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*Tightening Lebanese Bank Secrecy Laws:  
Implications and Effects of Withstanding the  
International Trend*

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**Research Topics in Business**

Spring 1994

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## **I. Bank Secrecy**

### **Historical Background**

In many countries in Europe, the Middle East, Africa, Asia-Pacific, the Caribbean, and South Atlantic, bank secrecy governs bank-customer relations. Bank secrecy laws prevent banks from exposing the identities of depositors or the amounts in their different accounts to outsiders. These outsiders include national and foreign governments, private and public enterprises, businesses and other banks.<sup>1</sup> Secrecy laws are lifted only in certain specific circumstances that vary among countries implementing the bank secrecy law. Various forms of bank secrecy have existed as far back as 1685. At that time, the motive was to protect the funds of the Protestant Huguenots who arrived in Geneva. These Huguenots had escaped the French discrimination that deprived them of any civil or religious liberty.<sup>2</sup>

Ever since, the Swiss government has encouraged the bank secrecy privilege. It wasn't until 1934, though, that the government's approval turned into an official

protection by penal law in article 47 of the Swiss Banking Law. It has been arguably stated that the reason for such amendment at that time was to protect the German Jews (especially that the Nazi's were in power by then) who had deposits in Swiss banks. The German people were legally required to reveal any funds or assets kept abroad. These Jews were under pressure, thus, from their national governments so they turned to their Swiss banks for help. Others argue that it was the dispute instigated in France by the French politician Fabien Albertin in the Aix-en-Provence territory in 1932. He revealed the identities of various depositors of a Swiss bank in Paris, called the Basler Handels Bank, that were associated with immense tax evasion. The Swiss reaction was an extensive study into the field of bank secrecy. Since this form of secrecy, to the Swiss, is a 'legal and nationalistic treasure', they decided to protect secrecy actions and so came the amendment of article 47.<sup>3</sup> The Swiss National Council stated in article 47 of the Swiss Banking Law that...

... "divulging information on any type of deposits or depositors to national or international governments, public or private enterprises, international organizations, businesses or other banks is punishable by imprisonment or by a fine, even if the act has been committed by negligence, or even after termination of the official or employment relationship or the exercise of the profession."<sup>4</sup>

Prior to 1956, there was no mention of bank secrecy in any banking activity in Lebanon. The customer dealt with the bank from a trust-based relationship with the bank's owner (or manager) and employees. In the 50's, however, the whole concept changed. First, an excess of funds in Swiss banks from third world countries emerged. This was the best way to hide dirty money (money laundering) from legislative bodies. In order to preserve their respectable reputation and show

that they are not a haven for dirty money, Swiss banks imposed a negative deposit rate on the Swiss Franc for non-residents only. This way, demand for deposits decreases (it becomes a losing venture to deposit funds), reducing, in turn, the probability of holding dirty money. Secondly, the free zone existing at that time in Tangiers was shut down after it rejoined its mother nation, Morocco. This resulted in a withdrawal of funds from banks in Tangiers. Consequently, capital flew to Lebanese banks. The banking sector became one of the primary sectors of a strong Lebanese economy.

At this stage, with a rise in national income, deputy Raymond Edde introduced a bill suggesting a bank secrecy law on May 17, 1954. Various gains can be attained from Edde's proposal:

- It attracts foreign capital especially Arab funds.
- The advantages gained from the excess of incoming capital to stimulate economic growth and domestic investment activities outweigh its disadvantages. The latter are mainly concentrated in tax evasion opportunities where the depositor is completely safe from the reach of the tax collectors under bank secrecy regulations.
- Internal and external factors that have made Lebanon the monetary center in the Arab world due to its strong currency, variety of banking services, freedom of commerce and exchange, and the encouragement of free enterprise.

These gains are economic ones destined to keep existing funds and attract foreign capital. Foreign funds have provided hard currencies needed for investments in different domestic sectors such as industry and agriculture. Edde

described his proposal to have a political goal. His reasoning was that bank secrecy induces international depositors to support the country that hosts their funds. Thus, bank secrecy was largely meant to preserve Lebanon's independence and sovereignty.<sup>5</sup> The proposal was approved in its 10 articles on September 3, 1956 to become a part of the Lebanese Banking Law or the 'Law of Cash & Credit'.

## **Objective and Overview of the Paper**

Lately, countries have started tightening secrecy laws (for reasons to be discussed within the paper), whereas the Lebanese Secrecy Law withstood the trend. The objective of this paper is to study the Lebanese Bank Secrecy Law and analyze its efficiency in implementing various banking activities or types of accounts. To conclude, the aim is to determine the probable outcome, impact, and feasibility of tightening the Lebanese Bank Secrecy Law.

The next part defines the Lebanese Bank Secrecy Law and compares it to the Swiss Bank Secrecy Law briefly. I will discuss the existing domestic law and provide some critical remarks on certain shortcomings relating to practical cases. A brief comparison between the recent Swiss secrecy tightening trend and the Lebanese immobile policy follows. The third part discusses the suppliers and demanders of secrecy and the motives (both legal and illegal) instigating both parties to deal with bank secrecy as a crucial economic attribute. The fourth part deals with the implementation of various bank accounts and cases after the emergence of bank secrecy. The fifth part lists the cases in which bank secrecy is lifted. The sixth part reveals the penalty for breaking the secrecy law due to voluntary intent or mere malpractice by the party involved. The seventh part,



includes statistical evidence on the possible impact of tightening the domestic secrecy law on some economic variables. I use regression analysis and rely on some existing data and charts to support my arguments regarding Lebanese bank secrecy practices. The last part contains existing ideas on bank secrecy and concluding remarks.

## **II. Lebanese vs. Swiss Secrecy Laws**

In this part, the Lebanese Bank Secrecy Law comes into light and is later compared to its Swiss counterpart to reveal some differences between them. In both countries, this law has come to identify the banking sector in which secrecy acts are legislated and protected by law. The principle of the legal institution falls on the shoulders of the bank's employees who deal with the relevant transactions or management of the bank. The beneficiary from this duty is the bank customer who may or may not be a depositor (this issue will be studied in a later section). Customers have the right of imposing the respect of the secrecy code. They protect their identities, the amounts in their accounts - in case they were depositors having credit accounts, their funds' serial numbers, and all the transactions that they have exercised with the bank.

## Lebanese Bank Secrecy Law

The Lebanese Bank Secrecy Law is composed of 10 articles as shown in **Appendix A**. Upon the study of these articles, one notices a deficiency in the system. It is the negligence of not mentioning a bank's position if it is to have its Central Bank approval taken away. The bank itself may want to withdraw from 'the list' and disengage itself from the secrecy obligation. What would happen then to the depositors and to their accounts? The law did not propose a solution to this problem. Here, it is worth considering the case in which a bank's license is revoked by the Central Bank, and the case in which the bank voluntarily withdraws from 'the list'.

In the first case, it should be evident that the authority that gives the license has the right to take it away, given it provides legitimate reasons to do so. The loss of a license is therefore the result of a bank's malpractice as far as bank secrecy is concerned. In my opinion, if revoking the license was due to the bank's top management's malpractice, the decision must remain permanent. It is the penalty that top management has to pay for breaking 'the golden rule'. However, if the violation was caused by the actions of subordinate personnel, a managerial investigation has to accompany the judicial one to check if the bank's top management was the source of such actions. In such a case, the revoked license would be permanent; otherwise, the judicial ruling would suffice (penalties for secrecy violations will be discussed in part six).

In the second part, the bank itself can dispose of the benefit of bank secrecy. It wouldn't act justly, though, without informing its customers in ample time. This way, for instance, depositors can defer their normal or secret accounts to another bank that exercises secrecy. One thing is worth noting here. Information about

any account or bank transaction at the time when the bank was still licensed under secrecy law remain protected by that same law from inquiring outsiders.

Several articles, amendments, and decrees accompany the bank secrecy law. **Appendix B** lists 3 articles from **The Law of Cash and Credit** that are relevant for the purpose of this discussion. **The Law of Cash and Credit** goes into much detail on various related issues such as a bank's license removal, various penalties such as the ones imposed for not helping the control committee in its investigations, characteristics of committee members, etc. It would be tedious to list all articles, but it is essential to note that in Article 150, the bank manager is the only employee to be contacted by the control committee. However, out in the real world, one can clearly see that sometimes a bank managers' duties may not allow them to attend to the committee's members upon their investigative visit due to a probable overload of work or previous appointments. For this, they assign one of their deputies or assistants, under their full responsibility, for the job. At times, they even assign the director of their bank's internal control department to cooperate with the Central Bank committee. In case of an important issue or one that requires a written confirmation or signature, the director can then refer to the bank manager.<sup>6</sup> We can notice another deficiency here that the secrecy law does not elaborate on very clearly: real life practices are not always coinciding with the precise contents of the related secrecy articles. Fortunately, this practice is not harmful as long as the Central Bank committee can have access to all the information on banking transactions that they need - of course without crossing the secrecy barriers. Yet, amendments are needed to be made to clearly define the identities of the employees that are to interact with the control committee.

At this point, one can state that bankers are obliged to respect the secrecy code that is related to all facts known to them during their professional practice. The secrecy law excludes no one, not even the office boy who accidentally overhears

or comes upon a certain transaction and reveals it. However, they are not charged with any responsibilities by law for revealing facts they came upon during off hours.<sup>7</sup>

Furthermore, the law imposes the clients' wishes that all their transactions with the respective banks remain hidden, including their identities. Not only do they wish to hide all intentionally revealed secrets to their bankers, but even those that the bankers were able to find out about during certain banking transactions with their clients.

Bank secrecy requires proper organization and distribution of duties. Departments should conceal their own activities from other departments except when an exchange of financial information is necessary for accounting purposes or during investigative cases. The mail should be carefully distributed and disposed of or filed without making copies and limiting access to such files. The coded numbers for secret accounts should be delicately dealt with. The employees responsible for the safety-deposit box keys should be constantly substituted to reduce the possibility of theft or fraud. In any case, proper organization to implement bank secrecy is required on the bank's internal level to match up to the law of September 3, 1956.

