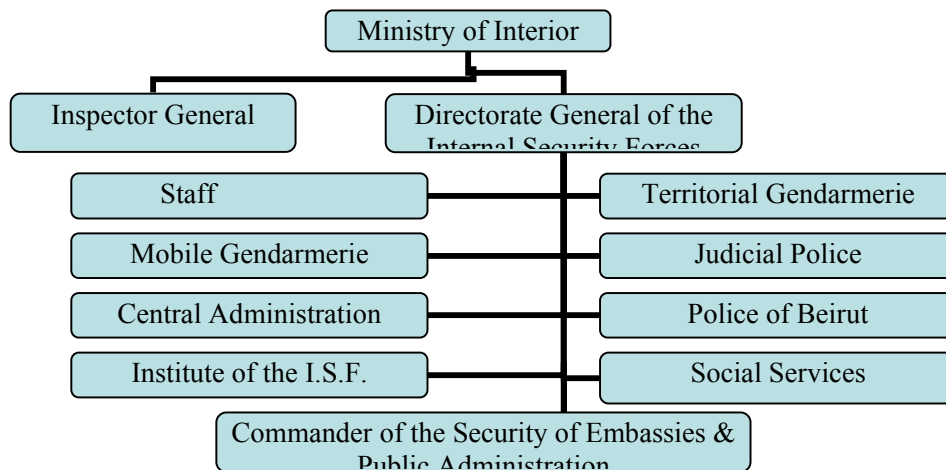
205. **Judicial police:** The Judicial Police's duties are performed, under the supervision of the Public Prosecutor at the Court of Cassation, by the Public Prosecutors and the public lawyers. In performing the Judicial Police's duties, the Public Prosecution is assisted by and supervises the following: (1) governors and district administrators; (2) the Director General of the Internal Security Forces, the officers of the Internal Security Forces, the police and the judicial police in addition to the non-commissioned officers working in the regional sectors as well as the chiefs of the Internal Security Forces services; (3) the

Director General and the officers of the General Security in addition to the investigation officers of the General Security, the Director General, the Deputy Director General and the officers of the State Security as well as the investigation officers of the state security; (4) the mayors; (5) the captains of the ships, airplanes and aircrafts (article 38 of the Criminal procedures Law). The judicial officers shall undertake the duties entrusted to them by the Prosecution such as investigating the non-witnessed crimes, gathering information about the same, carrying out investigations aiming at discovering their perpetrators and the persons contributing to the commitment of such crimes as well as gathering evidence through seizing criminal substances in addition to carrying out physical examinations on the crime scenes, and scientific and technical studies on the effects and marks left as well as hearing the witnesses' statements without oath and the statements of the sued or suspicious persons.

206. The Lebanese Republic encompasses several competent entities in the Judicial Police responsible for investigating ML/TF crimes, which are:

- The Directorate General of the Internal Security Forces
- The Directorate General of General Security
- Some assisting entities such as the Customs Administration.

207. **The Directorate General of the Internal Security Forces:** Law No.17, dated September 6th, 1990 defines the I.S.F as: public armed forces, the jurisdiction of which covers all Lebanese territories and its regional waters and space. Its major duty is based on keeping peace and establishing order over the whole Lebanese territory in addition to the duties specified in terms of the administrative and judicial police. The ISF includes the Staff, the Central Administration, the Territorial Gendarmerie, Police of Beirut, the Mobile Gendarmerie, the Judicial Police, the Security of Embassies, the I.S.F Institute and the Public Administration as represented below:

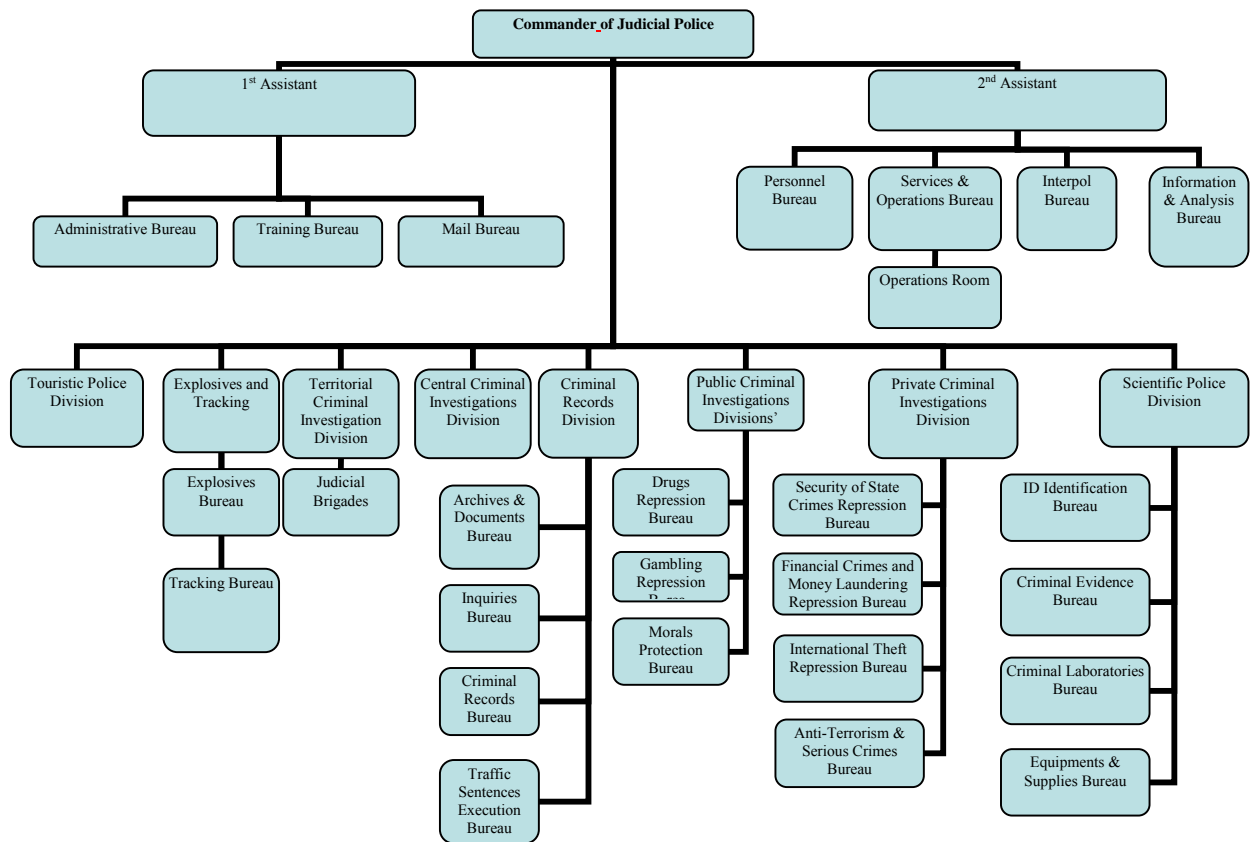


208. Paragraph 2, article 1 of law No. 17 dated September 6, 1990 has specified the duties of the Internal Security Forces regarding the Judicial Police as follows: (1) performing the judicial police's duties (searching for crimes, reporting the same, seizing their evidence, detecting, tracking and arresting their perpetrators as well as extraditing them to the competent judicial authority (article 194 of the mentioned

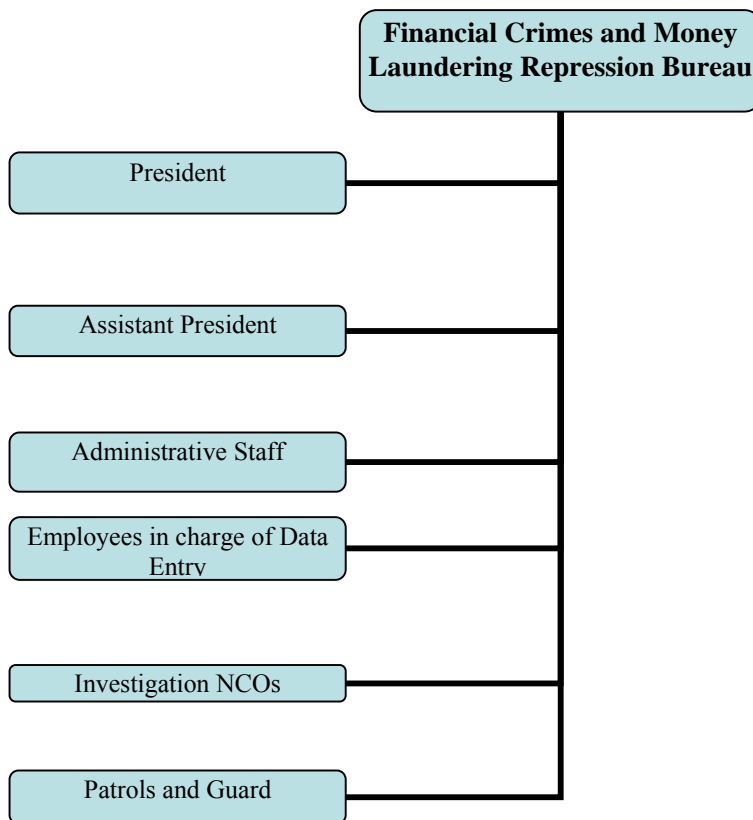
law); (2) executing the authorizations and the rogatory commissions; (3) executing the judgments and the justice memoranda. The officers of the Internal Security Forces have the powers of the Public Prosecutor in case of the witnessed felony or misdemeanor punishable with imprisonment provided that they shall immediately inform the competent judicial authorities and abide by their instructions. In addition, the Criminal Procedures Law has specified the duties of the assistant officers. Whereas, the rights of the Internal Security Forces in terms of duty performance were defined as follows (article 214 of law No. 17/1990): the right of searching the ID, the right of searching people, the right of arresting people, the right of entering to houses, the right of seizing prohibited materials, the right of establishing check-points and the right of using weapons.

209. The Internal Security Forces work through specialized departments and special bureaus. The units are organized according to article 6, paragraph 7 of law No. 17 **as follows: the judicial police:** its powers cover all the Lebanese territories. It includes the scientific police division, the touristic police division as well as the crimes' repression, tracking and investigation bureaus. The Commander of the judicial police shall be subject directly to the authority of the Director General of the Internal Security Forces and shall be responsible before him for executing the duties entrusted to him in the administrative and behavioral aspects as well as the duties related to the General Security, such as the investigation and observation, which are related to the competence of the technical department for supporting the remaining units. Whereas, regarding the judicial duties, the Commander shall be responsible directly with his unit before the Cassation Public Prosecutor in such a way that does not affect his submission to the authority of the Public Prosecutor (article 17 of the same law).

210. Practically, the judicial police coordinates with the competent judiciary authorities (Cassation Public Prosecutor) in performing the investigations and sends the file to the department for summary; upon the Public Prosecution's request, the source shall be notified or not. The duration of the execution of the transaction shall be maximum one month since there are important transactions which are completed during 2 or 3 days at most and other transactions which remain for a longer period for investigation purposes.



211. Whereas, regarding the ISF's role in terms of AML, a specialized bureau was established according to paragraph c, article 96 of decree No. 1157 on May 2, 1991 (ISF hierarchy) amended by the decree No. 9224 on December 02, 2002, which is the Financial Crimes and Money Laundering Repression Bureau. This bureau includes the Criminal Investigations Division of the judicial police, as presented in the above structure. Pursuant to the Cassation Prosecution's Circular No. 674/m/2003 on March 24, 2003, the Financial Crimes and Money Laundering Repression Bureau and the SIC at the Central Bank of Lebanon (BDL) shall coordinate to combat the ML crimes, arrest their perpetrators and extradite them to the competent authorities after performing the necessary criminal investigations according to the applicable laws and regulations. The bureau is comprised of the office of the president and employees who work in groups, each of which is commanded by an officer or a non-commissioned officer, having the rank of a first sergeant or higher rank. The bureau can be divided into regional offices distributed over the provinces (Mohafazat), consisting according to the decree No. 1460 on 15 July, 1991 of 100 persons, 7 of whom are officers; whereas, the current number is 48 led by two officers. The structure of the bureau is as follows:



212. The Private Criminal Investigations Division shall coordinate among the bureaus affiliated to it, the International Theft Repression Bureau, the IT Crimes Repression and Intellectual Property Protection Bureau as well as the Financial Crimes and Money Laundering Repression Bureau. The Division is trying to cover the whole Lebanese territory with the available equipments and its duty is related either to the Cassation Public Prosecution or the Appellate Public Prosecution or the Financial Public Prosecution, as the case may be. The Financial Crimes and Money Laundering Repression Bureau was established in 1991 and in 2002 its name and scope of jurisdiction were amended to include also ML. It is responsible for combating all types of financial crimes and ML crime; ensuring that the competent laws are implemented appropriately; coordinating with the SIC, especially in terms of investigation and inquiry, knowing that this Bureau is electronically related to the SIC through the SRAC for the exchange of information related to ML/TF crimes. The Bureau, which is run by 2 officers and 46 employees, cannot send information to the SIC except after obtaining the approval of the Public Prosecution, whereas the information are sent through the special link program. These procedures do not take a long time, usually few days. The longest period between the SIC's request for some information and obtaining the same did not exceed one month. The information requested by the SIC are mostly related to knowing the companies owned by the person or in which he has shares in addition to the assets and cars he owns as well as his entrance and exit into/from the country.

213. **The Anti-Terrorism and Serious Crimes Division:** It was established on March 08, 2006 according to the Memorandum of Service No. 610/204ch4. This division replaced the Terrorism Repression Bureau established according to the decree No. 1157 dated May 2, 1991 of the Private Criminal Investigations Division; provided that the said Division's duties, members, and equipments are defined according to texts and instructions to be issued later. Currently, it includes 131 members, including 5 officers.

214. The Anti-Terrorism and Serious Crimes Division was originally an office affiliated to the Private Criminal Investigations Division, but has become an independent division after the increase of the criminal acts. It is a central office of 4 branches spread all over the Republic in addition to a Central Investigations Bureau, a Technical Inquiry Bureau and a Repression Bureau. It has started with around 100 employees, including well-qualified officers of the elite internal security forces. After becoming an independent division, the number of the officials increased, whereas it is suitable for the division to have 700 members. The division has started building a huge database whereby the archive is the most important thing in combating terrorism. Each officer at the division is regarded as a judicial officer assisting the Public Prosecutor.

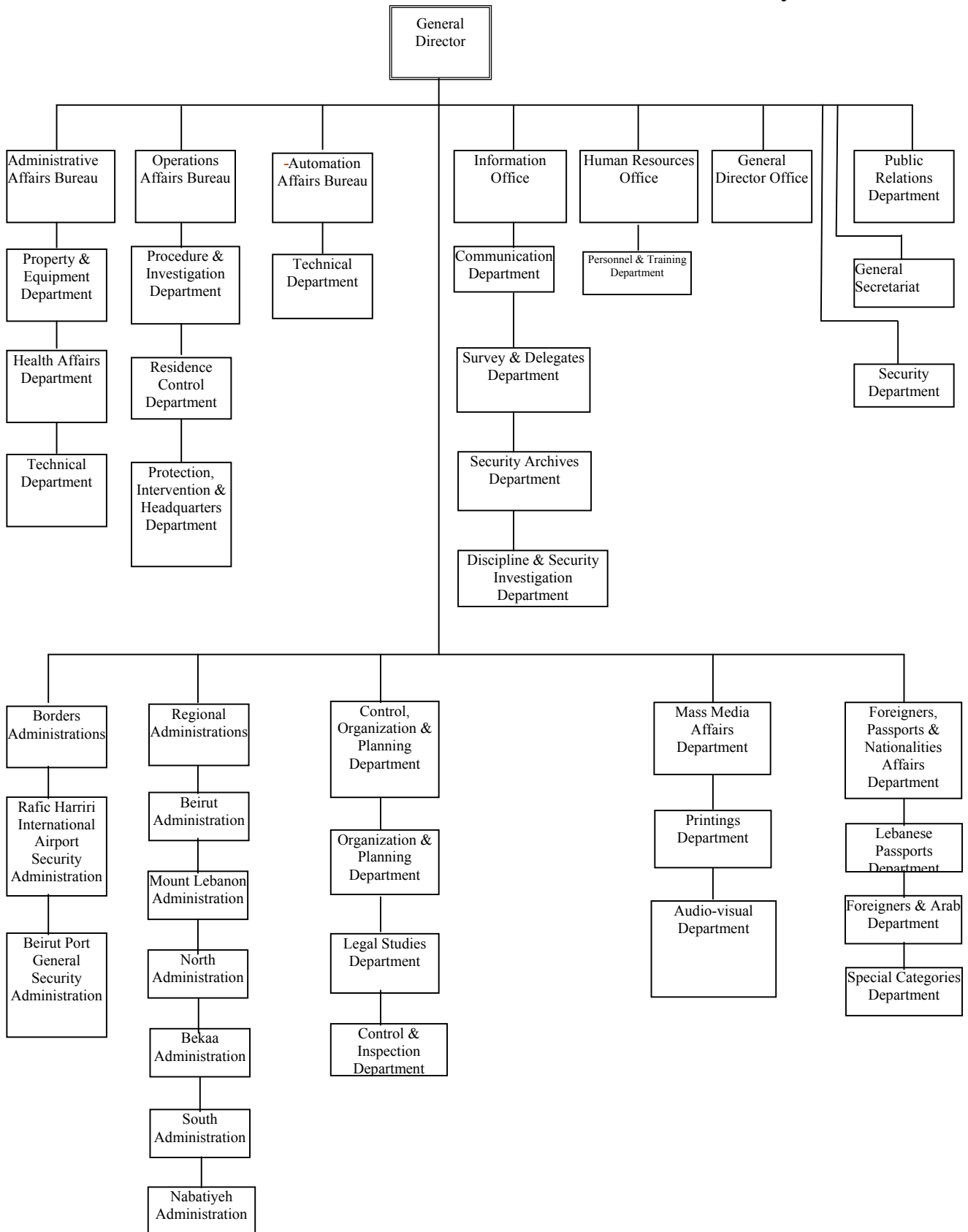
215. **The Drugs Repression Bureau:** It is affiliated to the General Criminal Investigations Division related to the Judicial Police Commander at the ISF directorate. The anti-drugs force consists of several bureaus: (1) the Central Drugs Repression Bureau (includes 69 members of different ranks); (2) the Regional Drugs Repression Bureau in the North; (3) the Regional Drugs Repression Bureau in the South; (4) the Regional Drugs Repression Bureau in the Beqaa. The three branch offices all over the Republic, which include 141 members of different ranks, undertake combating all forms, kinds, substances and nature of the narcotic drugs and psychotropic substances. The Drugs Repression Bureau's role ends upon detecting the drugs' case without investigating the ML operations that might accompany the drugs cases. However, the liaison officer at the Anti-drugs and Anti-money Laundering Department, at the Directorate General of Customs should inform the SIC and all the concerned authorities of the persons who commit or are suspected of committing crimes covered by the law and of any operations suspected of hiding ML.

216. **The International Relations Department:** It is entrusted with fulfilling the Interpol Bureau's duties. It is responsible for providing communication with the international and foreign authorities as well as all the foreign police authorities and entities; then it presents the results of these communications before the Cassation Prosecution and cooperates with the General Security, the Customs and the security forces offices for executing the decisions taken by them. This department was established in execution of one of the recommendations of the Arab Interior Ministers Council for coordinating and cooperating between the countries regarding the police. In some countries, the International Relations Department is different than the Interpol, whereas in Lebanon, the Department performs both roles and its role is administrative only, unlike other countries in which the department's duty could be administrative and executive.

217. **The General Directorate of General Security:** It is responsible for gathering political, economic, social and security information in favor of the state as well as monitoring the foreigners and granting passports and entrance permits. According to the decree-law No. 139 of June 13, 1959 and the organizational decree No. 2873 dated December 16, 1959, the Lebanese General Security shall gather information through a structure that adopts the central and geographical investigation. Moreover, these laws bind the general security officers and elements to gather the information related to counter-terrorism, knowing that the General Security also undertakes the immigration and passports affairs as well as controlling the entrance and exit traffic through the border crossings and combating espionage; the information is used in favor of the Information Department. The measures taken are due to security reasons. They may include CFT and are summarized as follows:

1. Gathering information on the Lebanese and foreigners that could be involved in TF.
2. Exchanging information with the fellow security authorities, whose citizens are concerned with the TF acts.
3. Taking a series of preventive procedures, including the border inspection measures, the transport statement measures in addition to tracking and pursuing the suspicious persons to detect their communications and activities related to TF.
4. Submitting a secret post to the competent authorities and the Public Prosecutions (cassation and financial) to be sent thereafter to the concerned authorities.

Structure of the General Directorate of General Security



218. **Customs Administration:** Article 103 of the decree No. 1802/79 considers the officers and NCOs of the Customs Administration, excluding the Corporals, judicial officers who are assistants of the Public Prosecutor within the scope of their competence. In addition, article 361 of the Customs law addresses the authorized employees as well as their right to investigate and contact the Public Prosecution (appellate – financial...) and the SIC according to their powers as well as submitting the investigation information. An additional division was added to the Customs Department for Anti-drugs and AML, which belongs to the Office of Smuggling Control and Inspection, which is directly related to the General Director of Customs. Two brigades are established in this division: the first is for anti-drugs and the second for AML. Based on the decision No. 6/2003 of the Supreme Customs Council, a liaison officer has been appointed, knowing that this division is responsible for providing support. It is worth mentioning that the division's roles include providing coordination and the exchange of information through the liaison officer, who undertake to inform the SIC and the remaining concerned authorities of the persons who commit or are suspected of committing crimes covered by law No. 318 and of any operations suspected of hiding ML. This division is comprised of 41 persons, 21 of whom work in the AML brigade.

219. Whereas, regarding TF, there is no specific authority responsible for ensuring the performance of the investigations on the TF crimes; the issue is subject to the general rules alike the remaining crimes which the competent courts study according to the crime scene or the defendant's place of residence or where they were arrested. In this regard, article 9 of the Criminal Procedures Law stipulated that "the common interest lawsuit shall be filed before the criminal authority within the jurisdiction of which the crime has occurred or to which the place of residence of the defendant or the arrested belongs".

220. **Ability to postpone or waive arrest of suspects or seizure of property:** Since the Criminal Procedures Law does not comprise texts for taking legislative or other measures that allow the competent authorities investigating ML/TF cases to postpone or waive the arrest of the suspects or the seizure of the property, or both of them, to designate the persons participating in these activities or to gather evidence; and there are no provisions stating the obligation to arrest the suspect or seize the property within a specific time; therefore, we can deduce that the authorities have the capacity to postpone or stop the arrest of any suspect or the seizure of the property.

221. **Additional Elements: Ability to use the special investigative techniques:** The law enforcement authorities have indicated that they have the power to use special investigative techniques according to article 25 of the Criminal Procedures Law, whereas the Prosecution peruses the crimes by any legal method that allows it to obtain information on the crime. In addition, pursuant to the provisions of the decree-law No. 138 of June 12, 1959, the ISF may seek the assistance of the detectives as one of the special investigative techniques upon performing investigations. Moreover, the monitored extradition can be performed after obtaining the Cassation Public Prosecutor's written approval. Regarding phone tapping, the authorities have indicated that Lebanon is advanced in this regard, whereby the authorities analyze the content of the calls in addition to wiretapping, after obtaining the approval of the courts. In addition, according to article 366 of the Customs law, within conditions defined by the Director of Customs in cooperation with the Central Directorate for Anti-drugs and after informing the Cassation Public Prosecution, the Customs' employees are authorized to monitor and track the drugs movement (monitored delivery) in addition to investigating and proving the violations through seizure reports or through other legal ways and methods.

222. **Ability to compel production of and searches for documents and information:** The Criminal Procedures Law has stipulated many powers and procedures available for the Prosecution, the examining magistrates and the judges upon hearing the case. These powers include for the Public Prosecution (article 31 of the C.P.P and following text): entering and searching the house of the suspect; seizing any substances that help in the investigation; seizing the weapons and all the criminal substances used in committing the crime as well as all the things that help in discovering the truth; interrogating the suspects

on the seized things; hearing the persons who witnessed the crime or had information about it; any other investigatory procedures necessary for gathering useful information on the felony, for providing evidence thereon and discovering the perpetrators or interferers thereof; seeking the assistance of one or more experts for disclosing some technical issues if the crime's nature or effects required so. Whereas, regarding the examining magistrate, he may move, inspect and seize evidence (articles 98 to 105 of the same law). Moreover, this law has, according to articles 43 and 47 authorized the judicial police's individuals to search the persons and the houses as well as seize the evidence, the criminal substances and all the substances related to the crime, according to the competent Public Prosecution's approval. The foregoing shall be done by the Financial Crimes and Money Laundering Repression Bureau and the Terrorism and Serious Crimes Repression Bureau. In addition, article 214 of the law No. 17/1990 (organization of the ISF), which detailed the powers of the ISF in searching the persons, the cases of entering and searching houses as well as seizing the criminal evidence. Moreover, article 357 (house searching) and articles 358 and 359 of the Customs law stipulated arresting the person in case of a red-handed crime and the related conditions.

223. Powers to take the witnesses' statement: Chapter 3, articles 85-97 of the Criminal Procedures Law has regulated the rules adopted in hearing the witnesses. According to the provisions of article 86, the examining magistrate may invite the persons whose names are mentioned in the complaint or the notification or the investigations and anyone he considers as having information useful for the investigation. The mentioned articles have regulated everything related to the way of notifying the witnesses of the invitation to appear before the courts and the rules followed in regulating minutes of their testimony and other procedures. According to article 47, the individuals of the judicial police may hear the statements of the witnesses without oath and the statement of the sued persons or the suspects. The witnesses' statements shall be recorded word by word in the minutes drafted by the competent bureaus at the security forces and read to the witness for confirmation and signature thereof.

224. Adequacy of the resources of the law enforcement agencies and the investigation authorities or filing lawsuits in AML/CFT issues: Regarding the number and according to the decree No. 1460/91, it is 29494, out of which 1718 are officers. The ISF number reached till 2008, 23500, which represents 79% of the personnel. Whereas, regarding the Special Criminal Investigations Division, according to the said decree, the set number is 414, out of which 31 are officers. However, the current number is 152. Regarding the Financial Crimes and Money Laundering Repression Bureau, the number is set to 100, out of which 7 officers; however, the current number is 47, out of which 2 are officers; whereas the number of the Anti-Terrorism and Serious Crimes Bureau members is 100, knowing that the required number is 700 as stated by the authorities. Whereas, regarding the number of employees in the General Security forces, it amounts to around 3500 individuals, out of which 300 are officers. Work is done currently to increase the number of officers and members in the staff of the General Security. Regarding the financial resources, the team has not obtained any specific numbers; however, he has found out that the Financial Crimes and Money Laundering Repression Bureau and the Anti-Terrorism and Serious Crimes Bureau are relatively equipped with modern offices but should be provided with the required technologies.

225. Integrity of the competent authorities: The Lebanese authorities have indicated that the employees of the Financial Crimes and Money Laundering Repression Bureau have a high level of integrity. The applicable laws, especially article 42 of the Criminal Procedures Law and article 226 of the law regulating the security forces requiring the abidance by the professional secrecy regarding the information connected thereto due to their job, are observed. All employees of the security forces shall be monitored through specialized offices to ensure that they do not breach the applicable laws and regulations, especially the professional secrecy, subject to taking behavioral and even judicial measures against them. Whereas, regarding the judicial authorities, all judges shall abide by the obligation of confidentiality during their work; they should start their duties as principal judges after taking the special oath in this regard.

Moreover, article 103 of the Customs law provides for the professional standards, by which the Customs Department's staff should abide upon performing their duties.

226. Training for competent authorities: The officers working at the competent bureaus of the ISF and the General Security Forces are requested to attend seminars and lectures prepared by the SIC at the Central Bank of Lebanon (BDL), the Interpol and the Council of the Arab Ministers of Interior. However, the Financial Crimes and Money Laundering Repression Bureau lacks training in this field. Moreover, some employees have been subject locally to training sessions on AML in coordination with the SIC. Whereas, regarding the judiciary authorities, some judges have followed a training on AML at the SIC in cooperation with the Judiciary Studies Institute. Regarding the judiciary bodies, the judges in Lebanon are already trained and rehabilitated before joining the original judiciary authorities at an institute called the Judiciary Studies Institute, before they are distributed over the different courts, prosecutions and the examination judiciary. However, there are no training systems until now to which the judges are subject in this field.

227. Below is a table for the training sessions that the ISF officers attended:

No. of Trainees	Ranks	Title of the Training Session	Training Party	Place of Training (inside/outside the country)	Date of the Training Session
2008					
20	Officer and Non-commissioned officer	AML and Anti-Corruption Techniques	European Project	Inside	From 7/4/2008 to 18/4/2008
1	General	Trafficking of Drugs and ML		Cyprus	From 12/10/2008 to 18/10/2008
3	Captain and Lieutenant (2)	Specialized Training on Financial Crimes and ML		England	From 13/9/2008 to 28/9/2008
2007					
1	Lieutenant Colonel	AML	Central Bank of Lebanon (BDL)	Inside	17/2/2007
20	Officer and Non-commissioned officer	Lecture on the Financial Misdemeanors and ML		Inside	From 10/12/2007 to 12/12/2007
2006					
4	Lieutenant Colonel and Captain (3)	AML/CFT	Central Bank of Lebanon (BDL)	Inside	1/4/2006
1	Lieutenant Colonel	Training the Trainers on		Egypt	From 31/3/2006 to

		AML/CFT			8/4/2006
1	Colonel	AML		Malta	From 14/1/2006 to 22/1/2006
2005					
4	Colonel (2) – Major – Captain	AML		Cyprus	From 2/4/2005 to 10/4/2005

228. **Statistics:** From 2001 to 2004, the Cassation Public Prosecution has investigated 45 cases; some of them have been subject to prosecution; however, most files were kept due to the insufficiency of evidence of the presence of the ML crime or the unavailability of the legal elements of ML crime. The Cassation Public Prosecution has presented the following statistics:

	2005	2006	2007	2008
Investigating cases sent by the SIC	16	12	8	16
Total investigations in the ML crime	59	79	65	50
Cases referred to the competent courts	6	3	1	1

2.6.2 Recommendations and Comments

229. **The Lebanese authorities are recommended to:**

- Find a designated authority responsible for ensuring the performance of the investigation on the TF crimes.
- Provide the Financial Crimes and Money Laundering Repression Bureau and the Terrorism Repression Bureau with the required human and technical resources.
- Increase the training and the sessions regarding ML/TF for the competent security authorities.
- Provide the Anti-drugs and Anti-money Laundering Department at the Customs Department with the sufficient human and technical resources.

2.6.3 Compliance with Recommendations 27 & 28

	Rating	Summary of factors underlying rating
R. 27	LC	<ul style="list-style-type: none"> • There is no designated authority responsible for ensuring the performance of the investigation on the TF crimes
R. 28	C	

2-7 Cross Border Declaration or Disclosure (SR.IX)

2.7.1 Description and Analysis

- **The legal framework and the special mechanisms for monitoring cross-border physical transportation of currency:** the number of border stations in Lebanon is 8: Rafic Hariri International Airport; 5 land access; 2 sea access. The declaration or disclosure system is not applied and there are no laws that ban cross-border cash entrance or specify the maximum cash. However, the Customs Department's memorandum No. 3117 of 12/3/2003 related to providing support in terms of AML and which requires gathering information related to the cash money transported with the travelers according to a specific form sent periodically to the SIC following the Cassation Public Prosecution approval, has been issued. Moreover, the Supreme Customs Council, through its letter No. 211/2004, decided that the adoption of the principle of currency freedom of movement shall not contradict with the role of the Customs Department in supporting the AML.

231. Therefore, the travelers are not obliged to declare or disclose the currency or the bearer negotiable financial instruments in their possession. In the event where the traveler possesses money, an information form was circulated under a memorandum issued by the General Director of the Customs to the Customs Department on 12 March, 2003 binding the concerned employees to have the form completed, mentioning the traveler's particulars, the type and amount of currency and to submit the completed form to the Communication Officer, Head of the Office of Smuggling Control and Inspection who, in his turn, submits it to the Special Investigation Commission without arresting the person or attaching the currency or the bearer negotiable financial instruments they possess, subject to the authorization of the Cassation Public Prosecution. Therefore, the process is limited to notifying the concerned authority only. In addition, the memorandum did not cover the TF subject but was limited to the ML suspicions only.

232. Requesting information on the origin and use of the currencies as well as the sanctions imposed on the false declaration and disclosure in addition to the sanctions imposed on the cross-border physical transportation of currency for ML or TF purposes: There is no system related to the cross-border transportation of currency and bearer negotiable financial instruments.

233. Retention of the information on the currency and the identification data by the authorities when necessary in addition to the FIU access to the information: a copy of the data shall be kept at the Office of the President of the Office of Smuggling Control and Inspection (liaison officer) and at the S-RAC at the Customs Department. The SIC shall be provided with these data in hand against a delivery receipt and through the S-RAC and after informing the Cassation Public Prosecution. After obtaining the permission of the Cassation Public Prosecution, the Anti-drugs and Anti-money Laundering Department provides the SIC with the available information on the cross-border movement of funds and the SIC shall be informed of the cases suspected of being ML operations.

234. Local cooperation between the concerned authorities: The authorities have indicated the presence of coordination between the General Customs Department and the SIC as well as the Immigration Department and the security authorities at the border stations. It is worth mentioning the specific role of the AML Division at the Customs Department, which should coordinate and exchange information through its liaison officer, who undertakes to notify the SIC and all the concerned authorities of the persons who commit or are suspected of committing crimes covered by law No. 318 and of any operations suspected of hiding ML.

235. International cooperation between the concerned authorities: Practically, there is no cooperation or assistance between the competent authorities in conformity with their commitments mentioned in R. 35

to 40 and SR. V. No information was exchanged with counterpart Customs regarding AML/CFT or any unusual movement of funds or bearer negotiable financial instruments or gold or precious metals.

236. **Sanctions:** There are no restrictions on entry or exit of the funds or the bearer negotiable financial instruments. The Customs law does not stipulate customary sanctions regarding the ML or TF suspicion or in case of false declaration or disclosure. However, article 315 of the Common Penal Code shall be applied regarding the interferer or the partner. In the event of ML suspicion, the form including the currency type and amount as well as the complete data on the person shall be filled out and sent to the SIC after obtaining the permission of the Cassation Public Prosecution without confiscating the currency related to ML as there is no legal text that supports this procedure. The memorandum issued by the General Director of Customs on 12 March, 2003 was limited to ML operations only. The Lebanese Authorities stated that the Customs Authority has already suspected cross-border transportation of funds, which were seized after having obtained the approval of Cassation Public Prosecution, but they were not related to ML.

237. The Anti-drugs and Anti-money Laundering Department at the General Customs Directorate shall perform the necessary investigations; contact the Public Prosecutions (appellate, financial...) and provide them with the investigation information; and provide the SIC with the information it requests and the information related to money transfer. The General Customs Directorate has issued a memorandum that requires gathering the information related to the cash money transported with the travelers according to a form sent on a regular basis to the SIC after obtaining the Cassation Public Prosecution's approval. The Department includes the AML brigades, which includes 20 members holding low level jobs. In case the Customs' officials have a suspicion, they may contact the Prosecution and ask for its opinion; it might recommend notifying the SIC.

238. There is no text that indicates the confiscation of the ML/TF-related currency or bearer negotiable financial instruments, which are transported by persons through the borders.

239. **Confiscation of currency pursuant to the UNSCRs:** There is no text stating the confiscation of the currency or bearer negotiable financial instruments by virtue of SC RES. The Lebanese Authorities stated that the Customs have not received any instructions or lists or circulars in this regard and the Customs law does not permit them to confiscate funds.

240. **Informing the foreign agencies of the unusual movement of the precious metals and stones:** There are no procedures in Lebanon related to informing the Customs authority in the countries from which the gold, precious metals or precious stones came out. The foreign customs authorities are not informed of the same, practically. It is worth mentioning that the Ministry of Economy and Trade applies law No. 645 of 24/11/2004 related to the system of the diamonds' import, export and transit which has entrusted the committee established by virtue of decree No 14861 dated 01/07/2005 with the task of ensuring the due application of the Kimberley process in coordination with the participants therein; for this purpose, the law has permitted the committee to exchange information with other participants regarding the trade of crude diamonds and the conflicts related thereto, while cooperating in supervising the activities related to such trade. The committee maintains a data base that includes the decisions issued by the judicial authorities related to the law provisions, knowing that the competent committee, since its establishment and to date, is exchanging information with other participants in Kimberley process and Presidency of Kimberly process and informs them of any doubt or information it received regarding any unusual movement for the crude diamond; it applies as well all related decisions issued by the UN.

241. **Guarantee of proper use of information:** they shall be provided by hand to the SIC with a copy kept secretly with the liaison officer in a safe box. They may also be sent to the SIC via the S-RAC computer program.

242. **Statistics:** There are no statistics about the reports submitted regarding the cross-border transportation of currency or bearer negotiable financial instruments, as there is no declaration or disclosure system in the country.

2.7.2 Recommendations and Comments

243. **The Lebanese authorities are recommended to:**

- Adopt either the declaration or the disclosure system related to the cross-border transportation of currency or bearer negotiable financial instruments, in both directions: entry and exit.
- Establish dissuasive sanctions in case of false declaration or disclosure or non-declaration or non-disclosure.
- Issue instructions regarding TF.
- Establish an effective control over the entry or exit of the funds or the negotiable financial instruments under a legal text regulating the same.
- Activate the exchange of information with the counterpart authorities regarding the Customs authority.

2.7.3 Compliance with Special Recommendation IX

	Rating	Summary of factors relevant to s.2.7 underlying overall rating
SR. IX	NC	<ul style="list-style-type: none"> • Non-adopting the declaration or disclosure system. • Absence of dissuasive sanctions in case of false declaration or disclosure or non-declaration or non-disclosure. • Non-issuing instructions regarding TF. • Absence of a legal text that regulates the control over the entry or exit of the funds or the negotiable financial instruments.

3- PREVENTIVE MEASURES – FINANCIAL INSTITUTIONS

Legal Framework:

The legal framework and its scope of application

244. The law No. 318 issued in 2001 represents the AML legislative framework in the Lebanese Republic. Articles 4 and 5 of this law identified the financial institutions covered by its provisions according to the criteria of their submission to the Banking Secrecy Law issued on 3 September, 1956 or not.

245. Regarding the institutions determined in article 4, they are the institutions, including the individual institutions, not covered by the Banking Secrecy Law issued on 3/9/1956, especially the banking institutions, financial intermediaries, finance lease companies, collective investment authorities⁹, and insurance companies.

246. Whereas, the institutions covered by the Banking Secrecy Law and mentioned in article 5 include according to the Banking Secrecy Law and the Code of Money and Credit: banks and credit institutions.

247. The activities practiced by the above mentioned institutions and which are covered by articles 4 and 5 of the previously mentioned law No. 318 are consistent with the activities or the operations performed by the financial institutions mentioned in the methodology evaluating the compliance with the FATF R. 40+9 (methodology), with an indication to the fact that the financial intermediary and the finance lease transactions are performed by companies specialized in this activity in addition to the banks and the credit institutions.

248. Article 4 of the law No. 318 has determined also the obligations that the institutions not covered by the Banking Secrecy Law should perform in terms of AML; article 5 of the same law has bound the said institutions to control the transactions they perform with their clients in order to avoid being involved in transactions that might hide laundering money resulting from the crimes mentioned in this law, and it explicitly authorized the Central Bank of Lebanon (BDL) to determine the rules of this control according to a law it promulgates and issues within one month from the date of entry into force of this law. Moreover, the articles comprised the minimum obligations which should be covered by that system.

249. Based on this authorization, the Central Bank of Lebanon (BDL) issued on 18 May, 2001 a main circular No. 83 attached with the main resolution No. 7818 related to the financial and banking transactions control system, which will be called thereafter “the system”. It covers the obligations which the banks and the credit institutions should comply with to combat money laundering.

250. In accordance with the methodology, this “system” shall be regarded as a secondary legislation, since it meets all the conditions required for that according to the methodology. These conditions shall mean that the secondary legislations shall be licensed by a legislative authority and that obligatory requirements shall be imposed with the application of effective, dissuasive and proportionate sanctions, whether criminal or civil or administrative in case of non-compliance, if the system is issued according to the explicit authorization attributed to the Central Bank of Lebanon (BDL) according to article 5 of the

⁹ According to the Lebanese authorities, the collective investment authorities do not currently exist in Lebanon.

law No. 318. The context of this law includes a great deal of binding provisions and law No. 318 has determined in article 13 criminal sanctions for violating the provisions of some articles, such as article 5 which stipulates binding the institutions covered by the Banking Secrecy Law to control the transactions, the rules of which are set forth in this system.

251. Regarding the institutions not covered the Banking Secrecy Law, the law has specified some main obligations; no authorization is mentioned by law regarding such institutions for the supervisory or controlling authorities to specify any other obligations or to detail the obligations mentioned therein, unless what is related to the powers of BDL in setting the amount of transactions that should be recorded in a special register as stipulated by article 4 of law No. 318.

252. BDL has issued on May 18, 2001 resolution No. 7819, amending article 8 of resolution 7551, and which is addressed to the financial intermediaries as well as resolution No 7842 amending article 10 of decision No. 7540 addressed to the finance lease companies. Both articles stipulate that the institutions shall "execute the provisions of law 318 and the regulatory texts issued by BDL in this regard." The Lebanese authorities consider that based on both articles, the requirements of circular No 83 (system referred to above) shall apply to finance lease companies and financial intermediaries since it is a regulatory text issued by BDL and related to AML.

253. However, it is worth mentioning that BDL has its legal powers in AML from the explicit authorization which was granted to it by the legislator by virtue of article 5 of Law 318, knowing that it has limited the same to setting the rules of controlling the transactions made by the institutions covered by the Banking Secrecy Law with its clients pursuant to a system. Accordingly, the powers of such system in this field are restricted to this category of institutions. Whereas the finance lease companies and intermediaries are not covered by the banking secrecy and whereas observing the rules of competency in the area of legal provisions are of public order, the explanation referred to in articles 8 and 10 is not appropriate according to the assessors due to the absence of the legal ground for BDL to withdraw the provisions of the "system" on the institutions not covered by the banking secrecy. Therefore, the provisions of the "system" do not include the finance lease companies and intermediaries.

254. BDL has as well issued in its capacity as regulatory authority for the institutions licensed to deal with such activity within the code of money and credit, finance lease, financial intermediary and exchange, the circulars No: 99 related to the electronic transfers, 111 related to the cash transfers according to the transfer system and 136 addressed to the exchange companies and related to issuing checks and executing banking transactions in favor of its clients. Such circulars are considered as "other enforceable means" as per the methodology, being issued by an authority that has powers of issuing regulatory binding texts and implementing administrative sanctions upon their violation.

255. The SIC (The Commission) has issued on August 18, 2005 announcement No. 7 addressed to the financial intermediary companies and related to specifying the obligations that such institutions should abide by in field of combating money laundering.

256. The evaluation team believes that the conditions required to consider this announcement as part of the other enforceable means are not met. According to the methodology, these conditions reside in having these means issued by a competent authority (whether a financial controlling authority or another authority) or a self-regulatory authority that uses powers it is authorized with by that competent authority or directly granted by the law, and in making these means enforceable and not encouraging along with imposing effective, dissuasive and proportionate sanctions, whether they were criminal or civil or administrative in case of non-compliance. The evaluation team also found out that this announcement is issued by a competent authority, being the Commission and that it is sufficiently binding; however, no

sanctions imposed in case of violating its provisions have been found, and thus the evaluation team could not make sure if the 3rd condition related to sanctions is satisfied.

257. Pursuant to article 6 of law No. 318, the Commission was entrusted with ensuring the compliance with the rules and procedures set forth in this law. During the onsite visit, the Commission indicated to the evaluation team that it may: (1) refer the institutions licensed by the Central Bank of Lebanon (BDL) and which violate the regulatory provisions issued by it regarding AML to the Higher Banking Commission which may impose administrative sanctions according to article 208 of the Code of Money and Credit (2) whereas regarding the institutions non-registered at the Central Bank of Lebanon (BDL), they shall be subject to the control of other authorities which are authorized to impose administrative sanctions in case those institutions violate the laws and systems, including those related to AML; (3) pursuant to articles 6 and 13 of law No. 318, the Commission may refer the institutions covered and not covered by the Banking Secrecy Law to the Cassation Public Prosecution for violation of provisions of articles 4, 5, 7, and 11 of law No. 318.

258. The evaluation team considers that the imposition of administrative sanctions by the Central Bank of Lebanon (BDL) on the institutions licensed by it according to article 208 of the Code of Money and Credit does not include the violation of the announcements issued by the Commission since the provisions of article 208 have determined the violations that impose the administrative sanctions in case of occurrence, namely if the bank violates the following: (1) the provisions of its articles of association; (2) the provisions of this law (Code of Money and Credit); (3) the measures imposed by the Central Bank of Lebanon (BDL) according to the powers derived from this law (Code of Money and Credit). This text shows that these cases do not include violating the announcements issued by the Commission.

259. Moreover, the criminal sanctions stipulated in article 13 of law No. 318 shall be imposed in the event of violating provisions and obligations imposed according to the same law, (articles 4, 5, 7 and 11) not including the violation of the announcements issued by the Commission.

260. In addition to the foregoing, despite being institutions licensed by the Central Bank of Lebanon (BDL), the intermediaries are not covered by the provisions of the Code of Money and Credit and they are also not covered by the sanctions provided for in article 208 thereof, whereas these institutions are regulated pursuant to a special law, law No. 234 of 2000, whereby articles 20 and 21 thereof determine the sanctions which may be imposed in case of violation of the provisions of the same law. On the other hand, announcement No. 7 was issued by the Central Bank of Lebanon (BDL)'s Governor being the SIC's President; thus, the announcement shall not belong to the regulatory provisions issued by the Central Bank of Lebanon (BDL). Accordingly, the announcements issued by the Commission cannot be considered as other enforceable means.

261. The evaluation team has not found out the legal ground that grants the Commission the powers to impose the administrative sanctions or even only referring them to the competent authorities for imposing the sanctions thereon.

262. Regarding the insurance companies, the Ministry of Economy and Trade issued on 19 June, 2002 Circular No. 3 related to the AML procedures for the insurance companies and the insurance brokers in Lebanon. This circular was issued by the Ministry being the supervisory authority for this sector.

263. This circular satisfies the conditions required to be considered a part of other enforceable means, whereas it is issued by a competent authority and its text shall be regarded as enforceable. Moreover, article 60 of the law regulating the insurance authorities, issued by the decree No. 9812 of 4 May, 1968 specified the sanctions to be imposed in case of the violations which are not explicitly set forth in article 58 and 59 of this law or the violations that occur in contrast with the provisions of the decrees and

decisions taken in application of the provisions of this law. The sanctions include imposing the fine, the value of which is set according to the violation by a decision from the Minister of Economy and Trade. In case the situation is not settled after the fine within a certain period, the company's license shall be suspended and the company will not be allowed to practice its business and activities to the extent of de-certification. The said circular has comprised a text for confirming that the bodies of the Ministry of Economy and Trade will undertake following up the implementation of the circular to pave the way for taking the appropriate procedures and stands towards each violation.

264. Whereas, regarding the exchange companies and the finance lease companies, they have no adequate applied provisions with regard to AML/CFT. It is to mention that currently there are two companies established by banks in Lebanon that practice such business. The evaluation team has found out that the visited company is affiliated, in the organizational aspect, to the mother institution and follows the same procedures the bank applies (one official to monitor the compliance with AML).

Customer Due Diligence and Record-Keeping

3-1 Risk of Money Laundering and Terrorist Financing

265. The Lebanese authorities have indicated the issuance of an announcement ⁷ (Refer to p. 30) to rely on the risk-based approach in the CDD procedures for verifying the clients' ID, which includes guiding principles that clarify how to meet this obligation. The regulations applicable throughout the evaluation team's visit are not based on the risk-based approach in implementing the preventive measures. Furthermore, Law No. 318 has not exempted a specific sector from the implementation of its provisions.

3-2 Customer Due Diligence, including Enhanced or Reduced Measures (R.5 to 8)

3.2.1 Description and Analysis

266. **Prohibition of anonymous accounts:** Article 5 of law No. 318 obliges all banks and the credit institutions to adopt clear procedures regarding the opening the different kinds of accounts, including the credit and numbered accounts, as well as to verify their clients; thus, these institutions are prohibited from opening accounts for anonymous persons.

267. Regarding the institutions not covered by the Banking Secrecy Law, article 4 of law No. 318 has stipulated that such institutions should hold special records for the transactions which amount exceed the amount specified by BDL. They should also verify their clients' IDs and addresses on the basis of official documents, which indicate that these institutions are forbidden from opening accounts for anonymous persons for the transactions that exceed such amount fixed by BDL at USD 10,000. However, setting a specified amount for ID identification may lead to the potential existence of anonymous accounts for the transactions that are less than that amount due to the absence of an explicit obligation related to ID verification regardless of the amount of the transaction. The Lebanese authorities see that no link exists between the obligation of ID verification and that of maintaining special records for the transactions, which amount exceeds the amount set by the Central Bank of Lebanon, and that ID verification shall be made for all transactions.

268. **Figureheads Accounts:** Paragraph a, article 5 of law No. 318 requires identifying the ID of "the beneficial owner" in case the dealing is carried out through agents or under figureheads belonging to persons or institutions or companies.

269. This paragraph indicates that opening accounts of figureheads is permitted provided that the beneficial owner's ID is identified. Moreover, the SIC and the visited banks indicated that opening these types of accounts shall not be permitted; however, legally, there is no clear text that forbids opening such accounts. Criterion 5.1, R.5 issued by the FATF methodology indicates that the financial institutions should not be allowed to keep anonymous accounts or accounts with fictitious names. This criterion should be applied according to a law or a regulation (primary or secondary legislation). By virtue of article 5 of the law, the figureheads accounts shall not be exempted from the obligation of verifying the ID of the person in whose name the account was opened, in addition to the obligation of identifying the ID of the person in favor of whom the account was opened, which will exclude the possibility of opening an account for a person or in favor of a person of an anonymous identity.

270. **Numbered accounts:** Pursuant to article 3 of law 1956 related to banking secrecy, "the banks may open for their clients numbered deposit accounts whose holders know only the bank's manager or his agent."

