



LEGAL GUIDE



HOW TO RECOVER YOUR MONEY STUCK IN LEBANESE BANKS

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LEGAL GUIDE FOR RECOVERING MONEY FROM BANKS IN LEBANON

Lebanon has been grappling with an unprecedented economic crisis, resulting in severe financial hardships for both individuals and companies. A significant consequence of this crisis is the difficulty faced by many in accessing their funds held in Lebanese banks. However, it is crucial to recognize that despite the severity of the situation, there has been a relatively small number of cases brought before the Lebanese Courts.

This can be attributed to two primary reasons. Firstly, there exists a prevailing lack of confidence in the Lebanese legal system, which has deterred some depositors from pursuing legal action against the banks. Secondly, a unique and rather concerning trend has emerged among Lebanese residents. Instead of opting for immediate legal recourse against the banks, they seem to have adapted to the crisis by adhering to an "illegal" approach, as sanctioned by the Central Bank's circulars. These circulars permit the withdrawal of small amounts from accounts, albeit gradually. This approach allows depositors to access limited portions of their funds over time, avoiding the need to engage in contentious legal battles with the banks.

In stark contrast, the majority of cases brought before the Lebanese Courts involve foreign nationals and Lebanese citizens residing abroad. These individuals, despite having their funds stuck in Lebanon, possess the means and resources to take legal action against the banks. Consequently, they have initiated cases that have shed light on how the Lebanese courts handle disputes involving financial institutions.

The primary aim of this comprehensive guidebook is to provide valuable assistance to those who are seeking to recover their money from Lebanese banks. Through a detailed exploration of the legal landscape and the enforcement of court judgments, this guide intends to empower depositors with crucial information and insights to facilitate a smooth and successful recovery process. By understanding the legal process involved and the various options available, depositors can make informed decisions in their pursuit of justice and rightful access to their funds.

INTRODUCTION

UNDERSTANDING THE LEGAL LANDSCAPE

Lebanese Courts have played a pivotal role in addressing the challenges faced by depositors and have issued several landmark decisions that significantly favour their interests. These court rulings serve as critical guidelines and legal precedents that depositors can rely upon in their pursuit of justice.

These rulings have established a strong foundation for depositors, providing them with the necessary legal backing to reclaim their funds from the banks that have unlawfully withheld them.

A. Banks are Unlawfully Detaining Depositor Funds:

One crucial ruling rendered by the Lebanese Courts is the clear and firm stance on the unlawful detention of depositors' money by banks, particularly in the absence of a capital control law.

The courts have taken a strong position in this matter, leaving no room for ambiguity, and have mandated that banks must immediately return these funds to their rightful owners

To enforce this ruling, the courts have imposed the threat of daily coercive fines on banks, providing a powerful incentive for them to comply and release the withheld funds.

The courts have also clarified the impact of the Central Bank's circulars.

They have made it abundantly clear that these circulars primarily affect the banks themselves and not their depositors. This clarification is of utmost importance as it dispels any misconceptions or attempts by banks to use the circulars as a basis for withholding funds from depositors.

Furthermore, the courts have taken a firm stand against the application of circulars that contravene monetary laws in Lebanon. By rejecting such applications, the courts further safeguard the rights of depositors and prevent any misuse of the circulars to the detriment of those seeking the return of their funds.

B. Bank Cheques Are Not a Valid Form of Payment:

The treatment of bank cheques has been another critical area addressed by the Lebanese Courts, and their ruling on this matter serves as a vital protection for depositors seeking to recover their funds from the banks. The courts have unequivocally clarified that a bank cheque issued by the bank itself cannot be considered a valid form of payment for the owed amount to the depositors.



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This ruling is of utmost importance as it safeguards depositors from potential deception or manipulation by the banks. By deeming such bank cheques invalid for payment, the courts ensure that depositors are not misled into accepting a form of payment that holds no real value or utility.

If depositors were to accept a bank cheque as payment, they would face significant challenges in utilizing or realizing the value of that cheque. These bank cheques cannot be cashed or deposited in any bank account, whether domestically or internationally. In essence, accepting such a cheque would not provide depositors with access to their rightful funds, and they would remain effectively locked out of their money.

The ruling on the invalidity of bank cheques issued by the banks themselves reinforces the principle that depositors are entitled to receive their funds in the form of actual currency, which they can use according to their needs and preferences. It prevents the banks from attempting to offer what appears to be a form of payment, which in reality is non-negotiable and non-functional. With this ruling, depositors are protected from any potential attempts by banks to circumvent their obligations and responsibilities by offering what might seem like a form of payment but lacks any practical utility.

Instead, depositors can rely on the courts' guidance and assert their rights to receive their funds in a tangible and usable form, either in the original currency deposited or as per the rate established by the Sairafa platform.

C. Arbitrary Refunds Based on Exchange Rates:

The courts' recognition that banks cannot arbitrarily refund funds based on the so-called official rate of LBP 15,000/USD is another significant aspect of the legal landscape that benefits depositors seeking to recover their funds.