## **Swiss and Lebanese Secrecy Law Comparison**

Despite the fact that it was the Swiss who initiated the bank secrecy concept, the Lebanese secrecy law differs in some aspects of its content. The Swiss Bank Secrecy Law is based solely upon Section B of Article 47 of the Federal Law dating back to 8/11/1934. This article states that:

"Everyone's intention, who is a member of a banking institution, an auditor or assistant auditor, a member in the bank's association, or a secretary, to break the secrecy stated by the law and denoted as professional secrecy, or to instigate or try to instigate someone to commit this violation, is subject to a fine worth 20,000 Swiss Francs or imprisonment for 6 months at most. It is also possible for the violator to be punished by both penalties. However, if the violator breaks the secrecy out of mere negligence, the penalty is a fine worth 10,000 Francs at most."<sup>8</sup>

By comparing the Swiss law to the Lebanese law, discussions with Mr. Toufic Shambour, Director of Judicial Studies at the Central Bank who directly relates to the governor, revealed the following differences:

- The Swiss law does not mention anything about branches of foreign banks residing in Switzerland, whereas the Lebanese law acknowledges their existence in Article 1 and throughout the rest of the articles.
- Initially, the Swiss law did not mention the cases for removing the secrecy privilege, whereas the Lebanese law does in both its 2<sup>nd</sup> and 7<sup>th</sup> articles.
- The Lebanese law penalizes differently in that it punishes the violators by imprisonment from 3 months to 1 year without the fine (more details will be discussed in part 6).
- The Lebanese law does not mention anything about instigators to violate the law whereas the Swiss law does.

This comparison merely states differences between two countries' legal systems and the variations among imposing certain penalties. This is not constructive. What matters are the effects of changing the secrecy laws upon society, the economy, the banking sector, and private depositors in particular.

According to Shahin (1993), in his paper on economic implications of changing bank secrecy laws, many countries lately have started tightening secrecy conditions. Various methods were implemented: closing loopholes in existing laws, imposing restrictions on the banking industry, etc. Switzerland was one of the countries to follow such procedures. For example, it abolished 'Form B' accounts on September 30, 1992. These accounts preserve anonymity by allowing depositors to conduct banking transactions through the use of a third party like a lawyer, a notary, or a trust administrator. Mainly, there are 3 reasons for this change in secrecy laws. First, there are some institutional changes imposed on European countries to join a larger entity such as the European Economic Community (EEC). Second, domestically unilateral moves have been underway to stop the use of Switzerland, for instance, as a haven for criminal, illegal money. Requests by the Pope of Rome to control such activities confirm the change. Consequently, the Swiss Banking Commission, stated in its 1988 Annual Report that bank secrecy does not cover illegitimate wealth (as is the case in Lebanese secrecy law). Finally, and most importantly, there comes the pressure from the international community, specifically the United States, that arguably started this trend of bank secrecy change. The first motive for US demands, through political pressure, was insider trading violations that became to be considered a crime in Switzerland as of July 1988.<sup>9</sup> Other reasons govern international demands for tightening secrecy laws, but they lie outside the focus of this paper.

As for Lebanon, bank secrecy has prevailed with no signs of restructuring. According to Dr. George Labaki, Director of Masters in International Affairs and

Diplomacy at Notre Dame University, "some relate this fact to a public misconception that creating responsible freedom is not the same as pure anarchy." As it translates to the topic at hand, the Lebanese free enterprise mentality dominates when the people sense an attack on their rights to conduct business. Others blame the politicians who are unwilling to change secrecy conditions for their own personal purposes. The common thought rests that, as Swiss banks revealed Iran-Contra Affair money and Ferdinand Marcos's personal stashed-away funds, Lebanese banks hold some politicians' questionably legitimate funds in their vaults. For this, it may not be desirable for those politicians to reveal the sources of their assets.

Today, Lebanon stands as a haven for attracting all types of depositors' money. How can one expect to amend such a law with the lack of a proper judicial system or with the absence of closed borders to ensure sovereignty and legality of exercising proper legislative procedures.

A probable reason for secrecy is that the total volume of funds in Lebanese banks is not large enough to sustain a drop in deposits due to tightening secrecy. Up to the 4<sup>th</sup> quarter of 1993, according to Bank Audi's Quarterly Economic Report, total assets of commercial banks reached a maximum of \$10,920.75 million in the 4<sup>th</sup> quarter of that year (LL18,685.4 billion at a going exchange rate of LL1,711.00/\$US). With the absence of sophisticated money-market instruments such as futures, forwards, or options, foreigners may not be interested in the Lebanese market. The presence of bank secrecy provides added incentive - legal or illegal - to deposit funds in our local banks. Such a boost in money supply helps the economy in different ways to be discussed in part 7. Are we responsible for other countries' bandits and the means by which they earn their money? Should we stall our economy by tightening secrecy standards and decline the



inflow of capital for purely humanitarian reasons? These are thoughts one ponders about and will find reasonable analysis in this paper discussing such issues.

### **III. Secrecy Suppliers and Demanders**

#### **Suppliers' Motives**

Countries providing bank secrecy usually relate the reasons for supplying it to its confidential curtain protecting the individual's right to privacy. They also take into consideration both humanitarian issues, by which the secrecy protects victims of political oppression and criminals of money laundering, and economic issues by which secrecy...

..."attracts foreign capital needed for development and growth, ensuring a strong position in international markets, and developing a solid banking system capable of withstanding various economic adversities..."<sup>10</sup>

In Lebanon, despite Edde's political reasoning for applying secrecy, it is clear that bank secrecy and capital inflow are inseparable. With the flow of capital, investments can boost economic developments and strengthen various sectors in

the economy, especially commerce, industry, and agriculture. In 1975 and in 1982, when political trouble might have caused massive withdrawals of deposits, bank secrecy prevailed by diminishing the total amount of withdrawals. At such instances, it was necessary for Lebanon to offer such a banking facility because of its small size and strategic geographical position. All in all, the secrecy law of 1956 did not create banking secrecy as a privilege to be enjoyed by the banks, but as a duty the banks must preserve for the interest of their clients. This duty makes it imperative that details about the clients be known to bank employees only. If outsiders had access to such information, any effective professionalism and responsibility would be lost. This, in turn, would result in a crisis of confidence among the public who has used bank secrecy in its interest. Thus, the secrecy law of 1956 is an effective privilege for Lebanon on a macro level.

### *The Bank and its Role*

"The institution or bank truly responsible for exercising bank secrecy is that whose primary role is to use, for its private account in loan operations, deposits or funds received from the public."<sup>11</sup> Article 1 of the secrecy law of 1956 has been amended in such a way that the Central Bank (instead of the Minister of Finance as was stated originally) registers a list of all banks whose license has been approved. Consequently, the bank is subject to bank secrecy conditions.

The persons required to uphold the secrecy in the bank constitute all employees of the bank because they can participate in, or have access to, clients' transactions. This includes low-level employees who came upon a document by pure accident. In addition, bank secrecy extends to non-employees who can have access to clients' transactions. This group includes board members, the general manager, and their

assistants. It also includes controllers of accounts, tax consultants, lawyers, judges, or all persons who, in the content of their profession, can have access to information ranging from a bank deposit to a court order related to the specific client.<sup>12</sup>

One case serves as an illustration as to how far the bank's responsibility stretches. On Feb. 28, 1974, 'Banque Nationale de Paris' found itself in the middle of a law suit with a firm that was one of its clients. The dispute arose over the difference in the meaning of the two terms: 'funds' and 'assets' referred to in Article 4 of the secrecy law of 1956. Whereas the term 'funds' means cash and all monetary variables to complement it (stocks and bonds), the term 'assets' implies all belongings whose value may be represented in various documents such as vouchers, freight bills of exchange, or even guarantees. No matter what term is used, however, the court ruling stated that bank secrecy indulges in both monetary and non-monetary issues for any client. The bank is accounted for such a responsibility and, hence, no confiscation occurs of any freight documents present in the bank in the absence of a permission note from the clients themselves.<sup>13</sup> It is clear that the bank can be regarded as a safe house for guarding all belongings the moment it engages in any form of business with a particular client.

### *The Bank and Control Committees*

In order to keep track of various aspects of banking transactions, a control committee exists to check the legality of commercial bank dealings with clients and other banks alike. As stated previously, this committee is totally independent of the other departments of the Central Bank and directly related to the governor. The members of such a committee inspect the banks' statements; however, on no

account can the inspectors ask for details of credit accounts or discuss matters with anyone but the directors of the respective banks themselves - an issue for which I have already discussed its shortcomings.

Control committees have the right to inspect debit accounts. But when can an account be considered a debit account prone to inspection? Different views arise here. Mr. Shambour considers that an account used for deposit and withdrawal purposes cannot be subject to inspection until it is already closed. Alternatively, Prof. Khalil Abou Hamad argues that it is only legal to inspect the transactions related to the debit account understudy, without having access to the identities of those parties who engaged in business deals with the owner of the account.<sup>14</sup> I believe that Abou Hamad's view is preferable since the other parties involved who are not debtors are still considered under the protection of the secrecy law that is meant to guarantee the safeguarding of clients' identities.

A relative instance where the control committee had access to certain information without breaking the secrecy code occurred after a particular case on June 18, 1987. It was then when the Central Bank demanded that the commercial banks were to provide the control committee and the Statistical and Economical Study Department with information concerning all loans given out in foreign currencies starting from 1/1/1986. Since providing the latter with the pertaining information would violate the secrecy code, such information was and still is only provided to the Central Bank's control committee under the previously mentioned debtor-creditor terms.<sup>15</sup> It is evident that control merely exists to prevent excessive loan giving to various debtors in order to protect the remaining depositors' money.

## *The Bank and its Opposition to Authorities*

When a country imposes bank secrecy, the banks are required to supply such a privilege against all publics. Articles 2 and 9 of the secrecy law of 1956 confirms such a statement. It is worth mentioning three types of authorities that face difficulty in obtaining certain related information:

- Judicial authorities
- Military authorities
- Monetary authorities

My research briefly summarizes each authority's interaction with bank secrecy as follows:

Unless there exists a court order (as will be revealed later) or a law suit between the bank and its client, no judicial authority, civil or criminal, has the privilege to acquire client information.

As for military authorities, they too cannot be authorized to investigate in banking transactions despite any military court order. For instance, if certain clients are indulging in business deals with 'the enemy', the only method by which they can clear their names, given that they are innocent, is to authorize permission for their banks to supply the military court with the relevant information.

The third form of authority to clash with bank secrecy is the monetary authority embedded in the tax collectors. The law impedes the bank to give tax collectors any information concerning clients' funds, assets, or banking transactions. It even allows bankers to dismiss themselves in the face of investigative tax collectors. Banks have been following the policy of providing monetary authorities with information on bank transactions hiding, however, clients' identities and replacing

them with special codes known only to the banks themselves. In the clients' points of view, it is this specific area, tax evasion, that bank secrecy best serves them - with the exception of those involved with money laundering that are not so interested in tax evasion as much as protecting their dirty money. It is noticeable here that the law acknowledges clients who willingly cheat on tax collectors by admitting to a portion of their assets or earnings. However, the losses incurred by such practices were obviously perceived by Edde as inferior with respect to the added capital inflow. This, in turn, would spur investment and productive opportunities to compensate for the loss in government revenue. If he didn't think that way, he would have probably proposed an added condition to his law that would protect the government against such actions. In any case, this is speculative argumentation, but since it is a form of tightening secrecy standards, economic impacts will be revealed numerically in part 7.