271. The banks may also rent safe boxes with numbers under the same conditions. According to article 5 of law No. 318, the requirements of verifying the client's ID and determining the beneficial owner shall be applicable to these accounts. According to the information the banks stated for the evaluation team, the numbered accounts represent exceptional cases¹⁰ and shall be subject to specific procedures; they are not opened only after obtaining the approval of the highest authority at the bank, for the benefit of a certain category of clients and due to "legal reasons". Only certain persons, including the General Manager of the bank, the regional manager and the branch manager in addition to the compliance officer, may peruse the client's file. During the onsite visit, a difference in terms of implementation related to the perusal of the compliance officer for the files of the holders of the numbered accounts was noticed; the representatives of one bank told the evaluation team that the bank's internal policy requires the approval of the General Manager on the same, whereas the other banks do not set any conditions in this respect.

When is CDD required?

Banks and Credit Institutions:

272. Article 3 of the "system" determines the cases in which the bank and the credit institutions should verify the clients' ID, whereas banks and credit institutions shall be obliged, each within their competence, to adopt clear procedures for accounts opening and verify the ID of their permanent and occasional clients, residents and non-residents, particularly in the following cases:

- Opening all types of accounts, including the credit and numbered accounts as well as the accounts belonging to the suspicious persons.
- Credit operations.
- Drafting a lease contract for renting safe boxes.
- Cash's transactions that exceed 10, 000 USD or its equivalent in any other currency. The cash's transactions include the cash payments which the client performs on the banks' counters (depositing funds, exchanging currencies, purchasing precious metals, purchasing deeds in cash, subscribing treasury bills in cash, purchasing international cheques in cash, transfer orders paid in cash, etc...).

273. Moreover, paragraph 2, article 3 determined other cases for performing this verification, whereby it stipulated that "the employee authorized to perform the transaction should also verify the client's ID,

¹⁰ Not more than 30 accounts as stated by one bank, whereas another bank indicated that its policy does not encourage opening these accounts.

regardless of the amount of the transaction; if the realized that there are multiple transactions occurring in amounts less than the minimum amount mentioned in clause 1 of this article and the total of which exceeds 10,000 USD or an equivalent amount on the same account or multiple accounts belonging to one person or if he has doubts that one of the clients has made ML attempts.

274. Moreover, article 7 of the “system” obliges each bank and credit institution to re-verify periodically the client’s ID or re-identify the beneficial owner, including the holders of the accounts opened before the issuance of the AML law, in terms of amending or adding any information on the KYC form, and in case of suspecting the accuracy of the information previously stated or in case of subsequent changes on the client’s ID or the beneficial owner's ID.

275. The system has not explicitly stipulated verifying the ID upon the establishment of the relationship, but it determined in article 3 cases that fall under this situation, which is opening the different types of accounts, the lending transactions and drafting of a lease contract for renting safe boxes. These cases were mentioned as an example as the provisions of article 7 used the word “especially”, which means that the narration of these cases is not exclusive. If the methodology did not determine the forms in which the relationship is established between a financial institution and its customers, the cases mentioned in the system shall cover according to the assessors this situation, since it covers the negotiable contractual relationships that lay the foundation of the establishment of a business relationship, and thus, the requirement of verifying the ID upon the establishment of a relationship can be considered as covered.

276. Therefore, the provisions of article 3 which were mentioned in a secondary legislation meet the conditions according to which the client’s ID should be verified, except the wire transfers performed by an occasional client, in which the client’s ID is not verified unless the amount exceeds 10,000 USD, while, FATF has specified the minimum amount for performing this procedure at 1,000 USD. The Lebanese authorities stated that BDL has issued in 2005, circular No. 99 according to which, the institutions registered at BDL and which perform funds transfer through electronic means, including those performed by credit or debit cards, shall be bound to include in the transfer order and the attached letters, the ID of the originator in an accurate way (name, address, account number, or unique reference number if no account exists that enables identifying the ID of the originator). The Lebanese authorities referred that such circular did not set any particular limit to the transfer amount; being a particular text, its provisions shall apply to all transfers without any consideration to the provisions of violation stipulated by other texts. It is worth mentioning that circular No. 99 does not reach the legislation level whereby the methodology requires the presence of such obligation by virtue of a primary or secondary legislation.

Intermediaries, Finance Lease, Insurance and Exchange Companies

277. The law has not specified the conditions requiring the verification of the clients’ ID; article 4 of law No. 318 stipulated that these institutions should “keep records for the transactions the value of which is more than the amount set by the Central Bank of Lebanon (BDL) in the articles it will set up according to article 5 of this law. Moreover, they should also verify the clients’ ID and addresses based on official documents...” According to article 3 of the regulation, the amount was set at 10,000 USD or its equivalent. The evaluation team sees that verifying the ID is related to the amount of the transactions which should be recorded; however, the Lebanese authorities do not agree on this. However, practically, the evaluation team has found out that the concerned institutions undertake the verification of the ID regarding the transactions exceeding the specified amount. Regarding the financial intermediaries only, announcement No. 7 stipulated the obligation of re-verifying the clients’ ID upon suspicion. The institutions covered by the onsite visit indicated that verifying the ID shall be necessarily done before the performance of any transaction.

278. Article 4 of this law requires performing this duty whenever the transaction exceeds the specified minimum amount, whether upon the establishment of the business relationship or performing occasional transactions. Therefore, the ID shall not be verified in the other cases by the FATF, i.e.: (1) carrying out occasional transactions in the form of wire transfers in the cases covered by the Interpretative Note for SR VII (over USD 1000)¹¹; (2) several occasional transactions less than the specified amount that appear to be linked; (3) there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations; (4) The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.

279. Although the provisions of article 1, announcement No. 7 addressed to the financial intermediaries stipulated re-verifying the ID upon doubting the validity of the related data, such obligation does not meet the requirements of the methodology that requires approving the same according to a law or a secondary legislation, which is a characteristic not available in this text as previously shown.

Required CDD Measures

ID identification measures and verification sources

Banks and Credit institutions

280. Article 5 of law No. 318 required verifying the ID based on official documents. The regulation specified the official documents for the natural persons as follows: passport or ID or individual civil status record or a residence license. This verification shall be done either physically, by presenting the official document, therefore not being able to depend on certified copies except regarding the clients residing abroad, whereas article 3 of the regulation provides for certifying officially the signature of same document, or according to an independent statement or through certifying the signature or verifying the client's ID through a correspondent or subsidiary bank or a representative office for the bank or one of its branches or from another bank. Since these official documents in Lebanon do not have the title of their owners, some visited institutions have revealed that they request other documents that meet the purpose or they correspond with their client or resort to the services of one of two companies existing in Lebanon, specialized in gathering information on individuals and companies.

281. The transactions occurring through an agent require showing the original copy or a true copy of the power of attorney, to be kept in addition to the official documents related to the agent or the mandatory's ID.

282. These provisions shall satisfy the requirements of the international standards in this respect, and the evaluation team has found out that the practical practice is good.

Intermediaries, Finance Lease, Insurance and Exchange Companies

283. Article 4 of Law 318 states that the aforementioned institutions shall verify the identity of their customers based on official documents. Concerning financial intermediaries, announcement No. 7 provided, for natural persons, for the obligation of obtaining documents related to their identity and their

¹¹ Manual No. 8 of 2005 issued by the Central Bank of Lebanon (BDL) and published on its website, entitled "Establishment and the activity of the money exchangers" stipulates that all the money exchangers should take all the means that ensure the performance of an effective examination on the transactions they perform with their clients, including the cash transfers which are equal or more than 10,000 USD or its equivalent in other currencies to avoid being involved in ML operations... through adopting the compulsory rules designated by the Central Bank of Lebanon (BDL) and which include...verifying the client's ID..."

domicile, while adopting to this effect the "know your customer" (KYC) form, which includes at least the main information to be provided (full name, date and place of birth, nationality, address, profession in detail, financial status and beneficial owner). The verification requirements shall also cover the attorney; there is no explicit obligation to show the power of attorney in this case. The Lebanese Authorities consider that such obligation is implied and linked to specifying the agent's capacity and that practically the power of attorney is requested even in the absence of an explicit ruling in that sense. Circular No. 3 issued by the Ministry of Economy and Trade to insurance companies, provided for the obligation of verifying the identity and address of the customers based on official documents, without specifying the aforementioned documents for natural persons.

284. From the practical point of view, it was proved during the onsite visits that the required documents are those recognized in Lebanon, namely the passport, identity card, or the individual civil status record.

285. The identity is verified in such institutions based on original documents by virtue of a legal text as required by the international standards. Since the above mentioned documents do not include the address of the customers, the evaluation team found out that some institutions are not taking specific procedures to obtain such information, as is the case for banks and credit institutions. Other institutions showed that they are having recourse to special companies to obtain information about the address and activity of their new customers and pertinent financial obligations. Therefore, there is a disparity in the information available in such institutions.

Legal Persons' Identification Data

Banks and Credit Institutions

286. Article 3 of the regulation imposes the presentation of duly registered documents about the articles of association of legal persons, pertinent registration certificate, and the authorized signatory in addition to the identity of their legal representative. The expression "registered documents" of the companies, shall mean all such documents that prove the legal status of the company and ability to practice its activity, which is subject to its registration at the commercial register as required by virtue of the Land Trade Law. The regulation also provided for identifying the legal representative of the company, without the directors, even if such related information is available to public, since the Land Trade Law stipulates that the commercial register should include "the name, surname, date of birth, and nationality of each of the managers of the company, and the members of the board of directors, and those managers appointed for its term". Regarding charity associations, the institutions that were met clarified that registered documents mean the official document named "Factual Certificate", which is issued by the Ministry of Interior and which refers to the legal registration and establishment as well as to the articles of association. Also the identity of the legal representative of the association who is authorized to dispose of the account, is verified.

Legal Arrangements

287. The regulation provides for the obligation to verify the identity of the customer at the opening of accounts, of any kind whatsoever, including trust accounts. The Lebanese legislator governs the fiduciary contracts by virtue of Law number 520, issued on June 6, 1996. The fiduciary contract, as defined in Article 3 of the aforementioned Law, is a contract "by virtue of which a natural or legal person, called the originator, grants another party, called the fiduciary, the right to manage and dispose of movable assets or rights, called the financial obligations, for a specific term".

Article 4 of the abovementioned Law regulated the obligations of the fiduciary, and stipulated that the latter shall:

- Work in its name, yet for the account and at the risk of the originator.
- Declare its capacity to any third party it may contract with concerning any of the trust obligation elements, without declaring the name of the originator.
- Reveal its capacity without disclosing the name of the originator or the name of the beneficiary upon contracting on operations related to the financial obligation, and which should be published or registered by virtue of the law.

288. Article 13 of the same Law stipulates the following: "there shall be considered totally null and void any fiduciary contract violating the public order or concluded for trust obligations that include any funds or assets resulting from a certain operation, the executor of which was subject to a criminal or offense penalty". Article 2 of the aforementioned Law limited the practice of trust operations in the capacity of fiduciary to banks and credit institutions and other institutions licensed by and registered at the Central Bank of Lebanon. Except for banks and credit institutions, it seems that other institutions were not granted the license to practice such activity.

289. Some institutions stated to the evaluation team that they are verifying the identity of the originator and specifying the beneficiary of fiduciary contracts, concluded with the bank/institution in the capacity of fiduciary as per the Lebanese Law requirements, by virtue of the regulation provisions in terms of due diligence requirements; as well, the originator fills out the "know your customer" form before opening the account.

Intermediaries, Finance Lease, Insurance and Exchange Companies

290. Provisions of Article 4 of Law 318 regarding the obligation of customer ID verification was general, which means that such obligation shall cover all customers, whether natural or legal persons, without distinguishing between the requirements of identity verification.

291. With regard to financial intermediaries, Article 1 of announcement No. 7 stated that the documents mentioned above are related to the registration document (i.e. the commercial register certificate) and the articles of association of the company. The aforesaid Article further imposed the verification of the identity of the authorized signatory. As per the methodology, it is necessary to abide by a first or second legislation requirement to verify if any person pretending to act on behalf of the customer is authorized to do the same, while checking his identity. As previously mentioned, announcement No. 7 does not fall under any of these two categories. Also there is no obligation, at least by virtue of other enforceable means, to get information about the directors and provisions governing the binding authority of the legal person.

292. Concerning insurance companies, Circular number 3 issued in 2002 by the Ministry of Economy and Trade restricted the documents needed to verify the identity of legal persons to the commercial register certificate; while information included in the aforesaid certificate is limited to the corporate name and registration date of the company; no other data on the object, form and address of the company are mentioned.

293. Regarding other sectors, there are no regulatory provisions that specify the official documents required to verify the identity. The Special Investigation Commission stated that required documents are the identity card, the individual or family civil status record, the passport, the commercial register, or a foreign certificate approved by an official Lebanese competent authority and which is valid for the customer identification data.

294. The customer identification data for the legal person or the legal arrangement obtained by these institutions seem to be very limited and do not fulfill the due diligence measures requirements which

necessitate: (1) binding by a first or second legislation requirement to verify if any person pretending to work on behalf of the customer is someone authorized to undertake the same, while verifying his identity, and (2) verifying the legal status of the legal person or the legal arrangement, and obtaining information related to the name of the customer and names of pertinent trustees (for trust funds), pertinent legal form, address and directors (for legal persons), along with the provisions that govern the binding authority of the legal person or the legal arrangement.

Beneficial Owner Identification Data:

Banks and Credit Institutions

295. Article 5 of Law 318 obliges banks and credit institutions to "identify the beneficial owner in case of dealing through agents or under figureheads belonging to persons, institutions or companies. The regulation stipulated that such obligation is fulfilled when the customer declares that the beneficial owner is a third party or in case there is any doubt that the customer is not the holder of such right. In such cases, the institutions shall request a written declaration from the customer (as per a form perused by the assessors) which specifies the identity of the beneficial owner in the operation to be undertaken, especially his name, family name and domicile (name of company, location, head office, if the concerned is a legal person), in addition to his profession and information about his financial status. The aforementioned declaration shall be kept with the file of the customer. Article 5 of the regulation gave examples about the cases when doubt arises about the beneficial owner, as follows: "Giving power of attorney to a non-professional person (other than a lawyer, public lawyer or financial agent...), who has obviously no relation to the principal that justifies the reason of the power of attorney, or when dealing is made under the cover of figureheads or numbered accounts or through visible institutions or companies. If the financial status of the customer is known by the employee executing the transaction, and if the amount of the transaction is not proportionate to the financial status of the said customer; in the event where any other indicators catch the eye of the bank / credit institution when dealing with the customer".

296. It can be concluded from the aforementioned provisions that the beneficial owner is the person on behalf of whom the customer undertakes transactions, whether expressly or not. The "regulation" does not include provisions that impose taking reasonable measures to obtain sufficient data for the verification of the beneficial owner based on official documents in these cases, except for the cases where dealing takes place by virtue of a power of attorney.

297. The regulation did not include provisions relative to the identification of natural persons that have a certain ownership or full control over the customer (in case it is a legal person), or to understanding the ownership structure on the basis of which it is possible to identify such natural persons; it is worth mentioning in this context that the Lebanese Law authorized anonymous companies to issue bearer shares, which hinders institutions from understanding the ownership structure of such companies. Some banks pointed out that they are identifying natural persons who have controlling interest over the customer by requesting a copy of the attendance sheet of general meetings held in these companies. It is not possible to check if other institutions are taking this procedure, given that no pertinent express obligation can be found in applicable rules.

298. Regarding accounts opened within the scope of fiduciary contracts subject to the Lebanese Law, and knowing that the bank or the credit institution has the fiduciary capacity howsoever stipulated by Law of 1996, identifying the originator and the beneficiary shall be made within the context of the contract that regulates the relation of the institution with the originator, and which shall be, under penalty of nullification, written and express and shall include the name, domicile, and profession of each contracting party and beneficiary. Officers from two banks stated that the originator shall be subject to the requirements of identity verification and filling out of the "know your customer" form. Concerning trust

funds established abroad, which have trust accounts in Lebanese institutions; there are no provisions that impose the identification of related beneficiaries.

299. The law or the regulation did not define the "beneficial owner". Article 4 of the regulation stipulates that "the bank / credit institution shall ask for a written declaration from each customer, which includes the identity of the beneficial owner (the real beneficiary) in the transaction to be undertaken, especially his name, surname and domicile (name, registered office and country where the head office of the institution is located, if the beneficial owner is a legal person or company)..." This text shows, particularly in the expression between parentheses, that Lebanon considers that the beneficial owner may be a legal person, which is against the definition of the beneficial owner issued by FATF. In addition, there are no provisions that require the financial institutions to take reasonable procedures in order to be able to identify natural persons that have a certain ownership or real control over the customer, if it is a legal person or a legal arrangement.

Intermediaries, Finance Lease, Insurance and Exchange Companies

300. With regard to Intermediaries institutions, Article 1 of announcement No. 7 stipulated that "KYC" form, signed by the customer, shall include an identification of the beneficial owner. The aforementioned announcement does not specify provisions that stipulate the need to take reasonable measures to identify the beneficial owner based on data of reliable source. It is worth mentioning that such companies do not place funds within the context of fiduciary contracts governed by Law of 1996, since they are transactions performed currently by banks and credit institutions exclusively due to the absence of a license by BDL for other institutions to perform the same.

301. Concerning exchange institutions and finance lease companies, there are no obligations related to the identification of the beneficial owner, even if the finance lease company proved to the evaluation team that it is applying the same procedures as those applied in the mother company (a credit institution).

302. With regard to insurance companies, the general provisions regulating life insurance contracts stipulated that the life insurance terms list shall include the name and surname of the eligible party if there is a specific eligible party; in case of issuing such list to an order, the endorsement shall include the date and name of the addressee and the signature of the addressor, otherwise the contract will be considered null and void (Articles 998 and 999 of the Code of Obligations and Contracts). The aforementioned companies stated that they are verifying in all cases the identity of the contract beneficiary according to official documents before the payment process.

303. Therefore, it seems that, except for the public law regulating life insurance contracts, there are no provisions for such sectors, whether in a first or second legislation, that impose thereon any obligations in terms of verification of the identity of the beneficial owner and taking reasonable measures to check the same using information or data extracted from a reliable source, in a way to prove the identity of the beneficial owner for the benefit of whom the transactions are taking place by representation, or identifying the natural person having a real control over such customers, whether they are legal persons or legal arrangements.

Information related to the Purpose and Nature of the Business Relationship

Banks and Credit Institutions

304. Article 8 of the regulation binds banks / credit institutions to obtain information from the customer about the source and destination of funds, and the subject of the transaction, when it consists of the

following: (1) the transaction has the descriptions set forth in clauses 1 and 2 of Article 3 of the present regulation (Clause 1 stipulates that "institutions shall adopt clear procedures for opening accounts, of any kind whatsoever, along with the lending operations, and fund operations, exceeding USD 10,000 or its equivalent"; (2) if the transaction takes place in unusual complex circumstances, and the bank / credit institution should evaluate such circumstances, not only by considering the type and nature of the transaction, yet also by considering the visible purpose thereof; (3) if the transaction turns out to be without any economic or legal purpose, particularly due to the difference between the transaction and the professional activity of the customer, or even between the transaction and the habits or personality of the customer.

305. Such provisions seem to be unclear regarding the abidance by the obligation of obtaining information about the subject of the transaction, if it concerns the opening of accounts or only concerns some transactions described in Clause (1) mentioned above, which means transactions made in cash. In terms of application, it seems that the prevailing understanding of such provisions is related to the obligation of getting information about the transaction's subject when executed in cash, as shown by the internal procedures of some banks, which were perused by the evaluation team, and which do not provide for measures related to requesting information about the nature and object of the relation. Institutions included within the onsite visits stated that the identification of the activity of their customers and the object of the relation between them can be done through the direct communication between them and the branches employees. However, the Lebanese authorities stated that inquiring about the purpose of the transaction falls within the framework of the procedures regulating the opening of all types of accounts, and that the forms of customer identification include a column related to specifying "the purpose of opening the account". They stated as well, that the compliance unit at SIC verifies that such forms are duly filled in. The evaluation team considers that this does not meet the Recommendation requirements which stipulate that the FI's are required to obtain information related to the purpose and nature of the relationship, whereby such obligation shall be imposed according to an express provision.

Intermediaries, Finance Lease, Insurance and Exchange Companies

306. Concerning the Intermediaries and exchange companies, there is no obligation to identify the nature and subject of the relation. Some officers declared to the evaluation team that they are having recourse to the services of specialized companies to obtain information about their new customers, if they were not convinced of the economic background of the transactions to be executed and their financial obligation as declared.

307. Concerning finance lease and insurance companies, there are no obligations to specify the purpose and nature of the relationship; yet at the application level, some companies proved to the evaluation team that their transactions with customers require that the customer submits a request including the purpose of the transaction to be executed.

Ongoing Due Diligence for Business Relationships

Banks and Credit Institutions

308. Clause 2 of Article 2 of the regulation bound banks and credit institutions "to control the transactions executed with the customers in order to avoid any involvement thereof in money laundering operations resulting from those offenses stipulated in Law 318..." Article 10 of the regulation regulated the mechanisms of controlling the transactions undertaken by customers by binding the institutions to establish committees and administrative units in charge of controlling the opened accounts and transactions by means of specialized IT programs that enable producing reports (daily, weekly, monthly, yearly) about the typical transactions of money laundering specified on a non-exclusive basis by virtue of

the regulation (Clause (a) of Article 9). The aforementioned control shall be executed at different levels; for instance, at the level of credit institutions / banks' branches, the person in charge of controlling the transactions, who may be the branch manager or the operations manager in the branch, shall be entrusted with controlling the cash transactions and the transfers, and any other transactions related to the accounts (Article 11-4-b of the regulation). At the central level, the compliance unit, to be established by such institutions, shall be entrusted with reviewing the daily / weekly reports submitted by the administrations and concerned branches regarding cash operations and transfers, and controlling the accounts and transactions belonging to the customer on a consolidated basis, on and off balance sheet, at the head office and all branches in Lebanon and abroad (Article 11-2-c & d).

309. Article 8 of the regulation provides for the obligation of asking the customer about the source and destination of the funds, the subject of the transaction, the identity of the beneficiary and the beneficial owner, if the transaction occurs in unusual and complex circumstances or has no economic or legal purpose, particularly due to the difference between the transaction and the professional activity of the customer, or even between the transaction and the personal habits of the customer.

310. The regulation (Article 11-2-e thereof) stipulates that the compliance unit in the bank / credit institution shall be entrusted with the verification of the suspicious transactions and preparation of a periodical report (on a monthly basis at least) to be submitted to the competent committee presided by the general manager of the institution in order to state its opinion about such report, and it shall then be referred to the board of directors.

311. Article 7 of the regulation requires, on a periodical basis, a re-verification of the identity of the customer and identification of the beneficial owner, in order to amend or add any information to the "KYC" form adopted, as a result of any changes likely to occur to the status thereof, and particularly in case of any doubt about the accuracy of the previously declared information, or in case of any subsequent changes in the identity of the customer or the identity of the beneficial owner. The aforementioned article also provided for the preparation of a plan with specified dates for the fulfillment of such requirements. One bank stated that the update of information takes place on a yearly basis, while another one stated that the same occurs every two years.

312. From the practical point of view, officers of some compliance units in the institutions included in the visits, showed that the control of customers accounts is executed through IT systems to compare the compatibility of the transactions with the information included therein about the customer and pertinent activity, and enable to warn about any transactions of specific indicators and any unusual transactions in the account activity. They also stated that they request additional information from the customer in order to check the operations that do not conform to its account activities, and declared information about its financial status and activity. Officials of one bank mentioned that they classify their customers based on risks in order to apply the ongoing due diligence procedures; and no information confirm that all institutions are abiding by such procedures in the absence of regulatory provisions related to this point.

313. The provisions of the regulation mentioned herein (Article 9) require the specification of indicators for the transactions that include any money laundering risks, and provide for the control of the same through specialized IT programs; they are an effective means to follow-up such pattern of operations.

314. It can be concluded from the requirement of checking the transactions that show a difference between the transaction and the professional activity of the customer, or even between the transaction and the habits of the customer, or that seem to be unusual, that the fulfillment of the same requires a regular follow-up of the business relationship and the accounts activities. Therefore, there is an obligation to abide by the ongoing due diligence, yet the absence of provisions imposing the follow-up also on the risk basis represented by the customers, limits the respect of all ongoing due diligence procedures, as specified

by the methodology, which resides in verifying the transactions undertaken throughout the relation period to ensure the conformity of the executed transactions with the information declared about the customers, their activities, their risk profile, including the source of funds, if necessary.

Intermediaries, Finance Lease, Insurance and Exchange Companies

315. With regard to financial intermediaries: Announcement 7 binds such companies to appoint a person in charge of the transactions control. His duties shall include in particular the verification of the due application and the efficiency of the procedures followed to fight money laundering, and to control the accounts (by means of specialized programs showing the indicators of money laundering, when necessary) to make sure that no suspicious transactions exist. He shall as well prepare a report of his works to be submitted to the chairman and the members of the board of directors. His role further consists of installing a central unit for the collected information including at least the names published by the Special Investigation Commission and the names of holders of suspicious accounts as notified by the institution, and informing the Commission of any accounts opened later on for such persons, whether directly, indirectly or by virtue of a power of attorney. The person in charge of the operations control shall as well update such unit continuously. The announcement further provided for the obligation to update the information related to the identity of the customer and the beneficial owner, on a regular basis, while obtaining necessary proving documents.

316. Such provisions do not fulfill the ongoing due diligence requirements, which is necessary to be imposed by virtue of a first or second legislation.

317. Concerning finance lease and insurance companies, there are no special provisions imposing the fulfillment of the ongoing due diligence procedures, including the update of the customers' identity information. However, it was proved through the onsite visits that some companies appointed a compliance officer to verify the compatibility of the operations with the profession of the customer, and update the identity data on a yearly basis. Exchange companies were excluded since the business relationships they establish with customers are not ongoing, yet they all have an individual aspect.

Risks

Enhanced or Reduced CDD measures

Banks and Credit Institutions:

318. According to Paragraph 3, Article 3 of the regulation, the procedures of identity verification require an official legalization of the customer signature on the document itself or by virtue of an independent certificate, if the operation takes place through correspondence, in addition to the certification of the customer's signature by a corresponding or affiliated bank, any representative office of the bank, any of its branches, or any other bank if the customer resides abroad. Excluding such procedures, there are no other provisions that impose the fulfillment of the enhanced due diligence procedures, and there are no instructions or guidelines that specify the categories of customers or business relationships or high-risk transactions for the purpose of applying enhanced due diligence procedures.

319. At the practical level, some banks mentioned to the evaluation team that the opening of accounts for customers who do not attend in person the personal interview is subject to additional procedures for identity verification (the certification of the documents by an independent third party – a recommendation letter from a recognized bank – settlement of the first payment from the account of a bank that adopts the same standards of accounts opening). They also stated that the opening of accounts for politically exposed persons (PEPs) is subject to the approval of the first senior officer of the institution, and that they

classified foreign competency regions as high-risk regions (tax havens or countries suspiciously involved in drugs manufacturing and trading); in this context, internal procedures of the banks in question provided for “taking necessary precautions upon receiving or sending payment orders”.

320. There are no provisions related to reducing the due diligence procedures, except for the exemption from the identity verification obligation for cash transfers and transactions that do not exceed the amount of 10,000 USD. The aforesaid exemption is not valid in case of any suspicion about the execution of a money laundering attempt by any of the customers (Paragraph 2, Article 3 of the regulation).

Intermediaries, Finance Lease, Insurance and Exchange Companies

321. There are no provisions related to taking enhanced due diligence procedures or authorizing such institutions to apply reduced due diligence measures.

322. **Due diligence procedures based on risks:** There are no provisions in this regard. Lebanese Authorities stated that an announcement⁷ (Refer to p.28) was prepared, related to specifying the scope of due diligence procedures in verifying customers' identity according to the risk based approach. It includes guiding principles that clarify the way of fulfilling such requirement.

Timing of Verification

Timing of Verification of Customer's and Beneficial Owner Identity

Banks and Credit Institutions

323. Article 3 of the regulation obliged the aforesaid institutions to verify the identity of each of their permanent and occasional customers, whether resident or non-resident, and to identify the beneficial owner, and fill out the "KYC" form and the beneficial owner form, if necessary, in the following cases:

- Opening of all types of accounts, including trust and numbered accounts.
- Lending/credit operations.
- Rental of safe boxes.

324. The identity is also verified when making cash transactions that exceed 10,000 USD or an equivalent amount in any other currency. The aforementioned transactions include the cash payments made by the customer at the counter of the bank (deposit of funds, exchange of currencies, purchase of precious metals, purchase of securities in cash, subscription in cash to treasury bills, purchase of travelers checks in cash, cash paid transfer orders, etc...).

325. If no express provision related to the timing of the identity verification is mentioned, the context of the text determines the same upon the execution of the transaction, i.e. the opening of the account or the completion of any transaction for occasional customers; and this is the prevailing concept in the institutions.

326. With regard to cash transactions exceeding 10,000 USD, we can notice that the regulation does not distinguish between the transactions executed by a permanent customer and those conducted by an occasional customer. From the practical point of view, the institution does not re-verify the identity of the permanent customer upon the execution of each cash transaction. However, the regulation provides for filling out an application related to cash transactions, called CTS (Cash Transaction Slip), that shall be signed by the customer, and which includes information about the subject of the transaction and the source of funds when depositing cash amounts, or a total of several deposits exceeding such amount. The regulation allows the increase of this limit or the exemption of some customers from this procedure

according to conditions issued by the institutions and justifying the same, and the names of the aforementioned customers are presented to the competent committee presided by the manager of the concerned bank. As per the information stated by some banks, such exemptions are applied to customers, whose activity assumes dealing in cash, such as restaurants and petrol stations, knowing that the USD is used with the Lebanese Pound, and many commercial professions fix the prices in both currencies.

Intermediaries, Finance Lease, Insurance and Exchange Companies

327. Article 4 of Law 318 provides for the necessity of verifying the identity of the customers. Regarding financial intermediaries, announcement 7 imposes the obligation of verifying the identity of permanent and occasional customers, whether resident or non-resident, without any other specification. Visited institutions stated that the identification process takes place before the execution of any transaction exceeding the amount of USD 10,000 or any equivalent amount. Paragraph 4 of Article 17 of Law No. 234 issued on June 10, 2000 regulating the intermediaries profession provides for the following: "such institutions shall be prohibited from practicing their activities with any of their customers, unless after the signature of a written express contract including at least, under penalty of nullification, the following information... identity of the contracting parties, relevant addresses, type of the administration contract..."; and there are no provisions that confirm that verification occurs after concluding the contract.

328. Concerning exchange companies: some companies mentioned to the evaluation team that the verification occurs before the completion of the transaction, and Paragraph (b) of Article 13 of Law No. 347 issued on August 6, 2001 regulating the exchange profession provides for the necessity of keeping records for all such transactions exceeding the amount of 10,000 USD, including therein the date and serial number of the transaction, name of the customer after verifying his identity.

329. With regard to finance lease and insurance companies, there are no regulating texts that specify the timing of the verification; the transactions of the above mentioned companies are executed by virtue of pertinent regulatory laws, within the scope of a contract concluded with their customers. Such laws impose the obligation of identity verification in the contracts concluded with the customers. Institutions covered by the onsite visit stated that the customer identity verification occurs upon the conclusion of the contract; and nothing shows that the institutions are doing the opposite.

330. As per the foregoing, the practical application by exchange, finance lease and insurance companies is good in this regard, since such companies verify the identity of the customer before or during the transaction.

Completion of the Verification Process following the establishment of the business relationship

331. There are no provisions that authorize the completion of the verification process after the establishment of the business relationship or the accomplishment of any transaction; the visited institutions confirmed that the applicable procedures do not allow the same.

332. Concerning insurance companies, the Law of Obligations and Contracts regulating insurance contracts authorizes such companies to conclude life insurance contracts to the order, which means without the identification of the beneficiary thereof; however, upon the transfer of such contracts, the endorsement should include the date and name of the addressee and the signature of the addressor; otherwise the contract shall be considered null and void (Articles 998 and 999 of the Code of Obligations and Contracts). The aforementioned companies stated that they are verifying in all cases the identity of the contract beneficiary based on official documents before the payment process.

Failure to satisfactorily complete CDD Measures

Banks and Credit Institutions

333. There are no provisions that regulate the cases of failure to verify the identity and prohibit the establishment of business relationship on such basis; yet at the application level, some institutions stated that they do not establish business relationship when unable to fulfill such procedure, but also do not consider the possibility of reporting.

334. Concerning the existing business relationships where the verification of the identity is impossible: Article 6 of the regulation obliged banks and credit institutions to report to the Special Investigation Commission, when they are sure or have doubts about any money laundering transaction, particularly when:

- There are doubts, impossible to be cleared, about the accuracy of the written declaration made by the customer regarding the identity of the beneficial owner, or when proved that wrong information about such identity were given.
- They found out that they were misled upon the verification of the identity of the customer or the identity of the beneficial owner, and still have serious doubts about the information provided by the customer.

335. In such cases, the reporting does not lead to closure of the suspicious account before referring to the Commission (Article 12 of the regulation). We notice that article 6 of the regulation provided for the existence of "confirmations or doubts about any money laundering aspect in the transaction", and stipulated that the same shall be reported without closing the account. While, the methodology requires that, in case the financial institution has already established the business relationship then had doubts about the accuracy of the information previously obtained in terms of the customer's identity and could not abide by the necessary due diligence measures, subject institution should terminate the business relationship and consider producing a report about the suspicious transactions. Therefore, having doubts about the identity of the customer may lead to the closure of the account and the possibility of reporting, without the need to have any confirmations or doubts about any money laundering aspect in the operation. Accordingly, the scope of Article 12 of the regulation is limited. The Lebanese Authorities stated that it is prohibited to close the account of the suspect before referring to the Commission; yet, this might be a warning to the suspect, which contradicts with the text of Recommendation 14; As well, closing the suspect's account before referring to the Commission enables its holder to smuggle funds, if they do exist, and precludes the possibility of taking preventive measures to freeze the funds.

Intermediaries, Finance Lease, Insurance and Exchange Companies

336. There are no special provisions that provide for specific procedures in case of failure to take due diligence measures. Senior officers from visited institutions pointed out that in case the verification of the identity of a new customer cannot take place, they simply reject the transaction, without taking any other action.

Existing Customers

337. Banks and Credit Institutions: Article 7 of the regulation has retroactively withdrawn the due diligence principles for the customers who have already opened accounts before the issuance of the Law, including the identification of the beneficial owner. Announcement No. 4, dated September 18, 2003, issued by the Special Investigation Commission, set the date of June 30, 2004 as the latest date to update

related information. A senior officer from one bank stated that such operation was executed with their customers (200,000 accounts); the other visited banks stated that the number of non-updated accounts is very low.

338. Financial Intermediaries: Due diligence procedures are imposed on the holders of all accounts opened before the issuance of Law 318 (Paragraph 3 of announcement No. 7).

339. Insurance Companies: There are no obligations in this regard, and one company stated that it is not taking such procedure for those customers, with whom the contracts were concluded before the issuance of Law 318 and are still effective.

340. According to the foregoing, it seems that the requirements related to applying CDD measures for existing customers are considered as fulfilled for the banks and credit institutions; however, the scope of application of the methodology requirements is relatively limited in the absence of pertinent provisions for the insurance companies and given that announcement 7 addressed to financial intermediaries is not among the other enforceable means.

Politically Exposed Persons

Banks and Credit Institutions, and Financial Intermediary, Finance Lease, Insurance and Exchange Companies

341. There are no provisions that stipulate obligations for this category of customers during the period covered by the report. Lebanese Authorities stated that they have an announcement⁷ (Refer to p 30) related to identifying the scope of due diligence procedures in the verification of customers' identity according to the risk-based approach. It includes the requirement of classifying politically exposed persons as high risk persons, and provides for getting more detailed information about such customers, and making the dealing therewith subject to a progressive administrative approval and an enhanced ongoing follow-up. Senior officers from some banks stated that their by-laws included special procedures for dealing with the aforementioned category of customers based on the standards of Recommendation 6 of the forty recommendations issued by FATF, and considered that it would be useful if the controlling authorities issue clear and binding standards for all banks in this regard.

Cross-Border Correspondent Banking Relationships

Banks, Credit Institutions, and Financial Intermediaries

342. Article 2 of the regulation binds banks and credit institutions to verify the identity and activity of their correspondents, and make sure, when dealing with them for the first time, that they have a physical presence according to proving documents they shall obtain, and in particular, that the foreign bank they are dealing with is not a "shell bank". Regarding financial intermediaries, announcement No. 7 provides for the obligation of verifying the identity and activity of the correspondent and obtaining there from proving documents to make sure it is not a shell bank.

343. Although such provisions imposed the verification of the activity of the correspondent company and the real existence of the same based on proving documents, the aforementioned provisions remain general for they do not expressly impose, as required by virtue of FATF recommendations, the obligation to check the goodwill and control level to which the correspondent institution is subject, also if it was subject to an investigation in terms of money laundering or terrorism financing or to any supervisory procedure, and to make sure that such bank does not deal with shell banks. And there are no other provisions that impose the evaluation of the controls adopted by the correspondent bank to fight money

laundering and terrorism financing while ensuring that the same are effective and sufficient, in addition to getting the approval of the senior management before establishing any new correspondent banking relationships, and determining the responsibilities of each party with regard to AML/CFT.

344. There are no obligations relative to the "Payable through Accounts" (PTAs), if the relation requires maintaining such type of accounts.

345. Therefore, the scope of legal obligations imposed by the provisions related to the aforementioned correspondent institutions relationship does not cover the methodology requirements.

346. From the practical point of view, the evaluation team noticed that some of the visited institutions adopted, each as per its internal policies, other measures in addition to the proving documents, consisting whether in referring to their correspondents in a foreign country before opening any PTA, or sending a questionnaire to the correspondents to know, particularly, if they are subject by law to anti-money laundering related obligations, or dealing with high ranking correspondents banks only.

Risks of Technological Developments and Non Direct Business Relationships

347. The Basic Circular for banks No. 69, to which the Basic Resolution number 7548 issued by the Central Bank of Lebanon in 2000 is annexed, regulates in general the electronic financial and banking transactions made, executed or promoted by banks, credit institutions, financial intermediaries, or any other body. Such text obligates all such institutions intending to make the transactions by electronic means to have an effective electronic protection system for all transactions (Article 2), and to follow the procedures that ensure highest level of security, in addition to taking all necessary precautions to recognize and limit responsibilities (Article 4). Article 6 thereof stipulated the following: "Unless otherwise stipulated by virtue of another text, electronic financial and banking transactions and the institutions executing the same shall be subject to the laws, regulations and instructions governing such institutions, or governing pertinent transactions undertaken by traditional non-electronic means".

Banks and Credit Institutions

348. Article 9 of the regulation bound banks and credit institutions to follow, through established units, the unusual e-banking operations, through specialized IT programs that allow the preparation of periodical reports (daily, weekly, monthly, yearly). The person in charge of the transaction control in the branch shall control all operations, including ATM transactions and all other non face to face banking operations. (Article 11 – 4)

349. Assessors consider that such provisions fall within the customers operations control scope in general, given that they are not related to specific measures for the control of electronic transactions prohibiting the misuse of technological developments in money laundering or terrorism financing schemes, as set forth in the methodology.

350. At the practical level, some institutions covered by the onsite visit stated that they adopt special procedures for the follow-up of transactions through electronic payment and credit cards, and fix daily limits for the transactions amounts according to the type of the card, and that the IT systems, established in the early stages to fight fraud and then developed at a later stage to avoid the misuse of e-payment means for money laundering, produce daily reports about all transactions, as per the type of each (withdrawal, purchase, type of purchases), and according to the category of the customers.

Financial Intermediary, Finance Lease, Insurance and Exchange Companies

351. There are no provisions that impose on such institutions the requirement to establish policies or take sufficient measures to avoid the misuse of technological developments in money laundering or terrorism financing.

Establishing Policies and Procedures to Deal with Risks associated with Non face-to-face Transactions

Banks and Credit Institutions

352. Article 3 of the regulation specifies the procedures of establishing correspondent relationships. The above mentioned procedures consist in requesting an official legalization of the signature on the identity document itself, or an independent certificate, or the certification of the signature or the verification of the identity of the customer residing abroad by a correspondent or affiliated bank, any representative office of the bank, any of its branches, or any other bank able to recognize its approved signature. According to the methodology, having recourse to a third party is one of the procedures that countries can take to manage the risks of indirect customers, provided that the requirements of Recommendation 9 are fulfilled. One of the aforesaid requirements resides in satisfying that the third party applies the due diligence procedures and is subject to control and supervision. There is no express obligation for the fulfillment of such requirements, when banks abroad or correspondent banks are adopted as a third party to verify non-resident customers' identity.

353. Practically, some banks stated that their internal policies require the abidance by special procedures to verify the identity of indirect customers, which include "the certification of the documents by an independent third party and through a recommendation letter issued by a recognized bank, in addition to binding the customer to settle the first payment from any account opened in its name with another bank which adopts the same standards as those applied to the identification of the customer".

Financial Intermediary, Finance Lease, Insurance and Exchange Companies

354. There are no special provisions for the application of due diligence measures for indirect customers. One of the institutions stated that it does not establish business relationship through the internet, yet it relies on the intermediary of banks abroad or branches of Lebanese banks abroad to identify its customers residing abroad.

3-2-2 Recommendations and Comments

355. Discussions held by the evaluation team during the onsite visits revealed that banks and credit institutions are fully aware of the international standards of anti-money laundering, thanks to the intensive efforts and continuous trainings organized by the Special Investigation Commission to increase awareness and explain the obligations of concerned institutions. By-laws approved by some banks provided for more comprehensive procedures than those stipulated in the Central Bank of Lebanon regulation, but the evaluation team cannot assess the level of compliance by such by-laws, regarding any point other than the legal obligations.

356. There are gaps in the Lebanese legal system of anti-money laundering regarding the financial intermediary, finance lease, exchange and insurance sectors, given the absence of some obligations established by FATF by virtue of a first or secondary legislation, and the absence of governing texts for some of the aforementioned sectors that sufficiently detail all such procedures necessary to apply the anti-money laundering law.

357. **The following is recommended:**

▪ **Recommendation 5**

- Binding banks to enable the compliance officer to peruse the files related to holders of numbered accounts in a systematic way without subjugating him to procedures that limit the control by virtue of a first or secondary legislation.
- Issuing the obligation to abide by the CDD measures with regard to occasional wire transfers in accordance with the methodology by virtue of primary or secondary legislation.
- Decreasing the threshold for due diligence procedures, when it is related to life insurance premiums, from USD 10,000 to USD 1,000, pursuant to FATF requirements.
- Solving the problem in Article 4 of Law 318 by clarifying that the obligation of identity verification by concerned institutions is not related to keeping records of the transactions that exceed the amount of USD 10,000.
- Establishing obligations by virtue of a first or second legislation, providing for the following:

(for Financial intermediaries, finance lease, insurance and exchange companies)

- Applying the due diligence procedures upon (1) carrying out occasional transactions that exceed the applicable designated threshold. This also includes cases where the transaction is carried out in a single operation or in several operations that appear to be linked; (2) carrying out occasional transactions in the form of wire transfers in the cases covered by SR VII; (3) there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere under FATF recommendations; (4) when there are any doubts about the veracity or adequacy of previously obtained customer identification data.
- Verifying that any person purporting to act on behalf of the customer is so authorized, and identifying and verifying the identity of that person;
- Verifying that any person purporting to act on behalf of the customer and taking reasonable measure after obtaining sufficient data to verify the identity of such person.

(for financial intermediaries, finance lease and insurance companies)

- Applying the ongoing due diligence procedures in business relationships.

(for banks and credit institutions)

- Applying the ongoing due diligence procedures in business relationship on the basis of risks.

– Including the following obligations in other enforceable means:

(for Intermediaries, finance lease, insurance and exchange companies)

- Verifying the legal status of the legal person or legal arrangement, and obtaining information concerning the customer's name, names of trustees (for trust funds), legal form, directors (for legal persons), and provisions regulating the power to bind the legal person or legal arrangement.
- Updating the information and data relative to the identity on a periodical basis.
- Imposing the application of existing customers related due diligence procedures on basis of materiality and risk, and taking necessary due diligence measures towards existing business relationships at the appropriate time, in addition to taking due diligence measures with those existing customers subject to criterion 5-1 from the date on which Law 318 becomes effective.

(For banks and credit institutions)

- Obtaining information about the directors of the legal persons.
- Imposing the requirement to obtain sufficient information using relevant information or data obtained from a reliable source to identify the beneficial owner when dealing does not occur by virtue of a power of attorney.

(for all sectors)

- Understanding the ownership and control structure over the customer, and determining the natural persons having a certain ownership or real control over the customer, including the persons that have a total effective control over the legal person or legal arrangement, in addition to specifying the procedures needed for the purpose when shares of the company are bearer shares.
- Obtaining information about the purpose and nature of the business relationship.
- Taking enhanced due diligence measures with high risk categories of customers or business relationships or transactions.
- Prohibiting the opening of account, the establishment of business relationships or the execution of transactions, and considering the possibility of reporting any suspicious transactions, when due diligence procedures cannot be taken.
- Terminating the relationship, if ongoing, and considering the possibility of reporting any suspicious transactions, when due diligence procedures cannot be taken.

▪ **Recommendation 6**

- Requesting all financial institutions to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person. Such rules shall impose the following:

- Obtaining senior management approval to continue the business relationship.
- Taking reasonable measures to establish the source of wealth and/or beneficial owners.
- Conducting enhanced ongoing monitoring on that relationship.

▪ **Recommendation 7**

- Requesting financial institutions which have cross-border correspondent banking relationships to take the procedures related to such relationships and to PTAs, if the relation with correspondent banks included maintaining such accounts.

▪ **Recommendation 8**

- Requesting institutions in all sectors:

- To have policies in place or take such measures, as may be needed, to prevent the misuse of technological developments in money laundering or terrorist financing;
- To address any specific risks associated with non-face to face business relationships or transactions. These policies and procedures should apply when establishing customer relationships and when conducting ongoing due diligence.

3.2.3 Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	PC	<ul style="list-style-type: none"> • Absence of a text that binds banks to provide records on the holders of number accounts to the compliance officer in a systematic way, without subjugating him procedures that may restrict him from perusing such records. • Absence of a main or secondary legislation that binds compliance with CDD measures with regard to occasional wire transfers as required by the Methodology. • High threshold for the application of due diligence procedures regarding Life insurance premiums. • Ambiguity whether to link the identity verification requirement to such

		<p>transactions exceeding USD 10,000, or not (for institutions not covered by Banking secrecy).</p> <ul style="list-style-type: none"> • Absence of an obligation, by virtue of a first or second legislation, that binds financial intermediaries, finance lease, insurance and exchange companies to : <ul style="list-style-type: none"> - Apply the due diligence procedures in the following cases: <ul style="list-style-type: none"> ○ Occasional transactions procedures, exceeding the designated threshold, when such transactions are conducted in one transaction or different linked transactions. ○ The execution of occasional transactions in form of wire transfers, in those cases covered by Special Recommendation VII (for exchange companies). ○ When there is any doubt about the occurrence of a money laundering or terrorism financing operation, notwithstanding any exemptions or thresholds specified in any other text of FATF recommendations. ○ When there is any doubt about the accuracy or sufficiency of any information previously obtained about the identity. -Verifying that the person acting on behalf of the customer is authorized to do so, and verifying its identity. - Verifying if the customer is acting on behalf of another person and taking reasonable measures and obtaining sufficient information for the verification of such other person identity. • Absence of an obligation to apply ongoing due diligence procedures in business relationships (financial intermediaries, insurance, and finance lease companies), and not taking the ongoing CDD measures, for the business relationships on risk basis (for banks and credit institutions). • Absence of an obligation to verify the legal status of the legal person or legal arrangement, and to obtain information about the name of the customer, pertinent trustees (trust funds), legal status (legal person), and the provisions that govern the binding authority of the legal person or legal arrangement (financial intermediaries, finance lease, insurance and exchange companies). • Absence of an obligation to update the information and data of the identity (financial intermediaries, finance lease, insurance and exchange companies). • Absence of provisions that bind insurance, financial intermediaries and finance lease companies to comply with the due diligence conditions in order to identify the existing customers, from the date of validity of Law 318. • Absence of an obligation to identify the directors of legal persons (banks and credit institutions). • Absence of an obligation to obtain sufficient information from a reliable independent source to identify the beneficial owner when dealing does not occur by virtue of a power of attorney (banks and credit institutions). • Absence of an obligation to understand the ownership and control structure over the customer, especially that the existence of legal texts authorizing the issue of bearer shares limits the transparency of the companies' ownership structure (all sectors). • Absence of an obligation to identify the natural person having a certain ownership or full control over the customer (all sectors). • Absence of an express obligation to obtain information about the purpose and nature of the business relationship (all sectors). • Absence of provisions to apply enhanced due diligence measures with high risk customers or business relationships (all sectors).
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		<ul style="list-style-type: none"> • Absence of the obligation to prohibit the opening of accounts, the establishment of business relationships or the execution of transactions, when due diligence procedures cannot be applied satisfactorily to customers and beneficial owners and considering the possibility of reporting any suspicious transactions, (all sectors). • Not binding banks and credit institutions to close the account when unable to identify satisfactorily the customers with whom the business relationship was established, while linking the reporting obligation with the existence of confirmation or doubts that the transactions are hiding money laundering, in addition to the absence of specific provisions for the remaining FI's.
R. 6	NC	<ul style="list-style-type: none"> • Absence of the requirement to establish appropriate rules for the management of risks in order to know if the prospect client, the customer, or the beneficial owner is a politically exposed person.
R. 7	NC	<ul style="list-style-type: none"> • Absence of obligations related to the procedures of cross-border correspondent banking relationships
R. 8	NC	<ul style="list-style-type: none"> • Absence of the requirement to establish policies or take sufficient measures to avoid the misuse of technological developments for money laundering and terrorism financing (all sectors). • Absence of policies and procedures for dealing with any specific risks related to the business relationships or non face-to-face transactions (financial intermediaries, finance lease, insurance, and exchange companies).

3-3 Third Parties and Introduced Business (R. 9)

3.3.1 Description and Analysis

358. Article 3 of the regulation stipulates that banks and credit institutions may verify the identity of customers residing abroad through a correspondent bank, affiliated bank, or a representative office of the bank, any branch thereof, or another bank, excluding the representative office and branches of the bank abroad which may not have the third party capacity given that they constitute part of the bank. The regulation allows referring to third parties to identify customers, provided that such parties are banks. Article 12 of the regulation stipulates: "When referring to intermediaries services, bank / credit institutions shall only deal with intermediaries that fulfill the criteria imposed on banks and credit institutions towards the customers".

