

PRESSURE POINTS:

CAN FOREIGN PRESSURE FINALLY BRING LEBANON'S FINANCIAL ELITE TO THE TABLE?

THE PROBLEM

Since before the October 2019 uprising, Lebanese banks used informal capital controls to prevent many depositors from accessing their money. Meanwhile, Lebanese elites transferred an estimated \$6 billion (if not more) abroad. The capital controls regime is illegal and discriminatory. Nevertheless, Lebanese bankers show no signs of taking responsibility for their actions, while a politicised judiciary is either unwilling or unable to provide depositors with access to their deposits.

LIMITED LOCAL OPTIONS

Lebanese depositors have strong legal claims to recover savings, but face powerful opponents domestically. Banque du Liban has actively backed the illegal capital controls; the Lebanese judiciary lacks true independence from Lebanese elites; and the Mikati government has strong ties to the financial sector (not least Mikati's brother Taha).

CIVIL LITIGATION ABROAD

Depositors with foreign citizenship can and have brought civil claims in the US and Europe, where Lebanese banks own significant asset portfolios. Foreign courts have the power to freeze the assets of banks' shareholders/managers or BDL officials, which in theory could lead to future rulings where depositors to have access to their savings in respective jurisdictions, provided banks' shareholders/managers or BDL officials assets in those jurisdictions. So far, British courts have agreed to hear at least two cases, while the situation remains less clear in France and the US. In all cases, depositors still need to persuade courts to grant access to their savings.

CRIMINAL PROCEEDINGS

In parallel, depositors should lobby foreign prosecutors to launch criminal investigations into Lebanon's banking elites. Key stakeholders in Lebanon's financial sector might have committed crimes under US law (fraud, corruption and / or wealth concealment) and global anti-money laundering regulations. Foreign banks also might have breached Know Your Customer regulations by accepting transfers from Lebanon—meaning they could be fined by their regulators and decide Lebanon's bankers are too risky to deal with.

AWARENESS CAMPAIGNS

Depositors can also operate outside established legal frameworks. Through media awareness campaigns, depositors can persuade powerful countries (such as the US) to join the EU Council in imposing targeted economic sanctions for Lebanese accused of "serious financial misconduct" or abrogation of the United Nations Convention Against Corruption. Media campaigns should also name and shame the Lebanese financial system's foreign enablers, which include foreign state-backed major shareholders and overseas correspondent banks. Almost all of these organisations has breached voluntary corporate social responsibility pledges by supporting the illegal capital controls.

COORDINATED PRESSURE

Civil litigation overseas represents one tool for cornering Lebanon's banking elites. A coordinated strategy, which involves criminal action and media awareness campaigns, could bring forward the financial sector's long overdue day of reckoning.

SEE YOU IN COURT: FOREIGN LEGAL OPTIONS FOR LEBANESE DEPOSITORS