## **Demanders' Motives**

Demanders of bank secrecy may have a variety of motives for seeking such a privilege. These motives vary from legal, personal reasons to highly illegal, criminal ones. In any case, before distinguishing between the types of secrecy demand, it is essential to define the demander or seeker of secrecy. In other words, who is considered a client of a bank and who is not?

### *Definition of the Client*

The bank secrecy law does not define the true meaning of a bank client. Furthermore, differences between jurisprudence (the science of law) and diligence (specific court decisions) have never ceased in defining this term.

Both views consider clients as all who enter a bank to complete a transaction like cashing in a check, for instance. It is not necessary for these persons to have willingly chosen this bank because they are considered willing, by default, the moment they accepted the check to be drawn from the specific bank. By this definition, bank secrecy extends its boundaries to cover the greatest number of people that can enjoy its privilege and, in turn, increases secrecy demand that attracts more capital to strengthen its reason for existence. Jurists, however, agree that all who are to complete a transaction or draw a check from a deposit in a government account, are not considered clients. The reasoning behind this is that these persons unwillingly entered the designated bank, and hence, the latter is not responsible by secrecy law to protect the former party.<sup>16</sup>

As is noted, various views believe in characterizing clients under different categories. For instance, some writers even argue that persons entering a bank merely to cash in a check should not be considered clients. I will consider as clients all depositors in addition to all who voluntarily, and not accidentally, exercise a bank transaction. After depositors close their accounts or people cease conducting bank transactions, they are no longer considered clients; however, they will remain protected by secrecy law regarding any information pertaining to the period they were considered clients.

Having been defined, one can categorize clients as having different reasons to seek countries supplying secrecy privileges. The motives for demand are two :



1- Legal

2- Illegal

### Legal Motives

Legal demanders of secrecy require various services that, according to Shahin (1992), are within the limits of legitimate motives of secrecy demand. These motives can be divided into three:

- 1- Personal confidentiality motives that reflect the right for privacy
- 2- Legal tax avoidance in the form of tax shelters
- 3- Humanitarian reasons denoted by the protection of the value of assets whose owners may be politically or economically oppressed in their own countries that do not provide or supply bank secrecy services.<sup>17</sup>

### Illegal Motives

As for illegal motives to seek bank secrecy, there are many of which one can mention tax evasion (illegal in countries not providing bank secrecy), bribery and corruption, fraud, undercover government activities, securities laws violations, smuggling, and probably most importantly, money laundering.<sup>18</sup>

I have mentioned how countries that supply bank secrecy are moving towards minimizing the possibilities of holding 'dirty money'. What needs to be addressed here is that it is hard to point out the responsibility at a bank for not notifying the authorities about suspicious bank transactions. In Lebanon, bank secrecy stands firm against all authorities. Bankers, therefore, are not required to testify in court at all. To be on the safe side, though, bankers - usually bank's management or the board of directors - are advised to close the suspect's account (especially if it is a secret account) if they believe that the suspicious transactions harm both society and the bank's reputation and image.<sup>19</sup> Illegal motives hide behind the shield of bank secrecy; yet, may benefit the overall macroeconomic status of the country.

## **IV. Implementing Bank Secrecy**

Since bank secrecy is a law imposed to secure banking transactions, it is only necessary to study the implementation of some special cases in banking that apply secrecy as a base to conduct such activities.

### **Inheritance Cases**

Before clients' death, bank secrecy remains intact against all seekers of bank information concerning these clients unless otherwise specified by Article 2 of the secrecy law of 1956. Creditors have no access to any form of information unless the clients are declared bankrupt (one of the exceptions of upholding secrecy to be discussed in the next part). The spouses, children, and clients' trustees are not entitled to any information, according to the contents of Article 2, unless specified by the clients themselves in clear cut conditions. If, however, the clients were considered minors, all information would be transferred by law to their legal guardians - parents or trustees.

After the clients' death, the beneficiaries, who have to be informed, have the right, according to Article 3, to relieve the bank from its secrecy rights by being fully informed of the relevant books or accounts. The heirs cannot be exposed to information that may reveal the clients' personal lifestyles, especially if the deceased have previously notified the bank of such a deed; all that they are exposed to are account figures and inheritance wills.<sup>20</sup>

### **Secret Accounts and Safety-Deposit Boxes**

The secret account is an account that is only identified by a coded number and not the name of the depositor. This idea was initially presented to provide depositors with some added protection at times when bank secrecy was practically nonexistent. Nowadays, the secret account is merely an added seal of awareness securing accidental flaws of bank employees in gaining access to clients' information. It has been statistically shown that the average banking transaction passes over 15 employees making it prone to secrecy misuse.<sup>21</sup> The concept of opening such an account is to separate the name of the account holder from the account number. It is usually opened by the bank's branch manager or some appointed manager. The personnel involved in such a transaction are the only ones to know of the client's identity while the other employees are only aware of the account's given code number.

Article 3 of the secrecy law of 1956 includes the right of opening such accounts as well as renting out safety-deposit boxes. The clients, in such cases, are not sent any mail to their designated address; instead, contact is made by sending a bank representative personally or by holding a meeting in the bank manager's office.<sup>22</sup>

Inheritance cases apply in secret accounts as in normal accounts. Even if the heirs were not aware of the deceased's secret account, the Central Bank can provide such information by contacting the bank involved. If not, the heirs can file a law suit but they only have a period of ten years; otherwise, the funds and assets become the bank's property of which a portion is paid to the government.<sup>23</sup>

Secret accounts are not much different than normal accounts except for the added protection they provide. What can be noted, though, is the difference in legislative responsibility concerning secrecy. Under a normal account, if secrecy was illegally lifted, the bank can evade such a responsibility by claiming that management abided by the secrecy law by preparing its employees of the right procedures. By this, the employees in charge are solely penalized. If secrecy were to be lifted off of a secret account, the bank cannot avoid the charge since it is entrusted, on top of the secrecy regulations, by the signature of the secret account. The extra protection provided rests in the smaller amount of personnel knowledgeable of the account holder's identity, minimizing the risk of human error. For this, the bank's management is held responsible when it breaks the secrecy code concerning any secret account unless extensive investigations prove otherwise.

## Joint Account

On December 19, 1961, the Lebanese Bank Secrecy Law was strengthened by the declaration of a new law permitting banks to open joint accounts in the name of a number of partners. This form of account is not only used by business partners but by married couples as well. A married couple can open such an account so that, in case of a death of a partner, the spouse automatically has access

to the deposited funds in the joint account. **Appendix C** reveals the first 5 articles taken from **The Law of Cash and Credit** concerning the joint account.

The 2<sup>nd</sup> Article was made to ensure that the partners of such an account understand the commitment to which they are exposing themselves. Each can fill the place of the other in the case of an emergency, such as death. This leads to the 3<sup>rd</sup> Article that shows that the heirs, when entitled to have access to any information, are only informed of what the deceased has previously stated which has to be approved by all parties.

The remaining articles merely emphasize technicalities for joint account procedures, all of which do not override any secrecy privilege. On the contrary, this type of account was initiated as an added privilege abiding by the secrecy law in order to protect all partners in such an account.

## **Other Secrecy-Related Situations**

In relating bank secrecy to everyday operations, I will briefly explain the cases involving both shareholders and NSF checks.

### **Shareholders' Rights**

It is essential to know that when it comes to bank secrecy, what applies to clients does not apply to shareholders. According to Beirut's 1<sup>st</sup> Order Commercial Court, court order 936 dated May 9, 1960, it was convened that Article 2 of the secrecy law of 1956 only protected the bank's clients and not those who own shares of stock in it. In another court order 4 dated December 15, 1981,

in Beirut's 2<sup>nd</sup> Civil Appeal Court, it was ruled that a firm whose funds are deposited in a certain bank enjoys the secrecy privileges that its shareholders don't.<sup>24</sup> Thus, one can be checked upon by a court of law regarding ownership stocks in contrast to deposited funds that are protected by secrecy law.

### NSF Checks

Another distinctive feature of secrecy applications is what American accounting standards (FASB) denote as NSF (Not Sufficient Funds) checks. In Lebanon, if a person is to draw a check from a client's account and the bank realizes that there are not enough sufficient funds in the account, then the bank returns the check informing its holder to review and consult its issuer. One may not agree with the rationality of bank secrecy when it comes to checking accounts, believing that the mere issuance of a check lifts secrecy off of an account since it exposes a minimum amount worth the check's value. However, with the implementation of bank secrecy, this allegation becomes worthless. From my research, I have concluded that banks' actions in such cases present a solution that is recommended to continue. The banks do not return NSF checks per se; they simply ask the holder to review the issuer of the check for any sort of reasoning which may vary from doubt in the validity of the issued signature to present bank insolvency (not NSF conditions). By this method, even if it is implied, the banks do not inform the holder of their client's account situation. This involves two reasons:

- 1 - The secrecy code is a general law applicable to all credit accounts
- 2 - In its exceptional conditions, the secrecy law does not mention any case for lifting secrecy in the presence of insufficient funds

Other cases regarding secrecy apply in different situations, but they all abide by one slogan : ***SECRECY COVERS ALL***. Except for the conditions discussed in the next part, any action that may contradict bank secrecy regulations or lift the secrecy privilege is redeemed valueless with no authoritative power (as stated in Article 9 of the secrecy law of 1956). This power may originate from any jurisdictional authority; still, bank secrecy nullifies all other jurisdictions - an attractive privilege for present and potential clients.



## **V. Exceptions for Lifting Bank Secrecy**

The bank secrecy law has been initially created to protect customers' funds from being revealed to outsiders regardless of their identities. However, there are certain cases in which the Lebanese Bank Secrecy Law allows secrecy to be lifted for the smooth functioning of the economy and the safeguarding of people's rights. Articles 2 and 7 of the secrecy law of 1956 state those cases. What follows is an elaborated explanation for secrecy exceptions.

### **Illegal Wealth**

Article 7 states that bank secrecy is lifted in cases of illegal wealth that is defined by the legislative decree 38 dated February 18, 1953 and the law of April 14, 1954. Both legal statements lift the secrecy off of the employees working in the public sector. These employees had previously refused to reveal statements of their net worth and those of their spouses and offsprings when charged with illegal wealth.<sup>25</sup>

But how does one define illegal wealth precisely? According to these two legislative statements, illegal wealth has to do public employees receiving bribes to accomplish certain services. It also has to do with insider trading cases where public employees would purchase economic entities whose value will change to their benefits due to some upcoming law to be decreed - for instance, buying fuel at a low price and reselling the lump sum amount at a higher price after the initiation of the new law to raise fuel prices. Other cases also apply. However, knowing that bank secrecy withstands all forms of authority (according to Article 9 of the secrecy law of 1956), it is very difficult, if not impossible, to trace such illegal actions. The Lebanese bank secrecy provides a legal blanket so that the banks act as 'monetary safety-deposit boxes' for all forms of funds: public and private, legal and illegal. This denounces the respect for professional decency and results in one conclusion: **illegal wealth cannot be depicted**. This exception to the rule of bank secrecy concerning illegal wealth is not being exercised in court. In my opinion, until our politicians see to it that tracing illegal wealth, by tightening some bank secrecy standards, would not harm their interests, amendments in bank secrecy are not to be seen in the horizon.

