



الكتلة الوطنية  
NATIONAL BLOC

# **Alvarez & Marsal's forensic audit on the BDL: An audit predestined to fail?**

**12/11/2020**



On the 1<sup>st</sup> of September 2020, the caretaker minister of finance Ghazi Wazni signed the forensic audit contract with the renowned audit firm Alvarez & Marsal. Until the 4<sup>th</sup> of November 2020, the BDL was reluctant to deliver the required documents to the audit firm due to the banking secrecy law promulgated in the article 151 of the Code of Money and Credit. On the 4<sup>th</sup> of November 2020, the BDL stated that it submitted all the documents to the Ministry of Finance. Hence, the BDL freed itself from the accusations of hindering the forensic audit. It is now the decision of the MoF that will determine the future of the latter.

We believe that the forensic audit on the BDL was predestined to fail for several reasons:

- Although the first deliverable is a preliminary forensic audit report, the 10 weeks period specified in the contract between the MoF and the audit firm seems insufficient given the number of documents required by the audit firm.
- The MoF could have asked the BDL to provide it with its accounts, lifting the banking secrecy.
- The MoF stated that it will “try” securing the required documents within the 3 months given period.
- As stated by the contract, the preliminary audit report will be discussed confidentially with the MoF, and it is the latter that will decide whether it will publish it.
- As stated by Mike Azar, “there is no independent judicial in Lebanon to actually pursue legal charges in a professional and fair way against anyone implicated in a crime based on A&M’s work”.
- Kroll was more competent than Alvarez & Marsal given its detailed contract as stated by Mike Azar.

## 1. Forensic audit on a central bank: definition

central bank’s financial records to derive evidence that can be used in a court of law or legal proceeding. It may be conducted to prosecute the audited entity for fraud, embezzlement, or other financial crimes.

Generally, a forensic audit is aimed at:

- Identifying what fraud, if any, is being carried out.
- Determining the period during which the fraud has occurred.



- Discovering how the fraud was concealed.
- Identifying the perpetrators of the fraud.
- Quantifying the loss suffered due to the fraud.
- Gathering relevant evidence that is admissible in the court.
- Suggesting measures that can prevent such frauds in the future.

## 2. Importance of a forensic audit in a corrupt country

The forensic audit is crucial in a corrupt country that is facing an amalgam of crises. Not only a successful forensic audit does provide a detailed report relating the losses, but it also contributes to holding the corrupt leaders into account and pursuing them legally. The forensic audit on the BDL is also important to unlock foreign assistance. After the forensic audit on the BDL, governmental entities must be audited.

## 3. Alvarez & Marsal

Alvarez & Marsal (A&M) is a global professional services firm notable for its work in turnaround management and performance improvement of several large corporations worldwide. It operates 64 offices in 24 countries.

Ghazi Wazni signed a contract with Alvarez & Marsal on the 1<sup>st</sup> of September 2020.

## 4. Main components of the audit contract between MoF and

### 4.1. Payment

Total payment: 2.1 Million USD

Disbursement schedule:

- 40% of the fee upon signing the contract.
- 30% at the end of week 5.
- 30% fee upon the completion of the preliminary forensic audit report.

If the firm does not continue the forensic audit due to insufficient documents provided by the BDL, it should keep 150,000 USD from the amount it received for its services.

However, the procedure to be done in case the audit firm does not continue the forensic audit for other reasons is not specified.

#### **4.2. Timeframe**

As per the contract, the audit was expected to be completed within a 10-week period. On the 4<sup>th</sup> of November 2020, the deadline to provide the audit firm with the documents was extended by 3 months.

#### **4.3. Deliverable**

As per Alvarez & Marsal's contract, the firm is expected to deliver within the 10 weeks period a preliminary forensic audit report which it will confidentially discuss with the MoF. The preliminary forensic audit report will summarize conclusive evidence found by the firm as well as suspect areas for which further investigation is required.

## **5. Constraints to the forensic audit in Lebanon**

At first, the BDL refused to submit 57% of the information required by Alvarez & Marsal to the audit firm due to the banking secrecy law. Then, to liberate itself from the accusation of hindering the forensic audit, the BDL delivered to the MoF all the documents required by the firm (*Annex 1*). Consequently, the unfolding of the forensic audit depends on whether the MoF will deliver the documents to Alvarez & Marsal.

## **6. Banking secrecy law**

Some of the documents required by Alvarez & Marsal do require lifting the banking secrecy law. All articles citing banking secrecy in the Code of Money and Credit are related in *Annex 2*. These articles prove that the MoF could have lifted the banking secrecy law by providing Alvarez & Marsal with the required documents.

