

LAW No. 110 OF 7 NOVEMBER 1991
(Reorganisation of the banking sector)
(with its amendments)

The Chamber of Deputies has adopted, The President of the Republic promulgates the law worded as follows:

SOLE ARTICLE

The urgent draft law, referred by Decree No. 624 of 12/10/1990 and pertaining to the reorganisation of the banking, sector as amended by the joint parliamentary commissions, is rendered executory.
The present law shall come into force upon its publication.

Beirut, 7 November 1991

Signed: Elias Hradvi

By the President of the Republic

The President of the Council of Ministers

Signed: Omar Karamah

The Minister of Finance

Signed: Omar Karamah

LAW ENTENDING TO AMEND CERTAIN
PROVISIONS OF THE BANKING LAWS

Article 1:

The amount of the guarantee mentioned in the second paragraph of article (14) of Law No. (28/67) of 9/5/1967 and its amendments, is amended to read five million Lebanese pounds instead of one million Lebanese pounds.

Article 2: (as amended by law No. 365 of 1 August 1994 and law No. 628 of 23 April 1997):

1 - A special court, named "Special Banking Court", shall be created at Beirut. It shall be composed of:

- A magistrate of the second grade or more. President
- Two magistrates of the second grade or more.
- An expert on financial or accounting matters, with
At least ten years' experience, proposed by the Members
Minister of Finance.
- An expert on banking matters, with at least ten years'
Experience, proposed by the Governor of the Bank
Of Lebanon.
- And three surrogate magistrates. President
and two
Members

The president and other magistrates acting as members shall be designated on the proposal of the Minister of Justice after approval by the Higher Council of the Magistracy.

As regards the other members, they are to be designated by decree on the proposal of the Minister of Finance, in case the president or one of the members of the Special Banking Court are prevented from carrying out their duties:

A - One of the surrogate magistrates will replace him.

B - The designation of an expert on financial or accounting matters will be made on the proposal of the Minister of Finance, and the designation of an expert on banking matters will be made on the proposal of the Governor of the Bank of Lebanon.

The experts serving as members shall take their oath before the first president of the Court of Appeal at Beirut, and they are subject during the exercise of their function with this Court to the same obligations as those to which magistrates are subject.

2 - During a period ending on 31 December 1998, the Special Banking Court instituted by the present law may decide, following a justified request emanating from the Governor of the Bank of Lebanon, the seizure of any bank if it appears that this bank is no longer in a position to continue its activities.

In this case, the Governor of the Bank of Lebanon shall not be subjected to article (151) of the Code of Money and Credit concerning information pertaining to the bank, and the credit accounts clients will remain covered by the Law of 3 September 1956.

3 - The Special Banking Court shall meet within a period of three days dating from receipt of the request addressed to it by the Governor of the Bank of Lebanon, and it will summon the president of the board of administration of the bank concerned or its general manager to notify them of the contents of the request and to ask them to put forward their point of view within a period of three days.

4 - If it proves impossible to notify the president of the board of administration of the bank concerned or its general manager, the notification of the bank concerned will be addressed to one of its authorised signatories of the first category, or to its authorised representative.

If it was not possible to notify the above-mentioned persons, the notification will be effected by a notice attached to the door of the bank's headquarters.

If one of the persons to whom the notification is addressed refuses this notification, he will be considered as of right as notified.

5 - If the president of the board of administration of the bank or its general manager or their surrogates do not appear at the planned meeting, the Special Banking Court will decide, either to repeat the summons, or to proceed to an examination of the case in their absence, even if the bank has not transmit its point of view.

6 - The Special Banking Court deals with the matter in the Council Chamber, and it takes its decisions on a majority basis. Its work and its deliberations are secret.

The Special Banking Court renders its judgement on the subject of the seizure within a maximum period of twenty days dating from receipt of the request addressed to it by the Governor of the Bank of Lebanon.

The judgement on seizure shall be urgently executed provisionally and according to the minutes of the judgement, and it shall be published, with the list of names of the persons mentioned in the first paragraph of article (6) of the present law, in the earliest issue of the Official Gazette and two local newspapers.

The decisions of the Special Banking Court are final and irrevocable, and are not open to any channel or recourse ordinary or extraordinary.

7 - The Special Banking Court shall continue its examination of the case which is submitted to it even if the lawsuit pertaining to it extends beyond the date of 31 December 1998.

8 - Once the bank has been brought before the Special Banking Court, the courts will cease to deal with lawsuits which have already commenced or are about to commence in pursuance of provisions of the Law No. (2167) of 16/1/1967.