### **Client's Approval**

Clients are entitled to present a written permission to lift the secrecy off of their accounts or funds. Such a permission does not need to benefit the clients' interests. This is not the issue here. The essential point is the intent expressed in written format. The timing is irrelevant as well in such issues. According to Article 5 of the secrecy law of 1956, clients may state such a permission at the initiation of conducting business with the bank. This early permission is irrevocable unless an

agreement is reached between the clients and the respective banks. Lifting secrecy may be specific in such cases. Clients have the right to chose which information to reveal and to whom.

## Law Suit

Bank secrecy is also lifted when a law suit arises between a bank and its client. This does not mean, though, that the client's whole account is to be revealed - after all, bank secrecy was implemented to protect the client. Only the bank transactions needed to the particular law suit are revealed in order for the court to take its decision in view of relevant information. The instant that the client's identity is revealed, the secrecy is lifted. Consequently, the client's funds are vulnerable to be confiscated by the bank as collateral. Such an action is perfectly legal. In a joint account situation, according to the Director of the Executive Public Administration Office in Kesrouan, ruling 86/27 dated May 8, 1986, the client's relevant funds are confiscated without exposing the other partners' identities.<sup>26</sup>

## Bankruptcy

According to Articles 2 and 3 of the secrecy law of 1956, secrecy is again lifted in the case of a client's declared bankruptcy. Such clients lose the right of managing their funds. The bank, therefore, is no longer bound by secrecy regulations and can reveal the clients' debit accounts to the Central Bank's control committee or a court-appointed representative that assumes all the clients' rights.

What applies to clients' bankruptcy, also applies to bank failure. The secrecy law of 1956 does not mention bank failure but various court rulings took note of this point such as the failure of Intra Bank or Al-Mashrek Bank. As a matter of fact, this case was decreed by law on January 4, 1967.<sup>27</sup> Prior to that date, insolvency and bankruptcy were considered as two different cases concerning bank secrecy. The law of January 4, 1967 cornered both situations as valid exceptions to lift secrecy.

It is a common thing, for businessmen especially, to deposit a portion of their earnings, assets, and funds in their spouses' accounts. This way, in case of bankruptcy, the clients' true net worth would be safe in these accounts. However, Article 26 of the Law of Commerce states that the funds earned by one spouse during the marriage are considered as the other's unless proven otherwise. If one spouse goes bankrupt, the other's account is confiscated as well. In addition, Article 627 of the same law states that all payments made by one spouse to cover the other's debts are considered as originating from the latter's funds initially, unless proven otherwise. Furthermore, one spouse cannot hide behind the secrecy curtain because the court-appointed representative is authorized to confiscate the account alongside the one of the other spouse. Unless it can be proven that funds were earned by means separate from those of the other spouse, the funds remain confiscated.<sup>28</sup>

## **Inter Bank Relations**

Referring to Article 6 of the secrecy law of 1956, one can note that for the maintenance of employing funds, banks can interchange information concerning their customers' debit accounts. The law has stressed that banks apply extra

caution in such operations so that secretive information would not fall in the hands of outsiders.

Apart from these exceptions, Lebanon's bank secrecy stands its ground very firmly in order to protect clients, to promote economical stability, and to encourage a whole nation's growth.

## **VI. Penalties for Breaking Secrecy**

When bank secrecy regulations are not exercised properly, Article 8 of the secrecy law of 1956 states that the guilty party is sentenced to prison for a period that ranges between 3 months to 1 year. In an article by Mr. Salim Al-Tayyara, he defines 'guilty' as those who commit a crime with intention not by pure accident.<sup>29</sup> This implies that, for instance, if bank managers reveal accounts for the Treasury for tax purposes, they are punished according to regulations. On the other hand, if those same managers forget to close their office doors while discussing some banking operations with a client, and someone overhears the conversation, they are not responsible since there is no intent of violating bank secrecy.

Pressing charges is a personal decision that the victimized party has to make and not a public right. The fine is then decided in court. Furthermore, if the guilty personnel are not depicted, the bank managers are prosecuted. The legal period of time to press charges after the violation is committed is 3 years by the clients themselves, their heirs after the clients' death, or their creditors through an indirect law suit.<sup>30</sup>

On another note, according to Article 203 of The Law of Cash and Credit, the time period that the guilty party has to serve is doubled for Central Bank personnel. Other articles go further to restrict such personnel from permanently practicing their banking profession.

The bank itself is also held responsible for the action of its employees. It is prone to pay for part of the law suit and other actions that the Central Bank might find necessary to impose upon it. Such actions, that have to be approved by the Supreme Bank committee, may take any of the following forms:

- Warning
- Decrease in the line of credit
- Prevention of conducting certain business transactions
- Assignment of a temporary controller or manager
- Revoking of license and deleting the bank's name from 'the list' of banks.<sup>31</sup>

Bank secrecy is a professional code to be abided by down to its smallest details. Any violation of such a code is punishable by law. The violators range from the smallest of office clerks, to the largest of bank managers, to the most prestigious of commercial banks.

## **VII. Economic Effects of Tightening Secrecy Laws: Some Statistical Evidence**

Throughout this paper, I have been discussing the variables that constitute the Lebanese Bank Secrecy Law. The implementation of the secrecy law has made Lebanon the home of secret Arab funds and other foreign capital that may spur investment opportunities. Foreign capital inflows are accompanied by emigrant remittances and capital in addition to Lebanese savers themselves, all of which have strengthened the banking sector. This strength is characterized by increases in money supply providing more credit opportunities, and thus, incurring economic development. Some political turmoil in the country and the region resided. Thus, much of the inflows were needed to finance military spending on the Lebanese Army, militias, and foreign armies, and not on productive purposes. The secrecy law has some disadvantages. These mainly lie in tax evasion, money laundering, illegal money hidden for political purposes, and the like. It is this part that reveals the added advantages from the existing status quo that benefit the economy as a whole as opposed to changing the bank secrecy law.



A major aspect constantly affecting the Lebanese economy has been the unstable political situation. On a national level, the sense of security has been nonexistent at various times during this century. Times such as WWI, WWII, and the civil war have deteriorated the smooth functioning of the economy. For instance, dollar exchange rates have been influenced by political situations and hardly anything else. Furthermore, the intervention of politics in economic activities is a dominant issue. A number of decisions affecting our economy are being handled by politicians to set their own needs with minor considerations for long term effects on the economy as a whole.

### **Existing Studies on Tightening Swiss Bank Secrecy Laws**

When discussing bank secrecy, it is essential to study the fluctuations in interest rates as a result of tightening certain secrecy laws. However, bank interest rates, as well as T-bill rates, are prematurely set. The only changes that the Central Bank or the Ministry of Finance would consider implementing with regards to interest rates are those that may attract the public to purchase treasury bills or exchange their dollars for Lebanese pounds. For this, I cannot estimate rigid interest rates as a function of tightening the secrecy law. It is worth noting here the study conducted by Shahin (1992) on international developments concerning this issue. His study concluded six points regarding bank alterations in deposit rates, total deposits or loans, or loan rates upon changing the Swiss Bank Secrecy Law. These points need to be mentioned in case the future holds for us a free market economy less governed by political interventions. Some points are summarized as follows: If banks find it to their advantage not to raise deposit rates in reaction to policy-makers' actions, bank deposits are bound to decrease. The impact on bank credit

availability and the loan market is a contractionary effect since the loan rate will increase while bank credit will decrease. If banks were to increase the deposit rate as a reaction to tightening procedures, the magnitude of the changes in deposits and interest rates would be less. In addition, the larger the difference between the loan rate and the deposit rate, the higher is the possibility that banks would raise the deposit rate to attract new deposits and prevent some existing ones from being withdrawn.<sup>32</sup>

Furthermore, a study conducted by English and Shahin (1994) estimated an equation of the nominal deposit rate that determines the effects of the reduction in bank secrecy on bank behavior. The model contained three components: an error term to capture the stochastic process of the time series, an econometric model containing economic variables such as money supply and inflation rate, and deterministic variables used to assess the impact and timing of the new laws. Interrupted time series was used in the model. Monetary effects in Switzerland were studied when the laws against insider trading and money laundering were put into effect. All results reflect the fact that banks reacted to tightening the secrecy law by raising the deposit rate in order to prevent some existing deposits from flowing out and to motivate new ones. In addition, after the implementation of the tightening policies, the deposit rate exceeded the loan rate and sustained the spread ever since.<sup>33</sup>

I have discussed how the authorities in Lebanon set the different interest rates. Such a fact makes the analysis, that studies changes in interest rates due to tightening effects, meaningless. For this, my study will focus on the change in total deposits, money supply, and, in turn, total output upon implementation and tightening of the bank secrecy law.

## Lebanon's Overall Monetary Situation

I would like to note at first that, so far in Lebanon, no reliable data is available. There exists multiplicity of values for the same variable accompanied by improper measuring techniques. Therefore, for one set of data, I had to merge information from various sources. For instance, with the absence of the CPI for several years, I obtained the inflation rate from another source and transposed the following formula to suit my needs:

**Inflation Rate = ((CPI<sub>2</sub> - CPI<sub>1</sub>) / CPI<sub>1</sub>) \* 100** was transposed into

$$\text{CPI}_2 = \text{Inflation Rate} / 100 * \text{CPI}_1 + \text{CPI}_1. \quad (\text{Eq. 1})$$

The aim of the study is to show the importance of the bank secrecy law in attracting deposits that increase the money supply for greater national output. However, money supply is a function of other variables that may have similar impacts. I will get into this after I briefly discuss the past Lebanese monetary situation, obtained from **Crash 86** by Raymond Mallat. Lebanon's money supply expanded due to the growth of domestic assets which translated themselves into large volumes of credit extension. In addition, persistent inflows of foreign assets (including emigrants' long-term capital deposits) helped the banking system to finance local and international operations. The banking sector is characterized by a policy of total liberalism and a free foreign exchange system. Beirut emerged as the largest center of capital flowing from oil-rich sheikdoms and from unstable and shaky states of the Arab peninsula. The Central Bank (or the Bank of Syria and Lebanon previously) had little effective monetary management or control. Throughout economic and monetary developments in Lebanon, the government

has, for the most part, remained distant from any sort of intervention or regulation.<sup>34</sup>

## **Theoretical Results and Empirical Findings**

Now that we have an idea of the Lebanese monetary situation, I will focus first on the function of money supply; i.e., the different variables that affect its volume. One has to acknowledge, though, the trends of political oscillations throughout the period between 1939 and 1993. The beginning of this period was characterized by the Second World War until 1945. After that, stability reigned till 1974 with the exception of some incidents, such as the Arab-Israeli conflict in 1948 that led to the refuge of approximately 17,000 Palestinians into Lebanon. The period of 1975-1992 was denoted by the agonizing Lebanese war that was characterized by great political turmoil and massive physical and economic destruction. Stability is hoped to regain its glory for the years to follow this period. For this, my calculations will focus on the period between 1939 and 1974 to capture the true effects of bank secrecy without the disturbance of the civil war. We are emerging to more stable times, both economically and politically. This is why such a comparison with a stable period was considered. The money supply equation follows:

$$M_2 = f(\alpha, \beta, \delta, \phi, \lambda, \pi) \quad (\text{Eq. 2})$$

where  $\alpha$  is the total volume of deposits,

$\beta$  is the inflation rate,

$\delta$  is a positive variable denoting a surplus whenever the existing local and regional political situations force

funds to flow into the country,  
 $\phi$  is the amount of money printing,  
 $\lambda$  is the exchange rate, and  
 $\pi$  is the volume of national output.