359. According to the requirements of the law governing insurance companies, issued in 1967, such companies may promote their products through insurance brokers. There are no provisions for other sectors that authorize or ban the involvement of third parties. The evaluation team found out that some financial intermediaries rely on Lebanese banks branches abroad to identify customers.

360. There are no provisions regarding obtaining immediately the necessary information from the third party.

Taking Sufficient Measures to satisfy that the Third Party will submit Due Diligence Documents

361. Banks and Credit Institutions: The SIC stated that, during the evaluation of the control rules in the aforementioned institutions, it verifies if the contracts concluded between them and intermediary parties

or third parties (if existing) provide expressly for the provision of copies related to the documents of due diligence application to the identification of customers, to the banks and credit institutions taking advantage of the new business relationships. According to the assessors, the verification undertaken by the Commission does not fulfill the recommendation requirements, which stipulates that "institutions shall be requested to take sufficient measures to satisfy that the third party will submit, upon request and without delay, copies of the identification information and other documents related to the due diligence requirements". In the absence of such obligation, the Commission cannot consider any violation which obliges the institution to remedy the deficiency or take preventive measures.

362. Insurance Companies: Circular number 3 issued by the Ministry of Economy and Trade imposes on insurance brokers to comply with the same procedures applied to insurance companies, and to provide the latter with documents obtained from concerned customers.

Satisfying that the Third Party is Regulated and Supervised

363. Banks and Credit institutions: Article 12 of the regulation stipulates that, when having recourse to intermediary services, banks and credit institutions shall only deal with intermediaries that fulfill the criteria required from banks and credit institutions towards their customers. There are no obligations that set the conditions to be met in the correspondent banks or other banks abroad adopted to identify non-resident customers.

364. Insurance Companies: By virtue of the Law regulating insurance companies issued in 1967, working as intermediary shall be only allowed after obtaining a license from the Ministry of Economy and Trade, which draft a list of their names (according to their category: independent, general agents, or delegates), amended on a yearly basis and published in the Official Gazette. The aforementioned Law further stipulates that insurance companies shall only deal with licensed intermediaries. Article 39 thereof obliges insurance companies to inform the Ministry of Economy and Trade of the following:

- Names and addresses of the natural and legal persons with whom they are dealing.
- Any change in the status of the intermediaries, if such change results in cancelling the capacity of broker, immediately after the occurrence of such change and without any delay.
- Providing the Insurance Control Committee with any information and documents it may request about the status and activities of the intermediaries, in addition to any data it deems necessary to fulfill its duties.

365. **Considering the Information Available about the Countries Applying the Recommendations**: Lebanese Authorities did not issue any information about the countries that sufficiently apply FATF recommendations; however, they stated that they issued an announcement ^{7(Refer to p.28)} which classifies high risk countries according to the strictness of AML/CFT laws prevailing therein and the efficiency of the control and jurisdiction bodies, in addition to the existence or absence of banking secrecy, and the level of corruption and organized crimes.

Responsibility for Customer Identification:

366. Banks and Credit Institutions: There are no provisions that specify expressly the party in charge of verifying the identity when having recourse to third parties. The Special Investigation Commission considers that banks and credit institutions shall take on the ultimate responsibility for identifying all their customers, including those covered by the intermediaries' services. It further stated that the evaluation of the internal control system by the Compliance Unit related thereto imposes such responsibility when making sure of the customers' identification policy.

367. The evaluation team found out that some credit institutions do not consider themselves responsible for verifying the identity of the customers, and consider that the third party they are dealing with shall be in charge of the same.

368. Insurance Companies: Circular number 3 stated that the fact that insurance brokers provide the companies dealing therewith only with the names of the customers makes it impossible for the aforementioned companies to abide by the required obligations, which means that the latter shall be in charge of identifying the customers.

369. Regulatory texts for banks and credit institutions allow the same to have recourse to banks abroad for the purpose of identifying non-resident customers; yet, they do not bind the institutions in question to satisfy if the banks above are subject to control and supervision, and if they apply any procedures to meet the due diligence requirements in accordance with Recommendations 5 and 10. Excluding insurance companies, there are no express provisions that bind the institutions/companies to take necessary measures to satisfy themselves that copies of the identity documents can be obtained when requested by the third party.

370. The absence of express provisions stating that banks and credit institutions shall be responsible for identifying the customer when having recourse to a third party, creates some confusion in such institutions as to the extent to which they shall take on this responsibility. Therefore, the scope of provisions related to the reliance on third parties is limited compared to the requirements of the methodology.

3.3.2 Recommendations and Comments

371. **It is recommended to establish provisions by virtue of other enforceable means as follows:**

- Requesting banks and credit institutions to obtain from the third party immediately the necessary information pertaining to the due diligence procedure, while taking sufficient measures to satisfy that such third party will submit, upon request and without any delay, copies of the identification information and other relevant documents related to the due diligence requirements.
- Providing for the necessity that third parties adopted to identify non-resident customers shall be subject to control and supervision and comply with some procedures to meet due diligence requirements in accordance with Recommendations 5 and 10.
- Stipulating that banks or credit institutions relying on a third party to identify customers shall be in charge of verifying the identity of the customers.

372. We also recommend that competent authorities provide information about those countries that do not sufficiently apply the FATF recommendations, in such a manner to assure the institutions that the third party they are dealing with is subject to the requirements of AML/CFT and to control, and complies with the due diligence procedures towards customers.

3.3.3 Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	PC	<ul style="list-style-type: none"> • Absence of provisions that specify the conditions to be met by third parties abroad, and to be adopted to fulfill due diligence procedures when identifying non-resident

		<p>customers.</p> <ul style="list-style-type: none"> • Absence of express provisions that request banks and credit institutions to take necessary measures to obtain, upon request, due diligence related information and copies of the identification documents from the third party. • Absence of express provisions that impose on banks and credit institutions relying on a third party to identify customers, the responsibility for such verification • Absence of a regulation that warns institutions against countries that did not abide by FATF recommendations.
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3-4 Financial Institution Secrecy or Confidentiality (R. 4)

3.4.1 Description and Analysis

373. The Lebanese Banking System provides for high level banking secrecy by virtue of the Banking Secrecy Law issued in 1956. Article 2 thereof stipulates that bank managers and employees, and persons allowed, by virtue of their capacity or job, and in any way whatsoever, to peruse the records, transactions and bank correspondences, shall be bound to strictly keep the same confidential for the benefit of the concerned customers; they may not disclose any information they might know about the name, funds and matters related to the customers to any person, whether an individual, or any administrative, military or judicial public authority, unless when authorized to do the same in written by the concerned or his heirs or legatees. The Law further stated some exceptions on an exclusive basis, which cannot be considered in the banking secrecy, namely the declaration of bankruptcy of the account holder, and the filing of an action against it related to a transaction with its bank, in addition to the requests of the judicial authorities in the scope of unjust enrichment actions.

374. The Code of Money and Credit strictly prohibited the appointed auditors of the BCCL from obliging banks managers to disclose the names of their customers, except for the debit accounts holders, when executing their control duties in the banks or credit institutions. The latter may organize their accounts in such a way so as to keep the names of accounts holders unrevealed (Article 150). Law 1956 imposes penal sanctions on whoever intentionally violates the banking secrecy; the violator shall be imprisoned from 3 months to one year.

375. With regard to anti-money laundering, Law 318 provided for an express exclusion of the interest of the Special Investigation Commission, which cannot be faced, and all pertinent representatives appointed to execute the duties thereof, as set forth pursuant to the banking secrecy. The Law granted the SIC exclusively, the powers to lift banking secrecy on suspicious accounts.

376. The same Law grants the Special investigation Commission, represented by its president or his representative, the powers to communicate with all Lebanese and foreign authorities directly (judicial, administrative, financial, and security institutions) to request all information needed for the execution of its duties. The Law also authorized the Commission, when banking secrecy is lifted on suspicious bank accounts, to send a copy of its report to the judicial authority and Higher Banking Commission, represented by its president, and to the concerned foreign authority, whether directly or through the reference by means of which the information was obtained (Article 8, Paragraph 4).

377. The powers of the Commission to peruse reported bank accounts or those about which information were provided by any local or foreign authority, and to request necessary information to undertake its duties, have a large extent and cannot be faced by the banking secrecy. Concerning the exchange of information with local and foreign authorities, the Law stipulates that such exchange shall take place "in the event where lifting the secrecy is approved", and pursuant to Article 8, banking secrecy can only be lifted on suspicious accounts after necessary investigations are undertaken by the Commission. Therefore, the Commission shall be prohibited from informing any party of any information, not falling within this scope, given the penal form of Law 318 that cannot be subject to any interpretation.

378. Law of 1956 provides for objecting the Banking Control Commission with the banking secrecy, and the Code of Money and Credit stipulated that pertinent powers, as set forth therein, do not enable the commission – except for debit accounts – to peruse or request name information from banking and financial institutions, and to exchange any information about the accounts or the accounts holders with local or foreign counterparts. In case information is requested, the same shall be referred to the Special Investigation Commission which has exclusive powers to lift the banking secrecy.

379. The same banking secrecy is applied to judicial authorities. The latter showed that the issue of Law 318 constitutes an important progress for their activities, since it allows them to ask the Special Investigation Commission for all information necessary to the investigations; and the cooperation of the aforesaid Commission is serious and continuous.

380. With regard to the exchange of information about customers between banks, through wire transfers, the enclosure of full information about the customer to the cross-border wire transfers shall take place upon the approval of the customer; in the absence of such approval, and according to the evaluation team, the institutions do not accomplish the procedure. Concerning local transfers, authorized by virtue of applicable regulations without any specific information about the customer, the banking secrecy prohibits such exchange if no written approval thereof is given by the customer, which precludes banks from abiding in a systematic way by providing the required information (name, address, account number) to the transfer beneficiary party, within three days from the date of requesting the same, as set forth in the resolution of the Central Bank of Lebanon issued in 2005, by virtue of which the Basic Resolution number 7548, dated March 30, 2000, regarding the e- financial and banking transactions, was amended. (Refer to the S.R VII)

3.4.2 Recommendations and Comments

381. Meetings held by the evaluation team revealed that the banking secrecy is considered an important principle in the Lebanese Banking System and one of the trust elements in the banking sector. However, the power granted exclusively by virtue of Law 318 to the Special Investigation Commission allows lifting the secrecy and the exchange of information for the benefit of competent authorities, whether local or foreign. Concerning e-transfers, the resolution of the Central Bank of Lebanon issued in 2005 included the requirements of the Special Recommendation VII regarding the necessity of providing information about the ordering party; however, the approval of the customer required by virtue of Law 1956 may limit the abidance of the institutions by providing information about the customer to the local bank after the accomplishment of the procedure; therefore, it is important to consider the requirement of binding the financial institutions that perform local transfers to ask for the client's approval before completing the transaction; in the absence of such approval, it shall be rejected.

3.4.3 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R. 4	LC	<ul style="list-style-type: none">The exchange of information pertinent to the local transfers is subject to conditions that limit the compliance with Special Recommendation VII.

3-5 Record Keeping and Wire Transfer Rules (R.10 & SR. VII)

3.5.1 Description and Analysis

Recommendation 10

382. **Keeping all records related to local and international transactions:** Articles 4 and 5 of Law No. 318 bind the institutions subject to its provisions to keep copies of all transactions related documents for not less than five years. According to the regulation issued by the Central Bank of Lebanon and addressed to banks and credit institutions, the aforementioned period shall be calculated after the completion of the transactions and the closure of accounts. By virtue of the aforesaid text, such binding shall also cover all cash transactions exceeding 10,000 USD, since the regulation provides, for the accomplishment of the same, filling out a CTS application to be signed by the customer and kept in order to be presented when requested by the auditing parties, appointed auditors, or the "Special Investigation Commission".

383. Concerning exchange operations, and in addition to the provisions of Law 318, Article 13 of Law number 347, issued on August 6, 2001 regulating the profession, binds those concerned to keep a special record where all transactions exceeding the amount of 10,000 USD are registered on a daily basis, including the date and serial number of each transaction and the customer's name, after verifying his ID.

384. On the other hand, the Land Trade Law imposes in general on each person working as trader, to keep all documents related to his transactions for a period of 10 years (chapters 16 and 19 of the Law).

385. **Keeping records of identity verification:** Law number 318 provides for keeping all copies and documents adopted to verify the identity of the customers for a period of five years at least after the closure of accounts or the completion of the transaction by banks and credit institutions.

386. The starting date of the five years necessary for keeping the transactions records and verification of identities was only specified by banks and credit institutions, excluding other institutions. However, such point may be considered as covered given that the general provisions of the Land Trade Law fixed the period of keeping records to 10 years.

387. **Ensuring availability of records to competent authorities:** Article 6 of Law 318 provides for the right of the Special Investigation Commission to peruse and request all such records related to the transactions and the customers. The Commission stated that it is sending official letters to parties charged with reporting, by virtue of which it is requesting all records and data about customers in order to complete its investigation, within a maximum period of one week. Also the institutions licensed by the Central Bank of Lebanon are bound to provide records about their customers and transactions to the control committee without any names information (Article 150 of the Code of Money and Credit), those covered by the banking secrecy, and that shall be only perused by such authorities or the judicial authority in case the banking secrecy was lifted thereon by the Special Investigation Commission. Law 318 (Article 5, paragraph (f) thereof) bound "those authorized to control the financial institutions and banks to

verify the compliance of the above mentioned institutions with the provisions of the law", such provision includes the presentation of records to fulfill such legal condition, excluding names information related to customers. Based on the foregoing, provisions prevailing in Lebanon fulfill the methodology requirements related to records keeping.

Special Recommendation VII

388. Obtaining information about the originator of the transfer and including the same in the letter: The Central Bank of Lebanon issued a resolution in 2005, by virtue of which the Basic Resolution number 7548, dated March 30, 2000, regarding the e-financial and banking transactions, was amended. The aforementioned resolution bound the institutions registered at the Central Bank of Lebanon and undertaking e-money transfer transactions, including those transactions executed by affinity, payment or credit cards, to mention in the transfer order and annexed letters thereto the full and detailed identity of the originator (name, address, account number or a special reference number, if no account exists), at all stages of the transaction. In order to comply with the aforementioned requirements without prejudice to the provisions of the Banking Secrecy Law prohibiting the disclosure of the customers names and bank accounts to others under penalty of criminal liability, senior officers of banks and credit institutions whom were met stated that the customer is notified of the necessity of providing the information specified pursuant to the decision of the Central Bank of Lebanon; in case of rejection thereof, the transfer shall not be made. By virtue of Article 2 of the Banking Secrecy Law, the aforesaid institutions shall obtain a written approval to this effect. Article 5 of the same Law allows "a previous agreement on such approval pursuant to any kind of contract, that cannot be cancelled unless by approval of all contracting parties".

389. The decision of the BDL did not distinguish between the normal transfer and the cross-border batch transfers, which means that the specified procedures shall be executed in all cases, given that the decision provides in general for including in the transfer order and the letters annexed thereto the full identity of the ordering party.

390. The decision did not provide for particular procedures for financial intermediaries in the payment chain. Article 1 thereof provided for including in the transfer order and the letters annexed thereto the full identity of the ordering party "at all stages of the transaction". Lebanese authorities and visited banks showed that the context of such provision covers as well the financial intermediaries. It can be implicitly understood from the text in question that all parties involved in the chain of transfers should include the information of the originator in the transfer.

391. There is no provision that binds the intermediary institutions to keep for a period of five years the information obtained from the financial institutions issuing the transfer in cases where technical restrictions prohibit the provision of full information about the originator annexed to a cross-border wire transfer along with a related local wire transfer. The Lebanese Authorities consider that such obligation is specified by virtue of provisions of articles 4 and 5 – Law 318 which imposes the retention of the documents of all transactions made with the customers for a period of 5 years.

392. Concerning the verification of the customer identity, such obligation shall fall within the scope of obligations of the banks and credit institutions in case of transfer from a customer account opened therewith. Regarding customers that do not have any account, then reference is made to the regulation issued by the Central Bank of Lebanon which does not provide for the verification of the customers identity for the payment orders paid in cash, unless the transfer amount exceeds 10,000 USD or an equivalent amount (Article 3-1). The same applies to transfers executed by exchange companies, category A which are allowed pursuant to Law of 2001 governing the exchange profession to make transfers (the term "transfers" is used in the Law, and not "Hawala"). The Special Investigation Commission stated that the verification of the customer identity shall apply to all e-transfer transactions, regardless of their value,

by virtue of the intermediary BDL circular number 99, dated 23/12/2005, which expressly provides for the necessity of "including the full and detailed identity of the ordering party in the transfer, in an accurate manner".

393. **Local wire transfers:** The resolution of the year 2005, amending the Basic Resolution number 7548, dated March 30, 2000, regarding the e-financial and banking transactions, stipulated that the account number or any information allowing the follow-up of the transaction and the disclosure of the identity of the requesting party may be sufficient; provided that all requested information shall be provided (name, address, account number or a special reference number, if no account number is available) to the competent authorities or the transfer beneficiary party, within a period of three days from the date of request thereof. Regarding the transactions made by deduction from bank accounts, full information about the customer shall not be provided to the local bank or any other authority, except for the Special Investigation Commission, unless by the authorization of the account holder, pursuant to the provisions of the Banking Secrecy Law.

394. **Adopting efficient procedures based on risks to identify transfers with missing information:** Article 11, paragraph 5, of the "Regulation" binds the person in charge of the transfers department to verify any transfers addressed to the customers or agents account, particularly the e-transfers that do not include the name of the transfer ordering party, and that exceed a certain specified amount, and certain frequency according to the nature and size of business of the customer, along with the accounts subject to many or unusual transfers, such transfers shall be verified in terms of accuracy of the sources. The Special Investigation Commission showed that the Compliance Unit related thereto controls, through onsite visits and by taking samples of the outward and inward transfers from/to the customers' accounts, the compliance of the banks with the e-transfers related procedures.

395. Article 12 of the Basic Resolution number 7548, dated March 30, 2000, regarding the e-financial and banking transactions, stipulated that whoever violates the provisions of the decision shall be subject to the administrative sanctions provided for in the applicable laws and regulations.

3.5.2 Recommendations and Comments

396. We recommend the following:

Special Recommendation VII

- Consider binding the FIs that perform local transfers to have the customer's approval before performing such transaction; in the absence of such approval, the transaction shall be rejected.
- Binding the exchange companies, category A, to adopt efficient procedures based on risks in order to identify the transfers with missing information.
- Binding intermediary credit institutions and banks in the payment chain to the obligation of maintaining information in an express text in the cases specified in criterion 7.4.1 of the recommendation.

3.5.3 Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R. 10	C	
SR VII	LC	<ul style="list-style-type: none"> • The exchange of information attached to the local transfers is subject to conditions that may limit the compliance with SR VII.

		<ul style="list-style-type: none"> • Absence of express provisions binding financial intermediaries in the payment chain to keep transfers related information for a period of 5 years, in the cases specified in 7.4.1 of the recommendation; absence of procedures for category A exchange procedures, defining the principles on controlling the incoming transfers.
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Unusual and Suspicious Transactions

3-6 Monitoring of Transactions and Relationships (R. 11 & 21)

3.6.1 Description and Analysis

Recommendation 11

Paying Special Attention to specific Transactions

Banks and Credit Institutions

397. Article 8 of the banks / credit institutions' regulation imposes the collection of information about the customer, in terms of money source and destination, subject of the transaction, identity of the beneficiary and the beneficial owner, in the event where (a) the transaction took place in unusual circumstances, also such circumstances shall be evaluated not only according to the type and nature of the transaction, yet based as well on the apparent purpose thereof; (b) if the transaction turns out to be without any economic or lawful purpose, particularly due to the difference between the transaction and the professional activity of the customer, or even between the transaction and the habits or personality of the customer.

398. Article 9 of the regulation specified, in particular and without limitation to, some indicators for money laundering considered by banks and credit institutions to follow-up and control accounts and transactions.

399. **Checking the background and purpose of the transactions:** the "compliance unit" at banks / credit institutions is entrusted, among other duties, with verifying the suspicious transactions and preparing a periodical report (on a monthly basis at least) to be submitted to the competent committee for reviewing and giving its opinion about the same (Article 11 of the regulation). There is no express text that imposes maintaining the analysis reports related to such transactions for a five-year period of time.

400. **Making the results available to the competent authorities:** The regulation binds examiners and auditors to verify if the bank / credit institution detected the suspicious transactions and investigated the same (Article 13), it also binds the internal audit unit to notify the examiners of the differences by virtue of a periodical report (Article 11).

401. In the context of execution of the control duties, the Compliance Unit at the "Commission" mentioned that it is requesting all documents, reports, and minutes of meetings related to the detection and investigation of transactions.

Financial Intermediaries, Finance Lease, Insurance and Exchange Companies

402. There are no obligations related to the requirements of unusual transactions and the procedures to be taken in such case.

Recommendation 21

403. **General Description:** Applicable provisions do not include a special mechanism to warn institutions of the countries that do not apply or insufficiently apply FATF recommendations. Lebanese Authorities explained the absence of such mechanism by the difficulty of specifying such countries, knowing that the non-cooperative countries list does not include any country since mid-2006. However, they mentioned that the draft announcement⁷ (refer to p 30), consisting in adopting the risk -based approach to classify customers and transactions in order to pay special attention to higher- risk business relationships, has classified the risks of countries according to the strictness of AML/CFT related laws in each of them, the effectiveness of the judicial and controlling bodies, in addition to the presence or absence of the banking secrecy, the level of corruption and organized crimes. They did not state if such announcement included measures against those states that do not apply or insufficiently apply FATF recommendations.

3.6.2 Recommendations and Comments

404. **The following is recommended:**

Recommendation 11

- Binding banks and credit institutions expressly to keep records about unusual transactions for a period of 5 years.
- Binding financial intermediaries, finance lease, insurance, and exchange companies to establish rules similar to those decided for banks and credit institutions for the control and detection of unusual transactions.

Recommendation 21

- Financial institutions should be obliged to take required measures regarding business relationships and transactions with persons (including legal persons and other financial institutions), from or in the countries that do not apply or insufficiently apply FATF recommendations; also efficient procedures should be established to ensure that the aforementioned institutions will be aware of the risks related to weak points in AML/CFT regime in other countries; and if such transactions do not have any apparent economic or lawful purpose, in addition to the remaining requirements of Recommendation 21.

3.6.3 Compliance with Recommendations 11 & 21

	Rating	Summary of factors underlying rating
R.11	LC	<ul style="list-style-type: none">• Absence of an obligation to detect unusual operations in the financial intermediaries, finance lease, insurance and exchange companies.• Absence of an express text that provides for records keeping for unusual transactions for a period of 5 years (banks and credit institutions).
R. 21	NC	<ul style="list-style-type: none">• Financial institutions are not obliged to take necessary

		measures regarding business relationships and transactions with persons in or from the countries that do not apply or insufficiently apply FATF recommendations, and the remaining requirements of the recommendation.
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3-7 Suspicious Transactions Reports and other Reporting (R.13-14, 19, 25 & SR. IV)

3-7-1 Description and Analysis

Recommendation 13 and Special Recommendation IV

Banks, Credit institutions, Exchange, Insurance, Financial Intermediary, and Finance Lease Companies, and Collective Investment Authorities

405. **Reporting obligation:** The Special Investigation Commission was established at the Central Bank of Lebanon (the financial information unit in Lebanon) by virtue of Article 6 of Law 318, and pursuant to Article 7 of the same Law which binds banks, credit institutions, and those institutions not covered by the Banking Secrecy Law, particularly exchange companies, financial intermediaries, finance lease companies, collective investment authorities, and insurance companies, to report to the Commission immediately, the details of any suspicious transaction hiding money laundering.

406. Article 1 of the aforementioned Law defined unlawful funds as all those funds resulting from the committal of any of the crimes stipulated therein, and did not cover all the crimes requested to be included as predicate crimes according to Recommendation 1 of the forty recommendations issued by the FATF for combating money laundering; this does not comply with the requirements of Recommendation 13 which stipulates that the reporting obligation shall be applied at least to the funds resulting from all predicate crimes specified in the forty recommendations.

407. Article 5 of the same Law provided for determining the principles of control of transactions, by virtue of a regulation established by the Central Bank of Lebanon. The regulation of financial and banking transactions control for anti-money laundering was issued by virtue of Circular 83 addressed to banks and credit institutions only. The regulation included the methods of controlling financial transactions, customer's identity verification, beneficial owner identification, and the obligations of banks and credit institutions regarding the control of some transactions and some indicators about money laundering.

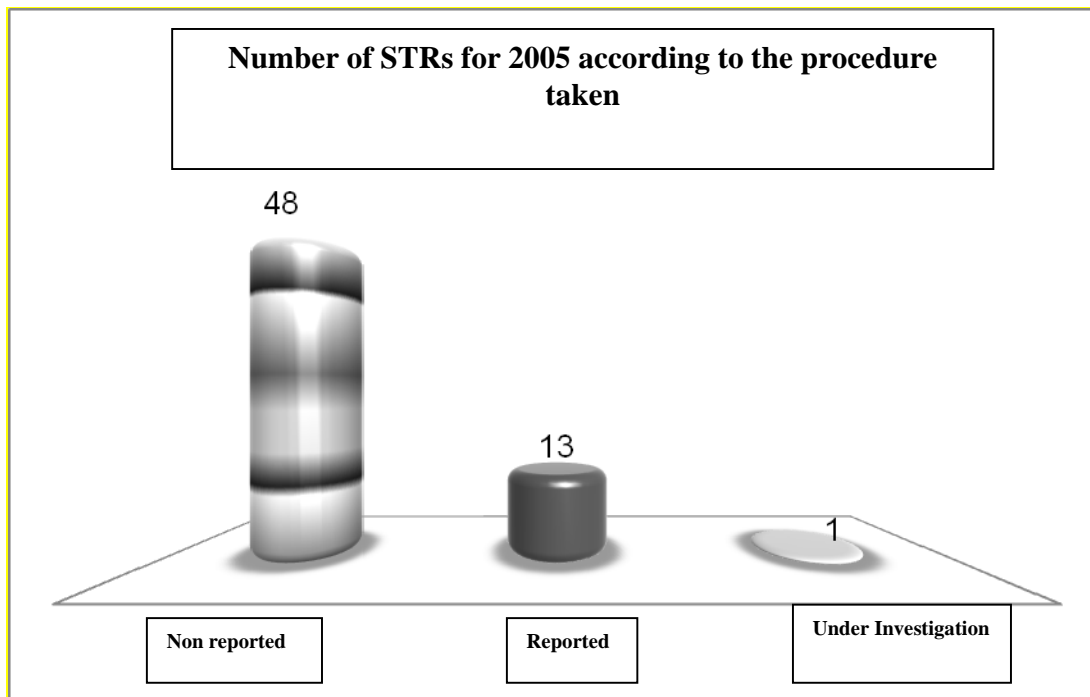
408. With regard to all other institutions governed by the Law in question, the Commission circulated a reporting form, by virtue of announcement 3, amended by announcement 6, which binds all institutions covered by the reporting obligation pursuant to Article 7 of Law 318 to report the transactions, that represent any confirmations or doubts about money laundering, according to the form annexed to the circular. The announcement stipulates that the Governor of the Central Bank of Lebanon shall be informed, in his capacity as President of the Commission in terms of suspicious transactions; yet practically, the reporting is sometimes addressed to the Secretary of the Commission, as noticed by the evaluation team through onsite visits to those reporting institutions. Lebanese Authorities stated that the Secretary informs the President of the Commission immediately upon receipt of the reporting by means of an internal correspondence.

409. The evaluation team also noticed through the onsite visits that some institutions covered by the reporting obligation are not keeping the reporting form; an exchange company mentioned to the

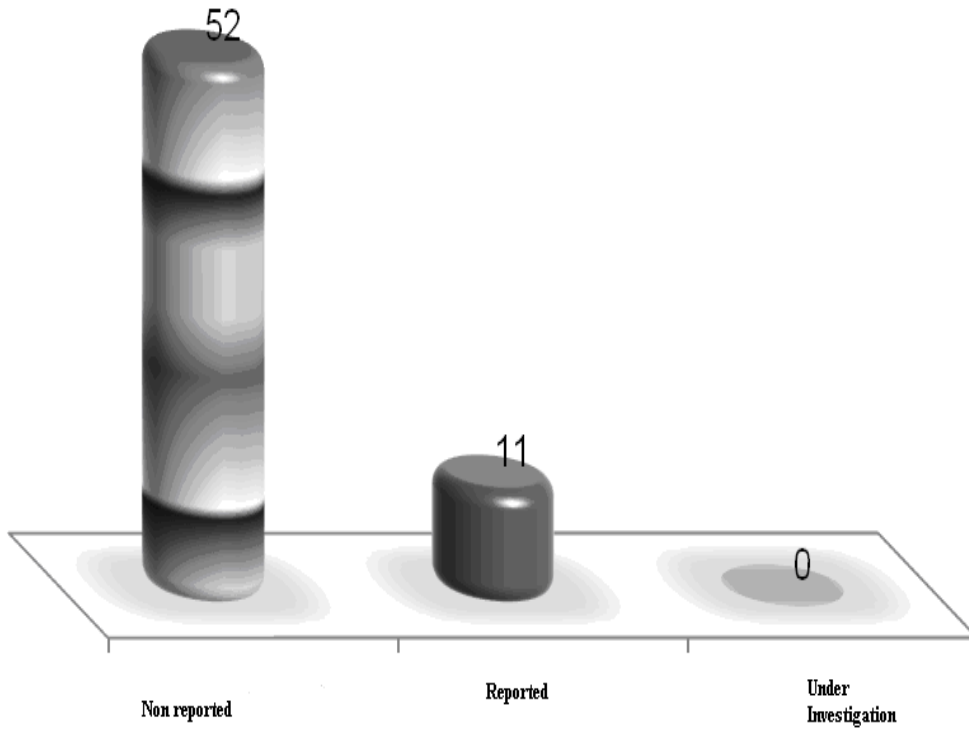
evaluation team that the reporting is made verbally by phone, and that they did not receive any indicators related to the transactions to be reported officially. On the other hand, the Commission stated that during onsite visits paid by the Compliance Unit, a special time is allocated to train the concerned employees on AML/CFT regulations; during such training, indicators about money laundering and terrorism financing are mentioned. The Commission published on its website ML/TF indicators, by type of institution/company; and we can find out from the foregoing that not all the institutions are aware of the indicators published on the SIC website.

The table below shows the statistics related to suspicious transactions:

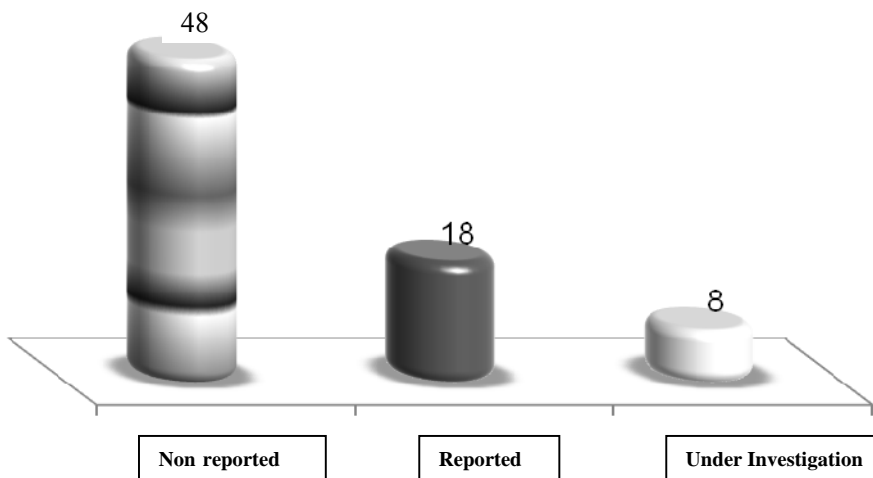
Year	Statement	Reporting Party			Total
		Banks	Exchange Companies	Credit institutions	
2005	Number of STRs	62	0	0	62
	Reported	13	0	0	13
	Not Reported	48	0	0	48
	Under Investigation	1	0	0	1
2006	Number of STRs	63	1	1	65
	Reported	11	0	0	11
	Not Reported	52	1	1	54
	Under Investigation	0	0	0	0
2007	Number of STRs	64	0	0	64
	Reported	11	0	0	11
	Not Reported	53	0	0	53
	Under Investigation	0	0	0	0
2008	Number of STRs	74	1	0	75
	Reported	18	0	0	18
	Not Reported	48	1	0	49
	Under Investigation	8	0	0	8



Number of STRs for 2006 according to the procedure taken



Number of STR's for the Year 2008 according to the Procedure Taken



410. Statistics revealed that exchange companies (the number of which is 384, among which 45 are classified as category A) have reported two cases only within four years, while credit institutions have only reported one case; and the remaining other institutions, namely the insurance and financial intermediaries, and other institutions covered by the reporting obligation, did not report any case; which reduces the efficiency of compliance of such institutions with the reporting obligation. The reason may be that the insurance companies, financial intermediaries, and exchange companies are not subject to many of the obligations imposed by the regulation on banks and credit institutions, since the regulation bound them to many obligations in detail, which would improve the internal control and transactions supervision intensively, while increasing awareness by asking them to provide specialized training in AML/CFT. No doubt that not binding insurance, intermediary and exchange companies to such obligations decreases the probability of identifying suspicious transactions, and therefore affects directly the level and quality of reporting. It is worth mentioning that credit institutions are subject to the same obligations imposed on banks, yet the level of reporting is quasi-absent in the aforementioned institutions.

411. The low number of notifications by institutions covered by the reporting obligation (other than banks) may be explained by the non-awareness of institutions of the cases to be reported or the need for some training; or it might be important to make the institutions aware of the fact of fighting money laundering and terrorism financing, and the importance thereof, in addition to the risks likely to be faced by the financial institutions as a result of not reporting suspicious transactions. The absence of protection for such institutions in case of reporting suspicious transactions may constitute a reason for non-reporting (Refer to Recommendation 14).

412. It is worth mentioning that the regulation bound, by virtue of paragraphs)(f) and (k) of Article 11, the person in charge of controlling operations at banks and credit institutions, when having any doubts about any transaction, to submit a report to the compliance unit, which, in its turn, investigates the transaction; in such case, if it considers the reporting necessary, it submits the report to the above mentioned commission, and the latter presents the report to the board of directors, which decides whether to notify the Special investigation Commission of the suspicious transaction or not. Therefore, the compliance unit shall, pursuant to the regulation, inform the commission, which shall in its turn notify the board of directors, to take the right decision after the approval of the general management, and accordingly, the notification process is subject to different stages of review, and the report of the suspicious transaction is submitted internally at various administrative levels, which may affect the timing of the reporting process, and possibly lead to limiting the capacities and autonomy of the person in charge of the compliance unit and the need to refer to the commission in question in each STR case.

413. On the other hand, the SIC ensured that it is following up the level of reporting in the institutions through onsite visits, and that when discovering suspicious transactions during the inspection, the concerned institution is warned and notified of the same. The same applies to the appointed auditors, nominated by the bank or the credit institution. From the practical point of view, if any suspicious transaction is detected during the audit visits, the management of the bank or the credit institution is informed, and the SIC is notified of such suspicious transaction. Article 13 of the regulation stipulated that the appointed auditors shall report any suspicious transaction detected during the performance of their duties.

414. The Commission verifies the STRs received, then takes within a three-day period of time a temporary decision to freeze the account or accounts for five days, renewable once, if the funds source was still unknown, or if there was any doubts that the same resulting from a money laundering offence. Within the aforementioned period, the SIC makes all necessary investigations about the suspicious account or accounts, whether directly or through any delegate appointed among its members or concerned senior officers, or by means of the secretary thereof, or any person selected among the appointed auditors.

415. **Reporting funds suspiciously related to terrorism and terrorism financing:** Pursuant to clauses 3 and 4 of Article 1 of Law number 318, terrorism crimes stipulated in Articles 314, 315 and 316 of the Penal Code, and the financing or the contribution to the financing of terrorism or terrorism acts or terrorism organizations, as per the terrorism concept as set forth in the Lebanese Penal Code, are considered as ML predicate offenses. There is no legal obligation that binds financial institutions to submit a suspicious transaction report for funds, suspected, based on legal grounds, of being used for terrorism purposes or terrorism acts or by terrorism organizations or terrorism financiers.

416. The evaluation team noticed during the onsite visit of institutions bound to apply the Anti-Money Laundering Law that the prevailing belief therein about the reporting obligation regarding any terrorism financing case resides in reporting the case when the names of customers are conform to the lists of suspicious names issued by the Security Council. The statistics of the SIC included four TF reported cases, two of which are related to the Resolution 1595 issued by the Security Council, and the last two cases are irrelevant to the resolutions issued by the Security Council.

417. **Reporting the attempts to conduct transactions regardless of their amounts:** Law 318 did not provide for the obligation of reporting any attempts for execution of transactions, regardless of their amounts. The evaluation team discovered during the onsite visit that attempts to execute suspicious transactions are not reported.

418. It is worth mentioning that Law 318 did not specify a threshold as a condition to report any suspicious transactions. During the onsite visits of institutions covered by the reporting obligation, the evaluation team found out that the institutions do not follow a specific threshold as a condition to report any suspicious transactions, since the team was informed of a reported case that did not exceed USD 2,000. Also Paragraph 2 of Article 3 of the regulation provided for the obligation to verify and keep a special record for transactions exceeding USD 10,000, even in different cash deposits, the value of which is less than the aforementioned amount, and the total of which exceeds USD 10,000; the above mentioned obligation is applied in banks and credit institutions.

419. **STRs reported regardless of whether they involve tax matters:** Article 7 of Law 318 binds banks and credit institutions and all such institutions not subject to the Banking Secrecy Law to report any suspicious transactions about money laundering, which means that Law number 318 did not exclude any suspicious transaction from the reporting, even if such transactions involve tax matters. It is worth mentioning that article 150 of the Code of Money and Credit provided that: " It is strictly prohibited on the Central Bank appointed auditors, during the performance of their duties, to check, interfere or inform any person whosoever of any tax matter, which may creates some ambiguity to the obligations imposed on the BDL by virtue of the reporting according to Law 318; although this category is not covered by the reporting obligation according to the international standards.

Recommendation 14

420. **Protecting from the penal and civil liability in case of violating any disclosure condition:** Pursuant to Article 12 of Law 318, the bank and pertinent employees shall have the immunity within the scope of their work and by virtue of the provisions of such Law, which means that no action may be brought against them or any of them and no penal or civil liability may be imposed on them for performing their duties, including the offenses stipulated in the Banking Secrecy Law issued on September 3, 1956, unless in the case of disclosure of banking secrecy.

421. The evaluation team adopted the explanation of the Lebanese Authorities for the expression "pertinent employees" mentioned above, which shall be considered as general and cover all categories,

the protection of which is required, according to the international standards, namely the bank directors, senior officers and employees; but such immunity shall not cover the remaining financial institutions.

422. **Prohibition against tipping-off:** Article 11 of Law 318 stipulated that "excluding the decision of the Commission on approving the lifting of the banking secrecy, the reporting obligation by any natural or legal person provided for in the aforementioned Law and the documents presented to this effect, along with the documents and procedures of all stages of investigation shall be totally confidential". The evaluation team considers that the provisions of the aforesaid article meet the requirements of Criterion 14-2 regarding the prohibition of financial institutions and directors, senior officers and employees thereof (permanent and temporary ones), by virtue of the Law, from disclosing (tipping-off) the presentation or reporting of any suspicious transaction or other pertinent information to the financial information unit, given that the above mentioned article imposes " total confidentiality" on the reporting obligation and any documents presented to this effect by any natural or legal person, and the investigation documents and procedures, except for informing the customers of the decision to lift banking secrecy on their accounts.

Recommendation 25

423. **Providing feedback:** It is worth mentioning that the Special investigation Commission gave great attention to the awareness and training related to anti-money laundering and terrorism financing; many training sessions were held, including case studies for most of the institutions covered by Law. The aforementioned institutions informed us of the benefit of such training sessions.

424. The Commission publishes yearly reports which include statistical data about:

- Cases reported to the "Commission".
- Cases on which the secrecy was lifted / was not lifted.
- Cases according to their source.
- Cases according to the type of offense.

425. Annual reports issued by the Commission include forms about money laundering and terrorism financing cases; the aforementioned data and cases are also available on the Commission's website.

426. The Commission sent letters to the banks regarding the procedures to be taken in future transactions with the reported accounts. Because all cases approximately are incoming from banks, the feedback provided by the Commission is deemed adequate and appropriate; SIC should provide, in the future, enough feedback in an identical way to all financial institutions.

Recommendation 19

427. **Considering the utility of a reporting system about cash transactions exceeding a designated threshold:** The feasibility and utility of implementing a system where the institutions covered by Law 318 report all cash transactions above a fixed threshold to the SIC was considered; yet the Commission considered that the automatic reporting is not necessary, since the cash transactions that exceed the amount of USD 10,000 or its equivalent are kept in special records maintained by the financial institutions that are not subject to the Banking Secrecy Law, and the latter also keep copies of the concerned identity documents (Article 4 of Law 318).

428. With regard to banks and credit institutions, Clause 6 of Article 11 of Circular No. 83 bound tellers to ask customers, excluding those exempted, to fill out and sign a cash transaction slip, provided that it

includes, in addition to the value of the transaction, information about the subject of the transaction, and the source of funds, when depositing cash amounts exceeding USD 10,000 or an equivalent amount, or when various amounts less than the aforementioned amount are deposited, the total of which exceeds USD 10,000 or its equivalent. The aforementioned were also bound to prepare schedules about the transactions that exceed the threshold specified for those customers exempted from filling out the CTS, while taking necessary technical procedures to keep and present the same upon request of the internal control bodies, the appointed auditors or the "Special Investigation Commission". The requirement of filling the CTS is also applied to the financial intermediaries (Clause 6 of Announcement No. 7). The Commission mentioned to the evaluation team that the exempted customers are those holding active commercial accounts, which witness the recurring deposit of amounts that exceed the applicable threshold. The exemption of customers from filling out the CTS shall be subject to the approval of the bank management, credit institution or the financial intermediary companies.

3.7.2 Recommendations and Comments:

429. The Lebanese Authorities are recommended to undertake the following:

- Enlarge the scope of unlawful funds definition to include the proceeds of the 20 predicate offenses, (Refer to Section 2-1).
- Oblige the institutions covered by the reporting obligation, pursuant to Article 7 of Law 318, to submit a report about suspicious transactions, regarding any funds suspected, and based on legal grounds, of being used for terrorism purposes or terrorism acts or by terrorism organizations or terrorism financiers.
- Oblige the financial institutions to abide by the reporting obligation upon suspecting any attempts of executing suspicious transactions, regardless of the value of the transaction.
- Increase the awareness of the institutions covered by the reporting obligation about the cases to be reported, and the way of identifying suspicious transactions, and providing institutions with sufficient knowledge about fighting money laundering and terrorism financing and the importance thereof; increase as well the awareness on the risks likely to be faced by the financial institutions if they do not report suspicious transactions.
- The legal protection from the penal and civil liability shall cover all such institutions subject to the law, their permanent and temporary directors, senior officers and employees, in case of violation of any disclosure condition imposed by contracts or any legal, governing or administrative texts, when reporting any suspicions to the Special Investigation Commission.
- The Commission shall publish and inform the institutions covered by Law 318 of ML/TF indicators.

3.7.3 Compliance with Recommendations 13, 14, 19, 25 (Criterion 25-2) and Special Recommendation IV

	Rating	Summary of factors underlying rating
R. 13	PC	<ul style="list-style-type: none"> • The definition of unlawful funds did not include the proceeds of all twenty predicate offenses stipulated in the recommendations. • The Law does not include an express text about reporting in case there are any doubts that the funds are suspected, and based on legal grounds, of <u>being used</u> for terrorism purposes or terrorism acts or by terrorism organizations or terrorism financiers. • There is no obligation to report any attempts of

		<p>suspicious transactions, regardless of the value thereof.</p> <ul style="list-style-type: none"> • Reporting is concentrated in the banking sector, which indicates the low efficiency of the regulation.
R 14	LC	<ul style="list-style-type: none"> • The legal protection from the penal and civil liability does not cover all such institutions covered by Law 318, when disclosing any information or reporting any suspicions to the Commission.
R.19	C	
R. 25	LC	<ul style="list-style-type: none"> • Existence of other factors that affect the compliance rating (Section 3-10)
SR IV	NC	<ul style="list-style-type: none"> • The Law does not include an express text about reporting in case there is any suspicion that the funds will be used for terrorism purposes or terrorism acts or by terrorism organizations or terrorism financiers. • There is no obligation to report any attempts of suspicious transactions.

Internal Controls and Other Measures

3-8 Internal Controls, Compliance, Audit and Foreign Branches (R. 15 & 22)

3.8.1 Description and Analysis

Recommendation 15

430. **Establishment of policies, procedures and internal controls:** Pursuant to Article 11, Paragraph 1, Clause (a) of the regulation, banks and credit institutions shall prepare a procedure guide for the application of Law 318 and the regulation of financial and banking transactions control for anti-money laundering. The regulation provides for verifying the identity of the customer and keeping records while detecting suspicious transactions and reporting the same. The evaluation team was informed during the onsite visits that the Lebanese Authorities will issue an announcement^{7 (refer to p. 30)} to give special attention to higher-risk customers. The Compliance Unit related to the SIC evaluates the level of compliance of banks and credit institutions with the preparation of the internal AML guide; the team noticed that most banks and credit institutions have prepared internal procedures guide, which was circulated among the employees; some of those evidence included obligations that are larger than those imposed by the law, and they are conform to the requirements of the international standards.

431. Concerning financial intermediaries, exchange, finance lease, insurance companies and collective investment authorities, Law 318 did not provide for the establishment of internal policies, procedures and controls; however, the Law imposed thereon some obligations falling within the scope of such policies, consisting in maintaining special records for the transactions that exceed the value of USD 10,000, and verifying the identity and address of the customers based on official documents, provided that copies thereof shall be kept, in addition to the transaction related documents, for at least five years, and reporting suspicious transactions. Through the onsite visit, the team noticed that some of the above mentioned institutions have prepared an internal guide according to the requirements of some companies which represent branches of foreign companies abroad.

432. Article 11 of the same regulation stipulates that committees and administrative departments and units established at banks and credit institutions, each within the scope of its specialization, and all concerned officers in the bank or the credit institution shall follow procedures to control and fight money laundering transactions and avoid the execution thereof. The same Article specified the duties of the competent committee, which shall be responsible for preparing a procedures guide for the implementation of AML law and the financial and banking transactions control regulation, while preparing the "know your customer" form in order to control financial and banking transactions, which includes the main information to be provided about the customers. The regulation further provided for checking the good implementation and efficiency of the procedures and rules followed to fight money laundering as well as reviewing the same periodically and developing it according to the most updated methods applied, in addition to establishing a program to train the employees on the methods of controlling financial and banking transactions according to the control procedures guide prepared and to all applicable governing and legal texts, and reviewing the reports referred by the "compliance unit" and the "internal control unit" regarding suspicious transactions and higher risk accounts in terms of cash deposits and withdrawals, transfers and their relation with economic activities, and finally stating opinion about the referred suspicious reports and submitting the same to the board of directors.

433. Clause 2 of Article 11 included the duties of the compliance unit, consisting in ensuring the compliance of concerned employees with the guide of procedures related to the application of the AML legal and governing texts, and in filling out the "know your customer" form, and reviewing periodically the efficiency of the procedures followed in AML in addition to making suggestions about amending such procedures and regulations to the competent committee mentioned above, in order for it to take appropriate decision following the approval of the general management; the unit shall also review the daily or weekly reports incoming from the concerned departments and branches regarding cash transactions and transfers, and control the accounts and transactions of the customer on a consolidated basis (on and off balance sheet), with the head office and all branches in Lebanon and abroad, and finally investigate suspicious transactions and prepare a periodical report (monthly at least) to be submitted to the "competent committee" regarding the transactions that may constitute a suspicious transaction risk. The compliance unit related to the Commission confirmed, through the onsite visits made to evaluate the compliance level of banks and credit institutions with the required procedures, that such institutions have established a compliance unit to perform the duties mentioned above.

434. Article 5 of Announcement No. 7 binds financial intermediaries to appoint an administrative officer in charge of controlling the implementation of AML internal procedures, through preparing a guide for fighting money laundering that takes into consideration the requirements stipulated in the aforementioned announcement. Such guide shall also take into consideration the structure of the institution and its departments. He shall develop the same when necessary, and prepare the "KYC" form, then submit both documents to the board of directors for approval. He shall as well verify the due implementation and efficiency of the procedures followed to fight money laundering and control the accounts to make sure that there are no suspicious transactions, while documenting his activities in the required periodical reports to be submitted to the chairman and members of the board, and finally training concerned employees on the methods of fighting money laundering. It shall be taken into consideration that announcement No. 7 is not among the other enforceable means.

435. There are no obligations that bind the exchange, insurance and finance lease companies to make appropriate arrangements to manage the compliance and ensure the application of AML/CFT criteria. It is worth mentioning that onsite visits to such institutions revealed that some of them have appointed a compliance officer, whether in accordance with the requirements of the mother company (existing abroad) or as an internal policy.

436. Article 10 (Clause 2, Paragraph (a)) of the regulation stipulates that the compliance unit and the compliance officer in charge of the control of operations in the branch at the bank or credit institution, shall review the data of the customer's identity and other information related to the due diligence procedures of customer's identification, in addition to the transactions' records and other pertinent information, in order to undertake the required control and compliance duties. The visit paid by the team to some banks, particularly those having numbered accounts, revealed that the person in charge of the transactions control in the branch does not have direct access to the information related to the customer identification, unless if the management accepts to provide him with such information related to the customer.

437. Regarding exchange, insurance and finance lease companies, there are no obligations to appoint a compliance officer in order to peruse the customer's information and other data relative to the due diligence procedures of customer's identification, in addition to the transactions' records and other related information. The team found out, during the onsite visits, and as mentioned above, that some institutions play this role as an internal policy.