**The unfolding of the forensic audit depends on whether the MoF submits the required documents to the audit firm within the 3 months period. If the MoF does not deliver the required documents, public money would be lost, and the Lebanese will lose the opportunity to hold the corrupt political class into account.**

**The Lebanese citizen, being a taxpayer, could in that case lodge a complaint with the Attorney General, but in a country where the judiciary is dependent of the political class, we doubt the legal proceeding will lead to satisfying results.**

## Annexes

### Annex 1:

The documents which are not yet (as of October 29<sup>th</sup>, 2020) delivered to Alvarez & Marsal are the following:

- 1- All written finance policies, procedures, processes, manuals, guidelines etc. in place at any time from 2015 to date
- 2- Overview document and description of payment and accounting systems
- 3- Overview document and description of finance procedures for approving and processing payments
- 4- Full and complete extract in text format of all BdL general ledger accounts for the period 1 January 2015 to 30 June 2020 (preferably pipe delimited "|" otherwise in SQL back up format, our forensic technology team can assist with this process if required/helpful)
- 5- Delegated Authority matrix showing approval levels for all payment and transaction types in place at any time from 2015 to date
- 6- Copies of all Management Accounts and internal financial reporting for the period 2015 to 2019 and to 30 June 2020
- 7- Description of management information systems and procedures for internal management reporting on BdL finances
- 8- List of past and current BdL employees with title and function (1 January 2015 to date)
- 9- Listing of all the financial institutions that BdL has received deposits from and holds balances with, with outstanding balances



- 10- Breakdown of the movement in commercial bank deposits over time at a customer and group level (from 1 January 2015 to 30 June 2020)
- 11- Detailed listing and composition of BDL's Foreign currency reserves and liabilities and all movement from 1 January 2015 to 30 June 2020
- 12- List of all Vendors between 1 January 2015 to 30 June 2020 (complete Vendor list, including those not utilized in the period)
- 13- List of all Customers between 1 January 2015 to 30 June 2020 (complete Customer list, including those with zero balances during the period)
- 14- Provide a listing of all the financial engineering transactions conducted from 1 January 2015, together with an explanation of the rationale for the transactions and supporting documentation prepared as part of the approval process.
- 15- Copies of each annual representation letter provided by BdL to its auditors for the years 2015 to 2019 and in relation to the preparation of the 2020 accounts (if applicable)
- 16- Detailed calculations and supporting documentation in relation to Post Balance Sheet adjusting events for the year end audits 2015 to 2019
- 17- Detailed calculations and supporting documentation in relation to Cash for the year end audits 2015 to 2019
- 18- Detailed calculations and supporting documentation in relation to Receivables for the year end audits 2015 to 2019
- 19- Detailed calculations and supporting documentation in relation to Payables for the year end audits 2015 to 2019
- 20- Detailed calculations and supporting documentation in relation to Impairments for the year end audits 2015 to 2019
- 21- Detailed calculations and supporting documentation in relation to Third-Party Balances for the year end audits 2015 to 2019
- 22- Reports on internal and external testing and/or risk assessments of internal controls and governance 1 January 2015 to date
- 23- All directors reports or other opinions concerning corporate governance from auditors or otherwise from 1 January 2015 to date
- 24- A&M to be provided with Reader Access to the BdL accounting systems, with the necessary permissions/authority levels to run ad hoc queries and download the results/reports (During A&M onsite work)
- 25- BdL staff have unrestricted and immediate access to hard copy or electronic accounting records and related support for all transactions and accounting entries since from 1 January 2015 to 30 June 2020, as may be requested by A&M as part of its work (During A&M onsite work)
- 26- Copies of all Governance Committee Charters in effect between 1 January 2015 to date
- 27- All internal audit/external consultant reports related to Compliance, Risk , Governance and the Bank Board for the period 1 January 2015 to date
- 28- Copies of all Internal Audit plans for Compliance, Risk, Governance and the Bank Board for the period 1 January 2015 to date
- 29- Copies of all Operational Risk Plans for the period 1 January 2015 to date