All of these variables contribute to the addition of money supply. I will attempt to reveal the impact of each of these variables. Simultaneously, I will show that  $\alpha$  is the most significant variable. That, in turn, will strengthen the model that bank secrecy is a primary factor that increases deposits and money supply altogether. I will leave  $\alpha$  for last to back up the argument.

Starting with  $\beta$ , inflation in Lebanon has been existent due to imported inflation, market imperfections, and a deteriorating Lebanese pound in the exchange market. To factor out the impact of inflation over money supply, I will only consider real terms in all variables to be used.

The variable  $\delta$  is a positive variable that denotes inflowing funds due to some change in the surrounding political situation in the country or the region. Since 1939, a number of incidents have occurred, driving funds into Lebanese banks. Between 1939 and 1945, during WWII, foreign armies that resided on Lebanese ground needed funding. This meant that additional quantities of money were to be funneled into the Lebanese economy in order to sustain their needs, regardless of cost or productive efficiency. Referring to **Table-1**, money supply rose from LL54 million to LL398 million. This period, however, was an exceptional period in addition to being before 1956 and so does not negate the effect of bank secrecy. Other dates apply as well such as the Arab-Israeli conflict of 1948 causing certain shifts of capital to Lebanon. An example would be the Iraq Petroleum Company that moved its pipeline and oil terminal from Haifa to Tripoli. An essential date to note here is 1956, when the bank secrecy law was initiated, the Suez Canal crisis

Table 1 - Total Deposits, Total Credits, and  
Money Supply M2 ( both in nominal  
and real terms) (in millions of LL)

1939-1993

Year	Total Deposits	Total Credits	Money Supply M2	CPI (1939=100)	Real Total Deposits	Real Total Credits	Real Money Supply M2
1939	27	10	54	100.00	27.00	10.00	54.00
1940	41	8	92	199.00	20.60	4.02	46.23
1941	31	12	89	287.00	10.80	4.18	31.01
1942	88	15	181	441.00	19.95	3.40	41.04
1943	166	18	279	560.00	29.64	3.21	49.82
1944	180	31	324	607.00	29.65	5.11	53.38
1945	227	70	398	553.00	41.05	12.66	71.97
1946	210	67	355	500.00	42.00	13.40	71.00
1947	207	106	369	496.00	41.73	21.37	74.40
1948	198	223	382	492.00	40.24	45.33	77.64
1949	181	272	347	461.00	39.26	59.00	75.27
1950	215	280	410	426.00	50.47	65.73	96.24
1951	259	318	465	462.00	56.06	68.83	100.65
1952	317	356	510	462.00	68.61	77.06	110.39
1953	347	357	537	432.00	80.32	82.64	124.31
1954	453	439	665	411.00	110.22	106.81	161.80
1955	555	529	774	417.00	133.09	126.86	185.61
1956	563	577	844	442.00	127.38	130.54	190.95
1957	715	706	1,008	471.00	151.80	149.89	214.01
1958	749	699	1,083	492.00	152.24	142.07	220.12
1959	1,021	840	1,316	509.00	200.59	165.03	258.55
1960	1,444	1,126	1,714	528.00	273.48	213.26	324.62
1961	1,680	1,269	1,913	525.00	320.00	241.71	364.38
1962	1,910	1,297	2,125	531.00	359.70	244.26	400.19
1963	1,963	1,487	2,145	560.00	350.54	265.54	383.04
1964	2,509	1,748	2,662	576.00	435.59	303.47	462.15
1965	3,042	2,104	3,216	593.00	512.98	354.81	542.33
1966	2,937	2,293	3,433	609.00	482.27	376.52	563.71
1967	2,725	2,297	3,354	632.00	431.17	363.45	530.70
1968	3,134	2,087	3,471	627.00	499.84	332.85	553.59
1969	3,314	2,175	3,791	656.00	505.18	331.55	577.90
1970	3,991	2,185	4,269	656.00	608.38	333.08	650.76
1971	5,136	2,729	5,275	672.60	763.61	405.74	784.27
1972	6,255	3,344	6,383	705.82	886.20	473.77	904.33

Year	Total Deposits	Total Credits	Money Supply M2	CPI (1939=100)	Real Total Deposits	Real Total Credits	Real Money Supply M2
1973	7,507	4,714	7,733	747.33	1,004.52	630.78	1,034.76
1974	9,444	5,764	9,578	830.35	1,137.35	694.16	1,153.48
1975	9,651	6,835	10,653	912.64	1,057.48	748.93	1,167.27
1976	9,322	7,244	11,208	1,176.12	792.61	615.92	952.96
1977	12,906	8,505	14,373	1,402.76	920.04	606.30	1,024.62
1978	15,114	10,991	17,229	1,545.28	978.08	711.26	1,114.94
1979	20,044	14,095	21,868	1,912.59	1,048.00	736.96	1,143.37
1980	27,879	18,193	28,827	2,366.45	1,178.09	768.79	1,218.15
1981	38,929	25,468	40,397	2,824.60	1,378.21	901.65	1,430.19
1982	45,544	37,138	48,557	3,351.10	1,359.08	1,108.23	1,448.99
1983	58,704	48,316	61,720	3,620.53	1,621.42	1,334.50	1,704.72
1984	74,355	58,509	76,278	4,251.59	1,748.88	1,376.17	1,794.11
1985	118,173	85,764	119,100	6,975.15	1,694.20	1,229.56	1,707.49
1986	337,563	164,248	323,900	14,273.96	2,364.89	1,150.68	2,269.17
1987	1,591,383	581,867	1,471,300	71,885.07	2,213.79	809.44	2,046.74
1988	2,243,352	1,040,764	2,174,700	179,712.67	1,248.30	579.13	1,210.10
1989	2,452,324	1,436,380	2,465,200	269,569.00	909.72	532.84	914.50
1990	3,789,923	2,236,659	3,822,300	431,310.41	878.70	518.57	886.21
1991	5,520,214	3,280,521	5,499,500	646,965.61	853.25	507.06	850.05
1992	12,161,900	5,131,000	11,869,400	1,495,137.53	813.43	343.18	793.87
1993	15,756,600	6,194,600	15,187,000	1,627,606.71	968.08	380.60	933.09

Sources: R.A. Mallat, Fiscal Policy for Social Justice and Economic Development ;  
 Beirut Chamber of Commerce and Industry;  
 Bank of Lebanon, Annual Report;  
 Bank Audi, Quarterly Economic Report;  
 CENTRAL DIRECTION STATISTICS,  
 Monthly Statistical Bulletin .

strengthened the Cairo-Damascus axis causing Lebanese business and capital established in Syria and Egypt to be confiscated. During this period, according to **Table-1**, money supply increased from LL190.95 million in 1956 in real terms to LL214.01 million in 1957. In 1961, the economic squeeze of Syria and Egypt was relaxed. Consequently, US and UN troops spent money in Lebanon. Money supply increased by approximately LL40 million in that year alone (refer to **Table-1**).<sup>35</sup> As we can see, money supply is affected by the surrounding political turmoil or stability; however, it is also noticeable that funds always have flown Lebanon's way, especially after bank secrecy was regulated. This backs up my argument about the impact of the secrecy law on total money supply.

The variable  $\phi$  denotes the amount of money printing or note issuance by the Central Bank. Between 1939 and 1964, the Bank of Syria and Lebanon (BSL) remained in charge of managing the money supply in Lebanon before the creation of the Central Bank. Even then, although the BSL had the ultimate power over note issuance in the country, it had always played a passive role in the fluctuations of the note issue circulation and refrained from pursuing any national policy. The active role in the control of money has been assumed by the government. In times of need, the authorities brought direct pressure on the BSL to manipulate the note circulation in the country. For example, in the after-effects of the crisis of the Intra Bank crash, note issuance was expanded in October 1966 by LL73 million.<sup>36</sup> However, not many cases apply in the history of monetization in Lebanon. As I stated earlier, the Lebanese government hardly interfered in the monetary situation, especially in the stable period before 1974. By observing **Table-2**, one can notice that for the period 1944-1974 (with the exception of 1950, 1967, & 1973) the government registered a surplus, so why would it want to cause inflation by added note issuance? This renders additional money printing as an insignificant factor in raising money supply in our recent history.



Table 2 - Budget Surplus (in millions of LL);

Exchange Rate (LL/\$US)

1939-1974

Year	Budget Surplus	Exchange Rate (LL/\$US)	Year	Budget Surplus	Exchange Rate (LL/\$US)
1939	N/A	N/A	1957	17.40	3.18
1940	N/A	N/A	1958	43.90	3.20
1941	N/A	N/A	1959	53.70	3.15
1942	N/A	N/A	1960	75.80	3.15
1943	N/A	N/A	1961	57.10	3.02
1944	10.00	N/A	1962	13.20	3.06
1945	19.30	N/A	1963	62.40	3.08
1946	21.90	N/A	1964	50.20	3.08
1947	25.30	N/A	1965	25.40	3.07
1948	8.70	N/A	1966	38.60	3.17
1949	4.00	3.26	1967	(7.90)	3.13
1950	(1.20)	3.44	1968	34.50	3.18
1951	15.20	3.72	1969	35.40	3.25
1952	36.40	3.65	1970	34.40	3.27
1953	44.90	3.40	1971	101.10	3.22
1954	46.20	3.22	1972	160.50	3.05
1955	46.50	3.24	1973	(38.40)	2.61
1956	30.70	3.22	1974	51.00	2.33

Sources: R.A. Mallat, FISCAL POLICY for SOCIAL JUSTICE and ECONOMIC DEVELOPMENT;  
R.A. Mallat, 70 YEARS of MONEY MUDDLING in LEBANON, 2nd edition;  
CENTRAL DIRECTION OF STATISTICS,  
Monthly Statistical Bulletin .