438. Establishment of an independent audit unit: Clause 1 of Article 2 of the Basic Circular No. 77 issued to banks by the Central Bank of Lebanon on December 15, 2000, to which the Basic Resolution No. 7737 is annexed, stipulates the following: “The board of directors of each Lebanese bank and the management of each foreign bank branch operating in Lebanon shall establish “an internal audit unit” (hereinafter referred to as “the unit”), that shall be completely independent of the management in charge of the operations, and has no executive responsibilities. The Bank's Board shall appoint the Unit Chief and determine his/her remuneration. The name of the incumbent Unit chief and any future change shall be reported to the Banking Control Commission. Article 11, Paragraph 3, of the “regulation” specified the duties of the internal audit unit in banks and credit institutions as follows:

- a. Examine the cash transactions, transfers and movement of the accounts.
- b. Check the compliance of the branches and concerned departments with the procedures related to the application of prevailing laws and regulations in the anti-money laundering field, and if the “Know Your Customer” (KYC) form is filled.
- c. Inform the appointed auditor of any disparities through a periodical report.
- d. Inform the “compliance unit” through reports of the matters mentioned above and of any operations likely to constitute suspicious transaction risks.

439. Although neither the circular nor the regulation provided for the need to recruit sufficient resources in the audit unit, the duties of the unit included the obligation of checking the compliance of branches and departments with policies, procedures and control, including the random testing. However, the evaluation team found out through the onsite visit that banks and credit institutions are verifying the level of compliance of the institution and its related branches with the procedures, policies and controls, through random testing of the customers' files. The foregoing reveals that the internal audit unit in banks and credit institutions plays an effective role in assessing the level of compliance of the bank or the institution with the imposed requirements.

440. With regard to exchange, intermediary, insurance and finance lease companies, there is no obligation to establish an independent audit unit which includes sufficient resources to test the level of compliance with the procedures, policies and controls. However, it was revealed through the onsite visit as mentioned above that some institutions are undertaking the examination process; it was revealed as well that an exchange company and an intermediary company have nominated appointed auditors to follow up the compliance with anti-money laundering criteria, as an internal policy of the company.

441. Establishment of an ongoing training program: Pursuant to Paragraph 2 of Article 12 of the "regulation", banks and credit institutions shall train the employees continuously and involve senior

officers of the training program and concerned employees in the sessions, seminars, and conferences related thereto, in order for them to be always up-to-date with AML methods. By virtue of Clause 5 of Announcement 7, the person appointed to control the application of internal procedures in financial intermediaries shall train concerned employees on the methods of fighting money laundering. However, Announcement No. 7 is not considered among the other enforceable means.

442. The evaluation team found out through the onsite visit that visited banks and credit institutions provided for their employees AML/CFT specialized training programs. The Compliance Unit in the SIC allocates a period of time for training during the inspection visits of the institutions covered by the law; concerning exchange, insurance, finance lease companies and financial intermediaries, there are no obligations to establish an ongoing training program to ensure they are up-to-date with any new developments related to AML/CFT. It is worth mentioning that although not all financial institutions were bound to provide a specialized training in AML/CFT, the Commission endeavors to organize training sessions, whereby all visited institutions covered by the reporting obligation stated that the Commission has organized many training sessions, which included all aspects of the laws and requirements of anti-money laundering and terrorism financing along with the methods and general trends existing in this field; The evaluation team was not provided with any statistics that prove the number of the aforementioned sessions, the number of participants and the subjects thereof. The banks association is also playing an important role in organizing such training sessions in general for banks, whereby it has organized many since 1996; it has increased such training following the signature of the diligence agreement in February 1997. One of the first activities of the association in the field of anti-money laundering was in 1999, when a form about the procedures of anti-money laundering control was established. Following the issue of Law 318 and Circular No. 83, the training sessions between the Special Investigation Commission and the association were concentrated in the field of AML/CFT, particularly through study cases to increase awareness. The following schedule shows the number of trained employees (from the number of banks) in the sessions:

Years	Training Sessions in Beirut	Conferences in Beirut	Training Sessions outside Beirut	Total
2003	44 (1 bank)	78		122
2004	209	109 (from 60 banks)		318
2005	292 (from 46 banks)	86 (from 48 banks)		378
2006	331 (from 32 banks)		102 (from 18 banks)	433
2007	624 (from 58 banks)	281 (from 3 banks)		905
2008	351 (from 45 banks)	65 (from 2 banks)		416
Total	1851	619	102	2572

443. Statistics about imposing the sanctions issued by the Commission for non compliance with the criteria of anti-money laundering reveal that the Commission sent many warnings to the insurance companies for non compliance. Concerned authorities stated that the non compliance results from the lack of awareness of such companies; therefore the same were not correctly applied. The reason may be the lack of specialized training in the insurance field and the absence of obligations that bind insurance companies to establish an ongoing internal training program for their employees.

444. **Application of procedures to ensure the existence of high competence criteria upon the appointment of employees:** Pursuant to Paragraph 5 of Article 12 of the "regulation", banks and credit institutions shall impose high standards of integrity when employing new employees. There are no obligations that bind exchange, insurance, finance lease companies and financial intermediaries to impose specific criteria upon recruitment. The evaluation team found out through the onsite visit that most of these institutions impose high standards of integrity when employing human resources, by verifying the

background of the employee and requesting his criminal record. Before such process is a compliance with the regulation requirements, it is first a compliance with the internal policies of such institutions and the preservation of its integrity. Regarding the appointment of senior officers and managers, there are specific procedures in this regard (mentioned in the provisions of market entry).

Recommendation 22

445. **Application of AML/CFT to foreign branches and subsidiaries:** Pursuant to Paragraph 7 of Article 12 of the "regulation", branches of Lebanese banks abroad shall adopt, at least, those procedures stipulated in the regulation, in such a way that do not contradict with the prevailing laws and regulations of the country where the branch is located. Regarding financial intermediaries, exchange, and insurance and finance lease companies, there is no obligation to comply with such procedure; the evaluation team noticed during the onsite visit that banks and some credit institutions ensure that their branches execute the measures of AML/CFT. The team noticed as well that insurance companies apply such procedure based on their internal policies, not by virtue of laws or regulations imposed thereon.

446. The financial institutions in Lebanon are not requested to give special attention to their affiliated companies and branches abroad, located in countries that do not apply or insufficiently apply FATF recommendations¹². An announcement was issued⁷ (Refer to p. 30) related to the risk based approach for the classification of customers and transactions in order to pay special attention to high risk business relationships, which has classified the countries risks according to the strictness of AML/CFT laws and the efficiency of judicial and supervisory bodies in addition to the existence or absence of banking secrecy, and the level of corruption and organized crimes.

447. Notwithstanding the provisions of Article 12 (Paragraph 7) referred to above, branches of Lebanese banks are not obliged to follow a higher standard when the combating measures between the mother country and the host country are different. The evaluation team clarifies that in the case where the laws and regulations applicable in the host country are higher than the procedures provided for in the regulation No. 83, and adopting such procedures does not contradict with such laws, then nothing binds the branches of Lebanese banks operating abroad to apply higher standards.

448. **Requirement to inform supervisory authority in the home country if the branch or the subsidiary is unable to implement AML/CFT measures:** Institutions covered by Law 318 are not required to notify the Commission when their branch or affiliated company is unable to apply the anti-money laundering measures.

449. **Additional elements:** Article 11 (Paragraph 2, Clause (d)) of the regulation stipulates that the compliance unit established in banks and credit institutions shall control the accounts and transactions of the customer on a consolidated basis, on and off balance, at the head office and all branches in Lebanon and abroad.

3.8.2 Recommendations and Comments

450. **The Lebanese Authorities are recommended to:**

- Financial intermediaries, exchange, insurance, finance lease companies and collective investment authorities (if existing), shall be bound to the obligation of other enforceable means, subject to the activities size in such institutions:

¹² Refer to the analysis of Recommendation 21.

- Establishing internal policies, procedures and controls, for fighting money laundering and the financing of terrorism which include, due diligence procedures, record keeping, detection of unusual and suspicious transactions and the reporting.
 - Making appropriate arrangements to manage the compliance and apply AML/CFT standards.
 - Establishing an independent audit unit to test the compliance.
 - Appointing a compliance officer (as a minimum) who shall have the right to peruse in a timely manner the customers' identity information and other due diligence information, in addition to the transactions records and other pertinent information.
 - Organizing an ongoing training program for employees.
 - Imposing high standards of integrity upon recruitment of employees.
- Financial institutions governed by the law shall all be subject to other enforceable means, taking into consideration the size of the activities in such institutions:
 - Binding branches and affiliated companies thereof located abroad to apply AML/CFT measures, and giving special attention to the institutions that have branches abroad, in countries that do not apply or insufficiently apply FATF recommendations.
 - Adopting the higher standard in AML/CFT, when such standards are different in the mother country for the institutions having branches abroad, and notifying the Commission when the branch or the affiliated company is unable to apply AML/CFT measures.

3.8.3 Compliance with Recommendations 15 & 22

	Rating	Summary of factors underlying rating
R.15	PC	<ul style="list-style-type: none"> ● Not binding <u>all</u> financial institutions subject to the law to the following (excluding banks and credit institutions). <ul style="list-style-type: none"> – Establishing AML/CFT internal policies, procedures and controls, – Making appropriate arrangements for managing the compliance and making sure of the application of the fighting standards. – Establishing an independent audit unit to test the compliance. – Appointing a compliance officer who shall have the right to peruse in a timely manner the customers' identity information and other due diligence information, in addition to the transactions records and other pertinent information. – Organizing an ongoing training program for employees in the fighting field. – Imposing high standards of integrity upon recruitment of employees.
R. 22	PC	<ul style="list-style-type: none"> ● Not binding all financial institutions subject to the law to the following: <ul style="list-style-type: none"> – Binding branches and affiliated companies thereof located abroad to apply AML measures. – Giving special attention to the institutions that have branches abroad, in countries that do not apply or insufficiently apply FATF

		<p>recommendations.</p> <ul style="list-style-type: none"> - Adopting the higher standard in AML/CFT when they are different in the mother country of the institutions having branches abroad. - Not binding financial institutions subject to the law to notify the Commission when the branch or the affiliated company is unable to apply the fighting measures.
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3-9 Shell Banks (R. 18)

3.9.1 Description and Analysis

451. The Central Bank of Lebanon has established some procedures to ensure that no shell banks are established; Article 2 of the Basic Resolution number 7739, annexed to the Basic Circular number 79 issued to banks on December 21, 2000, regarding the conditions of banks establishment in Lebanon, stipulated that founders shall submit an application signed by them to obtain the license for the establishment of a Lebanese bank from the Central Bank of Lebanon, provided that the following documents shall be enclosed thereto:

- A document proving the identity of the founders.
- Statements signed by the founders which include their CVs.
- The criminal record of each of the founders.
- A statement which includes the percentage of contribution of each of the subscribers.
- An economic feasibility study related to the establishment of the bank.
- A statement which clarifies any relation between the bank to be established and any other institution.
- A statement which clarifies the percentage of contribution of the founders in other similar institutions.
- The Central Bank of Lebanon obliges anyone who wishes to obtain a license for the establishment of a Lebanese financial institution or a branch for a foreign financial institution, to enclose a criminal record, backdated three months at most, of each of the founders and contributors to the subscription, and to specify the capital of the institution and the persons expected to be entrusted with senior management duties.

452. Article 3 of the circular mentioned above stipulates that the application lodged to get a license for the establishment of a branch for a foreign bank shall be submitted to the Central Bank of Lebanon, and shall be signed by the management of the concerned foreign bank, enclosing thereto one original copy and three copies of the following documents:

1- A duly authenticated copy of:

- a. The articles of association of the foreign bank.
- b. The bank's certificate of registration in the country of origin, or the certificate granted to him by the competent authorities to practice banking activities.
- c. The resolution of the competent authority in the foreign bank which shall include:

- An approval on the opening of a branch for the concerned bank in Lebanon, the subject of which shall be banking activities.
- The appointment and specification of the duties of the representative of the bank in Lebanon.
- An engagement to apply the provisions of the prevailing Lebanese laws and regulations, as well as the recommendations and instructions of the Central Bank of Lebanon, particularly regarding the re-constitution of the capital allocated to the branch, if the latter suffered any losses.

d. When necessary, the resolution of the official competent authority in the country of origin which allows the opening of the requested branch.

2- The information about the representative of the bank in Lebanon and the persons expected to hold senior management positions.

3- The annual reports of the activities of the bank for the last three years and the balance sheets related thereto.

453. Pursuant to Article 2, paragraph 1, of Circular No. 83, banks and credit institutions shall verify the identity and activity of their correspondents, and make sure, when dealing with them for the first time, that they have a physical presence according to proving documents. They shall as well make sure, in particular, that the foreign bank with which they are dealing with is not a shell bank. Also Clause 1 of announcement No. 7 stipulates that financial intermediaries shall verify the identity and activity of the correspondent, and ask for proving documents to verify that it is not a shell bank. As previously mentioned, the circular is not considered among other enforceable means.

454. During the onsite visit, one of the banks explained to the evaluation team that upon establishing a new relation with a correspondent bank; such bank is visited to verify the identity thereof and its physical presence.

455. Regarding exchange, insurance, finance lease companies and collective investment authorities, they are not required to verify the identity and activity of their correspondents to make sure they have a physical presence and that they are not shell banks.

456. Financial institutions subject to Law 318 are not bound by the obligation of ensuring that their correspondents are not dealing with shell banks.

3.9.2 Recommendations and Comments

457. The Lebanese Authorities are recommended to:

- Bind all financial institutions, that may have banking relationships with correspondent banks, to the following:
 - Verify the identity and activity of their correspondents to make sure of their physical existence and that they are not shell banks.
 - Ensure that their correspondents are not dealing with shell banks.

3.9.3 Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	PC	<ul style="list-style-type: none"> • Not binding the remaining financial institutions, which may have banking relationships with correspondent banks (other than banks and credit institutions), to verify the identity and activity of their correspondents in order to make sure of their physical existence and that they are not shell banks. • Not binding the financial institutions which may have banking relationships with correspondent banks with the obligation of verifying that their correspondents are not dealing with shell banks.

Regulation, supervision, guidance, monitoring and sanctions

3-10 The Supervisory and Oversight System – Competent Authorities and SROs. Role, Functions, Duties and Powers (including sanctions) (R.23, 29, 17 & 15)

3.10.1 Description and Analysis

Recommendation 23 and 30

458. **Being subject to sufficient organization and supervision:** With regard to the supervisory authorities, the Central Bank of Lebanon controls all the banks and credit institutions, financial intermediaries, exchange and the finance lease companies and collective investment authorities, while the insurance companies are subject to the supervision of the supervisory committee of the insurance institutions in the Ministry of Economy and Trade. All mentioned institutions are subject to Law 318 whereby the Compliance Unit verifies the compliance level of such institutions with AML law. The FIs are not subject to a regulation with regard to combating terrorism financing; as well, there is no legal basis to control such institutions in this field.

459. **The Special Investigation Commission – Compliance Unit:** Pursuant to Article 6 of Law 318, the Special Investigation Commission was established in the Central Bank of Lebanon, and it is entrusted with investigating the money laundering transactions and ensuring the compliance with principles and procedures stipulated in the aforementioned law. (Refer to section 2-5).

460. Pursuant to Paragraph 3 of the same Article, the Special Investigation Commission shall appoint a secretary in charge of supervising directly a special body of examiners delegated by the Commission to control the fulfillment of the requirements stipulated in the Law and verify the same continuously, without applying to any of them the provisions of the Banking Secrecy Law. The Compliance Unit was established in 2002 with the mission to ensure, on a periodical and continuous basis, that banks and credit institutions and all other concerned institutions are fulfilling the requirements provided for in Law 318.

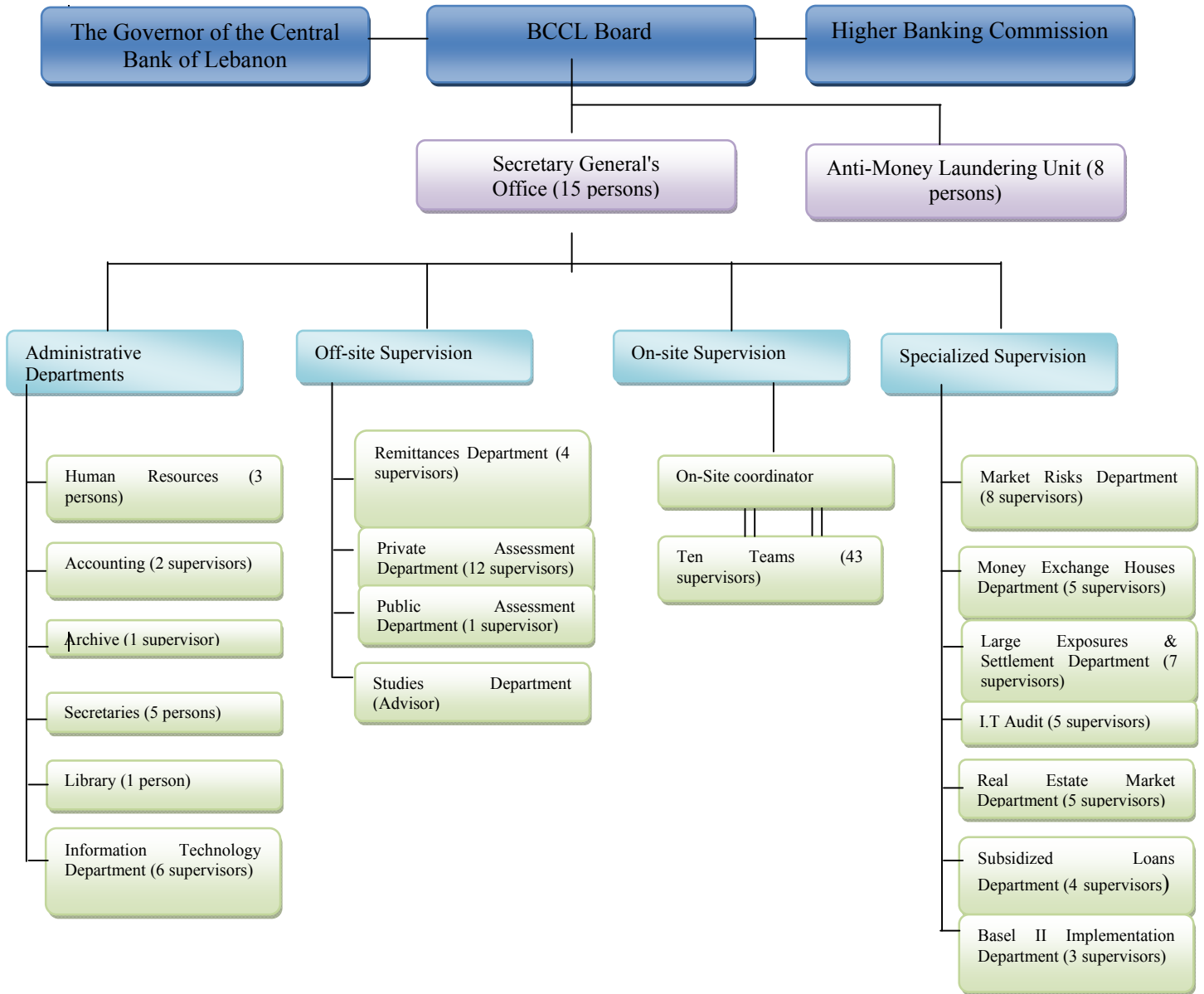
461. **Central Bank of Lebanon:** the Central bank of Lebanon has the legal power to license and control banks, credit institutions, exchange, financial intermediaries, finance lease companies and collective investment authorities. By virtue of Article 148 of the Code of Money and Credit, the control of banks shall be entrusted to a department which is totally independent of the remaining ones, and related directly

to the governor. The Banking Control Commission (BCC) was established by virtue of Law No. 28 of the year 1968, whereby Article 8 thereof provided for the establishment of an independent control committee in the Central Bank of Lebanon, the activities of which shall not be subject to the authority of the bank. The Central Bank of Lebanon shall bear all expenses of the aforementioned committee.

462. The duty of the committee resides in verifying the due application of the banking system stipulated in the third chapter of the Code of Money and Credit, individually, as per the principles mentioned in Articles 149 and 150 of the Code of Money and Credit. The BCC undertakes the on-site and off-site control in those institutions licensed by the Bank; the Bank shall have the legal power to impose necessary administrative sanctions on any institution that violates the Code of Money and Credit or the measures imposed by the Central Bank by virtue of the powers inferred by such Law. The committee practices the control powers granted to the governor of the Central bank of Lebanon, and to the Central Bank of Lebanon, pursuant to the Code of Money and Credit, in addition to the powers conferred thereon by virtue of Law 28.

463. The committee shall undertake on-site studies, where on-site teams are formed to cover the debit accounts only for banking secrecy considerations. Each on-site study includes an evaluation of the anti-money laundering procedures. The aforementioned evaluation is included in a separate section within the comprehensive report, which covers a comparison between the notes of the control committee, the notes of the Special Investigation Commission, and the notes of the appointed auditor. If the appointed auditors noticed during the on-site study any account activity related to money laundering, they immediately notify the committee which shall refer the file to the Special Investigation Commission. The committee relies largely on the risk-based approach to determine the periodicity of the on-site supervision. Such approach is principally based, concerning banks, on the CAMELS evaluation system, which consists in evaluating six factors in the bank, namely the capital sufficiency, assets quality, management quality, profitability, liquidity and susceptibility to market risks. The on-site studies include follow-up issues (issue sheet), consisting of the ISSUE SHEET, which is a list of all pending matters to be followed up in the banks and "credit institutions", including the anti-money laundering related matters. The committee shall verify that the name of any person who wishes to contribute to any bank or financial institution is not included in the recognized international lists. Same procedures, whether in terms of on-site or off-site study, are applied to exchange companies by the exchange section in the committee. It is worth mentioning that the president of the BCC is a member of the Special Investigation Commission, and that one of the members of the control committee is a member of the national coordination committee for anti-money laundering. The committee has established a specialized unit for AML/CFT. The Committee has as well formed a specialized work team for the same purpose, comprised of a number of appointed auditors from different sections of the committee, each of whom is entrusted, within the scope of his work, with following up the AML/CFT issue.

464. The committee has also the right to prepare for any bank a program for the improvement of its status and control of expenses, and may recommend the latter to comply with the same. The chart below shows the structure of the BCC:



465. **Ministry of Economy and Trade – Insurance Control Commission (ICC):** the Ministry of Economy and Trade has the power, by virtue of the insurance institutions governing law, to license and control insurance companies and brokers. Article 47 of the aforementioned Law stipulates that an “Insurance Control Commission”, related directly to the minister, shall be established in the Ministry. The Commission shall include a president and four members and appointed auditors at least, selected by the minister, and holders of university degrees in the following specializations: economy and finance, insurance affairs, insurance mathematics (actuarial science), law, accounting and business administration.

466. The aforementioned Commission is in charge of controlling the insurance institutions in terms of compliance with the laws, decrees and resolutions made in application of the provisions of such law; it shall as well verify the ability of such authorities to fulfill their obligations towards the insured. The law granted the Commission the power to request necessary information from any insurance institution operating in Lebanon, and has the right to audit at any time the headquarters of any authority, and any branches and agencies thereof. The Commission is internally divided into three teams, the first of which is responsible for the financial evaluation, the second is specialized in evaluating the market behaviorism (brokers licenses), and the third team is entrusted with evaluating the conduct of the companies with citizens. The Central Bank of Lebanon issued in 2002 a circular, stating that the Special Investigation Commission shall make on-site compliance visits; in case of detection of any violations, it shall report the same to the Commission. The number of violating companies reached 7 in 2008, and 6 in 2007; most of the violations, if not all, were committed due to the non-understanding of the measures requested from companies. Sanctions are imposed on both insurance companies and brokers. The Commission shall conduct documentary control on insurance companies by requesting the same to submit specific information and documents on a three-month basis and a yearly basis.

467. The visit of the Commission revealed that its role resides currently in issuing notices to comply with Law 318 or warnings to non-complying authorities, based on the recommendations of the Special Investigation Commission. Furthermore, the Commission stated that it is performing – through the first team referred to – analysis, off site and on site supervision whereby it has made 54 inspection visits in 2003. It has also delegated inspectors and supervisors to perform inspection visits to the Insurance Committee in order to study its status according to defined criteria to monitor the extent of such Committee’s compliance with the laws and regulations issued by the ICC; and to study the weak points in the regulations followed then submit reports to the Commission in order to improve such regulations. The delegated supervisors made 103 rounds of inspection until 2008. The ICC stated that it is member of the Controlling Commission of International Insurance Companies and the Arab Forum of Insurance Regulatory Commissions, in addition to signing a MoU with the French Insurance Regulatory Commission to benefit from its insurance experience. Furthermore, the regulatory role of the Commission will be made more effective by virtue of an insurance draft law proposed to the Lebanese Government, which was referred currently to the Parliament for review and approval.

468. **Capital Market Control – Beirut Stock Exchange Committee:** Beirut Stock Exchange, one of the public right institutions, is subject to Beirut Stock Exchange governing Law issued by virtue of the legislative decree No. 120 dated September 16, 1983 (amended by virtue of the legislative decree number 4729 dated March 30, 1988, and law No. 418 dated May 15, 1995), and the decree number 7667 issued on December 16, 1995. The Stock Exchange is managed by a committee, made of a president, a vice-president, and eight members appointed by virtue of a decree issued by the Parliament at the proposal of the Minister of Finance. The term of the committee is fixed at four years. The committee shall ensure the following, by virtue of the laws and regulations governing the Stock Exchange:

1- Managing, organizing and developing stock markets.

2- Protecting the interests of the investors trading on the Stock Exchange.

3- Controlling the activities of the issuing companies, and equally ensuring information to any issuers and traders on the stock exchange.

469. The committee may propose to competent authorities any project that may amend the legislative and governing texts related directly or indirectly to the stock exchange, or any new legislative and governing texts. Anyone working for the account of the stock exchange shall be bound by the trade secret and the provisions of the employees' regulation. All members, employees and brokers in the stock exchange shall be bound to the total confidentiality, including the banking secrecy, pursuant to Article 36 of the decree number 7667 issued by the Ministry of Finance regarding the internal regulation of Beirut Stock Exchange.

470. The members who breach the laws, regulations and circulars governing the stock exchange shall be subject to penalties, while the brokers and issuers who violate the laws, regulations and circulars are warned, blamed, or shall be subject to a cash penalty. The broker in the stock exchange may be suspended for a certain period, or the name of the broker may be removed for good.

471. The visit of the team to the stock exchange committee revealed that the supervisory role thereof is very limited, since it is currently limited to the management of trading, and supervising the same to avoid any manipulation in the prices or any other unusual activities. Considering the existence of a legal text that allows the opening of a trust account which may keep the holder unknown for others, and considering the banking secrecy, both of which prevent the stock exchange from knowing the holder of the trust account, the stock exchange committee may only know the name of the financial company undertaking the transaction concerning all such transactions executed through trust accounts, and may not know the name of the customer himself. With regard to the transaction executed directly in favor of the customer without the intermediary of the trust account, the stock exchange may know the name of the customer in favor of which the operation was undertaken in the day following such operation based on the central depository (Midclear) records', which was provided by the financial companies with the customer's name in favor of whom the transaction was made, at the end of the trading day. Concerning the ownership rates, officials in the stock exchange stated that the approval of the Central bank of Lebanon shall be taken for the ownership percentages that exceed 5%, for the listed banks, and such percentages are recognized through the clearing house¹³, since as we have previously mentioned, the supervisory role of the stock exchange committee is limited and the latter cannot know the names of all customers. It is worth mentioning that a very low rate of the companies listed therein have a percentage of its shares in the form of bearer share certificates, and the beneficial owner of such shares may not be identified, given that the ownership thereof is transferred when the shares are transferred, which constitutes an obstacle to specifying the beneficial owner of the shares, and thus knowing the ownership percentage in the listed company.

472. It is worth mentioning that there is a draft law related to supervising stock markets, and when accelerating the issue of the aforesaid law, the stock markets will be organized and developed, the risks will be reduced, and the investments will be protected against illegal practices; however, the evaluation team could not know when such law will be issued. The stock markets need an effective supervisory scope to regulate and develop such markets, reduce risks and protect investors, whereby the supervisors should have the powers to propose legislations, impose sanctions, peruse and examine all operations and accounts, and shall have the powers to inspect brokers and check the level of compliance thereof with

¹³ For more details, refer to the provisions of market entry.

legislations. We should not overlook that the current control of brokers is limited to the control of the broker and his compliance with Article 4 of Law 318 and announcement No. 7, and all other circulars issued by the Central bank of Lebanon which regulate and license brokers.

473. The existence of an authority to ensure the compliance of the financial institutions with the combating requirements: The supervisory system mentioned above shows that the commission is the authority in charge of checking the level of compliance of banks and other institutions covered by Law 318; however, when any violations of the law are committed, the Central Bank of Lebanon and the supervisory authorities are the authorities that impose sanctions on the breaching institution (Refer to Recommendations 29 and 17).

474. The Compliance Unit at the Commission is directly responsible for checking the level of compliance of banks and all other institutions covered by the reporting obligation with the required anti-money laundering requirements. The same is made through onsite visits which include the study and analysis of samples, review of internal control procedures, in addition to the evaluation of the level of compliance of the management and specialized departments with the required procedures. Following such step, banks and all other concerned institutions are requested to take necessary corrective procedures revealed by the examination. The unit undertakes the on-site inspection through the analysis of the annual reports of the appointed auditors, received and prepared about the procedures of anti-money laundering in banks and credit institutions. An off-site study is also conducted for some institutions based on the risks degree by means of a questionnaire addressed to the concerned institution.

475. The Compliance Unit relies on the results of previously prepared on-site reports and off-site inspection reports and the annual reports of the appointed auditors mentioned above as well as other indicators, such as the number of STRs, and the unusual changes in the transfers and deposits and others, for the supervision, ongoing detection and preparation of annual plans of coverage, in addition to the coordination with the Banking Control Committee to make sure of the due application of regulatory texts, including those related to anti-money laundering, through a periodical audit covering all banks and credit institutions; during such audit, the due application of anti-money laundering laws is verified in general, and the audit covers all institutions subject to the law.

476. It is worth mentioning that before the issue of Law 318, a due diligence convention was signed between banks and the banks association; The Lebanese Authorities stated that the aforementioned agreement included in detail most of the issues stipulated in Law 318, which extracted from the agreement many definitions and concepts, such as the beneficial owner, the verification of the customer's identity, the verification procedures, the re-verification of the identity of the beneficial owner, the effects of non-verification, the obligation of controlling some operations and indicators related to money laundering, and the obligation imposed on banks to appoint officers for the anti-money laundering transactions at the management level and all branches, to organize on-going trainings, and to centralize the collected information. The appointed auditor shall check the level of compliance of the banks with the aforesaid agreement and submit a copy of his report to the BCC. The appointed auditor verifies many matters, including the compliance with the association's procedures of accounts opening and the policy of accepting and opening new accounts, the abidance by the association's procedures related to cash deposits and withdrawals, and the review of the internal control procedures of the bank in terms of compliance of such bank with the agreement. The association has established an independent control committee formed of three members, reputable, experienced and well-known in both legal and banking fields, in order to consider the violations referred thereto by the appointed auditors at the banks. It has also established the anti-money laundering committee, which became later the compliance and anti-money laundering unit, and which is comprised of 12 members selected among banks' senior officers. The aforesaid committee plays a main role whether in developing banks activities or coordinating the relation with the Special

Investigation Commission concerning any cases and files that contributed to the improvement of professional aspects related to combating money laundering.

477. The financial institutions subject to audit include: 64 banks – 45 credit institutions – 12 financial intermediaries – 2 finance lease companies – 383 exchange companies – 9 e-transfer institutions. The committee complies with the 18th principle of the core principles for effective supervision issued by Basel Committee. It is worth mentioning that the role of the control commission is limited in this field for the banks and credit institutions, since the banking secrecy constitutes a restriction for the commission; only debit accounts may be perused; and therefore, the assessment of money laundering risk in the institution under examination may not be completely made.

478. With regard to insurance companies, the ICC is the authority responsible for licensing insurance companies and playing the supervisory and controlling role therein in general. Concerning the level of compliance with Law 318, the authority in charge of verifying the same is the Compliance Unit at the SIC. The Commission coordinates with the Ministry of Economy and Trade to oblige insurance companies implement Law 318 or in case of issue of any controls, notices or warnings to such companies.

The competent authorities have sufficient level of structure, financing and labor

479. **Special Investigation Commission – Compliance Unit:** The Compliance Unit has started its activities in early 2002, before the Commission approves the establishment thereof in the month of May of the same year. The unit is comprised of a director and ten on-site inspectors; the director works under the management of the Secretary of the Commission, and the Unit communicates with the institutions subject to the law and the appointed auditors through the Secretary of the Commission; it gives as well its recommendations to the Secretary for the amendment of the procedure related to controlling the financial and banking transactions for anti-money laundering.

480. The mission of the unit consists in making sure on a continuous and periodical basis if banks, credit institutions, and other concerned institutions are fulfilling the requirements stipulated in:

- Law No. 318.
- The regulation of financial and banking transactions annexed to the Basic Circular No. 83.
- The Announcement issued by the "Commission" and pertinent circulars issued by the Central Bank of Lebanon.
- The circulars issued by the Central Bank of Lebanon regarding the anti-money laundering issue.
- Preparing periodical statistical data and reports that show the level of compliance of concerned institutions with the required obligations.
- Giving recommendations to the Commission through the Secretary to amend the procedures related to controlling financial and banking operations to fight money laundering.
- Providing the Secretary with proposals about the improvement of the supervision.
- Making sure that appointed auditors are sending the reports about the results of audit of banks and credit institutions related to the level of their compliance with Law 318, to the Governor of the Central Bank of Lebanon, and communicating through the Secretary of the Commission

with the banks and the credit institutions to ensure that they are applying the comments included in such reports.

- Communicating through the Secretary with the concerned appointed auditors to make sure they are implementing the procedures stipulated in the regulations of financial and banking transactions control after comparing the reports of the appointed auditors with those prepared by the unit.

481. The unit has sometimes recourse to a large number of professional employees, as deemed necessary, to execute the on-site audit activities based on the analysis of risks. It is worth mentioning that the academic level of the unit employees varies from bachelor's degree holders, masters' holders, and PhD holders; also specializations are various and include business administration, international relations, economy, finance, law, international law, and specialized studies in anti-money laundering. The employees of the unit have a high level of training and professionalism, since the Commission gave the training in this field a great attention and employees of the Commission have participated in 55 training sessions over the past four years, most of which were attended by the employees of the unit.

482. The Compliance Unit informed the evaluation team of its plans to develop the visits plan based on the level of risks, and to control the current situation, and the level of compliance of the institutions with Law 318, to follow-up on deposits, assets, transfers, and number of STRs in each institutions, to be aware of any changes in its activities, in addition to comparing the results of the reports prepared by the unit and those of the appointed auditors. The aforementioned plan will enable the unit to prepare statistics about the level of compliance of the institutions with the requirements of the law, each apart, and compare the same with the law requirements.

483. **Banking Control Commission:** The Banking Control Commission has also established a unit specialized in combating money laundering and related directly to the president and members of the control commission, given that the president of the committee is also a member of the Special Investigation Commission. However, the commission practices its activities independently from the Central Bank of Lebanon pursuant to Article 8 of Law 28 of the year 1968. The technical body of the committee is comprised of 134 employees, including 109 technical appointed auditors, and 25 administrative officers, and the sections of the committee consist of the:

- Documentary control.

- On-site control (currently there are 10 on-site teams formed of 43 appointed auditors).

- Specialized units and sections, which include market risks, exchange, debts and loan recovery, IT control, subsidized loans, Basel 2, and anti-money laundering sections.

484. The anti-money laundering unit is independent from all other sections of the committee; it includes one coordinator who works under the direct supervision of the president of the BCC, and is in charge of coordinating with all other sections of the committee regarding anti-money laundering, and coordinating as well with the Commission for the exchange of information about the compliance of the institutions subject to Law 318 with anti-money laundering standards.

485. On-site control is applied to banks, credit institutions, finance lease companies and financial intermediaries, whereby each on-site study includes an evaluation of the anti-money laundering procedures. Such evaluation is included in a separate section of the report related to the comparison of the BCCL comments with those of the SIC and the observations of the appointed auditors. Should the appointed auditors notice in the on-site study any debit account activity which may consist of a money

laundering operation, the committee is immediately notified, and the latter refers the file to the Special Investigation Commission. The off-site control is related to pending matters that need follow-up; it consists of a list of all pending issues to be followed up at the banks and credit institutions, including those related to anti-money laundering.

486. The BCCL recruits the elite of university graduates, depending principally on closed exams; such recruitment is ensured through a salary system similar to that of the private sector. Also such elite is attracted and retained by means of a comprehensive training system, which benefits from a great financial support from internal and external sources. The days of training in the last two years reached, in the anti-money laundering and combating of terrorism financing field, about 319 working days for all appointed auditors.

487. **The Insurance Control Committee:** "The Insurance Control Committee" is related to the Minister directly, and is currently not independent. It is comprised of a president and four members and appointed auditors, and has three teams as previously mentioned above. The supervisory role of the committee was detailed above. The committee further stated to the evaluation team that the prevailing salary system encourages the attraction of highly competent and experienced employees; yet the evaluation team could not know the number or qualifications of the employees, and thus could not identify the efficiency and adequacy of the committee resources.

488. **Professional Standards:** Refer to the comments mentioned in Recommendation 26, regarding the "Commission", since it undertakes the supervisory activities. All appointed auditors of the committee, including the appointed auditors of the anti-money laundering unit, are subject to the Banking Secrecy Law, and take the oath in the court. According to Law 318, the reporting obligation by any natural or legal person, the submitted documents, the investigation documents and all related procedures (Article 11) shall be strictly confidential. Article 13 thereof stipulates that an imprisonment penalty from 2 months to one year and a fine of 10 million Lebanese pounds maximum, or either, shall be imposed on anyone who violates Articles 4-5-7 & 11.

489. We can notice from the foregoing that the existing control system has sufficient resources, and has the elite of employees and senior officers specialized in the control and anti-money laundering fields, given that the authorities provided many specialized training sessions to their employees, while taking into consideration as well their academic qualifications.

Recommendations 29 and 17

490. **Powers of following-up on financial institutions to ensure their compliance with the fighting requirements:** Paragraph 3 of Article 6 of Law 318 grants the "Commission" the power to ensure the compliance of the institutions subject to the law with the requirements provided for in the prevailing laws.

491. The BCCL applies periodical control operations to all banks and credit institutions, and has the power to establish programs to enhance the situation of the bank or the credit institution. In case of non compliance with the recommendations issued by the committee, including the AML procedures, the BCC refers the concerned bank or credit institution to the Higher Banking Commission. The committee appointed auditors shall notify the Special Investigation Commission, through its president, of any suspicious operations about money laundering detected in the course of their activities. We should not overlook that the existence of the banking secrecy obliges the BCC to peruse the debit accounts only, which means that the committee may not verify the credit accounts, unlike the SIC.

492. The ICC has the power to follow-up on insurance companies pursuant to Article 47 of the insurance institutions governing law.

493. **Power of inspecting financial institutions:** Paragraph 3 of Article 6 of Law 318 grants the “Commission” the power to verify the compliance of the institutions subject to the law with the requirements of the prevailing laws. The resolution of the “Commission” number 12/15/2002 dated 29/6/2002 made in its meeting held on 27/6/2002, grants the Secretariat of the “Commission” the power to permanently check, through the anti-money laundering Compliance Unit, the level of compliance by taking necessary samples from banks, credit institutions and other concerned institutions, and study the same, including:

- The procedures taken to avoid money laundering operations.
- The level of compliance of the aforementioned institutions with the requirements of Law 318, particularly Paragraph 1 of Article 7 thereof.
- The level of compliance of the aforementioned institutions with the announcements of the “Commission” and the regulation.

494. Accordingly, the Secretariat of the “Commission” delegates examiners to undertake in the concerned institutions the necessary examination in order to make sure of the fulfillment of the requirements of Law 318 and Circular 83, provided that the Secretariat of the Commission shall provide the Commission, on a continuous basis, with the result of the on-site examinations. The Compliance Unit makes inspection visits in the institutions and the branches thereof, according to an annual plan based on the level of risks. The inspectors of the unit review the internal procedures and policies relative to anti-money laundering, and review the customer's identification procedures by taking samples of the customers' files, in addition to reviewing samples taken from complex transactions and cash deposits followed by withdrawals and transfers. Following the onsite visit to the institution, the Compliance Unit issues a report which includes corrective measures and sends it to the Secretary. Then a meeting is held with the financial institution to discuss the results of the report; the final report is issued and a copy thereof is provided to the Commission. After then, the institution in question is notified of the observations mentioned in the report in order for it to remedy the deficiencies. And the financial institution sends afterwards its reply with the corrective plan, and usually the financial institution is given a period of 6 to 12 months, depending on the importance of the corrective measures. The institution is followed up to ensure the abidance thereof by the aforesaid measures. The unit has made the inspection in the institutions as shown in the schedule below:

Number of Financial Institutions till 1/1/2009	Number of Onsite Visits Made					Percentage of Coverage (Total of Visits / Number of Institutions) (%)
	2005	2006	2007	2008	Total of the Four Years	
65 banks	23	26	20	18	87	133%
45 credit institutions	13	10	15	10	48	106%
54 insurance companies	22	33	21	33	109	201%
12 financial intermediaries	2	8	2	8	20	166%

9 e-transfer companies			8		8	88%
2 finance lease companies			3		3	150%
383 exchange companies	86	1	53	49	189	49%
Total	146	78	122	118	464	

495. The schedule above shows that the Compliance Unit has made inspection visits for all types of institutions subject to the law, and has focused on banks, insurance companies, credit institutions, financial intermediaries and finance lease companies. However, it did not focus on the e-transfer companies sufficiently; all onsite visits to the transfer companies were made in 2007. The Lebanese Authorities stated that about 50% of the e-transfer companies obtained a license yet have not started practicing any activity. Through the onsite visit, the evaluation team found out that the e-transfer companies deal with an important number of sub-agents, who execute the transfers, and with which a contract is concluded. Furthermore, the percentage of coverage in the exchange companies shows that the inspection visits did not exceed 49% of the total number of companies. The Lebanese Authorities justified such fact by stating that it only made one visit in 2006 due to the Israeli attack at that time and because most of the companies are small companies, given that one company controls about 70% of the market. The Commission is also in charge of the exchange companies of category A. The evaluation team considers that exchange companies have weak internal rules (refer to Recommendation 15).

496. According to the financial institutions, the periodicity of the Commission visits varies from 6 months to 2 years. The Commission stated that it is somehow satisfied with the level of compliance and abidance by Law 318.

497. The BCC has the power to make inspection visits to such institutions licensed by the Bank, as mentioned in Article 9 of Law 28 of the year 1968. The BCC makes an on-site study of banks, credit institutions, financial intermediaries, and finance lease, exchange and e-transfer companies. The appointed auditors have the power to examine all subject documents. The BCC verifies through the on-site examination if the bank, credit institution, or the exchange company complies with all circulars issued by the Central Bank of Lebanon, the banking laws, including circulars and laws related to anti-money laundering. It verifies in the inspection visit if the institution in question abides by the provisions of Law 318 and BDL circulars relative to anti-money laundering. Through the review of debit accounts, the procedures of customer's identification and due diligence are verified. Concerning banks and credit institutions, cash guarantees and due diligence procedures taken to verify the source of funds are checked; also if any unusual or suspicious activity in the account exists by reviewing the credits and the balances. It is worth mentioning that the BCC informed the evaluation team that it relies on an important sample of customers' files that reaches sometimes 80% of the customers.

498. It is obvious that the BCC plays an effective supervisory role, particularly for banks, credit institutions and exchange companies, since we were provided with statistics that prove the meticulous follow-up it undertakes in such institutions, in addition to its role in supervising financial intermediaries, finance lease and e-transfer companies.

499. Here below is a schedule of the inspection visits made by the BCC, which reveals that the Committee has paid inspection visits to a large number of institutions.

Year	Type of the Financial Institution	Type of the Duty				Total
		Comprehensive Studies	Special Studies	Follow-up regarding the Implementation of Circular 111 – Hawala System	Follow-up and Verification Duties	
2005	Total	38	17	0	35	90
	Credit institutions	6	3	0	5	14
	Financial Intermediaries	1	1	0	0	2
	Exchange Companies	11	0	0		11
	Banks	20	13	0	30	63
2006	Total	16	37	0	46	99
	Credit institutions	1	0	0	6	7
	Financial Intermediaries	0	1		4	5
	e-Transfer Companies	0	1		2	3
	Exchange Companies	5	0	0		5
	Banks	10	35	0	34	79
2007	Total	26	28	47	88	189
	Credit institutions	5	5	0	27	37
	Financial Intermediaries	3	0		10	13
	e-Transfer Companies	1	0		4	5
	Finance Lease Companies	0	0	0	2	2
	Exchange Companies	8	0	47		55
	Banks	9	23	0	45	77
2008	Total	36	36	0	87	159
	Credit institutions	5	2	0	25	32
	Financial Intermediaries	1	2	0	9	12
	e-Transfer Companies	1	0	0	5	6
	Finance Lease Companies	1	0	0	1	2
	Exchange Companies	6	0	0	0	6
	Banks	22	32	0	47	101

Total	Total	116	118	47	256	537
	Credit institutions	17	10	0	63	90
	Financial Intermediaries	5	4		23	32
	e-Transfer Companies	2	1		11	14
	Finance Lease Companies	1	0		3	4
	Exchange Companies	30	0	47	0	77
	Banks	61	103	0	156	320

500. **Powers to impose the presentation and perusal of records and documents:** The Compliance Unit in the “Commission” peruses the records, documents or information related to detecting the level of compliance, including all documents or information relative to the accounts, business relationships, or other transactions, and including any analysis undertaken by the financial institution to detect any suspicious transactions, given that Article 3 of Law 318 authorized the Commission to directly supervise a special body of examiners delegated by the Commission to control the fulfillment of the law's requirements and verify the same continuously, without applying the Banking Secrecy Law provisions thereon.

501. The appointed auditors of the BCC have the right to request from the banks, credit institutions, or exchange companies the perusal of all documents and information they may need to perform their tasks, including the study of debit files and the balance sheet items according to specific programs. The Special Investigation Commission provides the committee with a summary of its quarterly reports.

502. The Insurance Control Commission has the powers to impose the submittal of records and documents and perusal of the same in the insurance companies, pursuant to Article 47 of the law regulating insurance companies.

503. Paragraph 3 of Article 6 of Law 318 mentioned above did not provide for the necessity of issuing a court order to allow the supervisor to impose the obligation of submitting or perusing documents for supervisory purposes. According to Article 149 of the Code of Money and Credit, the appointed auditors of the BCC shall be entitled to peruse all documents they may need to undertake the debit files examination mission without referring to the justice.

504. **Powers to impose sanctions:** It is true that the Special Investigation Commission sends a warning notice to the non-complying institution or the one that applies inadequately AML requirements; and in case the non-compliance or inadequacy persists, the Commission refers the institution to the Higher Banking Commission that has the power to impose sanctions on financial institutions and their directors or senior management; however, the Commission does not have the power to impose the sanction as it sends a warning notice through the supervisory authority (BCC or ICC) in order for such authorities to impose the necessary sanctions. Law 318 did not provide for any administrative sanctions and therefore the Commission has no grounds to impose administrative sanctions on financial institutions for non-abidance by the law. The team found out that the sanctions imposed on violating institutions were based on Article 208 of the Code of Money and Credit which provides for the imposition of administrative sanctions in case the bank committed any violation to the provisions of the law and the articles of association or the measures imposed by the BDL by virtue of the powers drawn from the Code of Money

and Credit, and not when such bank breaches Law 318 related to anti-money laundering. Furthermore, Law 318 does not include any provision that authorizes the imposition of sanctions against the breaching financial institutions. The regulation No. 83 of the measures imposed by BDL by virtue of the powers drawn from the Code of Money and Credit cannot be considered since such regulation was established as an application to the provisions of article 5 of law No 318 and not by virtue of the Code of Money and Credit. The same applies to the financial intermediaries and finance lease companies.

505. With regard to the penalties related to insurance companies, the Commission has issued warnings to a number of violating companies, but the evaluation team could not know the legal ground for such warnings, since Law 318 did not provide for any administrative sanctions, yet only included criminal penalties.

506. With regard to the exchange companies, Law No. 347 regulating exchange activities stipulated in article 18 that if BDL finds out that an exchange company has violated (...) the measures imposed by BDL, administrative sanctions may be imposed thereon...”. It can be noticed that although regulation 83 may be considered one of the imposed measures by BDL, it applies only – by virtue of article 5 – to the institutions subject to the banking secrecy and where the exchange companies are not included.

Recommendation 17

507. **Verifying the existence of effective sanctions:** Pursuant to Article 13 of Law 318, there shall be imposed an imprisonment sanction from 2 months to one year and a fine of 10 million Lebanese Pounds maximum, or either, on whoever violates Articles 4-5-7 & 11. Such sanctions are dissuasive as they are penal sanctions.

508. Penalties imposed by the Higher Banking Commission related to non-compliance with Anti-Money Laundering Law:

Type of Sanction	2005	2006	2007	2008
Cancellation of the license			2 exchange companies	
Change of management	2 banks			
Warnings	8 appointed auditors			

509. Warnings issued by the Special Investigation Commission as a measure for non-compliance with Anti-Money Laundering Law:

Type of Sanction	2005	2006	2007	2008
Warning to the institutions covered by the law	<ul style="list-style-type: none"> • 5 banks • 1 credit institution 	<ul style="list-style-type: none"> • 1 exchange company • 3 banks 	<ul style="list-style-type: none"> • 4 banks • 1 credit 	<ul style="list-style-type: none"> • 5 banks • 7 insurance

			institution ● 7 insurance companies	companies
Warning to the appointed auditors	3	2		7

510. The above schedule shows that the sanctions imposed by the Higher Banking Commission on the financial institution for non-compliance with Anti-Money Laundering Law vary from tipping-off to cancellation, which reveals that Lebanon takes disciplinary measures against non-complying financial institutions. It is worth mentioning that the sanctions imposed have an administrative aspect and have no legal grounds; however, the criminal penalties stipulated in the law were not imposed at all on any of the violating institutions, and accordingly, it is difficult to judge the efficiency thereof.

511. **Appointment of an authority to impose sanctions:** Pursuant to Article 10 of Law 28/67, there shall be established at the Central Bank of Lebanon an authority called "Higher Banking Commission", to replace the sanctions committee mentioned in Article 209 of the Code of Money and Credit. It applies, when necessary, the administrative sanctions stipulated in Article 208, when any bank violates the provisions of its pertinent articles of association, the provisions of the Code of Money and Credit, or the measures imposed by the Central Bank of Lebanon by virtue of the powers granted by the Code of Money and Credit; however, it does not have the powers to impose the administrative sanctions in case of violation of Law 318. With regard to criminal sanctions, the competent courts have the right to impose the same.