And to this Court shall be transferred *ipso jure* and by administrative channels, all lawsuits pertaining to the summoned bank, and brought to courts in pursuance of the provisions of law No. (2/67) of 16/1/1967.

Article 3:

The Special Banking Court will set the date of suspension of payment for the banks who are the subject of a decision for under seizure.

Article 4:

The second paragraph of article 31 of Law No. (28/1967) of 9/5/1967 is abrogated and replaced by the following text:

Interest shall no longer be due on debts of banks under seizure or on their commitments, as from the date of the decision for under seizure.

Article 5:

1 - Guarantees which are not entered in the registers of the bank under seizure do not have any legal effect on the bank concerned or its legal substitute.

2 - As an exception to the provisions of paragraph (1), the Court stipulated in article (15) of the present law shall consider the guarantees mentioned in the preceding paragraph as valid if it judges, in virtue of the powers conferred upon it, that they are truthful and sound, and that they are not based on any form of fraud arrangement.

3 - The provisions of the two preceding paragraphs shall apply to the banks considered to be in a state of suspension of payment according to the provisions of Law No. (2/67) of 16/1/1967, if the Bank of Lebanon acquires the assets of these banks in pursuance of article (10) of the present law.

Article 6:

1 - All movable and immovable assets of the president and the members of the board of directors of the bank under seizure, and of all persons authorised to sign for this bank, of former and current supervisory commissioners, who have administered or controlled operations and bank accounts, or who have signed for the bank during the eighteen months preceding the date of suspension of payments, are subject to a conservatory seizure, without the necessity of filing any court action in confirmation of the seizure, with a view to guaranteeing the responsibilities which are incumbent upon them.

2 - The National Institute for the Guarantee of Bank Deposits notifies of the decision for under seizure, with a list of names of persons mentioned, in the first paragraph of the present article to all banks, all departments of the Real Estate Register and of the Trade Register.

3 - All persons mentioned in the first paragraph are considered as having relinquished as of right the advantages deriving from the Law of 3 September 1956 pertaining to banking secrecy, with effect from the time the decision regarding under seizure is issued. All banks and their branches must, within a period of fifteen days dating from the issuing of the decision regarding under seizure in conformity with the provisions of paragraph (6) of article (2) of the present law, submit to the National Institute for the Guarantee of Bank Deposits a statement of assets belonging to these persons and deposited with them, failure to comply with this shall render those in charge in such banks and branches liable to a prison sentence varying from 3 months to 3 years, and a fine of I million to 10 million Lebanese pounds. These assets are considered, as of right, as distrained by those in charge as from the publishing date of the decision for under seizure in the Official Gazette.

4 - Persons mentioned in the first paragraph of the present article must submit to the National Institute for the Guarantee of Bank Deposit a list of all they possess at the present time and what they possessed 18 months before the date set for the suspension of payments, within a period of one month dating from publication of the decision for under seizure, failing which they shall be liable to the sanction stipulated in the preceding paragraph.

5 - By derogation of the provisions of article (870) of the Code of Civil Procedure, and any other text, the seizure stipulated in the present article shall remain in force with all

effects until pronouncement of the final judgement by the competent judicial authority which will give a decision on this seizure.

The persons mentioned in the first paragraph of the present article have the right to request before the competent court, for the lifting or limiting of the seizure, which will take place before the National Institute for the Guarantee of Deposits.

Article 7:

Article 28 of Law No. (28/67) of 9/5/1967, amended by Decree-Law No. (8/1967) of 3/7/1967 and law promulgated by Decree No. (14013) of 16/3/1970, is abrogated and replaced by the following text:

The National Institute for the Guarantee of Bank Deposits shall pay the debts of the bank towards its employees, entirely and on the maturity dates laid down in the employment contracts, it shall furthermore pay the debts of the bank which are guaranteed by real sureties, if it deems the payment of these debts to be opportune.

The employees of the bank will have the right to a complementary bonus equivalent to six months' salary, calculated on the basis of the employee's last salary.

Article 8:

Article 30 of Law No. (28/67) of 9/5/1967, amended by Decree-Law No. (8/67) of 3/7/1967, is abrogated and replaced by the following text:

1 - A comprehensive provisional estimate inventory will be drawn up, covering the assets, rights and obligations, as estimated at the date of under seizure by an Appraisal Commission .nominated by the Special Banking Court, which will determine its duty, the time required for its achievement, as well as its indemnities.

The Appraisal Commission mentioned in the preceding paragraph consists as follows:

- 1 - A member designated by the Special Banking Court, who will be the president of this Commission.
- 2 - A member proposed by the National Institute for the Guarantee of Bank Deposits.
- 3 - A member proposed by the Governor of the Bank of Lebanon.
- 4 - A member chosen from the creditors of the bank in question.
- 5 - A member chosen from the shareholders of the bank in question, and designated in conformity with the provisions of article (25).