As for the variable  $\lambda$ , that denotes the exchange rate, an Exchange Stabilization Fund was created on May 1952 in the Central Bank to keep the national currency stable in terms of foreign exchange. The objective of such a Fund is to intervene in the exchange market as a buyer or seller of hard currencies to offset the undesirable fluctuations in the exchange value of the Lebanese pound. This Fund was very much in use in the turbulent war period 1975-1992 when the country witnessed hyper inflation. However, as **Table-2** reveals, the prior period witnessed a stability in the US dollar exchange rate vis-à-vis the Lebanese pound. To increase the money supply, the Lebanese pound, for instance, would improve in the exchange market, everybody would sell US dollars (to the Fund held in the Central Bank eventually) in order to acquire pounds, and this would raise the money supply. Such an activity was not necessary during the stable period before the war making the exchange rate factor an insignificant one in raising money supply as well.

The variable  $\pi$  denotes national output. According to the Quantity Theory of Money, the relationship between national output and money supply reads as follows:

$$MV = PQ \quad (\text{Eq. 3})$$

where **M** is the nominal money supply  $M_2$ ,

**V** is the velocity of money or the frequency of transactions in the market, and

**PQ** is the nominal GDP.

Some theorists believe that from this equality one can imply that output creates money. I have to disagree with this view and support the opposing idea. In my opinion, money exists to create credit availability, investment opportunities, and

less incentives to invest funds abroad in order to promote output, and not the other way around. For this, I suggest removing the variable  $\pi$  from Eq. 2 because output, being a function of money supply, constitutes false causation; it is quite the inversion of such a statement.

From the previous discussions, I showed the shortcomings of my model that will link deposits, that are attracted by the bank secrecy law, with money supply. However, I was able to diminish the significance of the variables that directly affect increases in money supply and will not be included in my model. I have shown how the effect of inflation rate was removed by considering real terms for all variables to be used in calculations. The exchange rate was stable during the period under study, and thus, nullifying its effect on additional money supply. National output was removed from the equation pleading false causation. Additional money printing does increase the money supply, but the national policy did not call for such measures frequently enough to render it as a significant variable in the money supply equation. What remains are the inflowing funds due to surrounding political turmoil and additional deposits. We can classify these two variables under the term deposits that increased because of bank secrecy. I will show how the level of deposits increased after the implementation of the bank secrecy law. Demanders of bank secrecy (discussed earlier) include the category of the politically oppressed or those who illegally wish to hide their funds. In either case, I justified the linking of both variables of Eq. 2,  $\alpha$  and  $\delta$ . The deposits equation may read as follows:

$$Y = Y_0 + \phi X \quad (\text{Eq. 4})$$

where  $Y$  is total volume of deposits,

$Y_0$  is an initial amount of deposits,

$\phi$  is a coefficient that increases as bank secrecy is being

implemented as opposed to the period before 1956,  
and

**X** is the year understudy.

Referring back to **Table-1**, one can see the nominal and real figures for total deposits, total credits, and money supply for the period 1939-1993. Graphically, **Fig. 1** reveals the activities of real total deposits over this period of time. I chose real figures to put aside inflationary causes from my study. After the decree of the secrecy law in 1956, inflowing funds were deposited in our banks to take privilege in this new protective policy. I will interrupt this time series at the year 1956 in order to reveal the difference in  $\phi$  before and after the split. This shows the effect of bank secrecy implementation. **Fig. 2**, which is drawn to reveal real total deposits in the more stable period of 1939-1974 (prior to the civil war), shows more accurately the increase in upward trend concerning deposits. Prior to 1956, considering a linear curve and real values for total deposits,  $\phi$  is 6.63. Being the slope of **Eq. 4**,  $\phi$  was calculated as follows:

$$\text{slope} = (\Delta y) / (\Delta x) \quad (\text{Eq. 5})$$

where **x** and **y** are the axis coordinates

$$\implies \phi = (\Delta \text{ real total deposits}) / (\Delta \text{ years})$$

$$\implies \phi = (133.09 - 27) / (1955 - 1939)$$

$$\implies \phi = 106.09 / 16 = 6.63$$

**Eq. 4** becomes as follows :

$$Y = 27 + (6.63)X \quad \text{with the units being in million of LL.}$$

### Real Total Deposits (1939-1993)

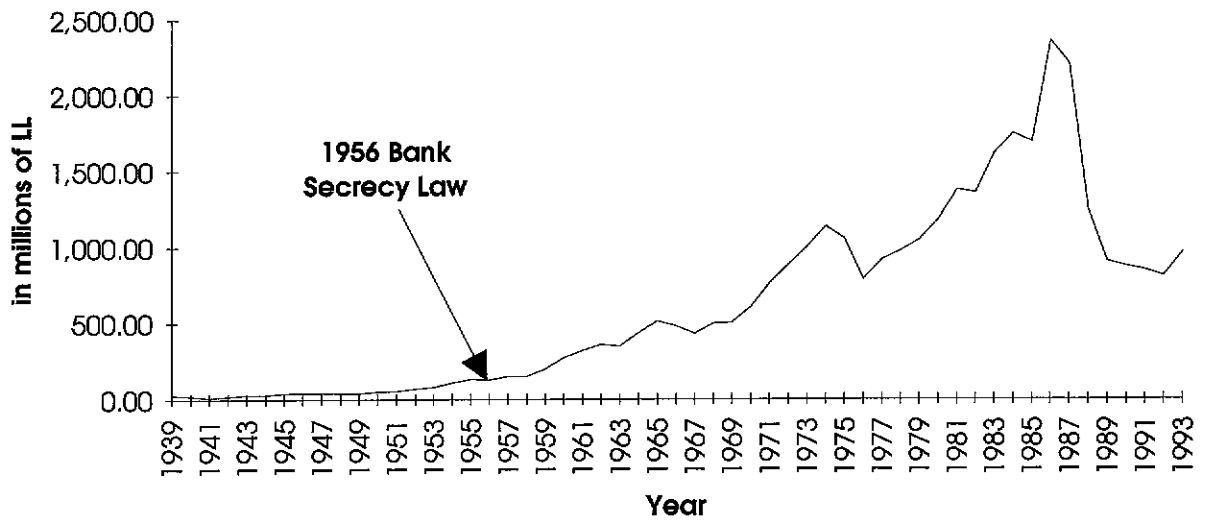


Fig. 1

**Real Total Deposits  
(1939-1974)**

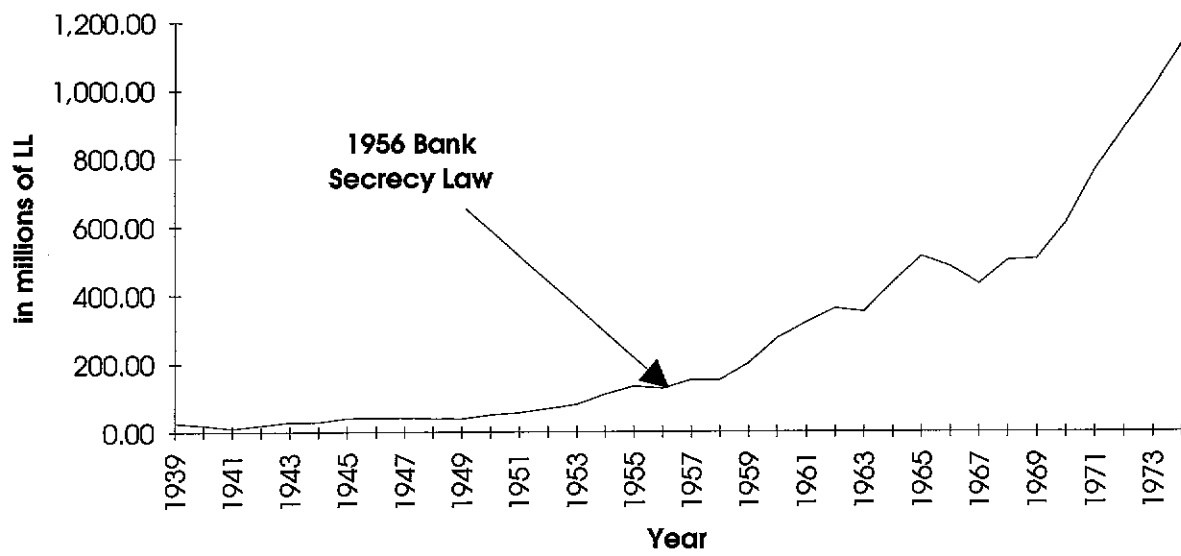


Fig. 2

This translates into the fact that if one considers a linear progression for the period 1939-1955, total deposits are increasing LL6.63 million per year in real terms, starting from an initial real deposit base ( $Y_0$ ) of LL27 million. Compared to the period 1956-1974 (after the implementation of the bank secrecy law),  $\phi$  becomes 56.11 (using the same considerations). **Eq. 4** now would read:

$$Y = 127.38 + (56.11)X \quad \text{with the units being in million of LL.}$$

Now, real total deposits are increasing at a yearly rate of LL56.11 million and starting from a real deposit base ( $Y_0$ ) of LL127.38 million. This means that in addition to the increased volume of deposits, the secrecy law has played a factor in raising the yearly rate of increase in total deposits, even in real terms. As for the period to follow, referring back to **Fig. 1**, one can clearly notice the erratic fluctuations during the war period especially in the later war stages in the late 80's and early 90's. Nevertheless, between 1957 and 1993, the slope of **Eq. 4** ( $\phi$ ) registers a value of 22.67 which is still higher than the 'pre-secrecy' era. It is worth noting two things here regarding the post-'74 period. First, these figures prove the strength of the banking sector, characterized by its bank secrecy regulations, during the war period. Second, the 1993 figure shows an upward trend explained by the internal political and monetary stability. Depositors feel safer now to deposit their funds in Lebanon - being protected by the secrecy law simultaneously, especially that the political situation has been somewhat stabilized and the hyper inflation has been brought down, according to Bank Audi Quarterly Report, from 131.1% in 1992 to 8.86% in 1993. The stable \$US exchange rate, that is on a slow downward trend, has brought back some faith to the Lebanese public in the local currency. I will hit on this point in a while when I discuss the velocity of money.