512. Concerning the institutions that are not registered at the Central Bank of Lebanon, and on which the Higher Banking Commission" has no power, such institutions are subject to the control of other authorities that may have the power to impose administrative sanctions in case of violation of other laws and regulations; there is no provision which includes any power to impose sanctions in case of violation of Law 318.

513. **Sanctions extend to include directors of legal persons:** The text of Article 13 of Law 318 is comprehensive and therefore the imposition of sanctions is not limited to legal persons forming financial institutions and business companies, yet they are also applied to the directors and senior management thereof. There shall be imposed an imprisonment sanction from 2 months to one year and a fine of 10 million Lebanese Pounds maximum, or any of them, on whoever violates Articles 4-5-7 & 11 of Law 318.

514. **Proportionate Sanctions:** The BCC refers the bank, credit institution, exchange company, or financial intermediary to the Higher Banking Commission if it detects any violation to the laws and legislations issued by the Central Bank of Lebanon or if the aforementioned institutions abstained from complying with the recommendations of the BCC. The Higher Banking Commission imposes the following sanctions:

- Warning.
- Decreasing or suspending the credit facilities given to the bank.
- Forbidding the bank or the financial institution from executing some operations, or imposing any other restrictions on the practicing of activities.
- Appointing a temporary director or an appointed auditor.

- Striking off the name of the institution from the list of institutions licensed by the Bank. (It is worth mentioning that during 2006, the committee recommended the elimination of a credit institution upon informing the Special Investigation Commission that it does not abide by Law 318, and the aforementioned institution was struck off and removed from the list of credit institutions).

515. In 2007, the BCC recommended the elimination of a an exchange company when the Special Investigation Commission was informed of the non-compliance thereof with Law 318, and the name of aforementioned company was struck off the list of exchange companies. In 2008, the committee requested one of the banks to terminate the services of the head of the compliance unit for having breached his obligations. This fact does not preclude the imposition of fines and criminal sanctions on the bank / financial institution.

516. It is worth mentioning that the sanctions mentioned above are all imposed on institutions upon the violation of the Code of Money and Credit, the law of insurance committee and their regulations. The criminal sanctions stipulated in Law 318 are proportionate and dissuasive; yet, the law did not include any administrative sanctions to be imposed on the violating financial institutions. We note that, despite the absence of administrative sanctions by virtue of Law 318, the Commission played an effective role in imposing sanctions on breaching institutions to urge them to comply with the law.

Recommendation 23 – Market Entry

517. **Preventing criminals from owning substantial shares or controlling interests in financial institutions:** Article 127 of the Code of Money and Credit stipulates that no one is allowed to establish a bank or to be a director or employee in a bank, if he was sentenced from less than ten years for having committed a normal offense, theft, breach of trust, fraud, or misdemeanor that is subject to penalties relative to fraud, embezzlement of funds or values, or drawing of forged checks, or if he was declared bankrupt and did not regain his status from ten years at least, or also if he was sentenced for having breached the Banking Secrecy Law.

518. Pursuant to Article 2 of Circular No. 79 regarding the terms of establishing banks in Lebanon, anyone who wishes to get a license to establish a bank shall enclose a criminal record, backdated three months, of each of the founders and contributors to the subscription and issue of the capital of the institution and the persons expected to be entrusted with senior management duties.

519. Pursuant to Articles 1 and 2 of the Basic Resolution No. 7136 dated October 22, 1998, annexed to the Basic Circular No. 2 issued to financial institutions regarding the terms of establishing and practicing the activities of a credit institution, anyone who wishes to get a license to establish a Lebanese financial institution or a branch of a foreign financial institution shall enclose a criminal record, backdated three months, of each of the founders and contributors to the subscription and issue of the capital of the institution and the persons expected to be entrusted with senior management duties.

520. Pursuant to Articles 1 and 2 of the Basic Resolution No. 7540 dated March 4, 2000, annexed to the Basic Circular No. 1 issued to finance lease companies regarding the terms of establishing finance lease companies, whoever wishes to get a license to establish a Lebanese finance lease company or a branch of a foreign finance lease company shall enclose a criminal record, backdated three months, of each of the founders and contributors to the subscription and issue of the capital of the institution and the persons expected to be entrusted with senior management duties.

521. Pursuant to Articles 2 of the regulation implementing the law regulating the exchange profession, annexed to the Basic Resolution No. 7933 dated September 27, 2001 enclosed to the Basic Circular No. 3 addressed to exchange companies, regarding the exchange profession, anyone who wishes to get a license to practice the exchange profession shall enclose to the required documents a criminal record, backdated three months, of each of the founders and contributors to the subscription and issue of the capital of the institution or each of the partners.

522. Pursuant to Article 1 of the Basic Resolution number 7551 dated March 30, 2000, annexed to the Basic Circular No. 1 addressed to financial intermediaries regarding the license documents, annual data, and general provisions to intermediaries, anyone who wishes to obtain a license for the establishment of a Lebanese financial intermediary or a branch of a foreign intermediary shall enclose a criminal record, backdated three months, of each of the founders and contributors to the subscription and issue of the capital of the institution and the persons expected to be entrusted with senior management duties.

523. Pursuant to Articles 2, 3 and 4 of the law regulating the insurance institutions No. 9812 issued in 1968 and all its amendments, the license shall be given, amended, rejected, or withdrawn by virtue of a resolution issued by the Minister of Economy and Trade, after the consultation of the National Council for Insurance. Any Lebanese insurance institution, wishing to get a work license, shall be an anonymous company, and shall fulfill a number of conditions, the most important of which stipulates that the general manager or assistant general manager shall have a good track record, degrees and experience, and that the CVs of each of the members of the board of directors of the institution, and the authorized pertinent general manager and actuary shall be provided, in addition to their criminal record, pursuant to Article 40 of the same law mentioned above.

524. Each company shall, in order to be licensed, submit an economic feasibility study issued by an office of studies and showing the expected activities of the company over the three years following the license, along with the technical principles adopted. Same conditions mentioned above are applied to licensing a foreign company, with a slight difference regarding the type of the company, knowing that the same is not registered as an anonymous company, yet has a legal representative who shall fulfill the same conditions of appointment of those of the general manager at a Lebanese company.

525. Article 5 of the same law stipulated that all entities licensed by virtue of the aforementioned law shall get the prior approval of the Ministry of Economy and Trade for any amendment in the documents and papers enclosed to the original license application. It shall as well inform the Ministry of any change in the constitution of the board of directors, the general manager, and the legal representative of the foreign entity, within a maximum period of 2 months from the date of the amendment. Pursuant to Article 7, the license granted to a company may be withdrawn for a number of reasons, if the licensed entity does not comply with the provisions of the Lebanese prevailing laws and regulations. Sanctions may be imposed on each company that breaches the provisions of the laws, the decrees and resolutions issued in application of the aforementioned law, as per Article 60 of the law regulating insurance companies. The ICC will enhance the role of control, particularly in terms of anti-money laundering, by virtue of a draft insurance law proposed to the Lebanese Government and currently referred to the Parliament for study and approval.

526. Moreover, the cash authority (Central Bank of Lebanon) requests the BCC to give its opinion about the establishment of any bank/credit institution/exchange company, and the subscription or assignment of shares; the BCC submits its recommendation to the Governor after conducting a study about the material and moral competence of the founders and subscribers.

527. Law 308 /2001 regarding the issue and circulation of the shares of the banks, issue of debt bonds and title deeds by banks, stipulated in Article 1 thereof that all shares representing the capital of Lebanese

banks shall be nominal shares and shall be kept at the central depository; the ownership thereof shall be proved, and all trading transactions related thereto, and any mortgages and rights resulting there from, shall be executed according to the terms of the central depository.

528. Basic Circular No. 82 regarding the applicable regulation of the issue and circulation of Lebanese banks shares stipulates that each Lebanese bank shall provide the clearing house with two lists of the names of the shareholders of the bank capital, number of different categories of shares they own, and if any change occurs in the ownership of shares in a Lebanese bank, or when rights, restrictions, or charges are imposed thereon, the clearing house shall be notified through the concerned bank of any assignment of shares not listed in the stock market, which does not lead to the owning by the assignee, whether directly or indirectly, of more than 5% of the total shares of the bank or the right to vote belonging thereto, whichever is higher, in addition to the names of the inheritors or legatees of the shares, and the number of shares assigned.

529. Article 5 (bis) of the same circular stipulated that subscribed investment funds, companies, or the assignor shall include in the articles of association or the partnership deed any provisions. The shares thereof shall be totally owned by natural persons, banks or credit institutions. They shall also provide the Central Bank of Lebanon and the BCC with any required information or any information that may be requested, regarding the budget, shareholders, and the holders of shares who own, whether directly or indirectly, 5% or more of the total number of ordinary shares of the bank, including the beneficial owner; he shall as well obtain the prior approval of the Central Council for the amendments to be made to the articles of association or the partnership deed.

530. The clearing house provides the BCC on a daily basis with a list of the names of the persons contributing in banks/credit institutions. The cash authority (the Central Bank of Lebanon) requests the BCC about its opinion regarding the establishment of any bank/credit institution/exchange company, and the subscription or assignment of shares; the BCC gives its recommendation to the Governor after conducting a study about the material and moral competence of the founders and subscribers.

531. The BCC verifies the name of any person wishing to subscribe in banks, credit institutions or exchange companies, which is/are not listed in the recognized international lists of persons involved in money laundering operations and other financial offenses. It reinforces the boards of directors of the bank / financial institution (Good Governance), while banks and credit institutions shall notify the control committee of any changes in the executive management (resignations and appointments), and shall mention relevant reasons within a period of two weeks from the date of such changes. The Commission prepares schedules including the administrative changes and controls the same.

532. Pursuant to Paragraph 2, Article 2 of Circular 79, Paragraph 2, Article 1 of Circular 2, Paragraph 2 of Article 1 of the Basic Circular No. 1 addressed to finance lease companies, Paragraph 2 of Article 1 of Circular No. 1 regarding the license documents, annual data and miscellaneous provisions addressed to financial intermediaries, whoever wishes to establish a bank or any of the institutions mentioned above shall enclose to the license documents, statements signed by each of the founders and contributors to the subscription and issue the capital of the institution and the persons expected to be entrusted with senior management duties, which shall include their CVs (degrees, experiences and other moral and material information), in addition to an accurate assessment of their financial obligations.

533. Pursuant to Article 2 of the Basic Circular No. 7548, annexed to the Basic Circular No. 69 addressed to banks and to credit institutions, and the institutions that practice e-financial and e-banking activities, each institution "practicing e-financial and e-banking activities" shall completely abide by the principles of integrity and transparency.

534. Pursuant to Articles 2 (Paragraph (a), Clause (3) of Circular No. 3 regulating the exchange profession, whoever wishes to obtain a license that enables him practice the exchange profession shall enclose to the license documents, statements signed by each of the founders and contributors to the subscription and issue of the capital of the institution or each of the partners, which shall include moral and material information in addition to an accurate assessment of their financial obligations.

535. Pursuant to Article 1, Clauses 1 and 2 of Law 94 dated 18/6/1999, each Lebanese insurance company should fulfill the following:

- The general manager or assistant general manager should have a good track record, university degrees and experience in the insurance field of a minimum of 10 years, in order to obtain a license.
- The CVs of each of the members of the board of directors of the company, the general manager and actuary should be enclosed.

536. The Basic Circular No. 103 issued by the Central Bank of Lebanon on 9/3/2006 regarding the educational, technical and ethical qualifications to be fulfilled to practice some duties in the financial and banking sector, has given institutions in this field a period ending on 31/12/2008 to settle their situations.

537. The BCC requests banks / credit institutions to provide it with the CV of the heads of the internal audit unit and heads of the risks department at banks / credit institutions, which shall include a summary of the concerned educational and work qualifications and positions along with a criminal record. The commission periodically evaluates the aforementioned persons through on-site studies and the study of the compliance of banks / credit institutions with the principle of good governance.

538. The foregoing reveals that the supervisory authorities in Lebanon have established laws and controls for the market entry and the foundation of banks and credit institutions inside Lebanon; it has as well established a regulatory scope and procedures to be followed in order to establish a bank or a credit institution and identify the founders, personnel and managers thereof, in order to preserve the reputation of the financial sector..

539. Licensing and registrating money transfer companies and providers of currency exchange services: Pursuant to Article 1 of Law No. 347 /2001 regulating the exchange profession in Lebanon, institutions, non banks, credit institutions and financial intermediaries registered at the Central Bank of Lebanon, are forbidden from practicing the exchange activities, before obtaining a prior license from the Central Bank of Lebanon by virtue of the law. Furthermore, official departments may not accept any registration requests for any institution practicing exchange activities before making sure that the license granted thereto is issued by the Central Bank of Lebanon.

540. It is worth mentioning that, as previously specified above, any Lebanese institution shall obtain a prior license from the Central Bank of Lebanon if it wishes to practice any e-financial and e-banking activities, all operations or activities concluded, promoted or executed by the electronic or luminary means (telephone, computer, internet, ATM), the operations undertaken by the exporters or promoters of all types of electronic charge, payment or credit cards, and the institutions that execute e-money transfers, as well as offer, purchase and sale sites, and provide all e-services for all kinds of securities, in addition to the settlement centers and clearing houses related thereto. Following the onsite visit to such institutions and companies, the evaluation team found out that they are under the supervision and control of the Compliance Unit in the “Commission” and the Banking Control Commission, which both verify the level of compliance of such companies with the required procedures.

541. It was revealed to the team, during its visit to one of the e-transfer companies that such type of companies' contract with sub-agents who are in charge of identifying the customers and maintaining required documents while executing the transfers for customers. The transfer goes through to the e-transfer institution control system on a daily basis; the institution is provided with copies of the identities only upon request. The transfer is executed according to the system of the institution as well. The sub-agent shall not be necessarily licensed by the Central Bank of Lebanon, yet he should have a commercial register to practice the activity. The aforementioned e-transfer company stated that it has about 230 sub-agents, and it cannot know the level of compliance of the sub-agents with the requirements of the contract, which include the procedures of verifying the customer's identity and maintaining the same, unless through onsite visits to the sub-agents. The evaluation team found out as well that it has not conducted such kind of visit. The e-transfer institution stated that when the sub-agent breaches the contract, he is warned or the threshold of the transactions is decreased; in case of non-abidance, the contract is terminated and the institution stops dealing with the sub-agent.

Recommendation 23 –Supervision and monitoring

542. Applying regulatory and supervisory measures for precautionary purposes unlike the criteria of the methodology: In addition to the role of the Compliance Unit in the Commission, the BCC undertakes on-site examination at all banks and credit institutions; the study includes "the level of compliance with anti-money laundering laws"; such study is included in a separate clause in the on-site report.

543. The aforementioned study includes the comparison between the remarks of the Commission on-site team, the Special Investigation Commission, and the appointed auditors, knowing that the commission appointed auditors may not verify the credit account according to the Banking Secrecy Law, and rely therefore on the remarks of the investigation commission and the appointed auditor for such types of accounts. The documentary control department of the Commission monitors the banks or the credit institutions and prepares a follow-up schedule including all recent information available about the bank or the financial institution, along with the information issued about anti-money laundering and obtained from the anti-money laundering unit in the Commission.

544. The Commission explained to the team its role in the on-site verification visits made to the institutions, whereby it conducts a comprehensive study for such institutions based on the main principles. Officers in charge at the Commission stated that the latter is strict in the field verification operations undertaken at the banks and credit institutions; the visit lasts from 5 to 6 months and the samples cover about 80% of the customers. Following the onsite visit, the report is submitted to the supervisors of the institution; and after review and signature of the same, a letter is sent to the chairman of the institution/company including the results and corrective measures to be implemented, and a copy of the letter is sent to the Governor of the Central Bank of Lebanon. Reports are kept in form of hard and soft copies, and the Governor shall be entitled to ask the Commission and the appointed auditors for any report as well as ask them to perform any inspection visits in order to follow-up on pending matters.

545. Furthermore, the BCC conducts off-site studies by receiving annual reports from appointed auditors in banks and credit institutions, which cover many fields previously specified by the Commission to the appointed auditors, in order to control the level of compliance of the institutions with the laws, regulations and circulars issued by the Central Bank of Lebanon, study the weak areas in the internal control systems, and verify the abidance of the institutions by AML law. The aforesaid reports include the opinions of the appointed auditors regarding the applicable rules and their recommendations to improve the same.

546. The Commission undertakes the off-site supervision by reviewing such reports and following up on the compliance of the institution with the implementation of corrective measures. This follow-up contributes in setting the upcoming onsite visits to the institution concerned, the level of its compliance with the laws and circulars issued by the Central Bank of Lebanon, internal and external control systems, institutions governance and risk management. The committee stated that all follow-up matters are discussed at the level of the Banking Control Commission; a meeting is held as well with the members of the board of directors of the licensed institution to discuss such matters.

547. The ICC is performing documentary audit on the insurance companies by requesting them to submit specific documents and data every 3 months and every year. It also undertakes on-site supervision as previously mentioned.

548. Providers of money transfer and currency exchange services are subject to compliance follow-up rules: Article 4 of Law 318 binds the providers of money exchange and transfer services to fulfill the requirements set forth in the mentioned article. The Intermediary Resolution No. 99 issued by the Central Bank of Lebanon and addressed to banks, credit institutions, and institutions that practice e-banking and e-financial activities, has established some criteria to organize the way of sending such transfers in conformity with FATF Recommendation No. 7.

549. The exchange and e-transfer companies are controlled by the exchange section at the Banking Control Commission. The on-site reports include a separate clause about the level of compliance with anti-money laundering rules, and a comparison with the remarks of the Special Investigation Commission (the Special Investigation Commission sends a summary of its quarterly reports to the Commission). In 2008, the BCC reported to the Special Investigation Commission 4 cases about exchange companies that do not comply with Law 318. In 2006, the BCC reported to the SIC 3 cases related to exchange companies that do not abide by Law 318 and recommended the committee to strike off one institution from the exchange list. Based on the commission's recommendation, the Central Council issued a decision to strike-off that institution from the exchange list.

550. The Commission stated that finance lease, e-transfer companies and credit institutions are controlled by the section of market risks as being financial institutions subject to the Circular 83 issued by the Central Bank of Lebanon. The onsite study includes a comparison between the remarks of the on-site team, the Special Investigation Commission, and the appointed auditors, knowing that the committee appointed auditors may not verify the credit account pursuant to the Banking Secrecy Law, and therefore rely on the remarks of the SIC and the appointed auditor for such type of accounts.

551. The documentary control section related to the section of market risks in the Commission monitors banks and credit institutions and prepares a follow-up schedule including all recent information available about the financial institution and remarks on how to fight money laundering. The Special Investigation Commission sends a summary of its quarterly reports to the Commission.

552. Despite the existence of many supervisory systems for such institutions, there are some parts that lack control and regulatory texts (as mentioned in Recommendation 15)

553. Statistics: The "Commission" keeps annual statistics about the efficiency of the Anti-Money Laundering Law through the study of many indicators in its annual report, such as the progress of reporting suspicious transactions, the distribution of STRs by area or by predicate offenses and the level of compliance of the financial sector. The Banking Control Commission prepares a comprehensive field study, at least once every two years, which covers all banks and credit institutions. In exceptional cases, such banks and credit institutions are subject to continuous supervision undertaken by an on-site team in coordination with all sections of the Commission. The Commission keeps all on-site and documentary

studies and undertakes an off-site control on banks / credit institutions on a continuous basis. Schedules below show such statistics (refer to Recommendation 29 to analyze the statistics).

554. **Establishing guiding principles to implement anti-money laundering requirements:** Examples were set about the anti-money laundering indicators for banks and credit institutions only, by virtue of Article 9 of the regulation. The Commission provided the evaluation team with a guidelines sheet or guiding principles that help the institutions covered by Law 318 implement the prevailing anti-money laundering requirements. However, the evaluation team was not informed that the Commission has officially published such guidelines among financial institutions, since no circular or issuing date was mentioned on the sheet; even during the onsite visit, it was not revealed that the financial institutions are aware of such guidelines.

3.10.2 Recommendations and Comments

555. We note that despite the availability of many supervisory authorities, the supervisory system of banks and credit institutions is stronger and stricter than that of the companies not covered by Banking Secrecy Law. Therefore, we recommend the following:

- FIs should be subject to regulation concerning combating and monitoring the financing of terrorism on legal basis.
- Control the insurance brokers to verify their compliance in AML/CFT.
- Absence of administrative sanctions imposed on the companies if they breach the law No. 318.
- The Commission should circulate the guiding principles to help the financial institutions covered by the reporting obligation implement the prevailing requirements of AML/CFT.
- The supervisory authorities should have sufficient powers to impose the implementation of the standards and penalties on the financial institutions, related directors, or pertinent senior management, in case of non-compliance or improper fulfillment of AML/CFT requirements, in such a manner as to comply with FATF recommendations.

3.10.3 Compliance with Recommendations 23, 29, 17 & 25

	Rating	Summary of factors relevant to s.3.10 underlying overall rating
R.17	PC	<ul style="list-style-type: none"> • Absence of administrative sanctions imposed on the companies if they breach the law No. 318.
R.23	LC	<ul style="list-style-type: none"> • FIs are not subject to regulation with regard to CFT; there is no legal basis to control such institutions in this field. • Absence of effective control on insurance brokers to verify their compliance with AML/CFT.
R. 25	LC	<ul style="list-style-type: none"> • No guidelines or guiding principles are circulated among the institutions covered by the law for the implementation of prevailing AML/CFT requirements.
R.29	LC	<ul style="list-style-type: none"> • There are no powers to impose administrative sanctions on the institutions that violate the Anti-Money Laundering Law.

3-11 Money or Value Transfer Services (SR. VI)

3.11.1 Description and Analysis

556. The Central Bank of Lebanon, the Special Investigation Commission and the Banking Control Commission are the authorities responsible for licensing and controlling category A exchange companies and e-transfer institutions. The same are licensed and registered officially by the BDL/Central Bank of Lebanon (BDL). The Central Bank of Lebanon issued in 2007, Basic Circular No. 111 regarding cash transfer transactions, according to the Hawala system, and limited the activities of category A exchange institutions to the execution of cash transfers through “the Hawala” whether for their account or the account of others. The Bank has as well organized the aforementioned operation, since it requested exchange companies of category A to notify the bank in writing of their wish to make transfer transactions through “the Hawala” system, keeping special records about the Hawala transactions, which include at least the full name of the transfer ordering party, nationality, passport or identity number, amount of transfer, object of the transfer, source/destination country, and the name of the transfer ordering party/beneficiary. The aforementioned companies were requested as well to keep copies of the official documents of the concerned customers for a minimum period of five years. It is worth mentioning that by virtue of the circular, violating institutions are granted a period of 6 months to comply with the provisions of the circular and remedy the deficiencies. The schedule of the onsite visits of the Banking Control Commission shows 47 visits made to verify the implementation of the circular mentioned above.

557. As revealed by the report, the compliance of exchange companies (category A) and e-transfer institutions with Recommendations 4 to 11, 13 to 15, 21 to 23, and the 9 SRs., especially SR. VII, is incomplete (refer to related recommendations and comments).

558. E-transfer companies deal with sub-agents (as previously mentioned). The supervisory authorities impose on such companies to keep a copy of the agents with whom they are dealing. Transfer companies stated that when the sub agent breaches the contract, the agent is warned or the designated threshold is reduced; in case of non compliance, the contract is cancelled and the relationship is terminated. In case of violation by e-transfer companies, sanctions may be imposed thereon; however, the evaluation team could not measure the efficiency as no sanctions were imposed.

3.11.2 Recommendations and Comments

559. **The following is recommended:**

- To establish provisions that may increase the level of compliance of exchange companies (category A) and e-transfer companies with Recommendations 4 to 11, 13 to 15, 21 to 23, and SR. VII.

3.11.3 Compliance with SR. VI

	Rating	Summary of factors underlying rating
SR. VI	PC	<ul style="list-style-type: none">• Absence of provisions that increase the level of compliance of the exchange companies (category A) and e-transfer companies with Recommendations 4 to 11, 13 to 15, 21 to 23, and SR. VII¹⁴.• Inability to measure the efficiency of imposing sanctions.

¹⁴ The evaluation team considers that the risks related to the failure in not completely abiding by specific recommendations, especially R. 5, 6, 7, 8, 9, 13, 15, 21 and 22, where Lebanon had an “NC” or “PC” rating, are important and are likely to affect negatively the rating of compliance with SR. VII.

4- PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

General Description

560. The DNFBPs operating in Lebanon include: **Casinos:** Only one company practices this activity, within the framework of Law No. 320 of 1994 issued on March 24, 1994 regarding “the license granted to Casino du Liban to exploit the gambling house in Al-m’amelten”, which authorized the Lebanese government to conclude a contract with an anonymous company for practicing the casino activities. This company shall be subject to the control of the Ministry of Finance in its capacity as a supervisory authority for the proper implementation of the gambling games contract. Entering the casino is subject to detailed conditions and procedures consisting in identifying the ID of the visitors. The employees of the government, public institutions and the municipalities, army, civil officials affiliated to the army, Lebanese and foreign cashiers at the banks, commercial and industrial institutions may not enter the casino. The authorities supervising the company have indicated that it is subject to the control of the SIC’s auditors and that the company is in full coordination with the SIC. It is worth mentioning that Casino du Liban is not covered by Law 318. Lebanese authorities explain that article 4 of law 318 includes Casino du Liban “for being one of the institutions not covered by the Banking Secrecy Law”. Although the evaluation team noticed during the onsite visit to Casino du Liban that they abide by the detailed procedures related to taking CDD measures regarding the visitors and they are fully aware of the reporting obligation as well as the due application mentioned, we cannot consider Casino du Liban as being covered by law 318 and the explanation referred to for the provisions of article 4 cannot be taken into consideration whereas the penal character of this law does not allow extending the scope of its application pursuant to the principle of the limited explanation of the penal texts. In addition, we mention the existence of a commitment of reporting by the employees of the Casino, which confirms that it is not included in the provisions of law 318; thus, the procedures taken by Casino du Liban do not fall under the AML/CFT regime as defined by the legislator and which lays the legal foundation for reporting the suspicious transactions, when necessary, and for implementing the sanctions defined, in case of non compliance with the obligations defined in Law 318.

561. **Notaries Public:** They are public officers whose duties are related to verifying the identity of the client, ratifying the documents and keeping their original copies. Moreover, they are in charge of regulating the contracts and the issues that the clients request to certify. The notaries shall be subject to administrative and financial inspection made by the MOJ. According to the Lebanese Authorities, there are 226 registered notaries, 172 of whom practice their duties. Law No. 318 does not cover this sector.

562. **Accountants:** This sector consists of around 1634 accountants working as internal or external auditors (authorized auditors). According to the law regulating this sector, the accountants may not practice the auditing profession along with “commercial professions”. The accountants shall be licensed and supervised by the Chartered Accountants Union (Self Regulatory Organisation (SROs) supervising the sector), which stated that according to this prohibition, those professionals may not perform operations related to managing bank accounts or financial instruments or establishing companies for their clients. In addition, nothing in the law purports such interpretation as the execution of the operations in favour of clients does not mean practicing a “commercial profession”.

563. Although Law No. 318 is not applicable to this profession, but within the scope of performing the auditing duties (as the authorized auditors appointed in banks and credit institutions), Article 5 of the law required that the regulation issued by the Central Bank of Lebanon (BDL) should include, inter alia and as a minimum, that the authorized auditors in the banks and the credit institutions should verify that

these institutions comply with the provisions of the regulation subject of this article and notify the Central Bank of Lebanon (BDL)'s governor of any violation in this regard, whereas Article 13 of the regulation bound the authorized auditor appointed at the bank/credit institution to:

- 1- Review the internal auditing procedures to verify the compliance of the bank/ credit institution with the law provisions and the provisions of this regulation. Moreover, the authorized auditor should prepare an annual report in this respect and submit it to the bank's or credit institution's Board of Directors as well as to the Central Bank of Lebanon (BDL)'s Governor and the BCCL, provided that it includes in addition to the review's results and his propositions regarding the consolidation of the control over the operations, detailed information related to verifying that the bank/credit institution perform, at least, each within its competence, as for example but without limitation to, the following:
 - a. Abiding by the provisions of articles 3, 4, 6, 7, 10, 11 and 12 of this regulation.
 - b. Filling the KYC form.
 - c. Adopting written policy and procedures for accepting and opening new accounts for clients.
 - d. Inquiring about the source of funds received, their final destination and the justifications of the cash operations designated in the AML law and this regulation; setting the thresholds for the cash withdrawals and deposit and the incoming remittances, which should be taken into consideration within the precautionary procedures; adopting deposit forms that show the source of the deposited funds when the deposit or the total deposits exceed the set threshold.
 - e. Preparing periodical reports (quarterly at least) on the activity of cash deposits and withdrawals as well as the remittances mentioned in the clients' accounts in addition to reviewing these reports by the managers and the Internal Audit Department.
 - f. Including within the adopted internal audit procedures, measures related to reviewing the extent of compliance with such procedures.
- 2- Inform, immediately, the Central Bank of Lebanon (BDL)'s Governor, in his capacity as President of the abovementioned SIC, of any violation to the provisions of the present regulation.

564. **Lawyers:** There are around 10,104 lawyers in Lebanon registered in Beirut and Tripoli Bar Associations. This category of DNFBPs is not covered by Law No. 318. During their meeting with the officials of Beirut Bar Association, the evaluation team realized that the Bar had reservations about the lawyer playing the role of a "reporter", but it confirmed its interests in the AML issue and its readiness to comply with the related obligations. Within this scope, it is willing to establish a committee that undertakes guiding the lawyers on the international standards in terms of fighting, especially upon establishing companies, regulating contracts and managing bank accounts for their clients. Moreover, the Bar has showed that the operations which occur within the scope of a power of attorney are not very common and that the practice is still traditional. In this respect, it is indicated that law No. 8/70 regulating the Law Profession binds by virtue of Article 62 the "anonymous companies and all the capital companies, including any limited liability company, the capital of which is LBP 1, 000, 000, to authorize a permanent lawyer from the lawyers registered in the Bar's list. A commercial company provided for in this article shall not be registered unless it proves its abidance by this obligation".

565. **Dealers in precious metals and dealers in precious stones:** This sector is not under a particular SRO but some dealers (400) are registered in a Syndicate considered as a professional association that regulates the interests of its members, but that has no supervisory or disciplinary role. The association's supervisors stated that there are no statistics about the total number of jewelry dealers due to the absence of the administrative control over the sector. Practicing this profession requires only a registration at the commercial register. Law No. 318 covered this profession.

566. **Real estate brokers:** This sector is based on companies registered as shareholding companies or limited liability companies with different sizes. Their activities vary between the real-estate trade, brokerage or real estate development and some of them provide consultancy services. There are no statistics available about the number of practitioners of this profession in Lebanon and the latter is not subject to any administrative authority. Law No. 318 covered in general the companies that deal in marketing, building and selling of real estate assets.

4-1 Customer Due Diligence and Record-Keeping (R 12) (Applying R. 5, 6 and 8 to 11)

DNFBPs obligations regarding the Customer due Diligence procedures

567. Article 4 of Law No. 318 stipulated the customer due diligence obligations as follows:

- Keeping specific records of the transactions, the value of which exceeds the limit set by the Central Bank of Lebanon fixed at 10,000 USD or its equivalent.
- Verifying the identity of customers and their addresses, based on official documents and keeping copies thereof and of the documents related to the transactions for a minimum period of 5 years.

568. By virtue of Article 4 of Law No. 318, all companies marketing, building and selling real estate assets and dealers of high value goods, (such as jewelry, precious stones, gold), are subject to these obligations; and there are no regulatory texts that specify the procedures of applying the obligations stipulated by the Law.

The same article also stipulates that these professions are under the control of the Special Investigation Commission auditors with regard to the implementation of Law No. 318, however, they are not under any administrative or other competent authority qualified to impose administrative or disciplinary sanctions in case of violation of the legal commitments with regard to customer due diligence, which weakens the efficiency of the related AML/CFT Law.

Due Diligence and Record-Keeping

569. **Dealers of high value goods:** The customer's identity is verified based on official documents when the transaction exceeds the amount of USD 10,000. Interviews conducted with dealers of high value goods showed that this procedure is applied by requesting the identity card if the customer is Lebanese and the passport if he is foreigner. One dealer stated that some inquire about the purpose of the transaction and the customer's financial situation. Copies of the identity and checks, if used as a payment method, are kept for a minimum period of five years. In addition, transactions are registered in a specific record maintained for the same period.

570. **Real estate brokers:** The evaluation team, and during a meeting with a real-estate broker, noted that the implementation of Law No. 318 took place recently after an onsite visit conducted by the Special Investigation Commission during the third quarter of 2008. The customers identity verification procedures and the verification of the agents identities, in case the transaction took place through them, and the records keeping take place up until the date of the onsite visit as stipulated in the general provisions of the contract. The identity of the beneficial owner of the transaction is also verified, but to checking the customer's nationality as per the Law regulating real estate transactions which imposes special procedures on the foreigners in order to own assets in Lebanon. The broker also stated that in case of suspicion about the identity of the customer or the source of funds, the transaction used to be rejected.

Other factors provided for in the Recommendations (5, 6, 8 & 11)

571. There are no other regulations pertaining to the procedures of verifying whether the agent is working on behalf of another person and identifying the beneficial owners and to the enhanced due diligence procedures. There are also no regulations pertaining to dealing with PEPs and preventing the unlawful use of technological developments in ML/TF and regarding the due diligence related to unusual large scale transactions.

572. The evaluation team's interviews revealed that the DNFBPs covered by the Law have limited knowledge about the Law obligations due to the absence of legislative texts or clear directives; the absence of a supervisory authority, which has the powers to impose administrative or disciplinary sanctions for the violations that the Special Investigation Commission can examine, may negatively affect the level of compliance with the obligations set by the Law.

4.1.1 Recommendations & Comments

573. **The following is recommended:**

- Necessary measures must be taken to force the DNFBPs covered by the Law to abide by all obligations pertaining to AML/CFT stipulated in R. 5, 6, 8 & 11.
- An administrative reference or another authority shall be set to professionals covered by Law No. 318; it shall have the powers to impose administrative and disciplinary sanctions when obligations pertaining to AML/CFT are violated.
- Measures shall be taken to include lawyers, accountants and Casino du Liban within the scope of Law No. 318.

4.1.3 Compliance with Recommendation 12

	Rating	Summary of factors underlying overall rating
R.12	NC	<ul style="list-style-type: none">• Not all DNFBPs covered by Law abide by the obligations defined in R. 5 and there are no obligations pertaining to the requirements of R 6, 8 & 11.• Limited efficiency of the legal obligations due to the absence of an administrative authority authorized to impose sanctions in case of violations.• Lawyers, accountants & Casino du Liban are not covered by Law No. 318.

4-2 Suspicious Transaction Reporting (R.16) (Applying R.13 to 15 & 21)

4.2.1 Description and Analysis

574. **Abidance of DNFBPs by the reporting obligation:** According to article 7 of Law No. 318, all institutions not covered by the Banking Secrecy Law issued on 3/9/1956, including individual institutions, and especially real estate agents, dealers in precious metals of high value (jewelry, precious stones, gold, antiques and antiquities) shall immediately notify the Commission about the details of transactions suspicious of being related to ML. The Commission informed these sectors of the reporting method to be

adopted. During the onsite visit, the evaluation team knew that the Commission had visited several of these institutions to give them an idea about the suspicious transactions and how to report them; however, these institutions stated that they did not receive any written guidelines on the indicators of the suspicious transactions for each sector. It is worth mentioning that the definition of illicit funds did not cover all the predicate offences as previously mentioned. (Refer to R.13).

575. Law No. 318 did not oblige lawyers, accountants, notaries public and Casino du Liban to apply this obligation. With regard to lawyers, the Bar Association stated that the reporting obligation is considered a violation of the professional secrecy requirement, being an obligation for them by virtue of Article 92 of the Law governing the Lawyer's Profession; such article states the following: "the lawyer may not disclose a secret confided to him or that he knew by virtue of his profession even after the expiry of the power of attorney. He may not as well testify against his customer in the case that he is defending or was defending".

576. As for the accountants¹⁵, even though the Law does not bind them to report, however and during the visit of one authorized auditor¹⁶, the evaluation team was informed that if an auditor has any suspicious about a transaction while fulfilling his duties, he shall immediately notify the Commission. One case was reported to the Commission.

577. Casino du Liban is not covered by Law No. 318, but by virtue of its internal policy, the Casino gave indicators of suspicious transactions, and forced its employees to submit STRs, according to which the concerned employee immediately notifies his manager in case the visitor committed any of the previously defined violations. The manager examines the report, and in case of validity, he asks the security personnel to escort the suspected person outside the gambling house, and submits his report to the management in order to enroll the suspect's name in the list of people forbidden from entering the casino. In case the suspected violation was proved, the Casino's management addresses to the Special Investigation Commission a report detailing the suspicious transaction.

578. Some disciplinary sanctions were mentioned for the cases of non-compliance. This report includes detailed information about the suspected customer's identity and suspicion reasons. All the cashiers and managers shall sign a declaration stating that they are aware of the detection rules related to suspicious cases, including cases and indicators related to ML methods, and which the Casino du Liban Company might face.

579. The entity authorized to examine and file reports about suspicious transactions to the Special Investigation Commission is known as "AML Specialized Committee" and is constituted of six members: Deputy General Manager - Financial Manager - Games Manager - Assistant Games Manager – officer in charge of camera monitoring, Income Control Manager, Cashiers Manager and Receptionist Manager. A copy of these reports must be addressed to the Chairman - General Manager for information; another copy is kept with all the above mentioned committee members. It is strictly forbidden on the concerned employees to disclose any information stating that a report was submitted to the Special Investigation Commission.

¹⁵ The chartered accountant is every natural person who practices in his name or in the name of another legal person and takes on the responsibility for auditing and assessing all types of accounts and gives his opinion about the validity of financial statements. (Article 2 of the "Chartered Accountants Law").

¹⁶ The authorized auditor is the person in charge of permanently controlling the audited institution. He has the right to examine all deeds and financial documents and to ask the board members to provide him with all information. He also examines whether the banks he was appointed to audit are applying the rules and regulations of the Central Bank of Lebanon and all the measures imposed accordingly (Article 186 of the Code of Money and Credit and Articles 172 & 173 of the Land Trade Law).

580. **Reporting suspicious transactions even if involving tax matters:** Article 7 of Law No. 318 obliges the institutions covered by the Law to report transactions suspected of hiding ML and did not present any other exceptions. Therefore, it obliges the institutions to report suspicious transactions regardless of whether they may involve, among other things, tax issues.

581. **Sending STRs the SRO:** According to article 7 of Law No. 318, institutions referred to in Article 4 of Law No. 318 should submit their STRs directly to the Special Investigation Commission and not through concerned SROs.

582. Article 11 of Law No. 318 provides for regulations that forbid the DNFBPs covered by the Law, their managers, directors and employees to warn the customer in case of reporting a suspicious transaction. However, there is no express text stating the existence of legal protection for DNFBPs in the cases and conditions mentioned in the methodology to be adopted when reporting suspicious transactions and breaching any restriction imposed by any legislative, regulatory or administrative text stipulating disclosure of information or reporting of suspicions with bona fide. (Refer to R.14).

583. DNFBPs are not required to set AML procedures, policies and internal control measures. Casino du Liban prepared an AML internal guide. It is worth mentioning that the Special Investigation Commission organized several training sessions for lawyers, accountants, and dealers in precious metals and dealers in precious stones in coordination with their syndicates. In addition, Lebanon Bar Association organized several seminars about ML even though it is not required to provide similar training programs. The DNFBPs are also not required to organize training programs or to set high competency standards when recruiting.

584. DNFBPs are not required to give special attention to business relationships and transactions with persons from or in countries that do not apply or insufficiently apply FATF Recommendations.

4.2.2 Recommendations and Comments

585. The following is recommended:

- Law No. 318 should cover the lawyers, accountants, notaries public and Casino du Liban and oblige them to report suspicious transactions.
- The legal protection should cover DNFBPs, their managers, directors and permanent and temporary employees when reporting suspicious transactions and breaching any restriction imposed by in any legislative, regulatory or administrative text stipulating the disclosure of information or the reporting of suspicions with bona fide.
- To request DNFBPs to set AML procedures, policies and internal control measures and pay special attention to business relationships and transactions with persons from or in countries which do not apply or insufficiently apply FATF Recommendations while taking into consideration the size and potential of these institutions.
- To find a competent entity authorized to impose sanctions on real estate marketing and building companies and on dealers in precious metals and dealers in precious stones; such institutions do not need a license from a specific party; the existence of a commercial register is enough for them to practice these types of business; it is not clear how administrative sanctions can be imposed on the companies when violating the Law.

4.2.3 Compliance with R. 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R. 16	NC	<ul style="list-style-type: none"> • Lawyers, accountants, notaries public & Casino du Liban are not covered by the reporting obligation. • Legal protection does not include the DNFBPs covered by the Law, their managers, directors and permanent and temporary employees when reporting suspicious transactions with bona fide. • Not requiring DNFBPs to set AML procedures, policies and internal control measures and pay special attention to business relationships and transactions with persons from or in countries which do not apply or insufficiently apply FATF Recommendations. • Absence of a competent entity authorized to impose sanctions and take appropriate measures in case of violations.

4-3 Regulation, supervision and monitoring (R.24 & 25)

4.3.1 Description and Analysis

General Description:

586. **Binding casinos to a comprehensive regulatory and supervisory system:** Article 18 of the contract signed between the Government and the Casino provides for the existence of a Supervising Commission representing the Government that shall be permanently present at the Casino to financially supervise the games. As for the ML supervision, Law No. 318 did not cover Casino du Liban; however, the Special Investigation Commission is handling the supervisory role and had conducted an onsite visit to the Casino in 2007; but the authority or supervising power of the Commission in terms of monitoring the casino remains unclear. Despite the fact that the Casino is not covered by the Law, an internal system covering the AML measures to be followed was established. The internal procedures guide includes special measures related to taking due diligence measures when verifying the customers' identity and keeping records in all gambling houses; it also includes special measures pertaining to detecting transactions and other issues related to regulation and supervision. The company's management stated that it will adopt the following series of AML regulatory procedures in all gambling houses.

587. All games employees (halls employee, tellers, camera monitoring employees, receptionist) shall be qualified, experts and attentive to risks management, in addition to the presence of routine reports and an advanced and linked IT system, which allows them to monitor the movements of the customers in general in all the halls, thus detect suspicious transactions, making it hard for a violation to take place without being discovered. The company obliges all the tellers, receptionists, camera monitoring employees and halls employees to sign a declaration stating that they are aware of ML indicators existing as part of the internal procedures guide and commit to report violations. The Company has also drafted a specific reporting form, and established a Special Committee known as "AML Specialized Committee" authorized to examine and submit reports to the Special Investigation Commission and it is constituted of six members: Deputy General Manager - Financial Manager - Games Manager - Assistant Games Manager –

officer in charge of camera monitoring, Income Control Manager - Tellers Manager and Receptionist Manager. The incomes monitoring division undertakes an unscheduled on-site examination once every two weeks to evaluate the compliance of the receptionists with the implementation of the membership and entrance system and the record retention, as well as the compliance of the tellers with the financial procedures according to the size of the exchange rate transactions; it submits its report to the “AML Specialized Committee” for information. On the other hand, the management is currently working towards organizing regular conferences and training sessions for all the tellers, games halls managers and camera monitoring employees about the ML indicators in Casinos and the regulatory measures to combat the same. In addition to the above, it is worth mentioning that there exist appointed auditors delegated by the Ministry of Finance in charge of continuously monitoring the performance of all halls and making sure that the company is abiding by all the requirements of the Lebanese Financial Law.

588. 49% of the shares of Casino du Liban are owned by the Lebanese Republic while 51% belong to a Lebanese Joint Stock Company, given that its shares are bearer shares, and therefore it is impossible to identify the beneficial owner of these shares although a list of current owners is available. Since the Casino shares are bearer shares, nothing prevents criminals or their partners from owning substantial or controlling shares and even becoming the beneficial owners of these shares. With regard to employment and the setting of integrity standards when appointing employees and preventing them from holding management positions in the casino, Section 3 of Casino du Liban by-laws and particularly Article 16 thereof stipulates “that the employee shall have the educational and technical qualifications required for each job”, it also provides for the need to submit a police record backdated one month at most proving that he enjoys all his civil rights and that he is not condemned with a felony or felony attempt of any kind or any misdemeanor or misdemeanor attempt”. Even though this is a good procedure taken by Casino du Liban, it does not fulfill the requirements of criteria 24-1-3 stipulating that the competent authorities shall take the required legal and regulatory measures to stop the criminals or their partners from owning substantial or controlling shares or becoming the beneficial owners in casinos, and to prevent them from occupying any of the management positions or running casinos.

589. The role of the Commission as a competent authority responsible for regulation and supervision in the field of AML for lawyers, accountants, notaries public and Casino du Liban is unclear and there are also no supervisory authorities fulfilling such role.

590. The extent to which DNFBPs are compliant with AML Law, and the extent to which the supervisory systems are adequate to the risks of such professions and businesses, are both not clear.

The existence of a competent authority responsible for supervising the compliance of DNFBPs with AML Law:

591. **The Special Investigation Commission - Compliance Unit:** By virtue of Article 6 of Law No. 318, the Special Investigation Commission is the supervisory authority in charge of supervising the real estate marketing and building companies and dealers of high value goods (jewelry, precious stones, gold, art pieces, antiquities), while periodically and continuously verifying that these institutions are fulfilling the requirements of Law No. 318. As for the accountants, lawyers, Casino du Liban and the notaries public, they are not covered by the Law as previously mentioned.

592. Below is an explanation of the supervising authorities and other syndicates performing the supervisory role in general on the dealers in precious metals and precious stones, lawyers, chartered accountants and notaries public.

593. **Lawyers:** The Lawyer’s supervising authority is Tripoli or Beirut Bar Association. The Lawyers Bar is independent, practicing its activity to achieve the public service it is entrusted with by law, and which

consists in defending the right, justice, and protecting its interests and the interests of its members, and preserving the profession's efficiency and guaranteeing the Lawyer's freedom and dignity in his duty and in his behavior and respecting the professions' ethics, traditions and customs. It also participates in all the general activities aiming at ensuring the independence and autonomy of the Judicial System as a constitutional authority. The Bar is formed of 12 members including the president who is elected for a term of two years non-renewable unless after two years following the end of term.

594. As previously mentioned, the lawyers are not covered by Law No. 318, therefore the AML supervisory role of the Bar is limited to awareness and training whereby the Bar has organized, in coordination with the Commission, training sessions about AML and the importance of due diligence in verifying the customer's identity. The Bar declared its willingness to organize additional training sessions and form a specialized committee, the mission of which is to provide training and awareness. It is worth mentioning that the Bar suggested circulating the list of names adopted by the Special Investigation Commission so that the Lawyers can take it into consideration when dealing with customers.

595. Further, Article 99 of the Law regulating the Lawyer's Profession stipulates that each lawyer, practitioner or trainee, whoever breaches the obligations of his profession stipulated under the Law governing the Lawyer's Profession or commits during or beyond the course of his profession, a degrading act or behaves in such a way that dishonors the profession, shall be subject to the following disciplinary sanctions: 1- Tipping-off 2- Reprimand 3- Banning from practicing the profession for a maximum period of 3 years 4- Striking off the Bar's roll.

596. **Accountants:** The Lebanese Association of Certified Public Accountants monitors the certified accountants in Lebanon: the Association is formed of a general assembly and a board practicing their authorities according to the provisions of Law No. 364/1994 and regulating the certified accountants' profession in Lebanon. The Association is run by a board formed of a president and nine members elected by the general assembly in its ordinary meeting; It is assisted by a general secretary appointed in the personnel according to the administrative hierarchy and within the powers set by the syndicate's board. It is not allowed to anyone to be registered in the General Table to practice this profession in Lebanon and to consider himself an accountant unless he meets certain conditions among which: he should enjoy all his civil rights and shall not be convicted of a felony or crime. The Association may in case one of his members violated the obligations of his profession, or committed an act that violates the professions' honor and dignity, impose on him sanctions such as tipping-off, blaming or suspending from work for a maximum period of one year or suspending him permanently from practicing the profession. The Association has also set the laws of professional behavior for certified accountants. With regard to the Syndicate's role in AML, it raises awareness in the field of AML in coordination with the Special Investigation Commission knowing that the accountants are not covered by Law No. 318.

597. **Notaries Public:** The supervising authority of the notaries public is the Ministry of Justice (MoJ); Article 12 of Law 337 issued in 1994 with regard to the notaries public regulation and fees stipulates that "the notaries public shall be subject to financial and administrative inspection by a judge or more provided that their number does not exceed three, delegated for this purpose by the Minister of Justice among the judges related to the Ministry of Justice. Articles 4 and 5 of the above mentioned Law determine the conditions of appointing a notary public; the candidate should undergo a test prepared by the MOJ provided that he meets the following conditions among which: to be a Lebanese since 10 years, His age should be between 25 and 44 years old, he should have a Lebanese Law degree, enjoy all his civil rights and not be convicted of a felony or a felony attempt.

598. The notary public is subject to a financial and administrative inspection by employees or judges delegated by the Minister of Justice by virtue of a decision issued by him; he is also subject to a financial inspection by the Central Inspection Bureau through financial inspectors. The Ministry of Finance also

examines the validity of fees that the notary public collects in its favor and that shall be provided according to time period set by the Law (Articles 12 & 34). Article 15 also stipulated that the disciplinary sanctions when violating the Law are tipping-off or reprimanding or banning from practicing the profession for a period of time not exceeding six months or for a period of time varying between one to three years or the final banning from the profession. The Ministry or the Special Investigation Commission has no supervisory role over the notaries public with regard to AML since they are not covered by Law No. 318.

599. **Jewelers Syndicate:** The Syndicate role is to represent the dealers in precious metals and precious stones before the competent authorities. Being a member of this syndicate is not mandatory and it currently groups around 400 members. There is no other authority that licenses the practice of dealing in precious metals and stones and the dealer may practice this profession when possessing a commercial register.

600. The Syndicate members are elected once every two years and the Syndicate board is formed of 12 members among which are the president, the secretary, the cashier and the vice-president. The syndicate may not impose sanctions except dismissal from the syndicate; it is possible to withdraw the dealer's license by judicial means since the MoJ is the authority in charge of the syndicates. The syndicate informed the Evaluation Team that the violations cannot be detected unless when heard in the market; the Syndicate has no supervisory capacity, currently, they are working towards granting the Syndicate a legal capacity by preparing a draft law that regulates the activity of the dealers in precious metals and the dealers in precious stones.

