

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা  
কর্তৃপক্ষ কর্তৃক প্রকাশিত

বুধবার, জানুয়ারি ২৯, ২০১৪

Government of the People's Republic of Bangladesh

Bank and Financial Institutions Division

Ministry of Finance

NOTIFICATION

Date, 07 Agrahayan 1420/21 November 2013 AD

**S.R.O. No. 357-Law/2013.**—In exercise of the power conferred by section 29 of The Money Laundering Prevention Act, 2012 (Act No. V of 2012) the Government is pleased to make the following Rules, namely—

**Part-I**

**Preliminary**

1. **Short title and commencement.**—(1) These Rules may be called the Money Laundering Prevention Rules, 2013.

(2) It shall come into force immediately.

2. **Definition :** For the purpose of these rules—

(1) 'Act' means the Money Laundering Prevention Act, 2012 (Act No. V of 2012);

(2) 'Anti Corruption Commission (ACC)' the commission established under section 3 of Anti Corruption Commission Act, 2004 (Act No 5 of 2004);

(3) 'Account' means any kind of business relationship of reporting Organization with any person or entity;

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- (4) **‘Beneficial Owner’** means the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement or hold 20% or more share of a company. Here “ultimately owns or controls” and “ultimate effective control” refer to situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control;
- (5) **‘Cash Transaction Report’** means the report defined by BFIU from time to time;
- (6) **‘Competent Authority’** means Bangladesh Financial Intelligence Unit (BFIU) for information related with money laundering and terrorist financing and Attorney General Office for information, evidence or other mutual legal assistance purposes;
- (7) **‘Confidential Cases’** means any Suspicious Transaction Report (STR) or Suspicious Activity Report (SAR) received in the BFIU, information or intelligence provided by the government intelligence agencies or confidential marked information from ministries or from government organization or any sensitive case as defined confidential by Head of BFIU;
- (8) **‘Customer’** means—
- (i) any person or entity maintaining an account or a business relationship of any type with a reporting organization;
  - (ii) the person or entity as beneficial owner in whose favour the account is operated;
  - (iii) the trustee, intermediary or beneficial owner of the transaction of the accounts operated by the trust and professional intermediaries (such as lawyer/law firm, chartered accountant, etc) under the existing legal infrastructure;
  - (iv) any person or institution involved in a high value single transaction conducted in a single Demand Draft, Pay Order, Telegraphic Transfer or any person or institution involved in a financial transaction that may pose reputational and other risks to the institution. In this case if a transaction appears abnormal in relation to the usual transaction or normal business dealing of the concerned person or institution that transaction will be treated as “high value”; or
  - (v) as defined by BFIU from time to time;

- (9) **'Financial Supervisor'** means Bangladesh Bank for Reporting Organizations defined under section 2 sub-section (w)(i), (ii), (iv), (v) and (vi) of the Act, Bangladesh Security Exchange Commission for Reporting Organizations defined under section 2 sub-section (w) (vii) of the Act and Insurance Development and Regulatory Authority for Reporting Organizations defined under section 2 sub-section (w) (iii) of the Act;
- (10) **'False Positive'** means a situation whereby a freeze action is taken on the basis of available information and upon further inquiry and receipt of additional clarifying information, such freeze action is determined not to be the correct course of action. An example is a freeze action taken on the basis of mistaken identity;
- (11) **'Legal Person'** means any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property. This can include companies, bodies corporate, foundations, installations, partnerships, or associations and other relevantly similar entities;
- (12) **'Legal Arrangement'** means express trusts or other similar legal arrangements. Examples of other similar arrangements (for AML/CFT purposes) include fiducie, treuhand and fideicomiso;
- (13) **'Parallel Investigation'** means conducting an investigation of a predicate offence simultaneously with a financial investigation into money laundering or terrorist financing. Law enforcement investigators of predicate offences should either be authorized to pursue the investigation of any related money laundering and terrorist financing offences during a parallel financial investigation, or be able to refer the case to another agency to peruse such financial investigations;
- (14) **'Physical Presence'** means meaningful mind and management located within a country. The existence simply of a local agent or low level staff does not constitute physical presence.
- (15) **'Regulatory Authority'** means the government authority that has issued a license to or registered the reporting organizations or that is responsible for supervision and monitoring of the reporting organizations;
- (16) **'Reporting Organizations-Designated Non-Financial Business or Profession (RO-DNFBP)'** means the reporting organization defined in section 2 sub-section (w) (ix), (x), (xi) and (xii) of the Act;

- (17) **'Reporting Organization-Financial Institutions (RO-FI)'** means the reporting organization defined in section 2 sub-section (w) (i), (ii), (iii), (iv), (v), (iv) and (vii) of the Act;
- (18) **'Self Regulatory Body'** means the body that represents a profession (e.g. lawyers, notaries, other independent legal professionals or accountants), and which is made up of members from the profession, has a role in regulating the persons that are qualified to enter and who practice in the profession, and also performs certain supervisory or monitoring type functions. Such bodies should enforce rules to ensure that high ethical and moral standards are maintained by those practicing the profession;
- (19) **'Shell Bank'** means a bank that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision;
- (20) **'Suspicious Transactions'** means the Transactions defined in the section 2, sub-section z of the Act; and
- (21) **'Suspicious Activities'** for the purposes of the Act the activity defined by BFIU from time to time.