## The Model

To back up the view of a strong banking sector, I related total deposits to money supply over time after explaining the shortcomings of the model and deleting the less significant variables. If we observe the scatter gram in **Fig. 3**, we can see that there is an almost perfect linear relationship between real M2 and real deposits. A straight trend line (expressed mathematically as  $Y = a + bX$ ) was drawn through the points with minimal deviation from the actual data. For this, a linear regression was conducted for this type of analysis over the period 1939-1974. Mathematically, with a significant t-test of 91.29 and a high coefficient of determination  $R^2$  (the sample coefficient that expresses the proportion of the total variation in the dependent variable explained by the regression line <sup>37</sup>) of 99.59%, the formula read as follows:

$$M = 42.4719 + (0.9966)D \quad (\text{Eq. 6})$$

where **M** is the dependent variable signifying real money supply

M2, and

**D** is the independent variable signifying real total deposits.

Even for the period 1939-1993, the results determined great significance and determination between the two variables, real deposits and real M2. With a t-test of 89.08 and a coefficient of determination  $R^2$  of 99.34%, the model turned out as follows:

$$M = 54.3770 + (0.9731)D \quad (\text{Eq. 7})$$



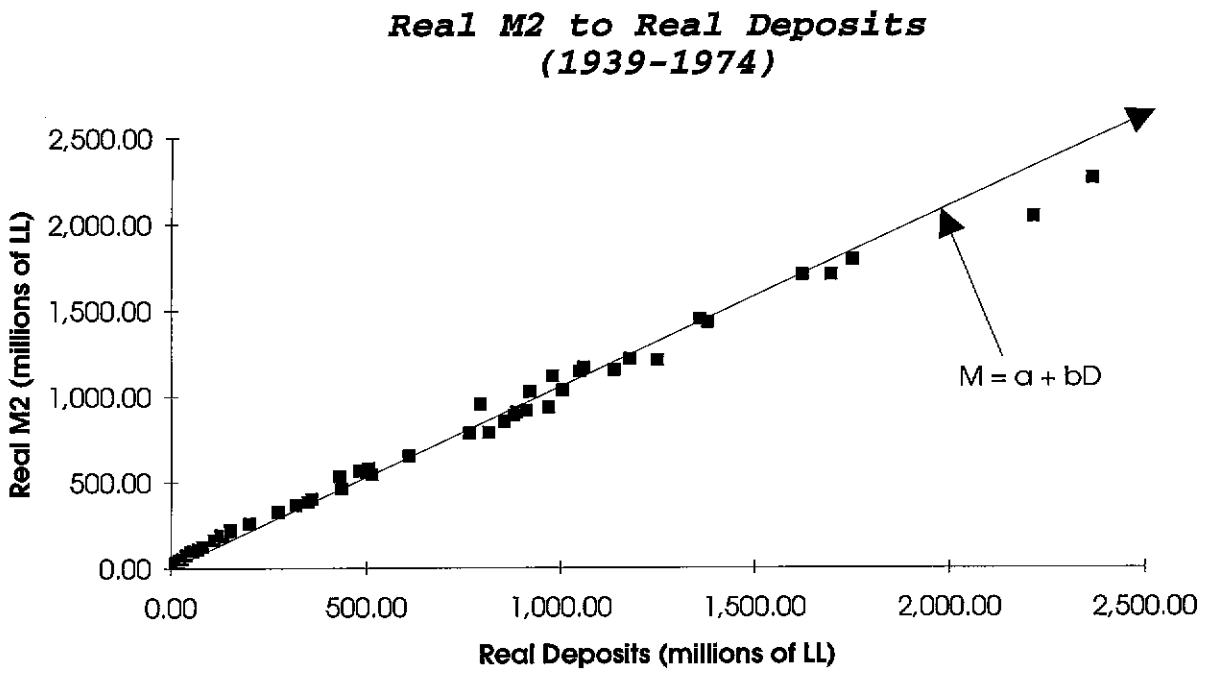


Fig. 3

The relationship between deposits and money supply (in real terms) shows high significance and coefficient of determination. The equation can be explained as such: For every 1 unit increase in real total deposits, an accompanying increase of 0.97 units (for the period 1939-1993) is witnessed for real money supply - a parallel 0.9966 units in real M2 is witnessed for the 1939-1974 period.

Additional money supply provides the opportunity to grant extra credits for investment purposes. Referring back to **Table-1**, I calculated the average percentage of real money supply M2 that goes into real credit formation. The results for the two periods, 1939-1974 and 1939-1993, were almost similar. The former registered a factor of 51.77% whereas the latter showed a 54.70% share. This translates into the fact that approximately half of the money supply M2 is being spent for credit purposes.

In view of such results, one can confirm the positive relationship between deposits on one side, and credits and money supply M2 on the other. These equations translate the fact that an increase in deposits increases the money supply and the credit availability, that, in turn, spur investment opportunities. Currently, coming out of a war, the country needs productive investments to boost national output. Any tightening of bank secrecy, will lure foreign capital away from our banks, causing a drop in the rate of increase (the slope) of total deposits; consequently, a drop in credit and investment opportunities follow alongside the money supply. The way this is linked to national output is through the Quantity Theory of Money ( $MV = PQ$ ) discussed in **Eq. 3**. Before indulging on the effects of tightening bank secrecy on national output, I would like to explain a certain issue, concerning the velocity of money, that I picked up from my interview with Dr. Raymond Mallat, Director of the Business School at Notre Dame University. In Lebanon, velocity is divided into two parts: a transactionary part and a speculative part. The former implies the frequency of transferring funds in the

market for the exchange of goods and services. The latter means the frequency of transferring funds in the foreign exchange market, where people exchange their currencies to other currencies in order to gain at the stock exchange (usually the Lebanese Pound and the US Dollar foreign exchange). Both parts work in opposite directions. As the monetary situation stabilizes and the US Dollar exchange rate holds, the speculative velocity drops due to the decrease in currency exchange that will not present the usual gains. In turn, with a rise in the level of output, the transactionary velocity rises due to increased transactions in the goods and services markets. For the purpose of this study, I will assume that the velocity will remain somewhat constant for years to come; that is, until the economy really picks up in national output causing the transactionary velocity to dominate over its speculative counterpart, both velocity movements will outweigh each other.

Back to the topic at hand, any tightening of secrecy laws of any form (against money laundering, drug trafficking, etc.) will decrease the volume of deposits whose owners are interested in the protective characteristic of bank secrecy. I have shown how, between 1939 and 1974, a 1 unit drop in real deposits is accompanied by an almost parallel 1 unit drop in real money supply M2 - a 0.97 unit drop if we considered the period 1939-1993. The amount of drop in real money supply M2 would cause a higher volume of decline in nominal money supply M2 due to inflationary effects. Referring to Eq. 3, with  $v$  assumed to be constant, a decline in money supply causes a similar decline in GDP (both variables would be divided by the same factor to balance the equation). Therefore, it is evident how any form of bank secrecy change would have its toll on national output. Raising GDP is the major advantage of implementing bank secrecy and should override any existing disadvantages. Lebanon is a country existing in a stage where boosting national output, rebuilding the infrastructure, and providing investment opportunities are the primary economic objectives.

## Ideas for Economic Reform

Throughout my research, I have come to realize that bankers and various professionals in the business field seem to mainly focus on the tax evasive property of bank secrecy. The main suggestion to curtail such a disadvantage is to enforce secrecy on foreigners' accounts only. Local deposits have to be exposed to the authorities whenever public right demands it. So far, taxes are only being collected from employees, social security, and pension funds because the government has direct access to the source of such means of income. They are not collected from private businesses or businessmen that comprise a great portion of this nation's output. This creates great social injustice in different social classes. To compensate for the loss in its legal right of revenue collection, the government is turning to indirect sales taxes as a method by which it can enrich its receipts.

Such a suggestion may keep a firm, watchful eye over the public's credibility in presenting their income statements for the tax authorities. I believe, though, that it is not a recommended method. The previous figures have made it obvious that bank secrecy proved beneficial to the Lebanese economy in terms of total deposits, money supply, and gross national output. This law has provided the security of depositors' funds and anonymity of their identities. In addition, it has been a factor in the development of the banking sector in particular and of the Lebanese economy in general. In particular, the secrecy law not only encourages inflowing capital, but attracts foreign banks to open up branches in Lebanese territories as well. In general, economic development can only be enhanced through economic growth. Growth will provide society with more consumer goods and services, and raise the standard of living - the increase in national output was revealed in the discussion above. It can make possible additional machinery equipment for capital investments; it can help to meet quickly growing needs in the public sector of the

economy in various fields such as highway construction, education, defense, etc. Rapid economic growth can also provide jobs for a growing labor force (especially after the disintegration of various militias) and prevent emigration. Therefore, facilitating economic development should be a priority in social goals because it provides social equality, social justice, freedom, security, welfare, and other socio-economic variables. Such variables can only be attained through higher economic growth rates.

The deficiency, therefore, does not exist in bank secrecy. The solution may reside in amending the needed methods of tax collection that can provide the government with precise revenues. Simultaneously, the authorities would not need to go over the bank secrecy laws and consult the banks for tax revenue services.

In view of this information, one should be able to realize that for the time being, and for a while to come, the Lebanese Bank Secrecy Law should not be altered. The country needs infrastructure building and a boost in national output to cover the budget deficit, ignite investment projects, and, in turn, diminish the trade deficit. If we look at the matter from a humanitarian point of view, it may seem criminal to willingly accept dirty money into our banks. However, humanitarian reasons also compel us to save this nation and its people from an economic disaster that negatively translates onto each and every Lebanese resident. For this, the funds collected for the 'SOLIDAIRE' project plus the present deposits existing to benefit from the present bank secrecy law, are necessary to boost this economy to new output levels. Thus, tightening the bank secrecy law would in fact deteriorate the economy because it would drive away depositors who stashed their funds in our banks to hide behind the secrecy cover in the first place. With a substantial number of withdrawals, the nation's money supply will decrease, reducing along with it, the national output. Therefore, for the moment, we should accept that the government from which illegal foreign funds originated should be

responsible for revealing its culprits. On the other hand, the Lebanese government, for humanitarian purposes, needs to take care of its own economy and not the source of incoming funds that have proven, over the years, to solidify the banking sector even at times of monetary deterioration.

## **VIII. Concluding Remarks**

The Lebanese Bank Secrecy Law is one of the few remaining laws in the world that is left unchecked by any tightening procedures. Some acknowledge its national benefits, while others renounce it. The former party view its impact in attracting foreign capital, whereas the latter party claim that it protects smugglers, money launderers, and drug traffickers and Lebanon's economic development should not rest on the shoulders of illegal capital escaping its homeland.

Bank secrecy in Lebanon has provided banks with client trust and professional secrecy. Both attributes have been a major factor in the strength of the banking sector. A bank's trust should not be faulted; on the contrary, it should develop through the bank's transactions with its clients who have faith in its management and employees to protect their funds.

The main issue that blemishes the secrecy's face value is that it protects tax evasion and that it creates disorder in revenue services that, in turn, creates social injustice. The employee is exposed by his superiors; whereas, the superiors are protected by bank secrecy. In addition, it is not proper to hold a haven for dirty

money in our banks. By this, banks are not bound by any law to conduct transactions with anyone: they can be selective in their choice of clients.