The imposition of an inflated exchange rate, such as LBP 15,000/USD, has been a contentious issue that affected many depositors' ability to access their money in its original value. In response to this concern, the courts have taken a clear stance to protect depositors' rights and ensure fair treatment.

As per the courts' rulings, depositors have the unequivocal right to receive their funds in the original currency that was initially deposited into the bank. This means that if a depositor had deposited their funds in US dollars, they are entitled to receive the same amount in US dollars upon withdrawal or recovery or alternatively, the equivalent amount in Lebanese pounds, based on the rate established by the Sairafa platform.





This ruling prevents banks from taking advantage of the economic crisis and manipulating exchange rates to their advantage. It ensures that depositors are not subjected to arbitrary exchange rates that may significantly devalue their funds.

Enforcement of Court Judgments in Lebanon and Abroad:

The enforcement of court judgments is a critical aspect of the legal process for depositors seeking to recover their funds from Lebanese banks.

While Lebanese courts have issued rulings in favour of depositors, ensuring that banks must return unlawfully detained funds, the actual enforcement of these judgments can present challenges and delays.

First and foremost, it is crucial for depositors to recognize that judgments issued by Lebanese courts carry significant weight and authority. These judgments can be enforced both within Lebanon and abroad, which means that depositors have a legal basis to pursue the recovery of their funds not only in their home country but also in other jurisdictions where the bank or its board members may hold assets. However, despite the favourable court rulings, banks may not always willingly comply with the judgment to return the funds

In such cases, depositors should be prepared to face potential challenges from the banks. Banks may attempt to delay the enforcement process.

In cases where the banks refuse to comply with the judgment, depositors can also seek to enforce the judgment against the bank's assets and the personal assets of its board members.

This step is crucial in ensuring that the judgment has real consequences for the bank and its responsible individuals, encouraging them to fulfill their legal obligations and return the funds to the rightful depositors.

THE LEGAL PROCESS TO RECOVER FUNDS FROM LEBANESE BANKS

To facilitate a smooth and successful recovery, depositors should be well-informed about the legal process involved.

HERE IS A DETAILED BREAKDOWN OF THE STEPS:

Step 1: Review the Opening Account Agreement(s)

The first step in the process of recovering funds from Lebanese banks is conducting a thorough examination of the opening account agreement(s) between the depositor and the bank. This crucial step requires the assistance of an experienced law firm that specializes in financial and banking matters. The legal experts will diligently review the opening account contract and all communication that has taken place between the depositor and the bank. The goal of this examination is to identify any contractual restrictions that may impede or hinder the transfer of funds from the account.

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Legal experts will pay close attention to various provisions within the account agreement(s) to assess whether any clauses exist that could obstruct or delay fund transfers. Some common hindrances may include accounts being blocked for specific periods, provisions authorizing the bank to refuse fund transfers, or any other contractual limitations that may impact the withdrawal of funds.

In addition to reviewing the account agreement(s), legal representatives will also analyse any written or electronic communications between the depositor and the bank. These communications can include emails, letters, or other forms of correspondence that might shed light on the relationship between the depositor and the bank.

The primary objective of this meticulous review is to ascertain whether there are any contractual obligations or legal barriers that the bank may exploit to prevent the release of the depositor's funds. Identifying such provisions early in the process is crucial, as it allows legal experts to develop appropriate strategies to address these potential roadblocks. Upon completion of the examination, legal representatives will provide the depositor with a clear understanding of the terms and conditions of the account agreement(s).

They will also advise on the best course of action based on their findings. If no contractual limitations are found, the depositor can proceed with the next steps of the legal process to reclaim their funds from the bank.

Step 2: Legal Notice to the Bank

After the thorough review of the account agreement(s) is completed and any potential contractual restrictions are identified and addressed, the next step in the process is to serve a formal notice to the bank. This legal notice is a critical communication that demands the immediate transfer of the depositor's funds from the bank account.

Legal representatives, acting on behalf of the depositor, will draft a formal and legally sound notice to be served to the bank. The notice will clearly state the depositor's demand for the release of their funds in full and without delay. It will also highlight the specific legal grounds on which the depositor's claim is based, referencing relevant court rulings and applicable laws that protect depositors' rights. To ensure that all parties involved are held accountable, the notice will be addressed not only to the bank but also to all board members who hold personal liability.



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This inclusion aims to emphasize the seriousness of the depositor's claim and to ensure that all responsible parties are aware of the legal action being pursued. The legal notice will be served by the law firm representing the depositor, following the appropriate legal procedures for service. This ensures that the notice is delivered to the bank and its board members in a formal and legally recognized manner.

Step 3: Bank's Response Upon Receiving the Legal Notice

Upon receiving the legal notice, the bank's response can lead to different courses of action, each with its own implications for the depositor seeking to recover their funds:

OPTION 1: COMPLIANCE WITH THE TRANSFER REQUEST:

Ideally, the bank would recognize the validity of the legal notice and promptly comply with the depositor's demand for the immediate transfer of their funds.

In this scenario, the funds would be released without further complications or delays, and the depositor's claim would be successfully resolved. However, based on past experiences, banks are likely to resist and not cooperate, necessitating further legal action to secure the release of the funds.