The Commission shall take the legal oath before the Special Banking Court before incepting its work. Its decisions concerning appraisal will be taken on a majority of at least three votes.

2 - The following regulations shall be applied concerning debts which shall be settled on a pro rata basis (i.e. at so many piastres per pound) in conformity with article (36) of the present law:

- Within a period of one month dating from publication of the decision concerning under seizure in the Official Gazette and in two local newspapers, the creditors concerned, with the exception of depositors, must under penalty of foreclosure, file with the National Institute for the Guarantee of Bank Deposits, which carried out the under seizure on the dissolved company, an application accompanied by the relevant documents with a view to registering their claims on the inventory provided for in the present article and subsequent articles of the present law. This application must comprise an elected domicile in Beirut and shall be submitted in two copies, one of which will be returned to the interested party after insertion of the signature of the National Institute for the Guarantee of Bank Deposits confirming that the presentation of the application and its enclosures was carried out within the time-limit stated above.

- These request shall be transmitted to the Commission.

- The Commission will proceed to the study of the request for registration stipulated above. If the said Commission judges them to be admissible, it will list them in the provisional inventory. If the committee judges a request to be inadmissible, it will advise the interested party accordingly and will request him to present an objection in conformity with article (33) of the present law. This notification will be notified to the interested party at his elected domicile, and this must be done before publication in the Official Gazette of the notification provided for in article (32) of the present law.

- The total amount of the rejected claims shall be posted "for memo" in the liabilities of the provisional estimate inventory.

Article 9:

Article (33) of law No. (28/67) of 3/7/1967, is abrogated and replaced by the following text:

Within a period of one month dating publication in the Official Gazette of the notification announcing the drawing up of the provisional estimate inventory, any interested party will be entitled to refer to the Commission responsible for drawing up the inventory to request rectification on the base of observations, information or new documents which were not available when the statement was drawn up.

The Commission must deal with these applications by a global decision within a period of two months following the period of one month provided in the preceding paragraph. The decision of the Commission as well as the file of the estimated situation shall be transmitted to the Special Banking Court, which may approve the decision of the Commission or amends it within a period of one month dating from the receipt of the decision in question. Upon issuing the decision of the special banking court, the provisional estimate inventory shall be final.

The Special Banking Court will deal with the case in Council Chamber and may convene the interested parties. Its decisions are final, irrevocable and open to no channel of recourse ordinary or extraordinary.

Article 10:

The Bank of Lebanon acquires from the National Institute For the Guarantee of Bank Deposits all assets and rights, including rights disputable at law, without any necessity of informing the creditors of them or of obtaining their approval, on the basis of the final estimate drawn up in accordance with the ruling of the Special Banking Court stipulated in article (9) of the present law. The Bank of Lebanon replaces ipso jure the bank under seizure in all its rights.

The Bank of Lebanon has the right to acquire all or part of the assets and rights of banks in a state of suspension of payment in accordance with the provisions of Law No. (2/67) of 16/1/1967.

By virtue of the provisions of articles (8) and (9) of the present law, the Bank of Lebanon also has the right to acquire all or part of the assets and rights of each bank which under self liquidation after approval of the Central board of the Central Bank.

The National Institute for the Guarantee of Bank Deposits shall administer the assets and rights mentioned in the present article, under supervision of the Bank of Lebanon, and it shall liquidate them to the benefit of the Bank of Lebanon and for its account.

Article 11:

The Bank of Lebanon shall pay to the National Institute for the Guarantee of Bank Deposits the value of the assets and rights which it acquires in accordance with the provisions of the first paragraph of the preceding article, after having deducted all the amounts it may have advanced in application of the provisions of the preceding article of the present law, as well as the amounts which it would have paid or advanced as charges, remuneration, expenses, fees and salaries of executives, corporates, commissions, experts, and all other liquidation expenses.

The balance will be distributed on a pro rata basis (circulating plaster) for the rest of the debts.

Article 12:

With the exception of what is mentioned in article (7) of the present law, the National Institute for the Guarantee of Bank Deposits shall pay the rest of the debts according to the pro rata basis but it must deduct from the deposits what is due to the owner of each bank deposit as a guarantee, as mentioned in the text of article (14) of the present law.

The payment of any amount whatsoever relating to the debts mentioned in the preceding paragraph may only be effected after the Bank of Lebanon has paid the value of the assets of the bank under seizure in accordance with the provisions of article (10) of the present law.

