

ENGLISH VERSION

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LEGAL GUIDEBOOK

FOR RECOVERING MONEY FROM BANKS IN LEBANON

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INTRODUCTION

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LEGAL GUIDE FOR RECOVERING MONEY FROM BANKS IN LEBANON

Lebanon is undergoing an unprecedented economic crisis. The banking sector is being hit hard.

For over three years, Lebanese banks have been illegally holding the funds of their depositors; and despite the severity of this situation and its glaring unlawfulness, the number of cases brought before Lebanese courts to release these funds remains relatively low.

This resistance can be attributed to two main reasons.
Firstly, a prevailing lack of trust in the Lebanese legal system has deterred the majority of depositors from pursuing legal action against the banks. Secondly, a troubling trend of collective passivity has emerged among the Lebanese. Instead of taking legal actions against the banks to reclaim their rights, they appear to have adapted to the situation, passively accepting the Central Bank's illegal circulars. These circulars allow them to withdraw small amounts of money from their accounts gradually. The approach taken by the Central Bank seems to have numbed depositors by granting them access to minimal and limited portions of their funds over time. The overall landscape shows that the majority of Lebanese prefer to beg for their money rather than engage in contentious legal battles with the banks.

Most cases brought before Lebanese courts involve foreign nationals and Lebanese citizens residing abroad. These individuals, possessing the means and necessary resources to pursue legal actions against the banks, have initiated proceedings that have shed light on a legal precedent adopted by Lebanese courts in disputes concerning the restitution of funds illegally held by banks.

The primary objective of this comprehensive guide is to provide valuable assistance to those wishing to recover their funds from Lebanese banks. By thoroughly examining the legal landscape and the implementation of judicial decisions, this guide aims to equip depositors with crucial information and insights to facilitate a smooth and successful recovery process.
By understanding the legal process at play and the various available options, depositors can make informed decisions in their pursuit of justice and legitimate access to their funds.

UNDERSTANDING THE LEGAL LANDSCAPE ADOPTED BY THE COURTS:

Lebanese courts have played a vital role in responding to the challenges faced by depositors and have issued several landmark decisions in their favor.

These judicial decisions serve as crucial guidelines and legal precedents upon which depositors can rely in their pursuit of justice.

These decisions have established a strong foundation for depositors, providing them with the necessary legal support to legally reclaim their funds from banks that are unlawfully withholding them.

A. Banks Illegally Withholding Depositors' Funds:

Lebanese courts have taken a clear and uncompromising stance regarding the unlawful withholding of depositors' funds by banks, particularly in the absence of a Capital Control law.

These courts have adopted a very firm position on this matter, leaving no room for ambiguity, and have ordered banks to immediately return these funds to their rightful owners

To ensure compliance with this decision, the courts have imposed penalties on the banks, creating a powerful incentive for them to comply and release the withheld funds.

The courts have also provided clarity on the impact of Central Bank circulars.

They have clearly established that these circulars only affect the banks and not their depositors. This clarification is of paramount importance as it dispels any confusion or attempts by banks to use the circulars as a justification for withholding depositors' funds.

Furthermore, the courts have taken a strong stance against the application of circulars that contravene monetary laws in Lebanon. By rejecting their application, the courts further protect the rights of depositors and prevent any abusive use of the circulars at the expense of those seeking to recover their funds.

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

The issue of bank cheques has been another crucial area addressed by Lebanese courts, and their decisions in this regard are of vital importance for depositors seeking to recover their funds from banks.



UNDERSTANDING THE LEGAL LANDSCAPE ADOPTED BY THE COURTS:

The courts have clearly established that a bank cheque issued by the bank itself cannot be considered a valid form of payment for the amount owed to depositors. This decision holds immense significance as it safeguards depositors against potential deceit or manipulation by banks. By deeming such bank cheques invalid for payment, the courts ensure that depositors are not subjected to pressure from banks that threaten to provide funds in the form of a valueless or functionless bank cheque.