601. The Ministry of Economy and Trade and the Syndicate coordinate together to register the manufactured specimen. The Syndicate's role with regard to AML is limited to giving awareness; it has collaborated with the Special Investigation Commission to hold three training sessions on AML, and the Commission visited the Syndicate. The latter informed the evaluation team about the absence of a reporting form circulated among the Syndicate's members or the dealers and that the document circulated was Law No. 318, whereby the reporting takes place verbally in case of suspicion, since practically, the dealer cannot report in the presence of the customer since the time and place do not allow the same. The evaluation team also examined few indicators for suspicious transactions in the sector; however these indicators were not issued as written indicators for dealers; it also noted that more than one case was reported, of which the syndicate was aware.

602. With regard to real estate agents, they have no SRO or specialized supervisory authority.

603. Below is a schedule presenting the inspection visits conducted by the Compliance Unit for these institutions over the last 4 years:

No. of institutions till 1/1/2009	2005	2006	2007	2008
375 jewelry traders	51		64	
Real estate agents				3
Casino du Liban			1	

604. The table above shows that the inspection visits focused on jewelry traders being the largest category; as with regard to real estate agents, there is no accurate way to count them since their activity

does not require a license from any specific authority. As previously mentioned, in case of non-compliance with the regulations, the commission has no authority to impose sanctions on the violators.

605. Article 13 of Law No. 318 stipulated that “whoever violates the provisions of articles 4, 5, 7 & 11 of this Law shall be imprisoned between two months to one year and fined with LBP 10,000,000 or either sanction” with regard to the real estate promotion and construction as well as the dealers in precious metals and stones.

606. The competent authorities did not circulate any directions or guidelines that help DNFBPs apply the applicable AML requirements; the authorities should set these directions or principles to describe the ML/TF techniques and methods and any other measures for the concerned DNFBPs which they have to take in order to guarantee the efficiency of the combating measures.

4.3.2 Recommendations and comments

607. **The following is recommended:**

- With regard to supervising AML, Law No. 318 did not impose on Casino du Liban to abide by its provisions; however, the SIC is monitoring the same, though its supervisory authority over the Casino is not clear. Casino du Liban should be covered by Law 318 and the Commission should have the legal competency to monitor its compliance with the AML obligations.
- The Commission’s role should be clearly set with regard to its powers in regulating, supervising and imposing AML-related sanctions with respect to all DNFBPs in the event of non-compliance. In case of absence of its monitoring role, the SROs and the syndicates should have the competency to monitor and supervise the compliance with AML measures since there are no other supervisory authorities that are currently fulfilling this role for the institutions not covered by Law, such as the accountants, notaries public and Casino du Liban. In addition, the absence of a license for the real-estate agents, dealers in precious metals and dealer in precious stones preclude the possibility of calculating and counting them and thus, meticulously monitoring them.
- Since the shares (controlling shares) of the Lebanese Joint-Stock Company owning the Casino du Liban, are bearer shares, the authorities should take measures to prevent the criminals or their associates from owning substantial or controlling shares or becoming the beneficiary owners of these shares, and to prevent them from holding any administrative position in any casinos or whoever runs them.
- A study to reveal the compliance level of DNFBPs with AML Laws and the adequacy of the monitoring and supervisory systems with the risks of such DNFBPs should be performed.
- The competent authorities should circulate guiding principles that help DNFBPs implement the applicable AML obligations.

4.3.3 Compliance with Recommendations 24 & 25 (Criteria 25-1, DNFBPs)

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R. 24	NC	<ul style="list-style-type: none"> • Absence of legal competency for the commission to monitor Casino du Liban’s compliance with AML/CFT obligations. • The Commission’s role as a competent authority

		<p>responsible for the regulating and supervising AML regime for lawyers, accountants, notaries public and Casino du Liban is unclear.</p> <ul style="list-style-type: none"> • Absence of competency to impose sanctions on the institutions covered by Law in case of violation. • Absence of measures to prevent the criminals or their associates from acquiring substantial or controlling shares or becoming the beneficiary owners or holding administrative positions in any casino.
R. 25	LC	<ul style="list-style-type: none"> • Not circulating guiding principles that help DNFBPs implement the applicable AML/CFT requirements.

4-4 Other Non-Financial Businesses and Professions - Modern-Secure Transaction Techniques (R.20)

4.4.1 Description and Analysis

608. The Lebanese Republic has considered imposing AML standards on antiquities traders since, according to articles 4 & 7 of the Law 318, the antiquities traders should hold special registers of the transactions exceeding 10,000 USD and verify the identity and addresses of their customers based on official documents; provided that they keep copies of the identities and the documents related to the transactions for a minimum period of five years and provided they report the suspicious transactions.

609. Only one trader in Lebanon selling antiquities was identified. Through the onsite visit, the evaluation team noted that the SIC has made several visits to this institution to provide it with an idea on the obligations and ways of dealing with suspicious transactions, the reporting method, and to make sure it applies such obligations; it was visited twice during the year 2008.

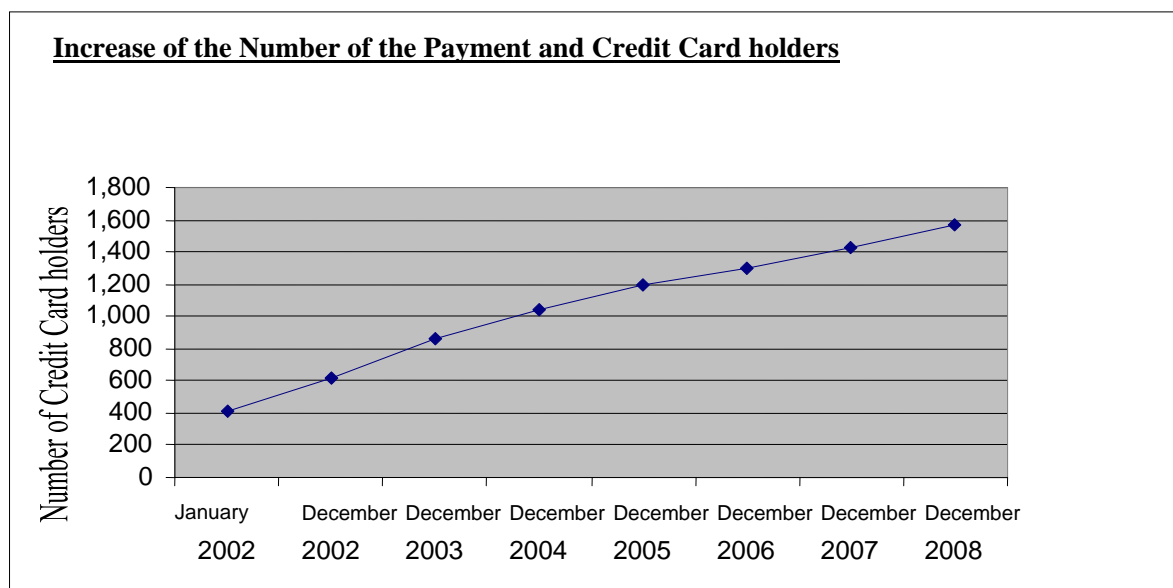
610. The Lebanese Republic took measures to encourage the setting and use of modern and secure transaction techniques for performing financial transactions that are less subject to ML since the payment and credit cards services sector witnessed a major development during the last few years according to BDL statistics. This fact indicates a larger reliance on the credit cards as a means to pay and collect and thus, a regression of the cash usage. For example, BDL agreed with one commercial bank to transfer the salaries of its employees thereto and issue for them credit cards to fulfill their consumption needs. It is essential to note that the same procedure is applied in the public education field and other public sectors. In addition, there are no ML risks with the use of Lebanese Pound, since it is not negotiable at the international level and cannot be easily exchanged like the USD and the highest denomination currency does not exceed LBP 100, 00, the equivalent of USD 65.

611. The following statistics shows the number of credit card holders from 2001 till 2008:

Year	No. of payment and credit card holders
2001	413,532
2002	611,829
2003	860,669
2004	1,037,270

2005	1,197,407
2006	1,302,185
2007	1,426,490
2008	1,563,958

612. These statistics show that the total number increased by 10% during the last three years and by 15% from 2004 to 2005 and by 20% from 2003 till 2004 as shown in the chart below:



613. The statistics show that the number of credit card holders is continuously increasing despite the decrease of the increasing rate. Upon comparing the number of cards holders with the population, we notice that the rate is 39% of the total population, which is not a low rate. It is essential to note that BDL fixed the amount of 10,000 USD as a threshold in dealing with institutions covered by Law No. 318; such law has imposed some obligations for the transactions exceeding this amount whether in the financial sector or some of the DNFbps, which will reduce cash dealing.

4.4.2 Recommendations and comments

4.4.3 Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R20	C	

5- Legal Persons and Legal Arrangements & Non-profit Organizations

5-1 Legal Persons - Access to Beneficial Ownership and Control Information (R.33)

5.1.1 Description and Analysis

614. The first part of this report includes a general description for the legal persons that can be established in Lebanon. Commercial companies in Lebanon are divided into two types: individual companies and investment companies. The first type is ruled by personal consideration and the company is formed between a limited number of people known to each others. Among the most known types of such companies are the joint partnership company, the simple partnership company and the joint-venture company but this company is not shown to third parties and does not have a commercial name or a corporate body like other companies. As for the capital companies, they are established to collect money from the savers in order to achieve important economic projects. The most important forms of these companies are the anonymous company, Joint Stock Company, holding company, off-shore Company and Limited Liability Company. With regard to the establishment of commercial companies in Lebanon, they are all, except the joint-venture company, subject to similar mandatory rules: the principle of declaration through registration at the commercial register, which is considered the only access to the information available on the commercial companies in Lebanon.

615. **Special measures to prevent misuse of legal persons:** Companies having their headquarters in Lebanon, of any nationality, should be registered at the commercial register competent in the location where its headquarters are located. There is a commercial register office in each of the six provinces with no central commercial register; the commercial registers rely more on papers rather than the computer even though they started using it in 2002. The company's managers or the members of its Board of Directors should ask for the registration within one month following the establishment. The commercial register is a means to collect complete and sufficient information about the traders and the commercial institutions which are considered the target of this activity. The commercial register is divided into two types: a general register, where the traders and the companies are registered and a special register where the commercial institutions and its contracts are registered. The commercial register is also a tool for declaration, used to make its contents valid for the others when there is an explicit legal text in this regard. Sometimes, listing a specific matter in the commercial register is deemed a condition for the validity of the legal work. Article 23 of the Lebanese Commercial Law stipulates that "in each court of first instance, a register must be held by the clerk and under the supervision of the Chief Judge or a judge specially appointed by the Chief each year". From this text, it is clear that the Lebanese legislator makes the judicial system in charge of the supervision of the commercial register. As for the clerk of the court, his role shall be limited to taking notes about the information presented by the concerned people without examination or verification and without checking the information's validity. He may not refuse the registration unless there is missing information. If it is complete, the clerk of the court should register the same even if the information is inaccurate. Therefore, it is noted that it is not possible to be absolutely satisfied with the validity of the data listed in the Lebanese commercial register due to the absence of control.

616. The registration applicants shall present to the Office of the Court a summary of the memorandum of association written in two copies and including the stamps and their signatures and particularly the following data:

1. First and last name of all the partners except the shareholders and partnership company partners, and the nationality of each, their date and place of birth.
2. Name of the Commercial Company or its denomination.
3. Object of the company.
4. Places where the company has branches or agencies whether inside or outside Lebanon.
5. Names of the partners or other people licensed to run the company and manage its affairs or sign on behalf of it.
6. The company's capital and amounts or securities to be submitted for the shareholders or the partnership company partners as well as the value of what is presented to the company, whether in cash or other.
7. Company's beginning and term date.
8. The entity of the company.
9. The minimal capital of the company if it had a changeable capital (Article 26 of the Commercial Law).

617. The commercial register should also include:

1. Any modification or change in the data to be registered by virtue of the previous article.
2. First name, last name, date and place of birth and nationality of each of the company's managers, Board members and appointed managers for its term. As for the registration request, it is submitted by the managers or the board members performing their jobs when registration is required.
3. Invested patent certificates as well as the industrial and commercial stamps used by the company.
4. Decisions or ruling about the dissolution or annulment of the company.
5. Decisions or ruling announcing the bankruptcy of the company or the certification of the statutory reconciliation and the related decisions.

618. With regard to the foreign commercial companies that have a branch or an agency in Lebanon, they should be registered at the commercial register except the joint-stock companies and the simple partnership companies, the shares of which are subject to the provisions of decision no. 96 of the High Commissioner dated 30 January 1962. Before opening the branch or the agency, the person in charge of running those companies should submit to the Office of the Court a written statement in two copies including their signature along with all the above mentioned data while adding their first and last name, date and place of birth and nationality. All changes pertaining to the subjects to be registered must be recorded. When changing the branch manager, the first and last name of the new manager, place and date of his birth, his nationality and all the required data should be registered in the commercial register.

619. The company's registration procedures and required documents and deeds can be considered sufficient to obtain information about the partners and shareholders; but there is nothing that shows how the authorities may verify that the partners and shareholders are the beneficial owners of the company and how they can verify such information, especially that the commercial register is not centralized in Lebanon.

620. Timely access to up-to-date information on beneficial owners: The competent authorities may obtain information or peruse the available information of the beneficial owners and the controlling shares in the legal persons except the companies that use bearer shares. However, and despite the public character of the commercial register in Lebanon, the financial dealing amount of the companies remains protected by virtue of the Banking Secrecy Law, according to which the banking institutions in Lebanon abide by the profession secrecy in the form of joint-stock companies, and the banks that are branches of foreign companies; provided that the Lebanese and foreign banks obtain a special approval granted by the Minister of Finance in this regard. The commercial register and the provisions of Law No. 318 constitute in cooperation with the Lebanese competent judicial system the only means to obtain the required

information about the companies and the financial institutions covered by the Banking Secrecy Law and AML in Lebanon. In addition, the Lebanese authorities stated that since 2006, they requested a document proving the true address of the company instead of the registration that used to be valid before such date. However, receiving access to timely and up-to-date information on the beneficial owners and controlling shares in the legal persons remains impossible due to the absence of a centralized commercial register gathering all data; however, there exists a commercial register for each district and it is not connected to a centralized information network.

621. **Prevention of misuse of bearer shares:** With regard to legal persons capable of issuing bearer shares, there are no restrictions or measures that guarantee their non-exploitation in ML.

5.1.2 Recommendations and Comments

622. **The Lebanese authorities are recommended to:**

- The need to find a centralized commercial register that include all data and information related to the companies or find an informational link between the different commercial registers located in the other regions outside Beirut in such a way to have a comprehensive centralized commercial register.
- Find restrictions and measures that limit the unlawful use of bearer shares in ML transactions.
- The need to obtain information about the beneficial owners and the controlling shares in the legal persons that issue bearer shares.

5.1.3 Compliance with Recommendation 33

	Rating	Summary of factors underlying rating
R33	PC	<ul style="list-style-type: none"> • Not finding a centralized commercial register that gather all data and information related to the companies or an informational link between the different commercial registers located in other regions outside Beirut in such a way to have a comprehensive centralized commercial register. • Absence of restrictions and measures that limit the unlawful use of bearer shares in money laundering operations. • Not being able to obtain information about the beneficial owners and the controlling shares in the legal persons that issue bearer shares.

5-2 Legal Arrangements-Access to Beneficial Ownership and Control Information (R.34)

5.2.1 Description and Analysis

623. There are no trust funds in Lebanon but the Lebanese legislator created, since 1996, a legal arrangement called the fiduciary contracts by virtue of Law number 520 dated 6/6/1996, concerning the development of the fiscal market and fiduciary contracts. Pursuant to the provisions of this Law, the fiduciary contract is a contract by which a legal or natural person, called the originator gives to a person called the trustee the right to manage and dispose, for a fixed period of time, of rights or movable assets

called the fiduciary obligation. The trustee works in his name but for the account and at the expense of the originator. The trustee should declare his quality to any third party with whom he signs a contract about any element of the fiduciary elements without revealing the name of the originator. The fiduciary obligation can be formed for the account of a third party, called the beneficiary, against compensation or without it as a property or a guarantee.

624. The BDL's governor issued the Basic Decision No. 6349 dated on 23/10/1996 (annexed to the Basic Circular for banks and financial institutions No. 29) concerning the development of the financial market and the fiduciary contracts. This circular authorized banks and fiduciary institutions exclusively to practice fiduciary contracts. This decision detailed the elements which should be included in the written and explicit contract signed with the originator:

- The clear statement showing that the fiduciary contract is regulated according to the provisions of Law No.520 dated 6/6/1996.
- Name, residence and profession of the contractor and the beneficiary.
- Detailed and meticulous description of the fiduciary obligation elements.
- Investment areas where the fiduciary obligation can be used.
- Nature and limits of the trustee's power in the use of the fiduciary obligation, with a direct reference to whether it is limited to management or disposal or to both actions, and whether the delegation is general and absolute or personal and restricted with certain conditions.
- A clear and detailed statement showing specifically whether the contractor is delegating the trustee to invest the fiduciary obligation in areas where the trustee or any of his board members or people operating his business are partners or have any interest, in a direct or indirect way.
- The term of the contract.
- The commission of the trustee and his fees and all other expenses that might occur as well as the way of specifying and settling the same.
- The appointed auditors at banks and credit institutions entrusted to perform audit on the fiduciary obligation on the basis and according to the procedures applicable on the accounts listed in the budget.

625. Some FIs stated to the evaluation team that they verify the originator's ID and identify the beneficiary of the fiduciary contracts concluded with the bank/institution in its capacity as trustee according to the requirements of the Lebanese law, and the regulation with regard to applying CDD measures; Additionally, the originator fills out the "KYC" form before opening the account.

626. It is worth mentioning that there is some transparency since one of the elements of the contract is the identification of each the contractor and the beneficiary's name, place of residence and profession; in addition, the appointed auditors examine the fiduciary obligations. But if the Lebanese authorities do not acknowledge the existence of any trust funds in the methodology concept, there is a risk that these contracts might be used in AML/CFT operations.

627. With regard to the competent authorities having timely access to information about the beneficiaries and the control of the fiduciary contract, it is worth mentioning that the fiduciary contracts are subject to the supervision of the BCCL, and thus, banks and credit institutions shall report to the SIC details of transactions (including the fiduciary contracts) which they suspect to be hiding ML; in such case, they shall provide the "SIC" with details about the names of the beneficiaries and control shares in the fiduciary contract. It is worth mentioning that the chances of the SIC to obtain timely access to adequate, accurate and up-to-date information about the names of the beneficial owners and control shares in the fiduciary contracts is not confirmed yet.

5.2.2 Recommendations and Comments

628. The Lebanese authorities are recommended to:

- Verify that the competent authorities have timely access to adequate, accurate and up-to-date information about the beneficial owners and control shares in the fiduciary contracts.

5.2.3 Compliance with Recommendation 34

	Rating	Summary of factors underlying rating
R34	LC	<ul style="list-style-type: none">It is not verified yet whether the competent authorities can obtain adequate, accurate and up-to-date information on the beneficiaries and control shares in fiduciary contracts, in a timely manner.

5-3 Non-Profit Organizations (NPOs) (SR.VIII)

5.3.1 Description and Analysis

629. **General Description:** In Lebanon, NPOs are regulated by the Associations Law issued in 1909 and amended by virtue of Resolution No. 3295 dated 29/8/1925 and the Law issued on 26/5/1928, and the decree-Law No. 41 dated 28/9/1932. They are also subject to the provisions of the Foreign Associations Law issued by virtue of the Resolution No. 369/ L.R on 21/12/1939 in addition to the Draft Law issued under the Decree 10830 dated 9/10/1962 and Circular No. 10/1m/2006 issued on 19/5/2006. In addition, some associations submit a request to the Ministry of Social Affairs to be qualified as Public Service in case they satisfy the conditions stipulated in the decree-Law No. 87 of 30/6/1977. Once the aforementioned conditions are met, they become Public Service Institutions.

630. According to Article 1 of the Associations Law, “An association is a group constituted of several people with the aim to unify their information or their efforts on a permanent basis without expecting any profits distribution”. Article 3 of the same law stipulates that: “It shall not be allowed to form any association on an illegitimate basis and in contradiction with the laws and ethics or in attempt to violate the country’s well-being and assets. Article 2 of the same law stipulates that “the establishment of an association does not primarily require any license; however, it is required, in accordance with Article 6, to declare the same to the government following the establishment thereof”.

631. **Monitoring the non-profit organizations that can be misused for FT:** The Political, Parties & Associations Affairs Administration affiliated to the Political & Electoral Affairs Office of the Political and Electoral Affairs Department at the Ministry of the Interior Affairs is in charge of drafting the required provisions for issuing the Certificate of Knowledge (Certificat prise de connaissance – بيان علم وخبر) establishing the associations, parties and clubs. In addition, it is in charge of regulating the activities of the licensed associations, parties and clubs and verifying that their activities do not contradict with their objectives, preparing periodical annual reports on the subject, submitting it to the competent authorities and ensuring that provisions of the Associations Law are met. In addition, the Administration receives from the founders of the association a Certificate of knowledge clarifying their project, supported with all documents pertaining to the association's by-laws and its address, along with information on the founders and their identities. In general, the following documents should be submitted to notify the Ministry of Interior of the establishment of the association: (1) an application from the founders including the Association’s name and location (address), the name of its authorized representative, along with the names of founders and their signatures, (2) three copies of the Articles of Association of the

Organization's printed clearly and signed by the founding members on every single page, (3) police records for the founders backdated three months maximum along with original personal civil status, (4) copies of the educational degrees of the founders, (5) a list of the founding members including: addresses, phone numbers, signatures and educational level, (6) a statement of the association's residence or a copy of the lease contract.

632. The Directorate of General Security is notified about these documents in order to verify and study them. Each year, the "Common Administrative Department" at the Ministry of Interior receives an updated copy of the association's members, its budget and peremptory account for monitoring purposes. It is worth mentioning that the Ministry of Interior and Municipalities may refuse to submit the above mentioned statement in the following cases: if the statement does not include the information legally required, (2) if the object of the association is based on an illegitimate basis violating the Law provisions, rules and ethics. Therefore, if the Directorate of General Security investigation reveals that the association's activity contradicts with the Law provisions and regulations, it shall be dissolved by virtue of a decree issued by the Lebanese Council of Ministers pursuant to Article 3 of the Associations Law.

633. There is no party monitoring Charity Associations, but three years ago, the Ministry of Interior used to visit these associations, and especially during the elections period. However, a resolution issued by the Minister of Interior stipulated that there is no right to attend the elections due to the absence of a legal text allowing the same; in case of suspicion that the association is a shell organization, the Ministry of Interior informs the Directorate of General Security which handles the investigation. The Directorate of General Security is also informed of any suspicious matter concerning the association such as unreasonable expenses on some items discovered during the on-site inspection for the association's accounts. The Ministry of Interior imposes financial sanctions on Charity Associations in case of delay in submitting the required documents. Whereas in case of violation of the activity, the Directorate of General Security shall be informed; the latter, in its turn, may propose the association's dissolution to the Lebanese Council of Ministers. Only one association was dissolved after finding out that it is dealing in children trafficking instead of practicing the real object it was established for. As for the training matter, three employees were sent to the Central Bank of Lebanon to attend one week training.

634. The above is related to associations in general, as for the Public Service Institutions covered by the Decree-Law No. 87 dated June 30, 1977, their accounts are subject to the Public Service Institutions Monitoring Authority. The Public Service Institution is every institution or association aiming at fulfilling the society's needs and which is granted the Public Service capacity by virtue of a decree issued by the Lebanese Council of Ministers based upon a proposal submitted by the Minister of Social Affairs. Article 4 of the above mentioned decree-law stipulates that "Each Public Service Institution must submit at the end of each year a report to the Monitoring Authority including all the achievements and activities of the previous year along with the annual budget and a statement of its activity schedule for the next year while defining methods and measures to use the allocated resources to achieve its goals" and that "the supervisory authority shall propose, when necessary, referring the Public Service Institution to the competent penal jurisdiction".

635. It is worth mentioning that the supervision process to which the Public Utility Institutions and Associations are subject falls within the scope of security monitoring; with regard to accounts audit, each association shall submit during the first month of each year the following documents: (1) account of the previous year, (2) budget of the coming year, (3) list of the names of the General Committee members. Thus the monitoring is limited to expenses and does not include the raise of donations. In addition, the Department of Political Affairs, Parties and Associations do not identify the potential weak areas in the sector, which may be used for terrorist acts. Therefore, there is no review for the suitability of laws related to non-profit organizations and it is noted that the competent authorities at the Ministry of Interior show some kind of weakness at the supervisory level; this role is either done through the information

submitted by the associations to the Ministry of Interior- Department of Political and Electoral Affairs about the members names and copy of the budget, or through investigations conducted secretly by the Directorate of General Security by means of its secret resources or the investigations and analysis of available information.

636. There is large communication gap between the Ministry of Interior and Municipalities and the non-profit organizations since there is no enhanced awareness in the non-profit sector about the risks of terrorist exploitation. There are no measures to protect this sector from the terrorist exploitation. There is no efficient monitoring and follow up in the non-profit organizations and there is no obligation to keep records.

637. Non-profit organizations keep information about their establishment purpose, activities and the identity of their founders, managers or directors including their senior officers, board members and trustees. All such information is available at the Ministry of Interior and Municipalities and is updated on an annual basis.

638. Non-profit organizations keep local and international documents in which the expenditure ways are registered. Competent authorities may peruse these registers but there is no fixed period of time to keep these records. The competent security entities at the Ministry of Interior are entitled to make investigations and collect information on non-profit organizations.

639. There is an exchange of information and coordination between the security bodies at the Ministry of Interior at the local level only, without any coordination with other authorities in the country. The security bodies can obtain information about the non-profit organizations through the information kept about these organizations at the Ministry of Interior or through investigations conducted by the security bodies on such NPOs. The concerned bodies in the state are allowed to obtain or examine information pertaining to the management of the non-profit organizations including the financial information listed in the association' budget. As for the financial information pertaining to the bank accounts of NPOs, the competent authorities are not allowed to verify the same and lifting the banking secrecy is a matter to be handled by the Special Investigation Commission.

640. There is no mechanism for the immediate exchange of information among all pertinent competent authorities in order to take preventive or investigational procedures in case of suspicion or there are reasonable grounds to suspect that any association is being used for terrorism financing or that it is a shell organization aiming at raising funds for terrorist purposes. It is noted that the competent security authorities are seriously working on the development of its resources and have a vision to include changes that will make the security activity more effective conforming to the increase of terrorist crimes and terrorism financing.

641. Replies to international requests to obtain information on any non-profit organization suspected of financing terrorism or practicing any other form of terrorism support, take place through the International Communication Division at the Ministry of Interior that forwards the request to the competent authority at the Ministry of Interior; the reply is then sent through the International Calls Division to the requesting international party. There is a direct exchange of information through the Office of Information Affairs in the General Security Directorate with counterpart parties and through the Ministry of Foreign Affairs.

5.3.2 Recommendations and Comments

642. The authorities are recommended to:

- Activate the supervisory role of the supervisory authority.

- Find dissuasive sanctions corresponding to the size of the violations committed by non-profit organizations.
- Increase and enhance the awareness of NPO's and their employees and the supervisory bodies through seminars and sessions about the risks of exploitation and use of such organizations for terrorism financing operations.
- Find a mechanism for the immediate exchange of information between all the bodies and competent authorities in the country.
- Review the suitability of the non-profit organizations' related laws.

5.3.3 Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	NC	<ul style="list-style-type: none"> • Inexistence of efficient supervision by the supervisory authorities. • Inexistence of dissuasive sanctions that correspond to the size of the violations committed by the non-profit organizations. • Lack of awareness of the non-profit organizations, their employees and the supervising bodies and importance of raising awareness through seminars and sessions about the risks of exploitation of such organizations for terrorism financing operations. • Absence of a mechanism for the immediate exchange of information between all the bodies and competent authorities in the country. • Absence of review of the extent to which the laws of NPOS are adequate.

6. National and International Cooperation

6-1 National Cooperation and Coordination (R.31)

6.1.1 Description and Analysis

643. Cooperation at policies level: By virtue of the Lebanese Council of Ministers Resolution No. 2 dated October 24, 2002 the “National Anti-money Laundering Coordination Committee” was established, presided by the 3rd Vice-Governor of BDL and the following members: (1) SIC Secretary, (2) Representative of Cassation Public Prosecutor, (3) Member from the BCCL, (4) Representative of the Directorate General of Customs, (4) Representative of the Directorate General of the Internal Security Forces. The purpose of such committee is to perform the following duties: (1) Coordinating policies between AML competent authorities, (2) Exchanging information and expertise aiming at executing and consolidating AML law, (3) Organizing appropriate training sessions and conferences, (4) Discussing ways to develop the work and recommend official references to adopt appropriate procedures.

644. Furthermore, with the aim to comply with Recommendation 31, the Lebanese Council of Ministers, and by virtue of resolution No. 105 issued on September 12, 2007, decided to extend the scope of the National AML Coordination Committee and to include, in addition to the current members, representatives from the Ministry of Justice, the Ministry of Finance, the Ministry of Interior and Municipalities, the Ministry of Foreign Affairs & Emigrants, the Ministry of Economy and Trade and Beirut Stock Exchange.

645. In addition, the Lebanese Council of Ministers, and by virtue of resolution No. 106 issued on September 12, 2007, decided to establish a “National CFT Coordination Committee” comprised of representatives of the Ministry of Justice, Ministry of Interior and Municipalities, Ministry of Foreign Affairs and Emigrants, Ministry of Finance, Public Prosecution of the Court of Cassation, Special Investigation Commission and Central Bank of Lebanon. The Committee is chaired by the representative of the Ministry of Interior and Municipalities who is responsible for enhancing the cooperation with all Offices and Competent Authorities and especially the Directorate General of Internal Security Forces, General Directorate of General Security, General Directorate of State Security, office for sale and purchase of arms and ammunitions license, and office for control of Non-profit Organizations. The representative of the Ministry of Finance is in charge of enhancing the cooperation with all Offices and Competent Authorities and especially the Customs General Directorate and the Real Estate Register. As for the representative of the Ministry of Foreign Affairs and Emigrants, he is in charge of enhancing the cooperation with all Offices and Competent Authorities and especially the Office in charge of gathering information and of the international agreements and their implementation and the Office in charge of circulating the Security Council regulations.

646. At the level of policies and in the field of fighting money laundering, there exists good cooperation and coordination with the policy makers and the other authorities working in the same field, through the "National Coordination Committee for AML", particularly after its expansion by appointing:

- A representative of the Ministry of Justice in charge of enhancing the cooperation with all the offices and concerned parties and especially the Notaries Public and the Commercial Register,
- A representative of the Ministry of Finance in charge of enhancing the cooperation with all the offices and concerned parties and especially the Real Estate Register,

- A representative of the Ministry of Interior and Municipalities in charge of enhancing the cooperation with all the offices and concerned parties and especially the Internal Security, the General Security, the State Security, the office for sale and purchase of arms and ammunitions license and Non-profit Organizations,
- A representative of the Ministry of Foreign Affairs and Emigrants in charge of enhancing the cooperation with all the offices and concerned parties and especially the office in charge of gathering information as well as of the international agreements and their implementation
- A representative of the Ministry of Economy and Trade in charge of enhancing the cooperation with all the offices and concerned parties and especially Insurance Companies sector and the Anti-Fraud Office
- A representative of Beirut Stock Exchange in charge of setting AML policies when buying or selling bonds and shares and other financial securities to prevent their exploitation by money launderers

647. With regard to combating terrorism financing, the NCC for CFT depends on a general strategy that includes activating the coordination with the competent authorities and enhancing the level of qualifications and competencies. Among the steps made by the committee in this regard, was the provision of information based on factual circumstances to the competent authorities.

648. As to the cooperation at the operational level, it is shown through:

- Possibility for the SIC to request information from the reporting authorities, Law Enforcement agencies and judicial and security authorities.
- The issue by the Cassation Public Prosecutor of a request to the Appellate and Financial Public Prosecution and the Government commissioner at the Military court to provide the SIC with the information available at their end and related to ML.
- The presence of a communication officer at the ISF to ensure coordination between the SIC and the judicial police.
- Establishment of a division at the Customs Directorate to ensure coordination and exchange of information through a communication officer entrusted with providing the SIC with the information it requests.

649. With regard to the efficiency, it is worth noting that the onsite visit and the information obtained by the team reveal a good level of national cooperation, even if bilateral, since there is a large cooperation between the SIC and BDL on the one hand, and the SIC and LEAs on the other hand. Mechanisms related to deliberation between the concerned authorities in relation to CFT, should be available as well.

6.1.2 Recommendations and Comments

650. The Lebanese authorities are recommended to:

- Enhance local cooperation and communication among all Competent Authorities in CFT.

6.1.3 Compliance with Recommendation.31

	Rating	Summary of factors underlying rating
R.31	LC	<ul style="list-style-type: none"> • Absence of any confirmation as to the existence of cooperation between all the authorities concerned with CFT.

6-2 The Conventions and UN Special Resolutions (R.35 & SR.I)

6.2.1 Description and Analysis

651. Lebanon joined, with some reservations, the UN convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (the Vienna Convention) under Law No. 426 of May 15, 1995. By virtue of Article 15 of Law No. 318, the reservations mentioned in clauses 2-3-4 of Article 1 of the above mentioned Law No. 426 were repealed. (With regard to the implementation of this convention, refer to the analysis of R.1 and.2).

652. Lebanon also joined the UN Convention against Transnational Organized Crime (the Palermo Convention) by virtue of Law No. 680 of August 24, 2005. (With regard to the implementation of this convention, refer to the analysis of SR.II).

653. **As for the UN International Convention for the Suppression of the Financing of Terrorism of 1999**, Lebanon has not, to date, joined that Convention, knowing that there was a draft law in this regard since April 2005.

654. **Additional Element:** Lebanon joined the Arab Convention for Combating Terrorism issued by the Arab Interior and Justice Ministers Councils in Cairo in 1998 by virtue of Law No. 57 dated March 31, 1999.

655. **Security Council Resolutions (SCRs):** There are no laws, by-laws or other measures binding the application of requirements mentioned in UNSCRs with regard to the FT prevention and suppression, namely resolution 1267 (1999), the subsequent resolutions and resolution No. 1373 (2001).

6.2.2 Recommendations and Comments

656. The Lebanese authorities are recommended to:

- Join and approve 1999 UN Convention for the Suppression of the Financing of Terrorism
- Set laws, by-laws or other binding measures to meet the requirements of the UNSCRs with regard to FT prevention and suppression.

6.2.3 Compliance with R.35 and SR.I

	Rating	Summary of Factors underlying the rating of compliance
R.35	LC	<ul style="list-style-type: none">• Failing to join and approve the 1999 UN Convention for the Suppression of the Financing of Terrorism.
SR.I	PC	<ul style="list-style-type: none">• Failing to join and approve the 1999 UN Convention for the Suppression of the Financing of Terrorism.• Absence of laws, by-laws or other binding measures to meet the requirements of UNSCRs with regard to FT prevention and suppression.

6-3 Mutual Legal Assistance (R.36-38, SR.V)

6.3.1 Description and Analysis

657. **General Description:** The principle applicable in Lebanon with regard to this matter is the legal cooperation in all fields, by virtue of agreements; in the absence of agreements, Lebanon relies on the Principle of Reciprocity of the MLA requests. Lebanon has signed several bilateral agreements with different countries in the field of legal cooperation in general, among which extradition of criminals and MLA. These agreements regulated the conditions, in form and content, of the ways of providing assistance or what it is called rogatory letters. In addition, Lebanon has signed several multilateral agreements such as the Legal Assistance Convention between Arab Countries in 1998 and related to combating terrorism and among which the rogatory letter issue was covered.

658. Below is a list of the most important legal and judicial agreements signed by Lebanon:

- Judicial Agreement signed between Lebanon and the Syrian Arab Republic on 25/2/1951.
- Judicial Agreement signed between Lebanon and the Hashemite Kingdom of Jordan on 6/4/1954.
- Agreement signed between Lebanon and Tunisia on 30/12/1968.
- Judicial Agreement signed between Lebanon and the Arab Republic of Egypt on 5/11/1998.
- In addition to bilateral agreements signed between Lebanon and some of the foreign countries, among which the agreement signed with Belgium and agreements signed with Italy, England, Yugoslavia, Cyprus, Turkey and Bulgaria.

659. **Providing the widest range possible of MLA:** In addition to the previous general rules, Law No. 318 gave the president of the SIC or his delegated member the powers to start communicating with all Foreign Authorities (judicial, administrative, financial and security) in order to request information or examine details of investigations conducted around matters related to SIC investigations. The concerned Lebanese authorities must immediately answer any request of information, and therefore, all matters related to information request and examination of investigation details with regard to AML are covered within this article. As for other fields of legal assistance, it is essential to refer to the agreements signed between Lebanon and the other countries and that include details about what it might be considered as a MLA request and the conditions of accepting such request. Some agreements generally stipulate that it is allowed to take any legal proceedings related to any case and starting proving it or denying it on the Lebanese territory and on the territory of contracting countries through a legal rogatory letter, without specifying the nature of the required procedure, which allows to state that the procedure matter covers all what is related to the current investigations cases as previously mentioned, with reservation about the non-contradiction of the requested procedure with the provisions of the law of the country requested to execute in case the required procedure is not listed among those procedures not allowed by virtue of this law. This was what was mentioned in the two legal agreements signed between Lebanon and the Syrian Arab Republic (25/2/1951) and between Lebanon and the Hashemite Kingdom of Jordan (6/4/1954).

660. In addition, the Drugs Law No. 673 dated March 16, 1998 included a chapter about MLA that can be related as stated in article 231 thereof to the following:

- Reporting judicial documents.
- Conducting investigations: hearing testimonies or confessions, inspection and seizure, examining things and places, identifying proceeds, funds, equipments, and tools or tracing them in order to gather evidence elements.
- Providing information and evidences: submitting original documents and records or certified copies thereof.
- Seizing, freezing and confiscating crime proceeds and money.

- Presenting or bringing witnesses or experts or others including prisoners who accept to assist in the investigation or participate in the procedures.
- Transferring the criminal procedures, if necessary, for the proper process of justice.

661. **Providing timely, effective and constructive assistance:** The evaluation team was not able to evaluate the efficiency of timely legal assistance; however, the representative of the Ministry of Foreign Affairs and the Legal Authorities stated that MLA requests procedures pass through the diplomatic channels in both ways, which indicates that they might take time to be accomplished. But it is worth mentioning that in case the MLA request was directly submitted to the notifying party, the competent authority answers the MLA request as addressed.

662. **Absence of unreasonable, inappropriate or unduly restrictive conditions on MLA:** The above mentioned agreements did not include any complicated provisions that would hinder the compliance with the requested MLA principle. As for the Dual Criminality condition, it was not expressly mentioned in the existing related agreements with regard to the acceptance of the request. However, the condition stipulated in the majority of the agreements concerning the non-contradiction of the required procedure with the Internal Regulations casts doubts on whether it includes the Dual Criminality or not. On the other hand, there is nothing that prevents the acceptance of the assistance request related to a criminal offence called differently in the Lebanese Law. This matter allows some flexibility in dealing with the MLA request without emphasizing on the names given to different types of crimes, which may differ between one country and the other, knowing that the important point resides in the crime's elements not the name. The assistance is deemed acceptable even if a conviction ruling was not given, since the request is answered regardless of the investigation stages of the case requiring assistance.

663. **Provision of assistance regardless of possible involvement in financial matters:** The agreements did not reveal the existence of special conditions that forbid the execution of the assistance requests if the crime is related to financial matters.

664. **Provision of assistance regardless of existence of Secrecy and Confidentiality Laws:** There are no specific texts that discuss the matter with regard to MLA requests, and therefore the matter remains subject to the internal law provisions. Given that the procedure acceptable in Lebanon by the Lebanese jurisdiction remains valid in the MLA request. And knowing that people or institutions allowed using the trade secret principle as an excuse cannot be obliged to violate this principle except within the conditions stipulated by Law. For example, article 258 of the Criminal Procedure Law stipulates that "Whoever is bound by the trade secret shall not to be forced to testify in case his testimony would reveal secrets that were confided to him. If the witness objected based on the trade secret principle, and his objection raised a conflict on his allegation, the court rules the conflict by virtue of the Law regulating the person's profession and job nature". In addition, there are legislative texts mentioned in Law 318 regarding the banking secrecy and decisions to lift it on suspicious transactions that were previously detailed, and which occur based on information and requests incoming from abroad.

665. **Availability of powers of competent authorities and availability of required powers of competent authorities:** Under the agreements signed between Lebanon and other countries, all kinds of MLA requests can be offered, including any required judicial procedure such as hearing witnesses, inspecting locations, obtaining documents, seizing, consulting and having recourse to experts, along with other procedures as long as they do not contradict with the provisions of the local law.

666. **Competency:** There are texts in the second chapter of the Lebanese Sanctions Law (articles 15 to 23) specifying the powers of the Lebanese government in terms of pursuing defendants, since the regional, personal, comprehensive and self powers were all identified. In all cases, and with regard to

suing defendants wanted in more than one country, the matter remains subject to extradition agreements signed between Lebanon and other countries.

Recommendation 37:

667. **General Description:** All Lebanese laws did not expressly include clear texts that govern the MLA or the rogatory letters by virtue of which Competent Authorities in a certain country ask their counterpart in another country to execute a given procedure with regard to the investigation procedures in a given pending case. This provision is applicable with the exception of what was expressly stated in this regard in Law No. 673 of March 16, 1998 related to Narcotic Drugs and Psychotropic Substances crimes. The provisions of the aforementioned Law are limited to the MLA related to Narcotic Drugs and Psychotropic Substances crimes and do not cover other types of crimes.

668. With regard to bilateral agreements on the Judicial Subrogation, we note that the Lebanese Republic signed many agreements in this regard with several Arab countries covering few matters that may be a subject for mutual judicial rogatory letters. We mention the following:

669. **Judicial Agreement signed between Lebanon and the Syrian Arab Republic** on February 25, 195; It covered in chapter 4 the judicial rogatory letter issue allowing the launching of any legal proceedings pertaining to any case with regards to matters that proved or denied the same in both countries by means of Judicial rogatory letter. The competent judicial authorities in each of both countries are in charge of executing the rogatory letter according to the legal procedures adopted by the country where the execution is required. The MLA request is denied if the required procedure is not allowed by law of the latter; then the requesting government is informed of this matter while stating the rejection reasons, and is also informed of any reason that might obstruct the rogatory letter execution as if the execution was impossible; the judicial procedure which occurred by means of the judicial rogatory letter has the same legal effect that it would have had if executed before the competent authority in the requesting country.

670. **Judicial agreement signed between Lebanon and the Hashemite Kingdom of Jordan** on April 6, 1954; It covers in addition to extradition, the judicial rogatory letter and therefore governed its regulations. These regulations do not differ from the regulations stipulated in the judicial agreement signed with the Syrian Arab Republic.

671. **The Agreement signed between Lebanon and Tunisia on December 30, 1968** was comprehensive and included what was mentioned in its title “MLA, Judgments Execution and Extradition of criminals”, and according to these provisions:

- Documents and judicial and non-judicial papers pertaining to the civil, commercial and penal articles addressed to people residing in one of the contracting countries shall be reported via the Ministries of Foreign Affairs and within the regular diplomatic channels.
- Judicial rogatory letters between the two countries shall be referred through the judicial authorities via the Ministries of Foreign Affairs and within the regular diplomatic channels.
- The country requested to execute may refuse the execution of the subrogation if it requires the application of a procedure that contradicts with its internal law or threatens the country’s sovereignty or security or public order.
- Witnesses to be heard in the requesting country may be forced to testify in the mandatory ways stipulated in the laws of the countries requesting the execution in case they refused to answer the call out. As for the travelling expenses, they shall be lent by the consular authorities of the requesting country to the witness. (The cooperation between the two countries in terms of the witness presence covers arrested

people given that they are brought to the requesting country provided that they are sent back within a short period of time).

672. Judicial agreement signed between Lebanon and the Arab Republic of Egypt on November 5, 1998: This agreement governed the provisions related to the mutual judicial rogatory letters between the two countries, considering it is one of the aspects of judicial cooperation between them. The rogatory letters requests are directly sent between the Ministries of Justice in the two countries. These regulations do not differ from the texts of other agreements. Article 15 thereof stipulates that the MLA requests can only be refused in the following cases:

1. If the execution does not fall within the scope of competencies of the judicial authority in the country to which the request is addressed.
2. If the execution threatens the country's sovereignty and security or public order.
3. If the request is related to a crime considered by the requested country as a political crime or a related crime.

673. As for the bilateral agreements signed between Lebanon and some of the West countries: Among these agreements, there is the agreement signed with Belgium regarding the extradition, and that included several topics among which the judicial rogatory letters and the agreements signed with Italy, England, Yugoslavia, Cyprus, Turkey and Bulgaria. These agreements do not differ from the previous ones and we only mention that the texts of the agreement with Belgium stipulate that if deemed necessary or useful, during the examination of a penal non political case, to hear people residing in one of the two countries or to conduct any investigation, a subrogation is to be sent to this effect via the diplomatic channels and it is to be executed on the territories of one of the countries subject to the laws of the country to which the request is addressed. However, subrogation aiming at inspecting a house or seizing criminal tools or proving documents shall not be executed unless if related to crimes covered by the agreement while preserving the rights of others with good faith, who are not concerned with the prosecution in question in the subrogation. As for the agreement signed with Italy, it provides for the rejection of the judicial subrogation request if it threatens the country's security or public order or when the request does not fall within the scope of competencies of the judicial authority. With regard to the agreement signed with Bulgaria, it detailed the different regulations, in the form and content, of the MLA request between the two countries and stipulated the scope of such assistance to cover: reporting of documents, transfer of documents and objects, appearance of residing people on the territory of the country to which the request is addressed, appearance of people on the territory of requesting country, attendance of arrested people on the territory of requesting party, transfer of ruling documents and criminal records data, exchange of legal information including laws and jurisprudence at the request of either party. It is worth adding as well the principle of International Cooperation by which the Lebanese government abides and the Principle of Reciprocity between Lebanon and all the countries requesting legal assistance.

674. After examining the most important parts of the agreements that Lebanon signed in the field of judicial cooperation, it is essential to mention the non-existence of any legal or practical obstruction in the country which might preclude offering the assistance. The Lebanese authorities stated that Lebanon does not emphasize on the small technical differences such as the difference in the crimes classification or used terminology and therefore does not refuse any MLA request submitted by any country that calls the "money laundering" crime in a way different than the one adopted by the Lebanese legislator. The importance is to focus on the elements of the crime that are usually unified in their general context within the different regulations except some details related to the constitution of legal elements from conditions accompanying the act or introducing it along with other matters that differ from one country to the other; and therefore affects the strictness of the sanction but cannot be considered as an obstacle to refusing the MLA request.

675. **Dual criminality and mutual assistance:** With regard to the dual criminality condition and the extent of non fulfillment of the legal assistance request, the Lebanese authorities stated that all the texts and agreements that Lebanon signed or adhered to, are either related to specific crimes and therefore the MLA requests are addressed in this regard, or they are comprehensive without referring to any specific type of crimes nor to the dual criminality issue, but rather referred to the rejection of the MLA request in case it contradicts with the provisions of the internal law or the Lebanese general regulation which paves the way for many explanations. However, the evaluation team finds that the criminalization of any act is considered part of the public order; in case of non criminalization of the MLA request in Lebanon, it is considered as contradictory with the public order, which may hinder the reply to the assistance request. However, the Lebanese authorities stated that they are positively cooperating with all the requests incoming from abroad regardless whether their subject is related to acts punishable by the Lebanese law or not.

Recommendation 38

676. **General Description:** Article 8 of the AML Law stipulated that the SIC, and after conducting required investigations, issues a final ruling whether to temporarily release the frozen account if it did not consider that the money's source is illegitimate or to lift banking secrecy on the suspicious account and leave it as frozen. In the last case, the Commission sends a copy of its decision to the foreign party that provided the information in a direct way or through the source which transferred the request to it. This is in addition to the contents of the bilateral and multilateral agreements, since article 19 of the Arab Convention for Combating Terrorism stipulates that if it was decided to deliver the wanted person, any of the contracting countries shall seize and submit the property and proceeds of the terrorist crime or proceeds used therein or related thereto, to the requesting country whether the property and proceeds were found in the possession of the wanted person or with others. The above mentioned assets shall be submitted even in case of failure to deliver the wanted person due to his evasion, death or for any other reason after verifying that they are related to the terrorist crime. The two previous clauses shall prevail without prejudice to the rights of any of the contracting countries or of the bona fide parties with regard to the mentioned property or proceeds.

677. Article 20 of this agreement added that the country requested to submit the things and proceeds must take all required preventive measures and procedures to execute its commitment of delivery, and may also temporarily keep these things or belongings if they are needed for certain penal procedures to be taken or to submit them to the requesting country provided that it can redeem them for the same reason.

678. Regardless of the SIC powers with regard to the study of MLA requests submitted by foreign countries, and deciding whether to freeze an account or lift the banking secrecy if the seriousness of the request's elements were established, and regardless of the provisions of the Narcotic Drugs and Psychotropic Substances Law, there are no laws and appropriate procedures for fast and efficient response to the MLA requests submitted by foreign countries and that are related to the identification, freezing, seizure or confiscation of laundered property resulting from FT crimes or other predicate offences leading to FT crimes, and their proceeds and tools used or were intended to be used for the same, as well as assets with corresponding value.

679. There are no clear arrangements to coordinate the seizure and confiscation procedures between Lebanon and the other countries; Lebanon did not consider the possibility of establishing a fund for the confiscated assets where all confiscated assets or part thereof are deposited in order to be used for Law Enforcement agencies' purposes or health care or education or for other appropriate purposes.

680. **Sharing of confiscated assets:** The Lebanese authorities informed the Evaluation Team that they did not consider the issue of a license to share confiscated assets between them and other countries in case

the confiscation resulted in a direct or indirect way from coordinated procedures in law enforcement since the criminal property and proceeds are being confiscated to the benefit of the treasury.

681. **SR. V:** The specific texts stipulated in the Arab Convention for Combating Terrorism allow, in the field of CFT, the execution of judicial subrogation requests between Arab Countries in all the matters related to terrorism, terrorists and terrorist organizations. In addition to the provisions of the aforementioned bilateral agreements regarding the measures to be taken to execute the MLA requests and the mechanisms adopted in this concern. The authorities stated that information is practically exchanged between the competent body at the SIC and the foreign concerned parties with regard to all things related to the accounts of persons suspected to be related to FT classified under the predicate offences of ML.