For debts due to persons mentioned in article (6) of the present law, only entries shown in the bank's registers and relevant proof found in its files will be taken into account, after

comparison with the statement presented to the Bank of Lebanon. The amount of what will be paid of these debts will be determined in applying the rule mentioned in the preceding paragraph, but to anyone against whom legal action is filed or against whom a lawsuit about the bank in question is pending, this amount will only be paid after pronouncement of the final judgement relating to it by the judicial authorities. If he is sentenced, compensation shall be carried between what is due to him and what he is condemned to pay, and only the balance, if any, will be paid to him.

Article 13:

With the exception of the amounts and rights mentioned in article (10) of the present law, the National Institute for the Guarantee of Bank Deposits will pay the amounts originating from the application of the judgements passed against persons mentioned in articles (6) and (12) of the present law for their responsibility, as well as for all the amounts which may originate from banks in a state of suspension of payment in accordance with the provisions of Law No. (2/67) of 16/1/1967, or banks which will be the subject of under seizure, according to the following order of priority.

1 - To the owners of the bank deposits the balance of the deposits and the balance of the total debts, on a pro rata basis or in total.

2 - To the Bank of Lebanon : the amounts which it paid as various charges for liquidation.

3 - To the National Institute for the Guarantee of Bank Deposits: a sum covering the amounts paid to depositors of the bank in question in accordance with the provisions of article (14).

4 - To shareholders the remaining balance, if any, on pro rata basis according to the participation of each shareholder.

Article 14: (as amended by Law No. 365 of 1 August 1994 and Law No. 628 of 23 April 1997):

The National Institute for the Guarantee of Bank Deposits guarantees the deposits of the banks which will be the subject to under seizure in accordance with the provisions of the present law, and the banks which are or will be in a state of suspension of payments before 31/12/1998, as follows:

1 - The deposits in Lebanese currency up to the amount of five million Lebanese pounds, as well as, within the above-mentioned period, the deposits in foreign currency up to the equivalent of five million Lebanese pounds according to the rates of exchange of the foreign currency on the date of declaration of suspension of payments or of the decision for under seizure, whatever the global value of the total deposits with the same bank.

The guarantee does not cover deposits in overseas branches of the bank. The headquarters of the bank and all its branches in Lebanon are considered as one single establishment for the application of the provisions of the present article.

2 - Of the amount of the guarantee in question, an amount of up to one million five hundred thousand Lebanese pounds will be paid following to the issuing of the decision announcing the suspension of payments or under seizure. The rest will be paid, either by installments, or by Treasury bonds, within a period of one year, according to the decisions of the central board of the Bank of Lebanon.

3 - Only as far as the guarantee alone is concerned, and when a depositor at a bank in suspension of payment or under seizure has debit accounts or other obligations towards the bank in question, whether in Lebanese currency or foreign exchange, clearing will be made, on the date of announcement of the suspension of payments or the decision under seizure, on the difference between all his credit accounts and all his debit accounts and other obligations, and the guarantee will only cover the credit balance at the bank up to an amount of five million Lebanese pounds.

4 - In order to enforce the provisions of the present article, the following are considered as one account only:

A - Each joint account whatever the number of the holders of this account, in any currency whatsoever.

B - The total amount of the accounts of each depositor in the same bank in a state of suspension of payment or under seizure, whatever the nature of the account, individual or joint account.

C - All deposit accounts originating from an inheritance, whether in Lebanese currency or foreign exchange.

5 - Excluded from this guarantee are accounts held by the presidents and members of the boards of administration, the directors and the supervisory commissioners of the bank in a state of suspension of payment or under seizure, who supervised the accounts of this bank during the 18 months preceding the date of suspension of payments, also excluded from this guarantee are accounts held at the bank in question by partners, ascendants and descendants of the above-mentioned persons.

6 - The Bank of Lebanon will advance to the National Institute for the Guarantee of Bank Deposits the necessary funds for payment of guarantee mentioned in the present article and in article (17) of the present law, by virtue of an agreement concluded between them laying down the conditions of this advance and the means of repayment.

Article 15:

A special court consisting of a president and two members nominated by decree on the proposal of the Minister of Justice after approval of the Higher Council of the Magistracy, and composed of one or more chambers, shall be established at Beirut.

The first president of the Court of Appeal will designate a magistrate to replace the president or a member in case of absence or hindrance.

With the exception of penal and administrative actions as law, as well as lawsuits relating to employment, and cases which have been the subject of a final judgement, the special court stipulated in the present article shall deal with all lawsuits and litigation relating to banks:

A - Which will be the subject to under seizure in accordance with the provisions of the present law.