Since bank cheques cannot be cashed or deposited in a bank account, either nationally or internationally, Lebanese courts have stripped these cheques of any compensatory power. Accepting such a cheque would effectively deprive depositors of access to their funds, leaving them without a means to retrieve their money.

The decision regarding the invalidity of bank cheques issued by banks reinforces the principle that depositors have the right to receive their funds in real currency, which they can use according to their needs and preferences. It prevents banks from attempting to offer what may appear to be a form of payment but is actually non-negotiable and non-functional.
With this decision, depositors are shielded from potential attempts by banks to circumvent their obligations and responsibilities by providing what might seem like a form of payment but lacks practical utility. Now, depositors can rely on the guidance of the courts and assert their right to receive their funds in a tangible and usable form, either in the original deposited currency or according to the rate established by the Sairafa platform.



C. Arbitrary Reimbursements Based on the "Official" Exchange Rates:

The courts' recognition that banks cannot arbitrarily reimburse funds based on the purported official rate of 15,000 Lebanese pounds (LBP) for 1 US dollar (USD) is another important aspect of the legal landscape benefiting depositors seeking to recover their funds.

The imposition of a "legal" exchange rate, such as 15,000 LBP/USD, has been a contentious issue that has affected the ability of many depositors 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.

According to the courts' decisions, depositors have an unquestionable right to receive their funds in the original currency initially deposited with the bank. This means that if a depositor had originally deposited their funds in US dollars, they are entitled to receive the same amount in US dollars upon withdrawal or recovery, or the equivalent in Lebanese pounds, based on the rate established by the Sairafa platform.
This decision prevents banks from capitalizing on the economic crisis and manipulating exchange rates to their advantage. It ensures that depositors are not subjected to arbitrary exchange rates that could significantly devalue their funds.



D. Enforcement of Judicial Judgments in Lebanon and Abroad:

The execution of judicial judgments is a crucial aspect of the legal process for depositors seeking to recover their funds from Lebanese banks.

While Lebanese courts have rendered decisions in favor of depositors, demanding that banks return unlawfully withheld funds, the effective implementation of these judgments can present challenges and delays. Banks are not always willing to voluntarily comply with the judgment to return the funds.

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

At this juncture, it is crucial to clarify for depositors that judgments issued by Lebanese courts carry significant weight and authority. These judgments can be enforced both in Lebanon and abroad, meaning 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.
This step is critical to ensure that the judgment results in tangible consequences for the bank and its officials, thereby encouraging them to fulfill their legal obligations and return the funds to rightful depositors.

THE LEGAL PROCESS TO RECOVER FUNDS FROM LEBANESE BANKS

To facilitate a 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/recovering of funds from the account.

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/release of the depositor's funds from his 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. 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.