682. It is worth mentioning that the measures taken by the SIC in this regard remain valid as long as the FT crime is considered as a predicate ML offence; however, these procedures are not applied to FT crimes. It is noticed that the procedures of MLA requests in case of a FT crime are not stipulated in a clear way, especially since Lebanon has not yet signed or adhered to the UN International Convention for the Suppression of the Financing of Terrorism of 1999. And therefore, the general regulations applied to the MLA requests related to other crimes shall prevail.

683. The Lebanese authorities received 11 MLA requests related to ML cases, and stated that all incoming MLA requests are being answered by the Lebanese Authorities that deal in a positive and fast way with such requests. All mentioned requests were answered as quickly as possible depending on the nature of each.

6.3.2 Recommendations and Comments

684. The Lebanese authorities are recommended to:

- Find appropriate laws and procedures to quickly and efficiently respond to MLA requests submitted to them by foreign countries and that are related to defining, freezing or confiscating laundered property or property intended to be laundered, and ML proceeds and assets used or intended to be used in FT crimes along with the tools used to commit these crimes, and to confiscate property of corresponding value.
- Need to offer legal assistance in a timely manner.
- Clear ambiguity with regards to not imposing the dual criminality as a condition in MLA requests.
- Find clear arrangements to coordinate the seizure and confiscation procedures between Lebanon and other countries.
- Consider the possibility of establishing a fund for the confiscated assets where all the confiscated assets or part thereof are kept in order to be used for law enforcement purposes or for health care or education or other appropriate purposes.
- Consider the issue of licensing to share confiscated property between Lebanon and other countries in case the confiscation resulted in a direct or indirect way from coordinated procedures for law enforcement since the criminal property and proceeds are being confiscated to the benefit of the treasury.

6.3.3 Compliance with R.36 to 38 and SR. V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.36	LC	<ul style="list-style-type: none"> • Absence of appropriate laws and procedures to quickly and efficiently respond to the MLA requests submitted by

		<p>foreign countries and which are related to defining or freezing or confiscating laundered property or property intended to be laundered, and the ML proceeds and assets used or intended to be used in financing terrorism, along with tools used to committing these crimes, and to confiscate property of corresponding value.</p> <ul style="list-style-type: none"> • The Evaluation Team could not examine the efficiency of providing legal assistance in a timely manner.
R.37	LC	<ul style="list-style-type: none"> • Existence of ambiguity with regard to the need for dual criminality in MLA requests.
R.38	LC	<ul style="list-style-type: none"> • Inexistence of clear arrangements to coordinate the seizure and confiscation procedures between Lebanon and other countries. • Not considering the possibility of establishing a fund for the confiscated assets where all the confiscated assets or part thereof are kept in order to be used for law enforcement purposes or for health care or education or other appropriate purposes. • The issue of a license to share confiscated property between Lebanon and other countries in case the confiscation resulted in a direct or indirect way from coordinated procedures in law enforcement since the criminal property and proceeds are being confiscated to the benefit of the treasury was not considered. • The insufficiency of the ML criminalization may affect the compliance level.
SR.V	PC	<ul style="list-style-type: none"> • All the above mentioned factors. • The insufficiency of the ML criminalization may affect the compliance level.

6-4 Extradition (R.37, 39 & SR.V)

6.4.1 Description and Analysis

Recommendation 39

685. **General Description:** The measures and procedures applied in Lebanon with regard to extradition are taken under the provisions of the Sanctions Law or the bilateral agreements, if any, between Lebanon and the country requesting the extradition or on the basis of the Principle of Reciprocity. The Lebanese Sanctions Law specified special provisions (articles 30 to 36) about extradition stipulating the conditions of acceptance or refusal of extradition and relevant norms and measures adopted. These regulations are applied based on the Principle of Reciprocity in the context of international cooperation, when there are no conventions or agreements between Lebanon and the country requesting the extradition. In fact there are many bilateral agreements signed between Lebanon and many Arab and foreign countries that cover Extradition, not to forget the multilateral conventions to which Lebanon adhered and where the extradition issue is covered in the provisions and especially the Arab Convention for Combating Terrorism ratified by Lebanon according to Law No. 57 of March 31, 1999. These conventions regulate criminals' extradition in terms of objective extradition conditions or procedures to be respected. These regulations are detailed in comprehensive agreements related to the judicial cooperation in general or

specific agreements related to extradition between the two contracting parties. Below is a list of the most important bilateral agreements signed in this regard:

- Judicial agreement signed between Lebanon and the Hashemite Kingdom of Jordan and ratified by law dated 6/4/1945 (including 15 articles governing the criminals' extradition and related procedures).
- Judicial agreement between Lebanon and the Syrian Arab Republic dated February 25, 1950.
- Judicial agreement between Lebanon and the Republic of Yemen regarding Extradition ratified by law of 24/01/1950.
- Convention about Extradition signed between Lebanon and the State of Kuwait ratified by law applied under decree No. 15743 dated March 13, 1964.
- Judicial agreement signed between Lebanon and Tunisia regarding the exchange of judicial cooperation and the Extradition ratified by virtue of Law No. 38/68 issued on December 30, 1968.
- Extradition agreement signed between Lebanon and Iraq since 1929.
- Extradition agreement signed between Lebanon and Bulgaria under Law No. 468 issued on 12/12/2002.

686. Extradition conditions under the Lebanese Law: Article 31 of the Lebanese Sanctions Law allows the extradition when crimes for which the extradition is requested is committed on the territory of the state requesting the extradition, or in case the committed crime threatens its security or financial position, or is committed by one of its nationals. Articles 32 & 33 of the Sanctions Law describe the cases of rejecting extradition requests that can be summarized as follows:

- The country does not extradite the person that can be put on trial according to the regional powers (i.e. excluding the crimes committed on the Lebanese territory) and self powers (i.e. excluding the crimes committed by a Lebanese or a foreigner or a person with no identity outside the Lebanese territory or on a foreign plane or ship, or crimes that violate the country's security or consist in falsifying its seal, currency, bank bonds, passports, identity cards or Lebanese Civil Status records) and the personal powers (excluding Lebanese nationals committing crimes or offences abroad).
- The State does not extradite its nationals.
- No extradition is allowed in political crimes.
- The State does not extradite a person who was already been extradited in the Country requesting the extradition.
- No extradition unless in cases of felonies and misdemeanors.
- No extradition except in cases of important crimes.
- No extradition in case of non suit or extinctive prescription.
- No extradition in case of issuance of a final ruling in Lebanon.
- No extradition in case the sanction contradicts with the Lebanese Society Regulation.

687. Dual Criminality related to criminals' extradition: In Lebanon, the dual criminality is a condition to Extradition. It was previously stated that the provision of requested legal assistance or the extradition is subject to the conditions stipulated in the general law with regard to the extradition, or bilateral or multilateral agreements, or the Principle of Reciprocity. Under the bilateral agreements signed between Lebanon and many countries, the dual criminality is a condition for Extradition and Redemption requests.

688. Money laundering as an extraditable offence: There is no special text in the Lebanese Law that provides for rules about the extradition of people who committed ML crimes, and therefore the general regulations stipulated in the Sanctions Law are to be applied; in case there was no agreement about Extradition between Lebanon and the requesting country, the agreements provisions, if any, are to be applied as the case may be or according to the Principle of Reciprocity and the Principle of International Cooperation. In brief, criminals committing ML crimes and requested to be extradited are subject, in terms of extradition requests, to the same conditions applied to criminals that committed any other type of

crimes unless there is a specific agreement between Lebanon and another country on ML crime in particular. It is essential to mention that ML crime does not cover all required predicate offences, which affects the state's capacity to offer international cooperation in this field.

689. **Extradition of nationals:** Lebanon does not extradite its nationals but rather put them on trial under personal powers stipulated in Article 20 of the Sanctions Law that stipulates that “the Lebanese Law shall be applied to every Lebanese, committing, instigating or interfering in a crime or an offence committed outside the Lebanese territories, which is punishable by the Lebanese law.”. Therefore, the Lebanese Republic is committed in this regard to the principle of “Extradite or put on trial”. And based on the comprehensive powers provided for in article 23 of the Lebanese Sanctions Law, “the Lebanese law shall also be applied to every foreigner or person with no identity residing or found in Lebanon, who committed abroad or participated or instigated or interfered in a crime or an offence if the redemption was not requested or accepted”.

690. In addition, the Lebanese Republic does not extradite any person, even foreigner, who committed outside the Lebanese territory a crime violating the country's security or falsifying its seal, currency, bank bonds, passports, visas, identity cards or Lebanese Civil Status records and other crimes provided for in article 19 of the Sanctions Law under the title of self powers considering that these crimes target the state itself and its interests. Based on the foregoing, we state that the Lebanese Republic abides by the principle of “Extradite” or “Put on trial” whether for nationals, foreigners or persons with no identity arrested in Lebanon and having committed criminal acts outside the country among which the ML crime, in case there was no extradition request for them or in case the extradition request was denied for a given legal reason, and the same applies to every foreigner or person with no nationality who committed outside the Lebanese territory one of the crimes stipulated in article 19 mentioned previously.

691. **Extradition rules:** Usually, Extradition requests are sent to the Ministry of Justice via the diplomatic channels. Wanted persons can be extradited based on any bill of indictment issued by the requesting country specifying the crime attributed to them and all the required data; therefore, there is no need to pass a judgment against them until they are extradited, and not to forget the legal conditions imposed to accept the extradition request. In application of Decree 112 issued on November 10, 1983, when submitting an extradition request to the Lebanese government, the request is transferred to the Public Prosecutor of the Court of Cassation who directly investigates the existence or absence of legal conditions and the accusation's validity after duly interrogating the person to be extradited, then transfers the file to the Minister of Justice along with his report. Then, the extradition request is resolved under a decree issued by the Lebanese Council of Ministers at the proposal of the Minister of Justice. Following the issue of the decree stating the approval or rejection of the request, the requesting state is informed of the decision taken.

692. The Lebanese authorities stated that the procedures usually adopted take place without delay knowing that this issue depends on the extent to which the country requesting the extradition responds and sends the extradition file especially after arresting the wanted person. They also stated that differences about the name of the crime or its category are not an obstacle in this field as to responding to the request since the legal name of a crime can differ from one country to another, which is the case most of the time, but the essential point resides in the factors of the crime for which help or extradition are required regardless of its name.

693. **Additional element:** The Law does not refer to any simplified procedures related to the extradition of people who accept to disregard the official extradition procedures. This matter is also related to the agreements held between Lebanon and the contracting countries in this field since some of the agreements might include an explicit text about this matter. We mention in this regard for example, and without limitation, that the agreements signed with Syria and Jordan about extradition of criminals stipulated that

“if the arrested person admits that he is the person prosecuted and that he is guilty of the charges attributed to him, and if the competent authority deems that this is a crime where extradition is allowed according to the provisions of this law, and if the wanted accepts to be extradited without a request file sent by the requesting country, the competent authorities may issue an extradition order”.

694. The same rules and principles apply to the Extradition procedures for ML/FT crimes since there is no specific text that discusses the extradition issue in such cases. Therefore, it is essential to refer to the General Sanctions Law, or otherwise to the agreement, if any, or to the Principle of Reciprocity and Principle of International Cooperation within the scope of the prevailing principles according to the provisions of internal law.

695. However, it is worth mentioning that the financing of terrorism definition did not detail what the financing act should include with regard to **saving or collecting** money as mentioned in Article 2 of the Convention for the Suppression of the Financing of Terrorism; also the FT crime context does not include **the use of funds by a terrorist**, but was only limited to the financing of terrorism or terrorist acts or terrorist organizations. In addition, there is no reference to the term of funds and therefore there is no definition or reference to the fact that these funds could be from a licit or an illicit source, which might affect the international cooperation in this field.

696. There are no statistics related to extradition of criminals since the Lebanese authorities stated that there are no cases related to ML/TF.

6.4.2 Recommendations and Comments

6.4.3 Compliance with R.37 & 39 and SR.V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.39	LC	<ul style="list-style-type: none"> • Not criminalizing the ML act adequately may affect the compliance rating.
R.37	LC	<ul style="list-style-type: none"> • The factors mentioned previously affect the compliance rating
SR.V	PC	<ul style="list-style-type: none"> • Not criminalizing the ML act adequately may affect the compliance rating.

6-5 Other Forms of International Co-Operation (R.40)

6.5.1 Description and Analysis

697. In addition to the bilateral agreements that provide a wide scope for offering mutual assistance on the information requested including the judicial subrogation, and in addition to the multilateral international agreements that Lebanon adhered to such as the Convention against Transnational Organized Crime, and based upon the Principle of Reciprocity, the judicial subrogation is executed between Lebanon as a country requested to offer assistance and the country requesting such assistance. In general, the adopted manner starts by addressing the request via diplomatic channels (Ministry of Foreign Affairs) to the Ministry of Justice, which forwards the request with annexed documents to the Public Prosecution with the Court of Cassation that handles in its turn the transfer of the request to the competent judicial authority responsible for executing the subrogation such as the examining magistrate or members of the

judicial police according to the case detailed in the request and the authority that issued the request in the requesting country.

698. Cooperation of the law enforcement authorities - General Directorate of the Internal Security Forces: Cooperation with foreign countries takes place via the Interpol - International Relations Department, and in coordination with the Public Prosecution of the Court of Cassation, and through the International Relations Department at the Directorate General of the Internal Security Forces and through the Council of Arab Ministers of Interior. The Information Affairs Bureau at the General Security Directorate exchanges information directly with counterparts.

699. Customs: Clause 5 of Article 361 of the Customs Law (Reference No. 7); Article 381 of the Customs Law (Reference No. 18), Law No. 474 – Euro-Med Convention- Partnership between the Lebanese Republic and the European Union and its member states (Reference No. 9). However, there is no practical exchange of information between the Customs and its counterparts in other countries.

700. Cooperation of the FIU: The Commission exchanges information with all the FIUs that are part of the Egmont Group through the FIU Financial Investigative Administrative Unit, pursuant to Article 10 of Law No. 318/2001 which stipulates that: “The commission shall appoint a central unit, called the Financial Investigative Administrative Unit, in charge of collecting financial information; it shall consider it the good reference and official centre to detect, collect and keep information about ML crimes and exchange information with foreign counterparts”.

701. There are also between the Banking Control Commission and several supervisory authorities in the world memoranda of understanding that are in line with Basel Core Principles for Effective Banking Control. The supervisory authorities with whom the Lebanese authorities signed memoranda of understanding are: FSA in England, Commission Bancaire in France, Central Bank of Cyprus and Qatar Regulatory Agency.

702. Competent authorities are following up the cooperation at the international level with counterparts to offer assistance; but this is obstructed by the practical reality of getting information from the local competent authorities due to the existence of procedures and infiltration to correspondences.

703. The bilateral agreements between Lebanon and other countries that tackle the judicial cooperation among them specify the mechanisms and procedures to be followed in order to get the required assistance. In addition, Law No. 318, as previously mentioned about the SIC powers, gives the president of the Commission or his delegated member the authority to contact all the Lebanese and foreign authorities (legal, administrative, financial and security) in order to request information or examine the details of investigations conducted for matters related to investigations conducted by the Commission, and binds the competent Lebanese authorities to immediately answer any request of information. This procedure provides the SIC with the required information related to current investigations conducted based upon the information on suspicious transactions received from foreign sources.

704. It is worth highlighting the efficient role of the International Relations Department at the Directorate General of the Internal Security Forces in terms of information exchange and prosecution of internationally wanted criminals under the supervision of the competent public prosecution. The exchange of information with all foreign and Arab member states of the Interpol is conducted by the International Relations Department at the Staff upon the request of the competent public prosecution.

705. Cooperation is currently occurring between the SIC and its counterparts abroad, whether through the Egmont Secure Web or through memoranda of understanding, or based on the Principle of Reciprocity.

706. As for the cooperation with the Interpol, it is currently taking place between the Special Investigation Unit through the Public Prosecution. As for the memoranda of understanding signed between the Banking Control Commission and other parties, they mainly stipulate the following:

- Main Control Interests between the two countries and exchange of information in this regard.
- Cooperation before taking correctional measures about financial institutions.
- Periodical meetings between the representatives of the supervisory authorities in both countries to discuss the news and latest developments.
- Exchange of information related to banking secrecy, ML and TF based upon the laws in force.
- Exchange of information and recommendations on whether the banking institution wishes to practice its profession in the other country.
- Possibility to send on-site teams to perform a field study on the financial institutions operating in the other country.
- Secrecy of the information exchanged and using the same only for banking purposes with prior approval of the other party.
- Enhancing cooperation through the exchange of expertise, training and qualification.

707. The exchange of information usually takes place based upon the request of competent authorities or without a request; information is sent to be used by the recipient country when there is some kind of a link between the information and such country, so it benefits from its content and becomes aware of potential people that might enter its territories or about criminal proceeds which might be brought into or through its region. The Internal Security Forces also provide required information through investigation conducted by the Financial Crimes and Money Laundering Repression Bureau, following the approval of competent jurisdiction. The SIC currently exchanges information at the request of the Foreign Financial Reporting Units and automatically based upon the requests submitted by these units.

708. In addition to the SIC powers in this field under the provisions of Law No. 318 as previously referred to, the Lebanese judicial authorities are allowed to execute the judicial subrogation received by the foreign authorities and that might include the request of hearing witnesses, or interrogating suspected people and other forms of requested and executed assistance, according to bilateral agreements, if any, or based on the Principle of Reciprocity and the International Cooperation. This is in addition to the investigations conducted by the competent security authorities under the supervision of the competent Public Prosecutions for prosecuting criminals wanted at the international level, the names of whom are circulated and who are prosecuted based upon the letters sent against them by the Interpol, so they are arrested when found and the requesting party is being informed of the arrest and extradition is made according to the legal procedures. This procedure does not only cover people but also assets considered as criminal proceeds in order to prepare for their seizure and confiscation. In addition, the Special Investigation Commission conducts financial investigations on behalf of counterpart authorities; it is allowed according to article 9 of Law 318 to contact the Lebanese authorities (judicial, administrative, financial and security) in order to request information or peruse details of investigations which have been conducted regarding matters related or connected to SIC investigations.

709. Research in the databases owned by the Financial Reporting Unit, including the search for reports related to suspicious transactions: The Commission developed the SIERS database where it entered all suspicious cases reported by the banking and the financial sector as well as other Lebanese and foreign authorities; the documents related to such cases are computerized.

710. There are rules and procedures stipulated in AML law No. 318 in Lebanon regarding the powers of the Special Investigation Unit in terms of conducting necessary investigations if the information about the suspicious financial transactions is made available; the information received by the SIC from its foreign counterparts. Article 10 of the Law provides for the establishment of a central entity at the Commission

called the “Administrative Unit for gathering and keeping information related to ML crimes and exchanging the same with counterpart foreign bodies”, i.e. with the Financial Intelligence Units (FIU's) abroad.

711. The competent security authorities prosecute, under the supervision of the competent Public Prosecutions, the criminals wanted at the international level, the names of whom are circulated based upon the letters sent against them by the Interpol, so they are arrested when found and the requesting party is being informed of the arrest for the duly extradition. This procedure does not only cover people but also assets considered as criminal proceeds in order to prepare for their seizure and confiscation.

712. Law No. 318 did not include complicated conditions about the exchange of information between the SIC and its counterparts; not to forget the information that can be exchanged with the International Relations Department at the Directorate General of Internal Security Forces, which does not abide by any unjustified conditions; however, all such matters remain limited to the scope of the local rules in force since the content of request may not contradict with the provisions of the internal law. The SIC exchanges information with its foreign counterparts without setting any inappropriate or restrictive conditions. The cooperation is done in a legal way according to the laws in force internally, the bilateral and international agreements, the Principle of reciprocity and exchange of information or the assistance in the financial issues, and is not rejected by the competent Lebanese authorities.

713. By virtue of article 7 of Law 318, “Concerned parties referred to in Articles 4 & 5 of this law must immediately notify the Commission about the details of transactions suspected to be related to money laundering. Appointed auditors operating at the Banking Control Commission are obliged to notify the Commission via the president of the committee about the suspicious transactions that they become aware of while fulfilling their duties and that they suspect of being related to ML cases. Therefore, any suspicious transaction is not excluded from the scope of required assistance and cooperation requests, after the SIC’s investigation is conducted and the decision is taken on whether to lift the banking secrecy on its account or not.

714. The Special Investigation Commission and its related bodies should observe the obligation of secrecy; such obligation shall be imposed as well on any ML suspected case reported by any institution. This obligation is required from any natural or legal person and the secrecy also covers the documents related to the investigation and related procedures at all stages as it was stated in Article 11 of Law No. 318. Anyone who contradicts this rule shall be punished according to the sanction stipulated in Article 13 of the Law mentioned above; by reference to the general rules related to the activities of the judicial body, the obligation of investigation secrecy is imposed on the competent jurisdiction.

715. Article 226 of Law No. 17 of September 6, 1990 (governing the Internal Security Forces) stipulated that: “The Internal Security Forces are bound to abide by the trade secret in terms of all the information received in the context of their duty. They may not report this information to anyone except the competent authorities allowed to peruse the same. They may not as well reveal the identity of the informant to any reference or authority unless the informant itself allowed them to”. The Commission exchanges information with foreign parties in such a way allowing the appropriate use of the information, and defines one additional condition consisting in not allowing the foreign parties to use and circulate the information provided by the SIC without referring to it. In addition, the IT and Security Unit took special internal measures to protect the information and the privacy. Article 19 of the internal law of the SIC states that: “Employees from different categories and positions must abide by Article 151 of the Code of Money and Credit stipulating that: “every person related to the Central Bank of Lebanon shall abide by the secrecy condition by virtue of the law of September 3, 1956...”

716. It is allowed to exchange information under the supervision of the competent judicial authority through the International Relations Department by means of the Interpol, where many requests are received for information about wanted people, their place, police records or criminal proceeds that might be in Lebanon or that were introduced to it, without specifying the authority requesting such information in the requesting country, except stating that it came through the Interpol.

717. Pursuant to Article 9 of Law No. 318 “The president of the Commission or the delegated member may communicate with all the foreign or Lebanese authorities (legal, administrative, financial and security) in order to request information or peruse the details of investigations conducted about matters related to investigations conducted by the Commission. The Lebanese authorities shall immediately answer any request of information. And therefore, the Special Investigation Commission in Lebanon may obtain the information from any other authority in Lebanon as mentioned above with regard to investigations conducted based on information of suspicious transactions sent by its foreign counterparts.

718. **Statistics:** The Lebanese Authorities stated that the Banking Control Commission received 3 assistance requests during the years 2002-2008 from foreign AML/CFT supervisory authorities. The received requests were transferred to the SIC and the sending party was informed of the same. Numbers of requests addressed by the SIC to its foreign counterparts were as follows:

Year	No. of requests
2002	3
2003	27
2004	7
2005	114
2006	25
2007	32
2008	119
Total	327

6.5.2 Recommendations & Comments:

719. **The Lebanese authorities are recommended to:**

- Enhance the agreements and memorandum of understanding concluded by the General Directorate of Customs with regard to exchange of information and coordination.

6.5.3 Compliance with R.40

	Rating	Summary of factors relevant to s.6.5 underlying overall rating
R.40	LC	<ul style="list-style-type: none"> • Not enhancing the agreements and memorandum of understanding concluded by the General Directorate of Customs with regard to the exchange of information.

7. Other Issues

7-1 Resources and Statistics

	Rating	Summary of factors relevant to Recommendations 30 and 32 underlying overall rating
R.30	PC	<ul style="list-style-type: none"> • Inadequate human and technical resources for the Financial Crimes and Money Laundering Repression Bureau and Drugs Repression Bureau. • Not providing the AML and Anti-Drugs Unit at the General Directorate of Customs with sufficient human and technical resources to be able to efficiently perform its job. • Insufficient AML/CFT training for the concerned security entities. • Not providing an ongoing training program for the employees.
R.32	PC	<p>No statistics related to the following were provided:</p> <ul style="list-style-type: none"> • Reports submitted about cross-border transportation of currency and bearer negotiable instruments within the scope of SR IX • Investigations, actions and conviction judgments in TF • Number of cases and the value of frozen, seized and confiscated assets related to proceeds of crime • All mutual legal assistance and extradition requests (including requests relating to freezing, seizing and confiscation) that are made or received, relating to ML, predicate offences and TF including the nature of the request, whether it was executed or refused, and the time required to respond, except for the legal assistance requests in terms of money laundering. • Details on the official requests for assistance made or received by the supervisory authorities and related to or including ML/FT, including whether the request was executed or refused;

TABLES

Table 1: Ratings of Compliance with FATF Recommendations

Table 2: Recommended Action Plan to improve the AML/CFT system

Table 3: Authorities' Response to the Evaluation (if necessary)

Table 1: Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC), or could, in exceptional cases, be marked as not applicable (NA).

Forty Recommendations	Rating	Summary of factors underlying rating¹⁷
Legal systems		
1. ML offence	PC	<ul style="list-style-type: none"> • Absence of a definition for the assets. • Inability of the authorities to practically prove that it is not necessary for the conviction to exist in the predicate crime in order to prove that the funds are illicit. • The predicate offences do not include all the 20 crimes according to the methodology. • Not criminalizing the ML attempt. • Few number of judgments for the cases received, which may affect the estimation of the efficiency's extent.
2. ML offence – mental element and corporate liability	LC	<ul style="list-style-type: none"> • It is difficult to judge the efficiency of the sanctions if the team did not obtain a copy of the judgments rendered
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • The authorities could not prove the efficiency of the confiscation system, particularly with no statistics provided.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	LC	<ul style="list-style-type: none"> • The exchange of information accompanying the local transfers is subject to conditions that could limit the compliance with Special Recommendation VII.
5. Customer due diligence in the verification of customer identity	PC	<ul style="list-style-type: none"> • Absence of a text that binds banks to provide records on the holders of numbered accounts to the compliance officer in a systematic way, without

¹⁷ These factors are only required to be set out when the rating is less than Compliant.

		<p>subjugating him to procedures that might restrict him from perusing such records.</p> <ul style="list-style-type: none"> • Absence of a main or secondary legislation that binds compliance with CDD measures with regard to occasional wire transfers as required by the methodology. • High threshold for the application of due diligence measures regarding life insurance premiums. • Ambiguity concerning linking the obligation of customer identity verification to the transaction when it exceeds USD 10,000 (for institutions not covered by banking secrecy). • Absence of an obligation, by virtue of a primary or secondary legislation, that binds financial intermediaries, finance lease, insurance and exchange companies to : <ul style="list-style-type: none"> – Apply the due diligence measures in the following cases: <ul style="list-style-type: none"> ○ Occasional transactions, exceeding the designated threshold, when such transactions are conducted in one transaction or many transactions that seem to be linked to each other. ○ The execution of occasional transactions in the form of wire transfers, in those cases covered by Special Recommendation VII (for exchange companies). ○ When there is any doubt about the occurrence of a money laundering or terrorism financing operation, regardless of any exemptions or thresholds specified in any other text of FATF recommendations. ○ When there is any doubt regarding the extent to which the information previously obtained about the identity verification is accurate or sufficient. – Verify if any person who pretends to be acting on behalf of another person is authorized to do so, and verify his identity. – Verify if the customer is acting on behalf of another person and take reasonable measures to obtain sufficient information for the verification of such other person identity.
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		<ul style="list-style-type: none"> • Absence of an obligation to apply ongoing due diligence measures in business relationships (financial intermediaries, insurance, and finance lease companies), and not taking the CDD measures on a continuous basis for the business relationships on risk basis (for banks and credit institutions). • Absence of an obligation to verify the legal status of the legal person or legal arrangement, and to obtain information about the name of the customer, pertinent trustees (trust funds), legal status (legal person), and the provisions that govern the binding authority of the legal person or legal arrangement (financial intermediaries, finance lease, insurance and exchange companies). • Absence of an obligation to update the information and data of the identity (insurance companies, exchange companies, finance lease, financial intermediaries). • Absence of provisions that bind insurance, financial intermediaries and finance lease companies to apply the due diligence conditions in order to identify the existing customers, from the date on which Law 318 becomes effective. • Absence of an obligation to determine the directors of legal persons (banks and credit institutions). • Absence of an obligation to obtain sufficient information from a reliable independent source to determine the beneficial owner when dealing does not occur by virtue of a power of attorney (banks and credit institutions). • Absence of provisions that impose understanding the ownership and control structure over the customer, especially that the existence of legal texts authorizing the issue of bearer shares restricts the transparency of the companies' ownership structure (for all sectors). • Absence of an obligation to determine the natural person having a certain ownership or full control over the customer (for all sectors). • Absence of an express obligation to obtain information about the purpose and nature of the business relationship (for all sectors). • Absence of provisions that compels to apply enhanced due diligence measures on higher risk customers or business relationships (for all sectors). • Absence of the obligation that restricts opening accounts or establishing business relationships or
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		<p>executing transactions, when due diligence measures cannot be applied satisfactorily to customers and beneficial owners and consider reporting any suspicious transactions on such basis (all sectors).</p> <ul style="list-style-type: none"> • Not binding banks and credit institutions to close the account when unable to identify satisfactorily the customers with whom the business relationship was established, while linking the reporting obligation with the existence of confirmation or doubts that the transactions is hiding money laundering, in addition to the absence of specific provisions for the remaining FI's.
6. Politically exposed persons (PEPs)	NC	<ul style="list-style-type: none"> • Absence of obligation to establish appropriate rules for the risk management in order to know if the prospect client, the customer, or the beneficial owner is a politically exposed person.
7. Correspondent banking	NC	<ul style="list-style-type: none"> • Absence of obligations related to the procedures of cross-border correspondent banking relationships
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> • Absence of the obligation to establish policies or take sufficient measures to avoid the misuse of technological developments for money laundering or terrorism financing (all sectors). • Absence of policies and procedures for dealing with any specific risks related to the business relationships or non face-to-face transactions (financial intermediaries, finance lease, insurance and exchange companies).
9. Third parties and introducers	PC	<ul style="list-style-type: none"> • Absence of provisions that specify the conditions to be met by third parties abroad, those that can be adopted to fulfill due diligence measures when identifying non-resident customers. • Absence of express provisions that bind banks and credit institutions to take necessary measures to obtain, upon request, due diligence related information and copies of the identification documents from the third party. • Absence of express provisions stipulating that the banks and credit institutions relying on a third party to identify customers, should bear the responsibility for such verification • Absence of a regulation that warns institutions against countries that did not adopt FATF recommendations.
10. Record keeping	C	
11. Unusual transactions	LC	<ul style="list-style-type: none"> • Absence of an obligation to detect unusual operations regarding financial intermediaries, finance lease,

		<p>insurance and exchange companies.</p> <ul style="list-style-type: none"> • Absence of an express text that imposes keeping records for unusual transactions for a period of 5 years (banks and credit institutions).
12. DNFBPs – R.5, 6, 8 to 11	NC	<ul style="list-style-type: none"> • Not all DNFBPs covered by Law abide by the obligations defined in R. 5; and absence of obligations pertaining to the requirements of R 6, 8 & 11. • Limited efficiency of the legal obligations defined due to the absence of an administrative authority that has powers to impose sanctions in case of violating such obligations. • Lawyers, accountants & Casino du Liban are not subject to the jurisdiction of Law No. 318.
13.Suspicious transaction reporting	PC	<ul style="list-style-type: none"> • The definition of illicit funds did not include the proceeds of all twenty predicate offenses stipulated in the recommendations. • There is no express text in law about reporting in case there are any doubts or other reasonable grounds to suspect that the funds <u>are used</u> for terrorism or terrorism acts or by terrorism organizations or those who finance terrorism. • There is no obligation to report any attempts of suspicious transactions, regardless of the value thereof. • Reporting is concentrated in the banking sector, which restricts the efficiency of the regulation.
14. Protection & no tipping-off	LC	<ul style="list-style-type: none"> • The legal protection against the penal and civil liability does not cover all such institutions subject to Law 318, when disclosing the information or reporting any suspicions to the Commission.
15.Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> • Not binding <u>all</u> financial institutions subject to the law to the following (excluding banks and credit institutions). <ul style="list-style-type: none"> – Establishing AML/CFT internal policies, procedures and controls, – Making appropriate arrangements for managing the compliance and making sure of the application of the fighting standards. – Establishing an independent audit function to examine the compliance. – Appointing an officer in charge of controlling the compliance with AML/CFT criteria (as a minimum) (compliance officer) who shall

		<p>have the right to peruse in a timely manner the customers' identity information and other due diligence information, in addition to the transactions records and other pertinent information.</p> <ul style="list-style-type: none"> – Providing a continuous training program for employees in the fighting field. – Imposing high standards of integrity upon hiring employees.
16. DNFBPs – R.13-15 & 21	NC	<ul style="list-style-type: none"> • Lawyers, notaries & Casino du Liban are not bound by the reporting obligation • Legal protection does not include the DNFBPs covered by the Law, their managers, directors and permanent and temporary employees when reporting with bona fide suspicious transactions. • Not binding DNFBPs to set AML procedures, policies and internal control measures and to pay special attention to business relationships and transactions made with persons from or in countries which do not apply or insufficiently apply FATF Recommendations. • Absence of a competent authority that has the powers to impose sanctions and take appropriate measures in case of violations.
17. Sanctions	PC	<ul style="list-style-type: none"> • Absence of provisions regarding the administrative sanctions in case of violation of Law 318.
18. Shell banks	PC	<ul style="list-style-type: none"> • Not binding the remaining financial institutions, which may have banking relationships with correspondent banks (unlike banks and credit institutions), to verify the identity and activity of their correspondents in order to make sure that they do exist and that they are not shell banks. • Not binding the financial institutions which may have banking relationships with correspondent banks to the obligation of verifying that their correspondents are not dealing with shell banks.
19. Other forms of reporting	C	
20. Other DNFBPs & secure transaction techniques	C	
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • Financial institutions are not bound to take necessary measures regarding business relationships and transactions with persons in or from countries that do

		not apply or insufficiently apply FATF recommendations, and the other requirements of the recommendation.
22.Foreign branches & subsidiaries	PC	<ul style="list-style-type: none"> • Not binding all financial institutions subject to the law to the following: <ul style="list-style-type: none"> – Binding branches and affiliated companies thereof located abroad to apply AML/CFT measures. – Giving special attention to the institutions that have branches abroad, in countries that do not apply or insufficiently apply FATF recommendations. – Adopting the higher standard in AML/CFT criteria when they are different in the mother country of the institutions having branches outside Lebanon. – Not binding financial institutions subject to the law to notify the Commission when the branch or the affiliated company is unable to apply the fighting measures.
23.Regulation, supervision and monitoring	LC	<ul style="list-style-type: none"> • FI's are not subject to regulation in CFT field, and there is no legal authority for pertinent supervision in the aforesaid field • There is no effective control over insurance brokers to ensure their compliance in the AML/CFT field.
24. DNFBPs - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • Absence of legal competency for the commission to monitor Casino du Liban's compliance with the AML/CFT obligations. • Ambiguity of the Commission's role as a competent authority responsible for the regulatory and supervisory AML system regarding <u>lawyers, accountants, notaries and Casino du Liban.</u> • Absence of powers to impose sanctions on the institutions covered by the Law in case of non compliance. • Absence of measures to prevent the criminals or their associates from acquiring substantial or controlling shares or becoming the beneficiaries or handling administrative positions in any casino.
25. Guidelines & Feedback	LC	<ul style="list-style-type: none"> • No circulation of guidelines or guiding principles for all institutions bound by law in applying prevailing AML/CFT requirements. • No circulation of guiding principles that help DNFBPs apply AML & CFT requirements.
Institutional and other measures		

26. The FIU	LC	<ul style="list-style-type: none"> The Commission's competency is legally limited to ML without TF.
27. Law enforcement authorities	LC	<ul style="list-style-type: none"> There is no designated authority responsible for ensuring the performance of the investigation on the TF crimes
28. Powers of competent authorities	C	
29. Supervisors	LC	<ul style="list-style-type: none"> There are no powers to impose administrative sanctions on the institutions that violate the Anti-Money Laundering Law.
30. Resources, integrity and training	PC	<ul style="list-style-type: none"> Inadequate human and technical resources for the Financial Crimes and Money Laundering Repression Bureau and Terrorism Repression Bureau Not providing the AML and Anti-Drugs Unit at the General Directorate for Customs with sufficient human and technical resources to be able to efficiently perform its job. Insufficient AML/CFT training for the concerned security bodies. Not providing an ongoing training program for the employees.
31. National co-operation	LC	<ul style="list-style-type: none"> Absence of any confirmation as to the existence of sufficient cooperation between all the concerned authorities in CFT.
32. Statistics	PC	<ul style="list-style-type: none"> No statistics related to the following were provided: <ul style="list-style-type: none"> Reports submitted about cross-border transportation of currency and bearer negotiable instruments within the scope of SR. IX. Investigations, actions and conviction judgments in FT. Number of cases and the value of frozen, seized and confiscated assets related to proceeds of crime, All mutual legal assistance and extradition requests (including requests related to freezing, seizure and confiscation) that were submitted or received, relating to ML, the predicate offences and FT, including the nature of the request, whether each request was granted or refused, and the time required to respond, excluding the number of ML legal assistance requests Details on public requests for assistance made or received by the supervisory authorities and related to or including ML/FT , including whether the request was granted or refused
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> Not finding a centralized commercial register that includes all data and information related to the companies or through linking the different commercial registers located in other regions outside the capital in such a way to have a comprehensive centralized commercial register. Absence of restrictions and measures that limit the unlawful use of bearer shares in money laundering

		<p>transactions.</p> <ul style="list-style-type: none"> • Not being able to obtain information about the beneficial owners and the controlling shares in the legal persons whose shares are bearer shares.
34. Legal arrangements – beneficial owners	LC	<ul style="list-style-type: none"> • It is not verified yet whether the competent authorities can obtain adequate, accurate and up-to-date information on the beneficial owners and control in fiduciary contracts, in a timely manner.
International Cooperation		
35. Conventions	LC	<ul style="list-style-type: none"> • Failing to adhere and ratify the 1999 UN Convention for the Suppression of the Financing of Terrorism.
36. Mutual legal assistance (MLA)	LC	<ul style="list-style-type: none"> • Absence of appropriate laws and procedures to quickly and efficiently respond to the MLA requests submitted by foreign countries and that are related to defining or freezing or seizing or confiscating laundered assets or intended to be laundered, and the ML proceeds and assets used or intended to be used in financing terrorism, along with means used in the committal of these offences and to confiscating assets of corresponding value. • The Evaluation team could not examine the extent of efficiency of providing legal assistance in a timely manner.
37. Dual criminality	LC	<ul style="list-style-type: none"> • Existence of ambiguity as to the need for dual criminality in assistance requests.
38. MLA on confiscation and freezing	LC	<ul style="list-style-type: none"> • Inexistence of clear arrangements to coordinate the seizure and confiscation procedures between Lebanon and other countries. • Not considering the possibility of establishing a fund for the confiscated assets where all the confiscated assets or part thereof are kept in order to be used for Law Enforcement purposes or for health care or education or other appropriate purposes. • The issue of a license to divide confiscated assets between Lebanon and other countries in case the confiscation resulted in a direct or indirect way from coordinated procedures in law enforcement, since the criminal assets and proceeds are being confiscated to the benefit of the treasury, was not considered. • The insufficiency of the ML criminalization may affect the compliance rating
39. Extradition	LC	<ul style="list-style-type: none"> • Not criminalizing the ML act adequately may affect the rating.
40. Other forms of co-operation	LC	<ul style="list-style-type: none"> • Not activating the work according to the agreements and the memorandum of understanding concluded by the General Directorate for Customs with regard to the exchange of information and coordination.
Nine Special Recommendations		

SR.I Implement instruments	UN	PC	<ul style="list-style-type: none"> • Failing to adhere and approve the 1999 UN Convention for the Suppression of the Financing of Terrorism. • Absence of laws, by-laws or other binding measures to meet the requirements of UNSCR with regard to FT prevention and suppression.
SR.II Criminalize terrorist financing		PC	<ul style="list-style-type: none"> • The financing act is not clearly included in the form of providing or gathering funds. • Restriction of the TF crime to TF or the terrorist acts or the terrorist organizations. • Absence of a definition for the funds and determining that they might be from a licit or an illicit source. • Not implementing the TF crime in the event of financing terrorism or a terrorist act or a terrorist organization outside Lebanon. • Difficulty to estimate the efficiency in the absence of statistics.
SR.III Freeze and confiscate terrorist assets		PC	<ul style="list-style-type: none"> • Absence of a legal system that covers the procedures of freezing the funds and the assets of the people whose names are mentioned pursuant to the SC/RES/1267. • Absence of declared procedures for de-listing, cancellation of the measures of freezing funds or other assets for persons or entities, who or which were de-listed at that time. • Absence of a suitable mechanism that defines the procedures for licensing use of funds or other assets that were frozen by virtue of SC Resolution 1267, which decides that such use is necessary to cover main expenses or to pay specific types of fees or expenses and fees for services or extraordinary expenses. • Absence of effective laws to freeze the terrorist funds or other assets of the persons designated according to the RES 1373.
SR.IV Suspicious transaction reporting		NC	<ul style="list-style-type: none"> • The Law does not include an express text about reporting in case there is any suspicion that the funds will be used for terrorism purposes or terrorism acts or by terrorism organizations or terrorism financiers. • There is no obligation to report any attempts of suspicious transactions.
SR.V International co-operation		PC	<ul style="list-style-type: none"> • Absence of appropriate laws and procedures to quickly and efficiently respond to the MLA requests submitted by foreign countries and which are related to defining or freezing or seizing or confiscating laundered assets or intended to be laundered, and the ML proceeds and assets used or intended to be used in financing terrorism, along with means used to commit these crimes and to confiscate assets of corresponding value. • The Evaluation team could not examine the efficiency of timely legal assistance. • Existence of ambiguity with regard to the dual criminality

		<p>as a condition in MLA requests.</p> <ul style="list-style-type: none"> • Inexistence of clear arrangements to coordinate the seizure and confiscation procedures between Lebanon and other countries. • Not considering the possibility of establishing a fund for the confiscated assets where all the confiscated properties or part thereof are kept in order to be used for Law Enforcement purposes or for health care or education or other appropriate purposes. • The issue of a license to divide confiscated assets between Lebanon and other countries in case the confiscation resulted in a direct or indirect way from coordinated procedures in law enforcement, since the criminal assets and proceeds are being confiscated to the benefit of the treasury, was not considered. • The insufficiency of the TF criminalization may affect the compliance rating.
SR VI AML requirements for money/value transfer services	PC	<ul style="list-style-type: none"> • Absence of provisions that increase the level of compliance of the exchange companies (category A) and e-transfer companies with Recommendations 4 to 11, 13 to 15, and 21 to 23, and SR. VII¹⁸ • Inability to measure the efficiency of imposing sanctions.
SR VII Wire transfer rules	LC	<ul style="list-style-type: none"> • The exchange of information related to local transfers is subject to specific conditions likely to limit the compliance with SR. VII. • Absence of express provisions binding financial intermediaries in the payment chain to retain transfers related information for a period of 5 years, in the cases specified in 7-4-1 of the recommendation, and absence of procedures with respect to exchange companies (category A), that determine the principles for controlling incoming transfers.
SR.VIII Non-profit organisations	NC	<ul style="list-style-type: none"> • Inexistence of efficient supervision by the supervisory authorities. • Inexistence of dissuasive sanctions corresponding to the size of the violations committed by the non-profit organizations. • Lack of awareness of the non-profit organizations, their employees and the supervising bodies and importance of raising awareness through seminars and sessions about the risks of using such organizations for terrorism financing operations. • Absence of a mechanism for immediate exchange of information between all the bodies and competent authorities in the country. • Absence of review of the extent of adequacy of the non-

¹⁸ The evaluation team considers that the risks related to the failure in not fully complying with specific recommendations, particularly R. 5, 6, 7, 8, 9, 13, 15, 21 and 22, where Lebanon obtained whether a “NC” or “PC” rating, is relatively very important and may negatively affect the rating of compliance with SR. VI.

		profit organizations' laws.
SR.IX Cross Border Declaration & Disclosure	NC	<ul style="list-style-type: none"> • Non-adopting one of the declaration or disclosure system. • Absence of dissuasive sanctions in case of false declaration or disclosure or non-declaration or non-disclosure. • Non-issuing instructions regarding TF. • Absence of a legal text that regulates the control over the entry or exit of the funds or the negotiable financial instruments.

Table 2: Recommended Action Plan to Improve AML/CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	No text required
2. Legal System and Related Institutional Measures	
2.1 Criminalization of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> • Define the assets. • Ensure not stipulating conviction in the predicate crime in order to prove that the funds are practically the proceeds of a crime • Expand the scope of the predicate crimes to include: (1) Racketeering; (2) Trafficking in human beings and migrant smuggling; (3) Sexual exploitation, including sexual exploitation of children; (4) Illicit trafficking in stolen and other goods; (5) Corruption and bribery; (6) Counterfeiting and piracy of products; (7) Environmental crimes; (8) Murder, grievous bodily injury; (9) Kidnapping, illegal restraint and hostage-taking ;(10) Smuggling; (11) Piracy; (12) Insider trading and market manipulation. (13) Crimes of forgery, fraud and theft; • Provide for the attempt in AML law.
2.2 Criminalization of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> • Include the financing act in the forms of providing or gathering funds as mentioned in article 2 of the Convention for the Suppression of Terrorism Financing. • Expand the scope of the TF crime to include the use of funds by a terrorist. • Define the funds and determine that they might have proceeded from a licit or an illicit source. • Stipulate the implementation of the TF crime in case of financing terrorism or a terrorist act or a terrorist organization outside Lebanon.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	
2.4 Freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> • Establish a legal system that governs the procedures of freezing funds and assets of the people whose names are mentioned pursuant to the SC/RES/1267. • Establish declared procedures to discuss the requests of de-listing; and cancellation of the measures of freezing funds or other assets for individuals or entities, who or which were de-listed in accordance with international standards, • Find a suitable mechanism that defines the procedures for licensing use of funds or other assets that were frozen by virtue of SC Resolution 1267, which decides that such use is necessary to cover main expenses or to pay specific types of fees or expenses and fees for services or extraordinary expenses.