B - Which are or will be declared in a state of suspension of payment in accordance with the provisions of Law No. (2/67) of 16/1/1967, during the period defined in paragraph (2) of article (2) of the present law.

Taking into account the provisions of the present law, this court will apply the procedure and will exercise the powers stipulated in articles (12), (13) (14), (15) and (16) of the law promulgated by Decree No. (1663) of 17/1/1979. As far as article (13) is concerned, the amount shown in the first paragraph of this article will become "ten million Lebanese pounds" and in the second paragraph of this article it should read "Chapter (6) of Title 5" instead of "Title 4" of the Code of Civil Procedure.

Within the period of one month dating from the enforcement of the present law, the lawsuits relating to the said litigation pending with the courts of first instance, are transferred in the administrative way to the special court provided for in the present article.

Article 16:

By derogation of any other text, the Bank of Lebanon may provide to the banks the liquidity it judges to be urgently required, proceeding to a sale with right to purchase in accordance with the provisions of articles (473) and consequent of the Code of Obligations and Contracts.

The provisions of the preceding paragraph apply to contracts concluded or which will be concluded by the Bank of Lebanon on this subject.

The provisions of articles (507) and the consequent of the Code of Commerce do not apply to these contracts and to the various operations concluded, or to be concluded, by the Bank of Lebanon.

Article 17:

1 - If, during the period defined in paragraph (2) of article (2) of the present law, a bank operating in Lebanon wishes to decide self liquidation, it must propose to the Bank of Lebanon the assignment of its assets and rights, entirely or partially, as exchange value for the liquidity that the bank of Lebanon might supply to it in order to enable it to settle its liabilities, as well as its obligations.

2 - If, after the appraisal of the fixed assets and the rights due to the bank concerned, to which may possibly be added the guarantee of the National Institute for the Guarantee of bank deposits stipulated in article (14) of the present law, the central board of the Bank of Lebanon ascertains that their value is sufficient to settle the total deposits which the bank holds as well as its other obligations, it may exceptionally accept the assignment of the assets and rights, partially or totally, on condition that the designation of the liquidator to be made with the agreement of the Governor of the Bank of Lebanon and that the liquidation operations take place under the supervision and control of the Bank of Lebanon.

If the central board of the Bank of Lebanon approves the self liquidation taking into consideration the value of the guarantee stipulated above, the National Institute for the Guarantee of Bank Deposits will have to pay what it owes on this guarantee to the liquidator who will assume the responsibility of paying it to the rightful depositors.

3 - If the guarantee of the National Institute for the Guarantee of Bank Deposits mentioned in paragraph (2) of the present article is taken into consideration, the Bank of Lebanon will then have the right to examine all the debit and credit accounts of the bank, as well as all the operations which it carried out during the 3 years preceding the decision of approval of the self-liquidation by the central board of the Bank of Lebanon, without the possibility for the bank to avail itself of the Law of 3 September 1956 on banking secrecy.

4 - The bank in self liquidation is exempted from income tax as from the year during which the decision to liquidate was made and until the end of the liquidation operations.

5 - The bank involved in self liquidation operations must cease to accept deposits, to grant advances, to make investments, to take on new commitments or to increase the volume of its deposits, advances, investments or previous commitments, under penalty of losing its right to exemption from income tax.

6 - The self-liquidation operations do not prevent the application of the provisions of the laws in force implying responsibility, notably Law No. (2/67) of 16/1/1967 and the provisions of the present law.

7 - The decision regarding self-liquidation entails, ipso jure, the final de-listing of the bank concerned from the list of banks operating in Lebanon.

8 - The surplus which could result from liquidation of assets and rights that the Bank of Lebanon has acquired, following the application of the first paragraph of the present article, is due to the National Institute for the Guarantee of Bank Deposits up to the total amounts which it would have paid as guarantee in accordance with paragraph (2) of the present article. The result of this surplus, if any, is due to the Bank of Lebanon.

Article 18:

Taking into account the provisions of the present law, shall be applied in what concerns articles (2) to (15) of this law, the provisions of articles (24) to (43) inclusive of Law No. (28/67) of 9/5/1967 with all amendments, the provisions of Decree-Law No. (8/1.967) of 3/7/1967 and its amendments, the Law promulgated by Decree No. (1663) of 17/1/1979, and Decree No. (7739) of 8/7/1967.

Article 19:

Should it prove during the application of the provisions concerning the under seizure mentioned in the present law, that there has been a penal infringement resulting from the operations of the bank concerned, or relating to these operations, the Special Banking Court will advise the Department of the Public Prosecutor, by presenting the required documents.

Article 20:

The present law shall come into force upon its publication.