## Part-II

### Organizational Framework to prevent money laundering and to combat terrorist financing in Bangladesh

3. **National Coordination Committee.**—(1) There shall be a National Coordination Committee (hereinafter refer to NCC) for preventing money laundering and combating financing of terrorism consisting of following members, namely—

Honorable Minister, Ministry of Finance	- Convenor
Chairman, Anti Corruption Commission	- Member
Principal Secretary, Prime Minister's Office	- Member
Attorney General for Bangladesh	- Member
Governor, Bangladesh Bank	- Member
Secretary, Finance Division, Ministry of Finance	- Member
Secretary, Bank & Financial Institution Division, Ministry of Finance	- Member
Secretary, Legislative and Parliamentary Affairs Division, Ministry of Law, Justice and Parliamentary Affairs	- Member
Secretary, Ministry of Home Affairs	- Member

Secretary, Ministry of Foreign Affairs	- Member
Secretary, Ministry of Housing and Public Works	- Member
Secretary, Ministry of Commerce	- Member
Chairman, National Board of Revenue	- Member
Chairman, Securities and Exchange Commission	- Member
Deputy Governor, Bangladesh Bank and Head of BFIU	- Member-Secretary

(2) **The power and functions of the National Coordination Committee.**— The power and functions of the National Coordination Committee shall be as follows :

- (a) formulating nationally important policies for preventing money laundering and terrorist financing;
- (b) providing necessary guidance to all concerned in implementing the policies made;
- (c) ensuring coordination among different Ministries or Agencies;
- (d) reviewing the position of Bangladesh in complying international standards for anti money laundering and combating financing of terrorism, and ensuring compliance of the standards;
- (e) forming different working committee from time to time for special purpose and approving terms of reference of the committee and giving guidance to implement the terms of reference;
- (f) collecting any information or report related to money laundering and terrorist financing from any relevant Ministry, Division, Agency or Institute and making necessary decision on that basis;
- (g) taking any initiative and making decision as considered by the committee; and
- (h) the Committee can co-opt any related individual.

(3) The Committee shall meet at least twice in a year and the Convener of this Committee may ask for meeting as and when necessary.

(4) BFIU will provide secretarial assistance to the Committee.

4. **Working Committee.**—(1) There shall be a Working Committee to assist and support the NCC for preventing money laundering and combating financing of terrorism consisting of following members, namely—

Secretary, Bank and Financial Institution Division	- Convenor
Deputy Governor, Bangladesh Bank (Head of BFIU)	- Member
Director General, Prime Minister's Office	- Member
Joint Secretary, Bank and Financial Institution Division	- Member
Joint Secretary, Finance Division	- Member
Joint Secretary, Ministry of Home Affairs	- Member
Director General, Ministry of Foreign Affairs	- Member
Deputy Secretary, Legislative and Parliamentary Affairs Division, Ministry of Law, Justice and Parliamentary Affairs	- Member
Joint Secretary, Ministry of Social Welfare	- Member
Additional Inspector General of Police, CID, Bangladesh Police	- Member
Director General, NGO Affairs Bureau	- Member
Director General, Anti Corruption Commission	- Member
Registrar, Department of Cooperatives	- Member
Member, National Board of Revenue	- Member
Director General, Bangladesh Postal Department	- Member
Chairman, Rajdani Unnayan Kartipakkha (RAJUK)	- Member
Chief Controller of Insurance, Department of Insurance	- Member
Member, Bangladesh Securities and Exchange Commission	- Member
Executive Vice-Chairman, Microcredit Regulatory Authority	- Member
Registrar, Office of Registrar of Joint Stock Companies and Firms	- Member
Deputy Attorney General, Office of Attorney General of Bangladesh	- Member
Deputy Secretary (policy and Regulation), Bank and Financial Institution Division	- Member-Secretary

(2) The power and functions of the Working Committee are as under.—the power and functions of the working committee are as follows :

- (a) preparing drafts of important policies related to prevention of money laundering and terrorism financing and presenting those to National Coordination Committee;

- (b) ensuring effectiveness of related institutes in implementing the policies adopted;
- (c) strengthening interagency coordination and easing interagency information sharing in preventing money laundering and terrorist financing;
- (d) adopting work-plan for implementing policies and decisions taken by the National Coordination Committee;
- (e) preparing reports for the National Coordination Committee and assisting the committee;
- (f) the committee, considering the necessity, can co-opt any official or individual of any related institute;
- (g) the Committee, considering the necessity, can form sub-committees; and
- (h) members of the Working Committee or their own Ministries, Divisions or Agencies will assign a Deputy-Secretary or Official of the same rank as Primary Contact Point of those Ministries/ Divisions/Agencies in preventing money laundering and terrorist financing, and coordination of the related activities within own Ministries/ Divisions/Agencies will be done and updated information will be preserved by the assigned Official.