	<ul style="list-style-type: none"> • Establish effective laws for freezing the terrorist funds or the other assets of the persons designated according to the RES 1373.
2.5 The Financial Intelligence Unit and its functions (R.26)	<ul style="list-style-type: none"> • Grant the Commission legal powers to include its competency in TF crimes.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	<ul style="list-style-type: none"> • Find a designated authority responsible for ensuring that the investigations on the TF crimes are conducted. • Provide the Financial Crimes and Money Laundering Repression Bureau and the Terrorism Repression Bureau with the required human and technical resources. • Increase the training and the sessions regarding ML/TF for the competent security authorities. • Provide the Anti-drugs and Anti-money Laundering Department at the Directorate General for Customs with the sufficient human and technical resources.
2.7 Cross Border Declaration & Disclosure (SR. IX)	<ul style="list-style-type: none"> • Adopt either the declaration or the disclosure system related to the cross-border transportation of currency or bearer negotiable financial instruments, in both directions: entry and exit. • Establish dissuasive sanctions in case of false declaration or disclosure or non-declaration or non-disclosure. • Issue instructions regarding TF. • Establish an effective control on the movement of entry or exit of the funds or the negotiable financial instruments under a legal text that regulates the same. • Promote the exchange of information with counterpart authorities for the Customs authority.
3. Preventive Measures – Financial Institutions	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<p>Recommendation 5</p> <ul style="list-style-type: none"> • Binding banks to enable the compliance officer peruse the files related to holders of numbered accounts in a systematic way without subjugating him to procedures that limit the control execution by virtue of a primary or secondary legislation. • Issuing the obligation to abide by the CDD measures with regard to occasional wire transfers in such a manner that conforms to the methodology by virtue of primary or secondary legislation. • Decreasing the threshold for due diligence measures, when it is related to life insurance premiums, from USD 10,000 to USD 1,000, pursuant to FATF requirements. • Solving the problem in Article 4 of Law 318 by clarifying that the obligation of identity verification on the concerned

	<p>institutions is not related to registering the transactions that exceed the amount of USD 10,000.</p> <ul style="list-style-type: none"> • Establishing obligations by virtue of a primary or secondary legislation, providing for the following: <i>(for financial intermediaries, finance lease, insurance and exchange companies)</i> <ul style="list-style-type: none"> ▪ Applying the due diligence measures upon (1) carrying out occasional transactions above the applicable designated threshold. This also includes cases where the transaction is carried out in a single operation or in several operations that appear to be linked (2) carrying out occasional transactions that are wire transfers in the cases covered by SR VII; (3) there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere under FATF recommendations (4) when there are any doubts about the veracity or adequacy of previously obtained customer identification data. ▪ Verifying that any person purporting to act on behalf of the customer is so authorized, and identifying and verifying the identity of that person; ▪ Verifying if the client is acting on behalf of another person and taking reasonable measures in order to obtain sufficient data to verify the identity of such other person. <p><i>(for financial intermediaries, finance lease and insurance companies)</i></p> <ul style="list-style-type: none"> ▪ Applying the ongoing due diligence measures in business relationships. <p><i>(for banks and credit institutions)</i></p> <ul style="list-style-type: none"> ▪ Applying the ongoing due diligence measures in business relationships on the basis of risks. <ul style="list-style-type: none"> • Including the following obligations in other enforceable means: <i>(for financial intermediaries, finance lease, insurance and exchange companies)</i> <ul style="list-style-type: none"> ▪ Verifying the legal status of the legal person or legal arrangement, and obtain information concerning the customer's name, the names of trustees (for trusts), legal form, address, directors (for legal persons), and provisions regulating the authority binding the legal person or legal arrangement. ▪ Updating the information and data related to the identity on a periodical basis. ▪ Imposing the application of due diligence measures to the existing customers on basis of materiality and risk, and taking necessary due diligence measures towards existing business relationships in the appropriate time, in addition to taking the same measures with those existing customers subject to criterion 5-1 from the date on which Law 318 becomes effective. <p><i>(For banks and credit institutions)</i></p> <ul style="list-style-type: none"> ▪ Obtaining information about the directors of the legal
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	<p>persons.</p> <ul style="list-style-type: none"> ▪ Imposing the requirement to obtain sufficient information obtained from a reliable independent source to identify the beneficial owner when dealing does not occur by virtue of a power of attorney. <p><i>(for all sectors)</i></p> <ul style="list-style-type: none"> ▪ Understanding the ownership and control structure over the customer, and determining the natural persons having a certain ownership or real control over the customer, including the persons who have a total effective control over the legal person or legal arrangement, in addition to specifying the procedures needed for the purpose when shares of the company are bearer shares. ▪ Obtaining information about the purpose and nature of the business relationship. ▪ Taking enhanced due diligence measures with higher risk categories of customers or business relationships or transactions. ▪ Prohibiting the opening of accounts, the establishment of business relationships or the execution of transactions, and considering the possibility of reporting any suspicious transactions, when due diligence procedures cannot be taken. ▪ Terminating the relationship, if ongoing, and considering the possibility of reporting any suspicious transactions, when due diligence procedures cannot be taken. <p>Recommendation 6</p> <ul style="list-style-type: none"> • Requesting all financial institutions to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person. Such rules shall impose the following: <ul style="list-style-type: none"> ▪ Obtaining senior management approval before establishing the business relationship. ▪ Taking reasonable measures to establish the source of wealth of customers and/or beneficial owner. ▪ Conduct enhanced ongoing monitoring on that relationship. <p>Recommendation 7</p> <ul style="list-style-type: none"> • Requesting financial institutions which have cross-border correspondent banking relationships to take the procedures related to such relationships and to PTAs, if the relation with correspondent banks included maintaining such accounts. <p>Recommendation 8</p> <ul style="list-style-type: none"> • Requesting institutions in all sectors: <ul style="list-style-type: none"> ▪ To have policies in place or take such measures, to prevent the misuse of technological developments in money laundering or terrorist financing schemes <ul style="list-style-type: none"> ▪ To establish policies that address any specific risks associated with non-face to face business relationships or transactions. These policies and procedures should apply when establishing customer relationships and when
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	conducting ongoing due diligence.
3.3 Third parties and introduced business (R.9)	<ul style="list-style-type: none"> • Requesting banks and credit institutions to obtain from the third party immediately the necessary information pertaining to the due diligence procedure; taking sufficient measures to satisfy that such third party will submit, upon request and without any delay, copies of the identification information and other relevant documents related to the due diligence requirements. • Providing for the necessity that third parties adopted to identify non-resident customers shall be subject to control and supervision and have applied procedures to meet due diligence requirements in accordance with Recommendations 5 and 10. • Stipulating that banks or credit institutions relying on a third party to identify customers shall be in charge of verifying the identity of the customers. • The competent authorities should provide information which may identify the countries that do not sufficiently apply FATF recommendations, in such a manner to assure the institutions that the third party they are dealing with is subject to the requirements of AML/CFT and to control, and complies with the due diligence procedures towards customers.
3.4 Financial institution secrecy or confidentiality (R.4)	<ul style="list-style-type: none"> • Consider compelling the FIs that execute <u>local</u> transfer transactions to request customer's approval before executing the same; in the absence of such approval, the transaction shall be rejected.
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	<p>Special Recommendation VII</p> <ul style="list-style-type: none"> • Consider binding the FI's that perform local transfers to get the customer's approval before performing such transaction; in the absence thereof, the transaction shall be rejected. • Binding the exchange institutions, category A, to adopt efficient procedures based on risks in order to identify transfers with missing information. • Binding intermediary credit institutions and banks in the payment chain to the obligation of retaining information in an express text in the cases specified in 7-4-1 of the recommendation.
3.6 Monitoring of transactions and relationships (R.11 & 21)	<p>Recommendation 11</p> <ul style="list-style-type: none"> • Binding banks and credit institutions expressly to keep records about unusual transactions for a period of 5 years. • Binding financial intermediaries, finance lease, insurance, and exchange companies to establish rules similar to those decided for banks and credit institutions for the control and detection of unusual transactions. <p>Recommendation 21</p> <ul style="list-style-type: none"> • Financial institutions should be bound to take required measures regarding business relationships and transactions with persons (including legal persons and other financial institutions), from or in the countries that do not apply or insufficiently apply FATF recommendations; also efficient procedures should be established to ensure that the

	<p>aforementioned institutions will be aware of the risks related to weak areas in AML/CFT regimes in other countries; and if such transactions do not have any apparent economic or legal purpose, and the remaining requirements of Recommendation 21.</p>
<p>3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)</p>	<ul style="list-style-type: none"> • Enlarging the scope of illicit funds definition to include the proceeds of funds of the 20 predicate offences (Refer to Section 2-1). • Binding the institutions covered by the reporting obligation, pursuant to Article 7 of Law 318, to submit a report of suspicious transactions, regarding any funds that have reasonable grounds to suspect that they are used for terrorist purposes or terrorist activities or by terrorist organizations or terrorism financiers. • Binding the financial institutions to abide by the reporting obligation upon suspecting any attempts of executing suspicious transactions, regardless of the amount of the transaction. • Increasing the awareness of the institutions covered by the reporting obligation about the cases to be reported, and the way of identifying suspicious transactions, providing institutions with sufficient conviction about fighting money laundering and terrorism financing and the importance thereof, while increasing the awareness of the risks likely to be faced by the financial institutions as a result of non reporting suspicious transactions. • The legal protection from the penal and civil liability should cover all such institutions subject to the law, their permanent and temporary directors, senior officers and employees, in case of violation of any disclosure condition imposed by contracts or any legislative, regulatory or administrative texts, when reporting any suspicions to the Special Investigation Commission. • The Commission should ensure circulating and informing the institutions subject to Law 318 about money laundering indicators.
<p>3.8 Internal controls, compliance, audit and foreign branches (R.15, 22)</p>	<ul style="list-style-type: none"> • Exchange companies, financial intermediaries, insurance, finance lease companies and collective investment authorities (if existing), shall be bound by other enforceable means, subject to the activities size in such institutions: <ul style="list-style-type: none"> - Establishing internal policies, procedures, and controls, for fighting money laundering and the finance of terrorism, that cover, inter alia, due diligence procedures, record keeping, detection of unusual and suspicious transactions and reporting thereof. - Making appropriate arrangements for managing the compliance and applying AML/CFT standards. - Establishing an independent audit function to examine the compliance. - Appointing an officer in charge of controlling the compliance with AML/CFT criteria (as a minimum) (compliance officer) who shall have the right to peruse in a timely manner the customers' identity data and other due

	<p>diligence information, in addition to the transactions records and other pertinent information.</p> <ul style="list-style-type: none"> - Providing an ongoing training program for employees. - Imposing high standards of integrity when hiring employees. <ul style="list-style-type: none"> • Financial institutions subject to the law should be all obliged by virtue of other enforceable means, with the following while taking into consideration the size of the activities in such institutions: <ul style="list-style-type: none"> - Binding branches and affiliated companies thereof located abroad to apply AML/CFT measures, and giving special attention to the institutions that have branches abroad, in countries that do not apply or insufficiently apply FATF recommendations. • Adopting the highest standard in AML/CFT criteria, when such standards are different in the mother country for the institutions having branches abroad, and notifying the Commission when the branch or the affiliated company is unable to apply the fighting measures. Notifying the Commission when the branch or the affiliated company is unable to execute AML/CFT measures.
3.9 Shell banks (R.18)	<ul style="list-style-type: none"> • Binding all financial institutions, that may have banking relationships with correspondent banks, to the following: <ul style="list-style-type: none"> – Verifying the identity and activity of their correspondents to make sure that they exist and that they are not shell banks. – Ensuring that their correspondents are not dealing with shell banks.
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 32 & 25)	<ul style="list-style-type: none"> • Having the FI's subject to regulation in CFT field, and to monitoring on legal basis. • Having an effective control over insurance brokers to ensure their compliance in the AML/CFT field. • Absence of administrative sanctions for institutions in case of violation of Law 318. • The Commission should circulate the guiding principles to help the financial institutions subject to the reporting obligation apply the prevailing requirements of AML/CFT. • The supervisory authorities shall have sufficient powers to impose the application of the standards and sanctions on the financial institutions, related directors, or pertinent senior management, in case of non-compliance or improper execution of AML/CFT requirements, in compliance with FATF recommendations.
3.11 Money value transfer services (SR.VI)	<ul style="list-style-type: none"> • To establish provisions that may increase the level of compliance of exchange companies (category A) and e-transfer companies with Recommendations 4 to 11, 13 to 15,

	and 21 to 23, and SR. VII.
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> • Necessary measures must be taken to force the DNFBPs covered by Law to abide by all obligations pertaining to AML/CFT stipulated in R. 5, 6, 8 & 11. • An administrative authority or another authority shall be set to professionals covered by Law No. 318; it shall have the powers to impose administrative or disciplinary sanctions when obligations pertaining to AML/CFT are violated. • Measures shall be taken to include lawyers, accountants and Casino du Liban within the scope of jurisdiction of Law No. 318.
4.2 Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> • Law No. 318 shall cover the lawyers, accountants, notaries public and Casino du Liban and force them to report suspicious transactions. • The legal protection shall cover DNFBPs covered by law, their managers, directors and permanent and temporary employees when reporting suspicious transactions and breaching any restriction listed in any legislative, regulatory or administrative text stipulating the disclosure of information or the reporting of suspicions in good faith. • To oblige DNFBPs establish AML procedures, policies and internal control measures and pay special attention to business relationships and transactions with persons from or in countries which do not apply or insufficiently apply FATF Recommendations while taking into consideration the size and potential of these institutions. • To find a competent authority having the powers to impose sanctions on real estate marketing and construction companies and on dealers in goods of high value; these are institutions that do not need a license from a specific party; the existence of a commercial register is enough for them to practice such types of activities; it is not clear how administrative sanctions can be imposed on the companies when violating the Law.
4.3 Regulation, supervision and monitoring (R.24 to25)	<ul style="list-style-type: none"> • With regard to supervising AML, Law No. 318 did not bind Casino du Liban to abide by its provisions; however the SIC is monitoring the same, it is not clear which supervisory authority the SIC owns to control the Casino. The Casino should be covered by Law No. 318 and the Commission should have the legal competency to monitor its compliance with AML obligations. • The Commission’s role should be clearly set with regard to its powers in regulating, supervising and imposing AML-related sanctions with respect to all DNFBPs in case of non-compliance. When this monitoring role is absent, the SROs and the syndicates should have the powers to monitor and supervise the compliance with AML measures whereas there are no other supervisory authorities that are currently fulfilling

	<p>this role for the institutions not covered by Law, such as the accountants, notaries and Casino. In addition, the absence of a license for the real-estate agents, and the dealers in precious metals and stones preclude the possibility to calculate and count them and thus, meticulously monitor them.</p> <ul style="list-style-type: none"> • Since the shares (controlling shares) of the Lebanese Joint-Stock Company owning Casino du Liban are bearer shares, the authorities should take measures to prevent criminals or their associates from owning substantial or control shares or becoming the beneficial owners of these shares, and prevent them from occupying any of the managerial position in any casino or whoever is operating the same. • A study to reveal the compliance level of DNFBPs with AML Laws and the adequacy of the monitoring systems with the risks of these DNFBPs should be performed. • The competent authorities should circulate guidelines that help DNFBPs implement the applicable AML obligations.
4.4 Other non-financial businesses and professions (R.20)	
5. Legal Persons and Legal Arrangements & Non- Profit Organizations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> • The need to find a centralized commercial register that includes all data and information related to the companies or to link the different commercial registers located in other regions outside the capital in such a way to have a comprehensive centralized commercial register. • Find controls and measures that limit the unlawful use of bearer shares in ML transactions. • The necessity to obtain information about the beneficial owners and the controlling shares in the legal persons, where shares are bearer shares.
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	<ul style="list-style-type: none"> • To verify that the competent authorities have timely access to adequate, accurate and up-to-date information about the beneficial owners and control in the fiduciary contracts.
5.3 Non-profit organizations (SR.VIII)	<ul style="list-style-type: none"> • Activate the supervisory role of the supervisors • Find dissuasive sanctions corresponding to the volume of the violations committed by non-profit organizations. • Increase and enhance the awareness of NPO's and their employees and the supervisory bodies through seminars and sessions about the risks of exploitation of such organizations for terrorism financing operations. • Find a mechanism for immediate exchange of information between all the bodies and competent authorities in the country.

	<ul style="list-style-type: none"> • Review the adequacy of the non-profit organizations' related laws.
6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	<ul style="list-style-type: none"> • Enhance local cooperation and communication among all Competent Authorities in CFT.
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> • Adhere and ratify the 1999 UN Convention for the Suppression of the Financing of Terrorism. • Set laws, by-laws or other binding measures to meet the requirements of the UNSCRs with regard to FT prevention and suppression.
6.3 Mutual Legal Assistance (R.36 to 38 & SR.V, R. 32)	<ul style="list-style-type: none"> • Find appropriate laws and procedures to quickly and efficiently respond to MLA requests submitted to them by foreign countries and that are related to defining, freezing, seizing or confiscating laundered assets or assets intended to be laundered, and ML proceeds and assets used or intended to be used in FT crimes along with the instrumentalities used to commit these crimes, and to confiscate assets of corresponding value. • Need to offer legal assistance in a timely manner. • Clear ambiguity with regard to the non obligation of imposing the dual criminality as a condition in MLA requests. • Find clear arrangements to coordinate the seizure and confiscation procedures between Lebanon and other countries. • Consider the possibility of establishing a fund for the confiscated assets where all the confiscated assets or part thereof are kept in order to be used for Law Enforcement purposes or for health care or education or other appropriate purposes. • Consider the issue of a license to divide confiscated assets between them and other countries in case the confiscation resulted in a direct or indirect way from coordinated procedures for law enforcement since the criminal assets and proceeds are being confiscated to the benefit of the treasury.
6.4 Extradition (R.39, 37 & SR.V)	
6.5 Other Forms of Co-operation (R.40 & SR.V)	<ul style="list-style-type: none"> • The need to activate the agreements and the memorandum of understanding signed by the General Directorate for Customs with regard to the exchange of information and coordination.
7. Other Issues	
7.1 Resources and statistics (R.30 & 32)	
7.2 Other relevant AML/CFT measures or issues	

7.3 General framework structural issues	
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Table 3: Authorities' response to the Evaluation (If necessary)

Relevant sections and paragraphs	Country Comments

Annexes

Annex 1: Details of all bodies met on the on-site mission - Ministries, other government authorities or bodies, private sector representatives and others.

1- The Central Bank of Lebanon <ul style="list-style-type: none"> • Governor of the Central Bank of Lebanon (BDL) 	10- The Ministry of Foreign Affairs
2- The Special Investigation Commission	11- The Banks Association
3- The Banking Control Committee	12- The Syndicate of Jewelry Dealers
4- The National Coordination Committee for AML	13- The Syndicate of Exchangers
5- The National Coordination Committee for CFT	14- The Lebanese Association of Certified Public Accountants
6- The Ministry of Justice <ul style="list-style-type: none"> • The Public Prosecution of Cassation • An investigating judge • A general attorney • The Department of the Commercial Register • The Notaries Supervision Department 	15- The Bar Association
7- The Ministry of Interior <ul style="list-style-type: none"> • The Internal Security Forces • The Anti-Terrorism and Serious Crimes Bureau • The Special Criminal Investigations Division • The Financial Crimes and Money Laundering Repression Bureau • The General Directorate of General Security • Head of the Mutual Administrative Division (Associations) • The Terrorism Repression Bureau • The International Relations Department 	16- Beirut Stock Exchange Committee
8- The Ministry of Finance <ul style="list-style-type: none"> • The Customs • The Directorate of Cadastre and Real Estate 	17- A number of FIs <ul style="list-style-type: none"> • Banks • Credit institutions • Insurance companies • Exchange companies • A leasing company • A money transfer company • A financial intermediary • A company dealing in payment and

	credit tools issuance
9- The Ministry of Economy and Trade <ul style="list-style-type: none"> • The Insurance Control Committee 	18- A sample of DNFBPs <ul style="list-style-type: none"> • A Law office • An audit firm • A notary public • Casino du Liban • A real estate company • A jeweler
	19- An antique and antiques company

Annex 2: Copies of key laws, regulations and other measures

LAW NO. 318 of April 20, 2001

FIGHTING MONEY LAUNDERING

[Extract from the Official Gazette-Number 20-April 26, 2001]

The Parliament has adopted, and

The President of the Republic is promulgating

Article 1

Under the provisions of this Law, illicit funds are to be understood as any asset resulting from the commission of any of the following offences:

- 1 The growing, manufacturing, or trading of narcotic drugs.
- 2 Acts committed by associations of wrongdoers, that are specified by Articles 335 and 336 of the Penal Code, and internationally identified as organized crimes.
- 3 Terrorist acts, as specified in Articles 314, 315 and 316 of the Penal Code.
- 4 The financing or contribution to the financing of terrorism, terrorist acts, or terrorist organizations, in accordance with the concept of terrorism as specified by the Lebanese Penal Code.
- 5 Illegal arm trade.
- 6 The offences of theft or embezzlement of public or private funds or their appropriation by fraudulent means, counterfeiting, or breach of trust, affecting banks, financial institutions, and institutions listed in Article 4 of this Law, or occurring within the scope of their activities.
- 7 The counterfeiting of money, credit cards, debit cards or charge cards, or any official document or commercial paper, including checks.

Article 2

Money laundering is any act committed with the purpose of:

- 1 Concealing the real source of illicit funds, or giving, by any means, a false justification about the said source.
- 2 Transferring or substituting funds known to be illegal for the purpose of concealing or disguising their source, or helping a person involved in the offence to dodge responsibility.
- 3 Acquiring or holding illicit funds, using or investing such funds in purchasing movable or immovable assets, or in carrying out financial operations, while being aware of the illicit nature of these funds.

Article 3

Any person who undertakes money-laundering operations, or intervenes or participates in such operations, shall be punishable by imprisonment for a period of three to seven years, and by a fine of no less than twenty million Lebanese pounds.

Article 4

Institutions not subjected to the provisions of the Banking Secrecy Law of September 3, 1956, including individual institutions, notably exchange institutions, financial intermediation institutions, leasing companies, collective investment schemes, insurance companies, companies promoting, building and selling real estate, and merchants of valuables (jewelry, precious stones, gold, works of art, antiques), must keep special records for operations that exceed the amount determined by the Banque du Liban in the regulations to be set out under Article 5 of this Law.

They must also ascertain, through official documents, the identity and address of each client, and must keep, for a period of no less than five years, photocopies of these documents, as well as photocopies of the operation-related documents.

Article 5

Institutions subjected to the provisions of the Banking Secrecy Law of September 3, 1956 must control their operations with clients, in order to avoid being involved in operations that might conceal the laundering of funds resulting from any of the offences specified by this Law.

Within one month from the enforcement of this Law, the Banque du Liban shall establish and publish regulations setting out the rules of such control and including, as a minimum, the following obligations:

- a. To ascertain the true identity of banks and financial institutions ‘permanent clients and to determine that of the economic right owner when operations are carried out through proxies, through figureheads acting for individuals, institutions or companies, or through numbered accounts.
- b. To apply the same identity verification process to transient clients, when the value of the requested operation or series of operations exceeds a specified amount.
- c. To keep, at least for a five-year period after completing the operations or closing the accounts, photocopies of all operation-related documents, as well as photocopies of official documents relating to the identity of all parties concerned with such operations.
- d. To set up indicators revealing the existence of money-laundering operations, as well as the principles of due diligence, in order to detect suspicious operations.
- e. The commitment of banks and financial institutions to refrain from delivering incorrect statements that aim at misleading administrative or judicial authorities.

f-The verification by banks and financial institutions ‘auditors of the compliance of these institutions with the regulations to be set out under this Article, and the reporting of any violation to the Governor of the Banque du Liban.

Article 6

1 An independent, legal entity with judicial status shall be established at the Banque du Liban, and shall discharge its duties without being under the authority of the Banque du Liban. Its mandate is to investigate money-laundering operations, and to monitor compliance with the rules and procedures stipulated by this Law. It will be named “*the Special Investigation Commission*”, hereafter “*the Commission*”.

2 *The Special Investigation Commission* shall consist of:

-The Governor of the Banque du Liban or, in case of impediment, one of the Vice-Governors designated by him

Chairman

-The President of the Banking Control Commission or, in case of impediment, a member of this Commission designated by him. **Member**

-The judge appointed to the Higher Banking Commission or, in case of impediment, the alternate judge appointed by the Higher Judicial Council for a period equal to the term of the initially appointed judge. **Member**

-A member and his/her alternate appointed by the Council of Ministers upon proposal of the Governor of the Banque du Liban.

3- ***The Special Investigation Commission*** shall appoint a full-time Secretary, who shall be responsible for the tasks assigned to him by ***the Commission***, for implementing its decisions and for directly supervising a special body of auditors designated by ***the Commission*** for the purpose of controlling and verifying on a continuous basis the implementation of the obligations mentioned in this Law. And the provisions of the Banking Secrecy Law of September 3, 1956 shall be opposed to none of them.

4-The mission of ***the Special Investigation Commission*** is to investigate operations that are suspected to be money-laundering offences, and to decide on the seriousness of evidence and circumstantial evidence related to any such offence or offences.

It is the exclusive right of ***the Commission*** to decide the lifting of the banking secrecy in favor of the competent judicial authorities and the Higher Banking Commission represented by its Chairman, on accounts opened with banks or financial institutions and suspected to have been used for money-laundering purposes.

5- ***The Commission*** meets, upon its Chairman's convening, at least twice a month and when needed. The legal quorum requires the presence of three members at least.

6- ***The Commission*** shall take its decisions at a majority of the attending members. In case of a tie, the Chairman shall have a deciding vote.

7- ***The Commission*** shall establish, within one month from the issuance of this Law, its own functioning rules and the regulations governing its regular and contractual staff who are subjected to private law, notably the obligation of confidentiality.

The expenses of ***the Commission*** and of its ancillary bodies shall be borne by the Banque du Liban within the budget prepared by ***the Commission***, provided it is approved by the Central Council of the Banque du Liban

Article 7

1-The concerned parties referred to in Articles 4 and 5 of this Law must immediately report to ***the Commission*** the details of operations they suspect to be concealing money laundering.

2-The controllers of the Banking Control Commission must, through their Chairman, report to ***the Commission*** any operations they suspect to be concealing money-laundering and which they are aware of while discharging their duties.

Article 8

1 Upon receiving information from the concerned parties mentioned in Article 7, or from official Lebanese or foreign authorities, ***the Commission*** shall convene immediately.

2 After perusing the received information, ***the Commission*** shall, within a period of three working days, take a temporary decision to freeze the suspected account (s) for a one-time renewable period of five days, when the source of funds remains unknown or is suspected to proceed from a money-laundering offence. During the said period, ***the Commission*** shall investigate the suspected account (s) either directly or through a delegated person chosen amongst its members or its concerned officers, or through its Secretary or an appointed auditor. All designated persons shall discharge their duties under the obligation of confidentiality, and the provisions of the Banking Secrecy Law of September 3, 1956 shall be opposed to none of them.

3 After completing its investigations and during the temporary freezing period of the suspected account (s), ***the Commission*** shall take a final decision on whether to free the said account (s) if the source of funds is not found to be illicit, or to lift the banking secrecy regarding the suspected account (s) and maintain the freezing. If, at the end of the period stipulated in Paragraph 2 above, the Commission does not render any decision, the said account (s) shall be automatically deemed free. ***The Commission's decisions*** are not subject to any ordinary or extraordinary form of administrative or judicial review, including review in case of abuse of power.

4 In case of a decision on lifting the banking secrecy, ***the Commission*** shall send a duplicate of its justified final decision to the State Prosecutor of the Supreme Court, the Higher Banking Commission through its Chairman, the concerned party, the concerned bank, and the concerned foreign authority, either directly or through the official party through which the information was provided.

Article 9

The Chairman of ***the Commission*** or any of the members delegated by the Chairman may directly communicate with any Lebanese or foreign authority (judicial administrative, financial, or security authority) in order to request information or know the details of previous investigations that are linked or related to ongoing investigations by ***the Commission***. And the concerned Lebanese authorities must immediately respond to such an information request.

Article 10

The Commission shall establish a central body named ***the Financial Intelligence Administrative Unit***, which will function as the competent authority and the official center for monitoring, collecting and archiving information on money-laundering offences, and for exchanging information with foreign counterparts.

The Financial Intelligence Administrative Unit shall periodically provide ***the Commission*** with all available information on money-laundering offences.

The Commission shall determine the number of the members of this Unit, their functions and

their compensation. It shall take against them disciplinary measures and terminate their employment in case of breach of duty, without precluding the possibility of civil or criminal prosecution.

All these persons shall be submitted to the same obligations as the members of *the Commission*, especially the obligation of confidentiality.

Article 11

Except for *the Commission's* decision to lift banking secrecy, the reporting obligation stipulated by this Law and incumbent upon any natural person or legal entity is absolutely confidential. This absolute confidentiality shall also apply to the documents submitted for reporting, and to the documents related to each stage of the investigation and its procedures.

Article 12

Within the scope of their work under the provisions of this Law, the Chairman and members of *the Commission*, and *the Commission's* staff and delegates, shall enjoy immunity. In consequence, they may not be prosecuted or sued, neither collectively nor individually, for any civil or criminal liability related to the discharging of their duties, including offences specified by the Banking Secrecy Law of September 3, 1956, except in case this secrecy is disclosed.

In discharging their duties under the provisions of this Law, or according to the decisions of *the Commission*, the Bank and its staff shall enjoy the same immunity.

Article 13

Any person who violates the provisions of Articles 4, 5, 7 and 11 of this Law shall be punishable by imprisonment for a period of two months to one year and by a fine not exceeding ten million Lebanese pounds, or by either penalty.

Article 14

The movable or immovable assets that are proved, by a final court ruling, to be related to, or proceeding from, offences listed in Article 1 of this Law, shall be confiscated and forfeited to the State, unless the owners of the said assets prove in court their legal rights thereupon.

Article 15

The reservations specified in Paragraphs 2, 3 and 4 of Article 1 of Law No 426 of May 15, 1995, on authorizing the ratification of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, are repealed, as well as the provisions of Article 132 of Law No 673 of March 16, 1998, on Narcotic Drugs and Psychotropic Substances.

Article 16

Upon entry into force of this Law, any provision that is contrary to, or at variance with the provisions of this Law, especially those specified in the Banking Secrecy Law of September 3, 1956, and those of Law No 673 of March 16, 1998, on Narcotic Drugs and Psychotropic Substances, shall cease to be operative.

Article 17

This Law shall enter into force upon its publication in the Official Gazette.

Babda, April 20, 2001

Signed Emile Lahoud

Promulgated by the President of the Republic, the President of the Council of Ministers
Signed Rafic Hariri

The President of the Council of Ministers

Signed Rafic Hariri

2 - Basic Circular No 83 Addressed to Banks and Financial Institutions

Attached are a copy of Basic Decision*¹ No. 7818 of May 18, 2001, and a copy of the Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering, attached thereto.

Beirut, May 18, 2001 The Governor of the Banque du Liban Riad Toufic Salamé

^{**} Pursuant to the provisions of Article 2 of Intermediary Decision No 8488 of September 17, 2003 (Intermediary Circular No 35), banks and financial institutions must notify this Decision and the attached Regulations to their auditors.

Basic Decision No 7818

Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering

The Governor of the Banque du Liban,

Pursuant to the provisions of Law No. 318 of April 20, 2001, on Fighting Money Laundering, notably the provisions of Article 5 thereof; and Pursuant to the Decision of the Central Council of the Banque du Liban, taken in its meeting of May 16, 2001,

Decides the following:

Article 1:

The attached Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering come hereby into effect.

Article 2:

The following provisions are repealed:

1-Paragraph 2 of Article 1 of Basic Decision No. 6349 of October 24, 1996, attached to Basic Circular No 29 of October 24, 1996 addressed to Banks and Financial Institutions.

2-Decision No 7511 of January 21, 2000, attached to Circular No 1792* of January 21, 2000 addressed to Banks.

Article 3:

This Decision and the attached Regulations shall come into effect upon their issuance.

Article 4:

This Decision and the attached Regulations shall be published in the Official Gazette.

Beirut, May 18, 2001

The Governor of the Banque du Liban

Riad Toufic Salamé

* As in the old numbering system.

Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering

Article 1:

These regulations are set under the provisions of Article 5 of Law No. 318 of April 20, 2001, on Fighting Money Laundering.

Section I-Control on financial operations for fighting money laundering

Article 2:

Banks and financial institutions operating in Lebanon must:

- 1-Ascertain the identity and activities of their correspondents and make sure, when dealing with them for the first time, that they really exist, based on submitted documentary evidence. In particular, they must make sure that the foreign bank with which they deal is not a shell bank.
- 2-Exercise control on their operations with clients to avoid involvement in money laundering operations resulting from any of the offenses specified in Law No. 318 of April 20, 2001 by following, for indicative purposes but not restrictively, the mandatory rules set out in these Regulations.

Section II-Checking the client's identity, determining the economic right owner (the actual beneficiary) of the intended operation

Article 3:

Checking the client's identity:

1-Banks and financial institutions must, as far as each is concerned, **adopt clear procedures for opening new accounts, in particular for determining the economic right owner**. They must also check the identity of all their permanent and transient clients, **whether resident or non-resident**, notably in the following instances:

- The opening of all kinds of accounts, including fiduciary accounts, numbered accounts, and **accounts held by persons who might be the object of suspicion**.
- Lending operations.
- The conclusion of contracts for leasing bank safes.
- Cashier's operations when the amount exceeds US\$ 10,000 or the equivalent in any other currency.

* These Regulations have been replaced through Article 1 of Intermediary Decision No 8488 of September 17, 2003 (Intermediary Circular No 35).

Cashier's operations include cash payments made by the client at the bank's counters (deposit of funds, exchange of currencies, purchase of precious metals, purchase of financial instruments in cash, cash subscription to vouchers at the counter, purchase of traveler's checks in cash, transfer orders paid in cash, etc.).

2-Regardless of the amount involved, the officer in charge of the operation must also check the client's identity when noticing that, on the same account or on multiple accounts of the same person, several operations are being carried out for amounts that are separately **less than** the minimum specified in Par. 1 of this Article but **totaling more than USD 10,000 or the equivalent**. The same identity checking should take place if the client is suspected of trying to make a money-laundering operation.

3-In order to check the client's identity, the officer in charge of the operation must:

1) Request the following documents from the client:

a- In case the client is a natural person: a passport, an identity card, an individual civil registration, or a residence permit.

b- In case the client is a legal entity: duly registered documents regarding its bylaws, its registration certificate, the identity of the person empowered to sign on its behalf, and the identity of its legal representative.

c- In case the operation is effected through an authorized representative (proxy): the original power of attorney or a certified copy thereof, in addition to documents regarding the identity of both the client and the authorized representative.

d- In case the operation is effected by correspondence: an authentication of the client's signature on the same document or separately. The signature's authentication or the verification of the non-resident client's identity may be obtained from a correspondent or affiliated bank, or from a branch or a representative office of the concerned bank, or from another bank whose authorized signatures can be verified.

2) Keep, at least for five years after implementing the operation or closing the account, the full name and residential address of the client, **with information about the professional and financial status** of the said client, together with copies of all documents used in the checking process.

4- A client is meant to be any natural person or legal entity, whether a company or an institution of any kind, or a non-profit organization or association (mutual funds, cooperatives, welfare centers, charitable associations, clubs, etc.).

Article 4:

The bank/financial institution must request from each client a written statement about the identity of the economic right owner (the actual beneficiary) of the intended operation, notably his full name and residential address (the name of the institution, its head office and home country, in case the owner is a legal entity or a company), in addition to **information about his professional and financial status**. The bank/financial institution must keep a copy of this statement if it has doubts that the client is not the economic right owner, or in case the client states that the said owner is a third party, especially when operations are carried out as mentioned in Article 3, **Par. 1 and 2**, of these Regulations.

Article 5:

Doubts about the identity of the economic right owner would arise in the following instances, which are mentioned for indicative purposes but not restrictively:

- a- When a power of attorney is given to a nonprofessional person (who, for instance, is not a lawyer, a fully authorized representative, or a financial intermediate) and when it appears that the relationship to the client does not justify the proxy operation; or when the business relationship is conducted through false names or numbered accounts, or through umbrella institutions or companies.
- b- When the financial status of the client intending to make the operation is known to the officer in charge and the operation's value is disproportionate to the financial status of the said client.
- c- When, through the conduct of business with the client, any other indicator draws the attention of the bank/financial institution.

Article 6:

The bank/financial institution must immediately inform the Governor of the Banque du Liban in his capacity as Chairman of the Special Investigation Commission, established by virtue of Article 6 of Law No. 318 of April 20, 2001, when it holds evidence or has doubts that an operation involves money laundering, especially:

- When it has persistent doubts about the credibility of the written statement submitted by the client regarding the identity of the economic right owner, or when it discovers that false information has been given on the identity of the said owner.
- When it realizes that it was misled in the course of checking the client's or the economic right owner's identity, while having persistent, serious and precise doubts about the information provided by the client.
- When transferred amounts or checks are returned, whether directly or upon the request of concerned parties, particularly correspondent banks, either because of forgery or because of doubts that they involve suspicious operations.**

Article 7:

The bank/financial institution shall periodically check again the identity of the client or re-determine the economic right owner, **including the owners of accounts opened before the publication of Law No 318 on fighting money laundering, in order to modify or add, on the adopted KYC (know your customer) Form, any new information resulting from any changes in the client's status**, especially in case of doubts about the veracity of previously provided information, or when changes have subsequently occurred in the client's or the economic right owner's identity. **Therefore, the bank/financial institution must set up working plans with precise dates, in order to fulfill these obligations.**

Section III-Controlling some operations and clients¹

Article 8:

- 1-The bank/financial institution must enquire from the client about the source and destination of funds, the object of the operation, and the identities of both the beneficiary and the economic right owner, when it finds that the intended operation is:

- a-An **operation** with the specifications mentioned in Article 3, Par. 1 and 2 of these Regulations.
- b-An operation carried out in exceptionally complicated circumstances. In this respect, the bank/financial institution must assess the said circumstances not only in relation to the nature and type of the operation, but also in relation to its apparent goal.
- c-An operation that seems to have no economic rationale or legitimate objective, especially when there is a discrepancy between the operation and the client's professional activity, or even between the operation and the client's habits and personality.

2 The bank/financial institution must immediately inform the Governor of the Banque du Liban in his capacity as chairman of the Special Investigation Commission when, in light of the answers received, it has serious doubts that the operation is an attempt to launder funds resulting from any of the offenses specified by law

Article 9:

Banks/financial institutions must, as far as each is concerned:

A-Give special attention, for indicative purposes but not restrictively, to the following indicators on money laundering:

- 1-The exchange of big amounts of small-denomination bills for large-denomination bills of the same currency or of any other currency.
- 2-The undertaking of large or recurrent foreign exchange operations (cambio), by using cash funds.
- 3-Certain movements in the client's account, such as making large or recurrent deposits reaching a determined ceiling or a huge volume, unjustified by the client's apparent activities.
- 4-The operation of an account for the main purpose of transferring abroad, or receiving from abroad, sizeable amounts of money, while it appears to the officer in charge of such operations that they are not justified by the client's activities.
- 5-The undertaking of large or recurrent operations related to the client's offshore activities considered by the officer in charge of such operations as disproportionate to the volume of the client's activities.
- 6-The replacement of large cash funds by electronic transfer requests or by bank checks.
- 7-A change in the pattern of deposit operations made by a client exempted from filling the cash transaction slip (C.T.S.)
- 8-The undertaking by a client of large cash operations in the form of deposits and withdrawals, with insufficient personal identification.
- 9-The fact of receiving or cashing checks issued abroad to the bearer, or to the order of a person but previously endorsed by persons other than the depositor; or the fact of receiving or cashing checks of different amounts that may be unrelated to commercial transactions or alleged to be gambling gains.
- 10-The occurrence of cash deposits and/or bank transfers followed by direct and numerous withdrawals.
- 11-The holding by the client of numerous accounts unjustified by the nature of his activities, or the undertaking of numerous cash transfers between and through these accounts.
- 12-The occurrence of cash deposits and/or bank transfers, while the client's activities do not generate such a volume of funds.

13-The fact of depositing bank/traveler's checks in the account of a company/institution whose activities do not justify such deposits.

14- The occurrence of cash operations and/or bank transfers that appear unusual, considering the location of the branch.

15- The undertaking of e-banking operations that appear unusual.

b-Monitor the accounts opened and operations carried out by clients, through the units and divisions mentioned in Article 11 of these Regulations, by using specialized software programs for retrieving (daily, weekly, monthly, annual) reports on the accounts and operations to which the above-mentioned indicators apply.

Section IV-Committees and administrative units in charge of the control of operations for fighting money laundering, and their tasks

Article 10:

All banks and financial institutions operating in Lebanon must:

1-Establish a special committee consisting of the Director General, the Risk Director, the Operations Director, the Treasury Director, the Branches Director, and the person in charge of the Unit mentioned in Paragraph 2 below.

2-Establish a unit to ascertain compliance with the laws, regulations and procedures in force, hereafter named "the Compliance Unit".

3-Appoint in each branch of the bank/financial institution an officer responsible for the control of operations.

Article 11:

As far as each is concerned, the committees and administrative units established at the banks and financial institutions, as well as other concerned officials at the bank/financial institution, must comply with the procedures aiming at controlling, fighting and preventing money laundering operations. These procedures are, for indicative purposes but not restrictively, defined as follows:

1-Regarding the Special Committee mentioned in Paragraph 1 of Article 10:

a- To prepare a procedure guide for implementing the provisions of the Law on Fighting Money Laundering and the provisions of these Regulations.

b-To prepare a form for client recognition (KYC: Know Your Customer) and for controlling financial and banking operations to avoid involvement in money laundering operations. This form should include basic information about clients, in particular those specified in Article 3 of these Regulations, for indicative purposes but not restrictively.

c-To ascertain the proper implementation and effectiveness of the procedures and regulations on fighting money laundering operations.

d-To review periodically the above-mentioned procedures and regulations, and to develop them in line with up-to-date methods of fighting money laundering.

e-To prepare a staff training program on the methods of controlling financial and banking operations, in accordance with the control procedure guide, and with other legal and regulatory texts in force.

f-To review the reports submitted by the “Compliance Unit” and the “Internal Audit Unit” on suspicious operations and high-risk accounts, regarding cash deposit and withdrawal operations, transfer operations, and the link between these operations and economic activities.

g-To comment on the reports mentioned in paragraph (f) above, and to submit comments to the Board of Directors.

h-To monitor, when the operation exceeds ten thousand US dollars or its equivalent, the adequacy of exemption procedures whereby some well-known clients are exempted from filling the cash transaction slip, and also to determine the exemption ceiling and to modify it according to developments in the client's economic situation.

2- Regarding the Compliance Unit:

a-To ascertain that concerned officers are complying with the procedure guide on the implementation of legal and regulatory texts for fighting money laundering, and that the KYC forms are properly filled.

b-To review periodically the effectiveness of the procedures and regulations on fighting money laundering, and to propose amendments to the special committee mentioned in Paragraph 1 of Article 10, for taking appropriate decisions with the approval of Management.

c-To review the daily/weekly reports received from the concerned departments and branches about cash operations and fund transfers.

d-To monitor, on a consolidated basis, the client’s accounts and operations (in and off balance sheet) at the Head Office and at all branches in Lebanon and abroad.

e-To investigate suspicious operations, and to prepare periodical (at least, monthly) reports on operations that appear to be involving suspicious operations risks and submit them to the “special committee”.

3- Regarding Internal Audit:

a-To audit cash operations, transfers, and account movements.

b-To ascertain that specialized branches and sections are complying with the procedure guide on the implementation of legal and regulatory texts for fighting money laundering, and that the KYC forms are properly filled.

c-To report discrepancies to the appointed auditor, through periodical reports.

d-To inform the “Compliance Unit” through reports about the internal audit procedures mentioned in paragraphs (a), (b) and (c) above, and about any operation that implies suspicious operation risks.

4-Regarding the Officer responsible for operations control at the branch, either the director of the branch or its operations manager:

a-To ascertain that the branch's employees are complying with the procedure guide on the implementation of legal and regulatory texts for fighting money laundering, and that the KYC forms are properly filled.

b-To control cash operations, transfers, and any other account-related operations, in particular those carried out through ATMs, and all other operations carried out electronically (non face-to-face banking).

c-To inform the Compliance Unit about any suspicious operations and about the extent of compliance by the branch with the required procedures.

5-Regarding the Transfers Section Chief:

- a-To verify transfers credited to clients 'accounts, particularly electronic transfers that do not include the name of the ordering customer, that exceed a specified amount, and do not follow a usual pattern, in view of the nature and size of the client's activities. Also, to verify the accounts from which recurrent or unusual transfers are made, and to ascertain the integrity of these transfers in relation to the veracity of their sources.
- b-To report to the Compliance Unit, through the officer responsible for operations control at the branch, any doubtful transfer that may involve suspicious money laundering operations.

6-Regarding the Cashier:

- a-To require from clients, except from those exempted, to fill and sign a cash transaction slip (CTS), which must include the amount involved, the source and destination of funds, when making a cash deposit exceeding ten thousand US dollars or the equivalent, or when carrying out multiple operations involving lower amounts but totaling more than USD 10,000 or the equivalent.
- b-To prepare special tables for operations that exceed the ceiling specified for clients exempted from filling the cash transaction slip, and to take the necessary technical measures to safeguard these tables, in order to make them available, on request, to internal audit officers or bank auditors, or to the Special Investigation Commission.
- c-To report to the Compliance Unit, through the officer responsible for operations control at the branch, any doubtful cash deposit that may involve money laundering operations.

7-Regarding the Check Section Chief:

- a-To give caution and attention to checks endorsed to a third party and to bank checks that are not deposited by the first beneficiary, as well as to traveler's checks and checks issued by institutions in foreign countries, in addition to those in which the identity of the account holder is not specified.
- b-To report to the Compliance Unit, through the officer responsible for operations control at the branch, any check deemed suspicious.
- c-To make sure that checks are not credited to clients' accounts before being effectively collected from the issuing banks.

8-Regarding the Branch Director:

- a-To perform, when necessary, the functions of the officer responsible for operations control at the branch.
- b-To review account opening operations, to approve the exemption of certain clients from filling cash transaction slips, and to determine the ceilings of exemption, based on relevant criteria. The branch director must also submit the names of exempted clients and the ceilings of exemption to the "special committee" for consideration.
- c-To coordinate with the Credit Director concerning debit accounts, and with the Branches Director concerning credit accounts.
- d-To make personally or to entrust the Branch Accounts Officer with making periodical visits to debtor clients to take cognizance of their business and to prepare reports about creditor and debtor clients when having doubts that movements in their accounts may conceal suspicious money laundering operations, and to submit copies of these reports to the Compliance Unit.

Section V-Final Provisions

Article 12:

Each bank/financial institution must:

- 1-Establish, on money laundering operations, a **computerized** central archive of collected information that would **include, for indicative purposes but not restrictively, the names circulated by the Special Investigation Commission, and those of holders of doubtful accounts reported by the bank/financial institution itself. The latter must also notify the SIC about any account opened subsequently by any of these persons, whether directly, indirectly, or by proxy.**
- 2-Ensure an ongoing training of their staff and the participation of the concerned officers and those responsible for training in relevant seminars, workshops and lectures, so that they may keep abreast of money laundering-fighting methods.
- 3- **Not close any suspicious account before consulting with the SIC.**
- 4- **Keep a special record of persons who open or activate accounts by proxy.**
- 5- **Require, for recruitment, the highest standards of honesty and integrity.**
- 6-**Instruct their staff that, subject to liability, they must refrain from notifying clients when the SIC proceeds to investigate or audit their accounts, until the SIC makes a decision on lifting banking secrecy on the said accounts and notifying the concerned clients.**
- 7-**Inform their branches operating abroad that they must, as a minimum, apply the procedures mentioned in these Regulations, provided they are not incompatible with the laws and rules of the host country.**
- 8- **When enlisting the help of intermediaries such as brokers and introducers, to deal only with those who meet the criteria adopted by banks and financial institutions in dealing with their clients.**

Article 13:

The Auditor of the bank/financial institution must:

- 1-Review the internal audit procedures for ascertaining compliance by the bank/ financial institution with the provisions of the Law and of these Regulations. In this respect, the Auditor shall prepare an annual report to be submitted to the Board of directors of the bank/financial institution, to the Governor of the Banque du Liban, and to the Banking Control Commission. In addition to the audit results and to the auditor's propositions to enhance operation control, the said report must include detailed information about the verification of compliance by the bank/financial institution, as far as each is concerned and as a minimum, with the obligations hereafter mentioned for indicative purposes but not restrictively:
 - a. To comply with the provisions of Articles 3, 4, 6, 7, 10, 11, and 12 of these Regulations.
 - b. To fill the KYC forms.
 - c. To adopt a policy and written procedures concerning the acceptance and opening of new clients' accounts.
 - d. To enquire about the source of received funds and their final destination, and about the reasons of cash operations, as specified in the Law on fighting money laundering and in these Regulations; to set ceilings for cash deposits and withdrawals, and for transfers from abroad

- that must be given due diligence; and to adopt deposit forms that show the source of deposited funds when a deposit or the total of several deposits exceed the specified ceiling.
- e. To prepare periodical reports (every quarter, at least) on the movement of cash deposit and withdrawal operations, and on transfers to clients' accounts. These reports should be reviewed by management officers and by the internal audit unit.
 - f. To include, in the adopted internal audit procedures, specific measures for reviewing compliance with the said procedures.
- 2- To report immediately to the Governor of Banque du Liban, in his capacity as chairman of the aforementioned Special Investigation Commission, any violation of the provisions of these Regulations.

3- Law No. 553 – Adding a new article to the Law of sanctions related to terrorism financing

Official Gazette – Addendum to Issue 48 – 22/10/2003

**Law No. 553
Addition of a new Article
To the Sanctions Law**

**The Parliament has approved,
And The President of Republic publishes the following law:**

Article 1

Shall be added to the Sanctions Law issued on 01/03/1943 the following article 316 – bis:

Article 316 bis:

Terrorism Financing

“Whoever, intentionally and by any means, directly or indirectly, finances or contributes to financing terrorism or terrorist acts or terrorist organizations, shall be punishable by hard labor for at least 3 years and at most 7 years and with a fine for the amount that is not less than the paid up capital and not exceeding 3 times the same”.

Article 2

This law shall come into effect immediately upon its publication in the official Gazette.

Baabda, October 20, 2003

Signed Emile Lahoud

Issued by the President of Republic

The President of the Council of Ministers Signed
Rafic Hariri

Annex No. 3: List of all laws, regulations and other material received

1. Law no. 318 of 2001 about Anti-Money Laundering.
2. Law no. 547, amending Law no. 318 of 2001 about Anti-Money Laundering.
3. Basic Circular no. 83, to which are annexed Basic Resolution no. 7818 of 18/5/2001, the Regulation for AML Financial and Banking Operations Control, and the other circulars issued by Banque du Liban.
4. The circulars and announcements issued by the SIC.
5. The Lebanese Sanctions Law and Law no. 533 regarding the addition of a new Article to the Sanctions Law.
6. The Code of Money and Credit issued by Decree no. 13513 of 1/8/1963.
7. The Lebanese Criminal Procedures Code, Law no. 328 issued on 2/8/2001, amended by Law no. 359 dated 16/8/2001.
8. Law no. 673 dated March 16, 1998 regarding narcotic drugs, psychotropic substances and precursors.
9. The Constitutional Law no. 337 issued on June 8, 1994 – Notaries Public Regulation and Notarial Fees.
10. Circular no. 1/98 addressed to Notaries Public.
11. Law no. 17 – Regulation of the Internal Security Forces.
12. Decree no. 1157 dated 2/5/1991 – ISF structural regulation.
13. Decree no. 1460 issued on July 15, 1991 - Denomination of Divisions and Schedule of Personnel at the ISF.
14. Laws and circulars governing associations' activities.
15. Law issued by Legislative Decree no. 139 of 12/6/1959 – Regulation of the General Directorate of General Security.
16. Decree no. 2873 issued on December 16, 1959 – Regulation and Specification of Powers at the General Directorate of General Security.
17. Resolution of the Council of Ministers no. 105/2007 approving the extension of the National Coordination Committee for AML scope.
18. Resolution of the Council of Ministers no. 106/2007 regarding the establishment of the National Coordination Committee for CFT.
19. Code of Obligations and Contracts issued on March 9, 1932, and pertinent amendments.
20. The Customs Law and other customs related laws.
21. Laws and circulars relevant to Casino du Liban.
22. The Land Trade Law issued by Legislative Decree No. 304 dated December 24, 1942, and pertinent amendments.
23. Law governing the Lawyer's Profession no. 8/70 dated March 11, 1970, and pertinent amendments.
24. Law no. 364 of 1/8/1994 governing the Certified Public Accountants profession.
25. Law governing Insurance Authorities, and relevant amendments, issued by Decree no. 9812 dated 4/5/1968.
26. Law no. 347 dated 6/8/2001 governing the exchange profession.
27. Law no. 234 dated 10/6/2000 governing the financial intermediary profession.
28. Law no. 520 dated 6/6/1996 regarding the development of the financial market and fiduciary contracts.
29. Law no. 133 of 1999, dated 26/10/1999, regarding Central Bank of Lebanon (BDL) duties.

30. Law no. 160 issued on 27/12/1999 regulating finance lease operations.
31. Law no. 575 of February 11, 2004, regarding the establishment of Islamic banks.
32. Law 1956 of 3/9/1956 about banking secrecy.
33. Law no. 28/76, dated 9/5/1967, about the amendment and completion of the banks legislation and the establishment of a mixed institution to guarantee banking deposits.
34. Law no. 680 of 24/8/2005 authorizing the Government to adhere to UN Convention against Transnational Organized Crime.
35. Law no. 426 dated 15/5/1995 authorizing the signature of UN convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1998.
36. Legislative Decree no. 46 of 1983, dated 24/6/1983, regarding the regulation of offshore companies operating outside Lebanon.
37. Legislative Decree no. 45 of 1983, dated 24/6/1983, regarding the regulation of holding companies.
38. Legislative Decree no. 35 of 1967, dated 5/8/1967, addition of a chapter about Limited Liability Companies to the Commercial Law.
39. Circular no. 3/1/E.C issued by the Ministry of Economy and Trade, related to AML procedures in insurance companies and insurance brokers in Lebanon.
40. Law no. 706 dated 9/12/2005, about Collective Investment Authorities dealing in movables and other financial instruments.
41. Law no. 33 of 16/10/2008 regarding the ratification of UN Convention against Corruption.
42. Law no. 32 of 16/10/2008 about the extension of the SIC powers.