OPTION 2: IGNORING OR REJECTING THE NOTICE:

If the bank chooses to ignore or outright reject the legal notice, the depositor's legal representatives will proceed to submit a claim to the judge of urgent matters. This step seeks to escalate the matter and secure an urgent resolution from the court.



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The judge will review the evidence and legal arguments presented by the depositor's legal team and issue an injunction instructing the bank to release the funds. It is essential to be aware that the bank may challenge the injunction order through appeals and cassation, resulting in delays of approximately 8 to 12 months.

During this time, legal representatives can take proactive steps to secure an attachment on the bank's assets, as well as the personal assets of the board members, both locally and abroad. This measure aims to safeguard the interests of the depositor and enhance the chances of successful recovery. The attachment process can be conducted both within Lebanon and internationally, further strengthening the depositor's position.

A case can also be brought to a court of merits. The preference of going to the judge of urgent matters is that the process is quicker and less expensive compared to bringing the case to a court of merits. It allows for a more expedited resolution, which is particularly important considering the urgency of the depositor's need for funds.

OPTION 3: BANK REMITS A BANK CHEQUE OR SETTLES THE DEBT IN LBP

Under this option, the bank may choose to close the account and issue a bank cheque equivalent to the balance in the account. Alternatively, the bank may deposit the equivalent amount in Lebanese pounds at the rate of LBP 15,000/USD, indicating that the debt has been settled. However, this action by the bank does not fully satisfy the depositor's claim.

In response, the depositor's legal representatives will file an objection against the bank's actions and request the court to compel the bank to transfer or deliver the funds in the original currency, such as USD, or alternatively in Lebanese pounds as per the rate established by the Sairafa platform. The bank is likely to challenge the court's judgment through appeals and cassation, leading to an extended legal process of an additional 12 to 16 months. Once the final judgment is issued, the depositor can enforce it both within Lebanon and abroad against the bank and its board members.

As mentioned earlier, successful recovery has been achieved in the past for numerous clients, and these judgments can serve as powerful tools for depositors to reclaim their funds successfully. In conclusion, the bank's response to the legal notice can significantly impact the course of the fund retrieval process.

Depositors should be prepared for potential resistance from the bank and remain resolute in their pursuit of recovering their rightful funds. The legal process may involve multiple steps, including seeking an injunction from the judge of urgent matters, attaching the bank's and board members' assets, and potentially navigating appeals and cassation proceedings. Nonetheless, with determination and legal representation, depositors stand a strong chance of successfully reclaiming their money from Lebanese banks.

CONCLUSION

In conclusion, the economic crisis in Lebanon has caused significant hardships for depositors, with many unable to access their funds held in Lebanese banks. While some Lebanese residents have resorted to withdrawing small amounts authorized by the Central Bank's circulars as a temporary solution, this approach may not be viable for all depositors, especially those with substantial funds at stake.

In contrast, foreign nationals and Lebanese citizens residing abroad have pursued legal means to recover their funds, resulting in several noteworthy court decisions in favour of depositors. The legal process involves a series of steps, beginning with a meticulous review of account agreements and culminating in serving a legal notice to the bank, followed by potential court proceedings if needed.

However, it is essential to recognize that a more comprehensive and proactive approach is necessary to fully protect depositors' rights. The legislator must intervene and adopt adapted laws that address the unique challenges faced by depositors during this economic crisis. Such legal reforms can enhance the legal framework and provide more robust protection for depositors' interests, ensuring a smoother and more equitable process for fund retrieval.

In the meantime, depositors must be prepared for potential challenges from the banks and remain steadfast in their pursuit of securing their rightful funds. The enforcement of court judgments within Lebanon and abroad can be a complex process, but depositors can persevere with the support of experienced legal representatives and an understanding of their rights.

As negotiations between Lebanon and the International Monetary Fund (IMF) continue to reshape the Lebanese banking sector, depositors with pending court cases may be given priority in the merger process. This precedence has been observed in other countries during economic and banking crises, such as Greece, where efforts were made to settle the amounts of people with pending court cases promptly.



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To find viable solutions, it is crucial to examine successful measures implemented by other countries facing economic crises and banking challenges. Drawing upon these experiences can provide valuable insights and potential pathways for Lebanon to resolve its current financial crisis and facilitate the recovery of funds for depositors.

In conclusion, this guide aims to provide depositors with a clearer understanding of the steps involved in the legal process of recovering their money from Lebanese banks. It underscores the importance of legislative intervention to protect depositors' rights more comprehensively and emphasizes the need for vigilance and perseverance in pursuing legal action. By exploring successful approaches from other countries and continuing to advocate for depositors' interests, Lebanon can work towards resolving its financial crisis and securing a brighter future for its citizens and businesses.

We remain dedicated to assisting those seeking to recover their funds. If you require our assistance or have any further inquiries,

**Please do not hesitate to contact us at
Info@fakhrylawfirm.com**

Our team will be more than happy to provide the necessary support and guidance.

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CONCLUSION



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