In refuting the opposition to bank secrecy, I can state that banks are not the only institutions that cheat on the tax revenue service. Various organizations conduct business transactions and reap gains that are not recorded in their books for the purpose of tax evasion. Lifting bank secrecy off of such a procedure, therefore, will not solve the problem of eluding tax evasion; on the contrary, all that it will accomplish is the destruction of client trust in our banks and the withdrawal of their funds abroad. Even though, they may not enjoy secrecy abroad but they certainly find security.

On another note, I believe that the bank is not responsible for illegal activities that occur abroad. The responsible parties are the respective governments where the fraud has taken place or international laws that govern against such actions. It is very difficult, however, to depict the legality of any source of funds. It is in the hands of the banks' best judgement.

Bank secrecy is a necessary privilege to offer in Lebanon because of its small size and strategic geographical position. It is essential to create an active, monetary and economic situation in the presence of a government that provides economic freedom, stability, social justice, social security, and political security for its people. The absence of any of these attributes will weaken the strength of bank secrecy that will cause a secondary reaction to help in monetary deterioration.

In the stable period of 1939-1974, the economy flourished in the presence of bank secrecy that induced an active banking sector. In the war period of 1975-1992, bank secrecy stood strong against all forms of outsiders, providing security for banks' clients on a micro level, and keeping intact a solid banking sector on a macro level. I have shown that any form of tightening in bank secrecy laws will lead to a chain reaction that keeps worsening. It starts off with a lack of trust or a



loss of interest on the clients' part. This would lead to a number of withdrawals from our banks either to seek security for depositing legal funds or secrecy to hide illegal funds. In any case, the country's total deposits and money supply figures will phase down. This loss will be accompanied by a loss in credit availability and investment opportunities. With these two conditions, the act of generating productive revenues will decline, lowering national output. Such a situation is highly dangerous for Lebanon at this time. At this stage, our economic development should encompass infrastructure building, monetary and political stability, and a boost in our national output in order to achieve economic growth. For the coming period, all other factors are secondary. Illegal actions should be handled by outsiders, whereas our government should focus on upholding social and economic welfare of society as a whole, and specifically raising the individual's standard of living. Does bank secrecy provide such a luxury? Well, it is up to the personnel, who are in charge of making the decision for tightening its regulations, to acknowledge the chain reaction that leads to deteriorating the economy. I am not claiming that bank secrecy directly creates economic growth; however, its absence, fully or partially, curtails the possibility of providing such a luxury in the near future. I doubt that Lebanon can withstand any more delays!!!

## NOTES

1. Shahin (1992), p. 1.
2. Ibid., p. 3 discusses the historical background of bank secrecy on an international level.
3. Shambour et al. (1993), pp. 14-20 Shambour goes into extensive detail in explaining the Swiss Bank Secrecy history, its origins, legal implications, public choice, etc.
4. Shahin (1992), p. 4. For a complete rundown on the four main points of Article 47 of the Swiss Banking Law, refer to: Credit Suisse, **The Truth about Swiss Banking**, Zurich : Credit Suisse, 1972.
5. Shambour et al. (1993), pp. 91-92. Abou Fadel briefly discusses the Lebanese Bank Secrecy's historical background, up to the present day. He gives live examples where secrecy stood in the face of outsiders. Such an example would be the Israeli invaders in 1982 who helplessly stood with their weapons in the face of devoted bank managers and employees who risked their lives to uphold the law.
6. Bsat (1992), p. 25.
7. Shambour et al. (1993), p. 218.
8. Ibid., p. 191.
9. Shahin (1993), pp. 5-11 discusses international changes in bank secrecy and their applied motives and results.
10. Ibid., pp. 4-5.

11. **The Law of Cash and Credit**, Article 121, p. 37.
12. Al-Tayyara (1993), pp. 7-8.
13. Bsar (1992), p. 43 lists various court rulings to indicate the real exercise of bank secrecy in its different situations and forms.
14. Ibid., pp. 23-24.
15. Ibid., pp. 25-27.
16. Nasr (1961), p. 16.
17. Shahin (1992), p. 5.
18. Ibid., pp. 5-6 cites some facts and figures regarding various illegal motives to use secrecy as a shelter to hide illegal funds.
19. Shambour et al. (1993), p. 104.
20. Ibid.
21. Shambour states this statistic in a personal interview conducted with him.
22. Al-Tayyara (1993), p. 10.
23. Shambour et al. (1993), pp. 97-104.
24. Bsar (1992), p. 44 gives the two court rulings in their precise manner concerning the parties involved in the law suits.
25. Shambour et al. (1993), p. 223.
26. Bsar (1992), p. 21.
27. Shambour et al. (1993), p. 222.
28. Fabia (1967), pp. 290-292 states the wife's role in case her husband goes bankrupt. He presents discussions and objections concerning the present system that deals with such an issue.
29. Al-Tayyara (1993), p. 14.
30. Ibid., pp. 15-16.
31. Ibid., p. 16.

32. Shahin (1992), pp. 11-17 discusses and explains the reactions of banks to tightening bank secrecy procedures.
33. English and Shahin (1994) provide a detailed study on nominal interest rates and bank reactions to tightening secrecy standards in Switzerland.
34. Mallat (1986), **Crash 86** explains in detail the history of the Lebanese monetary situation.
35. Ibid.
36. Ibid.
37. Lapin (1991), p. 153.

## **APPENDICES**

## **APPENDIX A**

The Lebanese Bank Secrecy Law that was proposed by deputy Raymond Edde and approved by the Parliament on September 3, 1956 is listed in **The Law of Cash and Credit** on pages 84-85 as follows (amendments are automatically inserted or deleted in the articles of the law):

**ARTICLE 1** - The institutions in Lebanon required to exercise the bank secrecy act are in the form of limited companies (incorporated and denoted by S.A.L.: Société Anonyme Libanaise) and banks that are branches of foreign organizations, on condition that these domestic and foreign banks are registered on 'the list' of banks approved and licensed by the Central Bank.

**ARTICLE 2** - The managers and employees of the banks referred to in Article 1, or anyone who in the nature of his function or profession in any way was registered in the bank's books, transactions, or letters, is bounded by absolute secrecy in the benefit of the bank's customers and cannot proclaim what he knows about the customers' names, funds, or personal issues to anyone or any public, administrative, military, or judicial authority, unless he is authorized in writing by the customer himself, his heir, or his trustee, if the customer was declared bankrupt, or if there existed a law suit involving a banking transaction between the bank and its customer.

**ARTICLE 3** - The banks referred to in Article 1 have the right to open for their clients or depositors, secret accounts whose owners' identities are not revealed to anyone except for the residing bank manager or his representative.

In addition, the identity of the depositor with the secret account is not revealed except by his written permission, his heir's, or his trustee's, or if he is declared bankrupt, or if there existed a law suit involving a banking transaction between the bank and its customer.

And those banks also have the right to rent out secret safety-deposit boxes under the same conditions.

**ARTICLE 4** - It is not permissible to confiscate the funds and possessions (assets) that are deposited in the banks that are referred to in Article 1 except by a written permission from the depositors involved themselves.

**ARTICLE 5** - It is allowable for a prior agreement to give the permission discussed in the previous articles in every deal of any sort, and it is not allowable to back out on this permission except for an approval by all parties involved.

**ARTICLE 6** - It is permissible for the banks referred to in Article 1 in protection of investing its depositors' funds to exchange among themselves only, and under the nature of secrecy, information associated with the debit accounts of their depositors.

**ARTICLE 7** - It is not allowable for the banks referred to in Article 1 to take refuge in the profession's secrecy stated in this law in the face of demands by judiciary authorities in law suits concerning illegal wealth under way due to the

legislative decree number 38 dated February 18, 1953 and the law of April 14, 1954.

**ARTICLE 8** - Every intentional violation of the statements of this law is punishable by imprisonment from 3 months up till 1 year. And the confession of the crime is punishable with same sentence.

The public right does not move unless the party that has been harmed presses charges.

**ARTICLE 9** - All legislative statements that violate this law or that disagree with its content are considered invalid.

**ARTICLE 10** - This law is functional 2 months following its publishing in the 'official newspaper'.

These articles were published (without amendments) by President Camille Chamoun in Beirut on September 3, 1956.



## APPENDIX B

The following 3 articles are extracted from The Law of Cash and Credit :

**ARTICLE 148** - The control committee in the Central Bank that supervises the commercial banks is separated and completely independent from the rest of the departments and reports directly to the governor of the Central Bank.

All of the committee's employees are sworn in to preserve, for the benefit of commercial banks and their customers, the secrecy imposed by Article 2 of the law of September 3, 1956, even from employees of other departments, except for the governor. They also have to abide by Article 151 (to be stated shortly).

**Article 150** - It is not permissible for the Central Bank's supervisors, in any case, to oblige bank managers in revealing their clients' identities, except for those depositors holding debit accounts, and it is not permissible to contact anyone except the related bank manager.

Banks can organize their accounts in a way that hides the identities of their depositors except for those holding debit accounts.

It is completely forbidden for supervisors of the Central Bank, in the act of exercising their control, to take information about any matter concerned with taxation, to interfere in it, or to tell anyone about it.

**Article 151** - Every person who is or was employed by the Central Bank, in any position, is obliged to preserve the secrecy according to the law of September 3, 1956. This duty includes all information and facts that are related, not only to the clients of the Central Bank, commercial banks, and monetary institutions, but also to all the organizations he might have had gathered knowledge about through his position at the Central Bank.

## APPENDIX C

The joint account was legislated on December 19, 1961 at a time when Fouad Shehab was President and Rachid Karami was both the Prime Minister and the Minister of Finance. The law is stated completely in The Law of Cash and Credit on pages 86-87. What follows are the first 5 articles:

**ARTICLE 1** - Banks under the secrecy law can open joint accounts for its depositors. These accounts can be used by a single signature of any of the account's partners.

**ARTICLE 2** - In order to open such an account, an order has to be signed by all of its owners, and a feeling of mutual agreement should reside among them.

**ARTICLE 3** - In case of an owner's death in a joint account situation, the other partner or partners have full authority to act at will. In this case, the bank is not obliged to inform the deceased's heirs of any information concerning this account unless it is clearly stated in the original contract.

The contents of this article should be clearly transposed to all partners upon opening of such an account.

**ARTICLE 4** - In the case when a partner in a joint account is declared bankrupt, the account's credit value is distributed among and transferred to the

other partners to cover the losses (unless they prove to have no relation with the bankruptcy proceedings).

**ARTICLE 5** - In the case of a law suit among the partners of a joint account, the bank is to freeze the account upon knowledge of the law suit till a court order is executed.

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