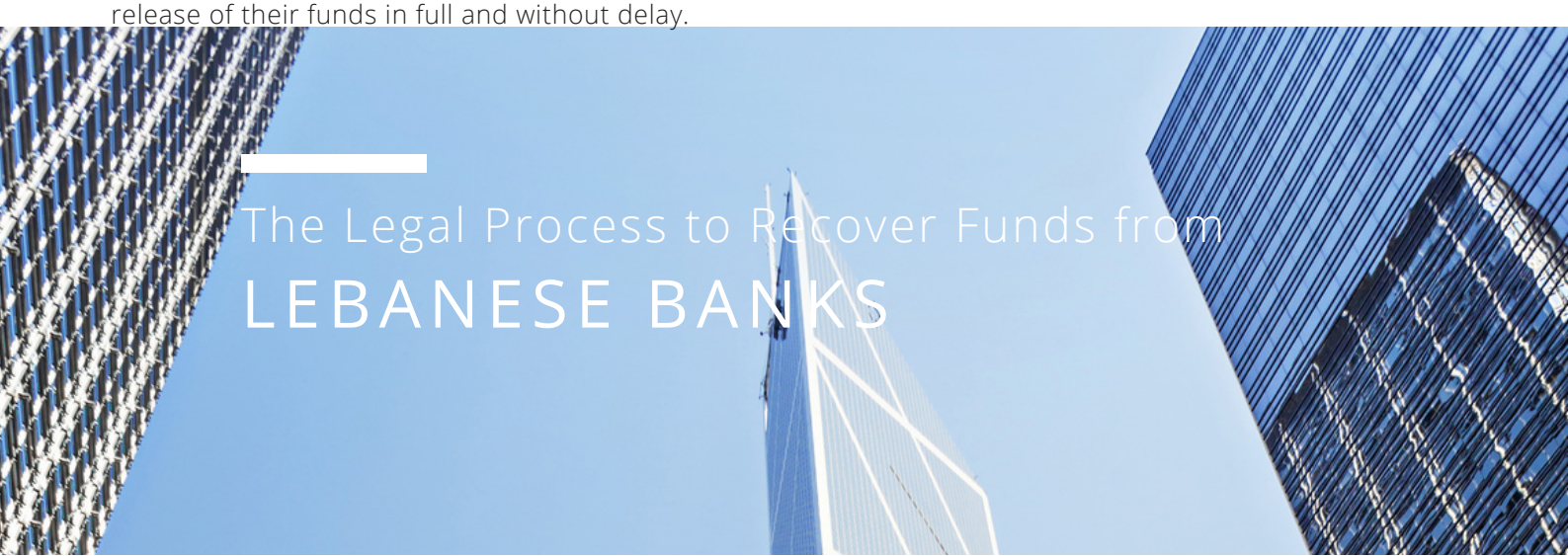
The legal notice will be served by the law firm representing the depositor, following the appropriate legal procedures for service. This ensures that the notice is delivered to the bank and its board members in a formal and legally recognized manner.

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.



The Legal Process to Recover Funds from

LEBANESE BANKS

THE LEGAL PROCESS TO RECOVER FUNDS FROM LEBANESE BANKS

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 aims to secure a swift release of the funds. 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 certain that the bank will challenge the injunction order by appealing and lodging a cassation appeal, leading to delays of approximately 8 to 12 months to obtain a final decision.

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. 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





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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 chooses 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.

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CONCLUSION

IThe economic crisis in Lebanon has brought about significant difficulties for depositors, with many of them unable to access the funds they hold 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 might not be feasible for all depositors, especially those with substantial funds at stake.

To address this, contentious actions have been taken, resulting in the establishment of a clear legal precedent in favor of depositors. The legal process involves a series of steps, starting with a meticulous review of account agreements and culminating in the legal notification to the bank, followed by potential legal proceedings if necessary. That being said, it is essential to recognize that a more comprehensive and proactive approach remains necessary to fully protect the rights of depositors. The legislator must intervene and enact appropriate laws that address the unique challenges faced by depositors during this economic crisis. Such legal reforms can strengthen the legal framework and provide stronger protection for depositors' interests, ensuring a smoother and fairer process of fund recovery.

The legislator could potentially draw inspiration from successful measures implemented by other countries that have faced similar economic crises to ours.

In the meantime, depositors can resort to Lebanese courts to claim the restitution of their funds. The enforcement of judgments in their favor within Lebanon and abroad can be a complex process, but at least the hope of recovering their money exists.

Another advantage of turning to the courts is the ongoing negotiations between Lebanon and the International Monetary Fund (IMF) to reshape the Lebanese banking sector. It is highly likely that Lebanese banks might undergo mergers. Depositors with ongoing court cases could be given priority in the process of refunding funds for potential mergers between banks. This has been observed in other countries during





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economic and banking crises, such as Greece, where efforts were made to prioritize the amounts of individuals with pending litigious matters against banks in court.

Finally.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.

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 the email address info@fakhrylawfirm.com.

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

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