- 30- List of all BdL policies relating to fraud, risk and compliance, including all revisions, between 2015 and to date
- 31- "Copies of all policies (including revisions) relating to fraud, risk and compliance. Specific policies to be prioritised:
- 32- - Fraud Investigation & Prevention policy and / or anti-fraud policy
- 33- - Whistleblower policy"
- 34- Complete mapping of fraud related controls and related process documentation.
- 35- Operational Procedures Manuals relating to fraud / risk / compliance including for the Financial Crime and Compliance "FCC" and Financial Intelligence Unit "FIU".
- 36- Compendium of all Policies and Procedures in place from 2015 onwards with dates of creation, revision and implementation
- 37- A further selection of Policies and Procedures based on the above in addition to more detailed information based on review of meeting minutes and interviews conducted
- 38- Fraud / transaction monitoring alerts metrics and results from 2015 to date
- 39- List of all complaints and whistleblower reports received by BdL, and of fraud related cases opened by BdL, from 1 January 2015 to date
- 40- Details of all current or completed fraud/complaint investigations for the period 1 January 2015 to date
- 41- Register or listing of BdL staff disciplinary actions from 1 January 2015 to date
- 42- Copies of current bank risk assessment(s)
- 43- Copies of BdL risk assessments conducted in the years 2015-2019 inclusive
- 44- Copies of all plans and strategic initiatives by the Compliance Department covering the period 1 January 2015 to date
- 45- English language copy of BdL's Corporate Governance Manual
- 46- English language copy of BdL's Code of Conduct
- 47- All third party reports (consultants and advisors) from 2015 onwards over fraud related , governance and compliance reports.
- 48- Schedules of dates and attendees of BdL's Anti-Fraud training conducted 1 January 2015 to date, and copies of related materials
- 49- Details of BdL's Anti-Fraud training plan for the remainder of 2020 and beyond
- 50- BdL's E-list
- 51- Copies of all versions of BdL Staff Security Standards Document in effect between 1 January 2015 to date
- 52- Breakdown of customers / transaction volume / revenue details by product from 1 January 2015 to 30 June 2020
- 53- Breakdown of customers / transaction volume by geography from 1 January 2015 to 30 June 2020
- 54- Breakdown of customers by customer type from 1 January 2015 to 30 June 2020
- 55- Document (s) detailing BdL's risk appetite and risk profile
- 56- English language process flow chart for the Complaints process
- 57- Procurement policy and procedures document for materials or consultants, all versions applicable during the period 1 January 2015 to date
- 58- Directory of Internal Control Guidelines for Commercial Banks





- 59- Details of KPI's in employee appraisals related to anti-fraud and criteria used to judge/score
- 60- Details of volume of AML alerts received in total and by month/quarter for the period 1 January 2020 to 30 June 2020

## Annex 2: relevant articles on banking secrecy from the Code of Money and Credit

### - Article 44:

#### Article 44

The Commissioner and his assistant, referred to in paragraph b) of article 42, shall have access to all account books and documents of the Central Bank, except Third Parties' accounts and files under the cover of the banking secrecy as provided by the Law of 3 September 1956.

They shall check the tills and holdings of the Central Bank.

In no manner whatsoever will they be authorised to interfere with the management of the Central Bank.

### - Article 127:

Article 127 (as modified by the Law promulgated by  
----- (Decree N2 6102 of 5 October 1973

No one can found or manage a bank, or be employed by a bank:

1. If he has been convicted less than 10 calendar years before:
  - a) for any crime of common law, theft, breach of trust, swindling or offence under the same penalties as swindling, extortion of funds or valuables, dishonest issue of cheques with insufficient funds, impairing State credit within the meaning of articles 319 and 320 of the Penal Code, receiving things obtained through such infringements;
  - b) for any infringement under penalty in any of the article 689 to 700 of the Penal Code;
  - c) for any attempt or complicity in infringements referred to in sub-paragraphs a) and b) mentioned above.

The prohibition prescribed in paragraph 1 of the present article is applicable to persons convicted abroad for infringements constituting, according to Lebanese law, one of the crimps or offences referred to in sub-paragraphs a), b), and c), mentioned above after verification that the foreign sentence is in order, in conformity with the last sub-paragraph of article 29 of the Penal Code.

2. If he had been declared insolvent and was not rehabilitated at least 10 calendar years before. If the declaration of insolvency took place abroad it will carry effect in Lebanon after verification that the foreign sentence is in order, in conformity with the last sub-paragraph of article 29 of the Penal Code.
3. If he has been convicted for infringement to the Law of 3 September 1956 relating to banking secrecy.

### - Article 148:

#### Article 148

The supervision of banks shall be the concern of a department of the Central Bank, absolutely distinct and independent of other departments and in direct link up with the Governor.

All agents of this department shall be sworn in. They shall be held, in favour of banks and their clients; to the secrecy prescribed by article 2 of the Law of 3 September 1956, even in relation to persons belonging to other departments of the Bank, excluding the Governor. This does not preclude the application of penalties referred to in article 151.





- **Article 151:**

Article 151

Every person belonging to or having belonged to the Central Bank, in any capacity whatsoever, is bound by the banking secrecy Law of 3 September 1956. This obligation covers all information and facts concerning not only the clients of the Central Bank and banks and finance establishments but also these establishments themselves, and with which he has been acquainted through his association with the Central Bank.

- **Article 190:**

Article 190

Supervisory commissioners are bound to the banking secrecy in the same manner as those persons referred to in article 2 of the Law of 3 September 1956.

- **Article 203:**

Article 203

Any breach to the banking secrecy by persons referred to in article 148, 151, 155 and 190, shall be subject to a term of imprisonment of between six months and two years, without prejudice to the application of articles 127 and 185.