(3) The Committee will meet at least every quarter of the year and the Convener of this Committee may ask for meeting as and when necessary.

(4) BFIU will provide all kinds of assistance to the Committee.

**5. Primary Contact Point.**—(1) There shall be a primary contact point in every Ministry, Division or Organization working as a member of NCC or Working committee under the rule 3 and 4 for seamless flow of information, inter-agency cooperation and coordination of the AML & CFT activities of the respective Ministry's Division's Organization's.

(2) The responsibilities of 'Primary Contact Point' are as follows :

- (a) Primary Contact Point shall coordinate Anti Money Laundering and Combating Financing of Terrorism activities within the own Ministries, Division or Organization;
- (b) Primary Contact Point shall collect, preserve and share AML & CFT related information and document;
- (c) Primary Contact Point shall organize meeting, workshop, seminar or conference for the stakeholders;

- (d) Primary Contact Point shall prepare requisite report for APG, donor agency or for the FATF; and
- (e) Take any action assigned by the concern Ministries, Division or Organization or National Coordination Committee or Working Committee.

### Part-III

#### Investigations and others

6. According to the provision of section 9 of the Act, Anti Corruption Commission (ACC) has the authority to delegate the investigation power to another investigation authority. Delegation of investigation authority shall be as follows :

- (a) while conducting initial analysis or inquiry, ACC shall ascertain whether any freezing or suspension order needed or if an existing freeze or suspension order shall have to be extended and indentify the predicate offence related with the money laundering case;
- (b) ACC shall request BFIU through Form-1 annexed in the schedule of the rules for suspension of transaction or freezing of accounts related with the case, maintained with the reporting organization, within 15 days of receiving the case from BFIU or at least 7 (seven) days before the expiration of existing freeze or suspension order issued by BFIU.
- (c) money laundering cases shall be investigated according to predicate offence, i.e. the law enforcement authority that is authorized for investigation the specific predicate offence shall also investigate the related money laundering case;
- (d) in the case of those predicate offences investigated by Bangladesh Police according to the provisions of existing laws, the related money laundering case shall be investigated by the Criminal Investigation Department (CID) of Bangladesh Police;
- (e) a law enforcement authority may conduct a parallel investigation of a predicate offence and the related money laundering case;
- (f) considering the types of predicate offence the ACC shall authorize the investigating officer of ACC or another law enforcement authority to investigate the related money laundering case;
- (g) while authorizing the investigation responsibility to another investigating authority ACC shall also approve the authority for submission of the investigation report before the court for cognizance;

- (h) the authorized investigation authority shall follow its own procedures for investigating and as the case may be, to file the case before court;
- (i) the authorized investigation authority, if it is other than ACC, shall also submit the report to the ACC, for information, before filing the case in the court;
- (j) the court shall not take the money laundering case in its cognizance without the authorization and approval letter from ACC and the approval letter of the investigation authority if it is placed by other than ACC; and
- (k) investigating authority shall maintain up-to-date information with its Primary Contact Point about the status of money laundering and terrorist financing cases; and provide periodic feedback to the BFIU if the case is related with BFIU.

#### Part-IV

##### Freeze, Attachment and confiscation of property and others

**7. Freeze, Attachment and confiscation of property and others—**(1) In exercising the power of section 14 of the Act a Court may issue an order to freeze or as the case may be, attach the (a) property laundered, (b) instrumentalities or proceeds from any instrumentalities used in or intended for use in money laundering or predicate offence (c) property that is the proceeds of and used in or intend or allocated for use in, the financing of terrorism, terrorist acts or terrorist entity or (d) property of corresponding value, whether in Bangladesh or outside Bangladesh.

(2) For property that is subject to charges against a loan or advance of a Bank or Financial Institution, the Court shall apply charges of security first, provided the bank or Financial Institution is an innocent third party. The freeze or attachment order shall be applicable against remaining value or part of the property. In this situation the Court shall pass an order of freeze or attachment for property of the corresponding value.

(3) In exercising the power of section 17 of the Act the Court may pass an order to confiscate (a) property laundered, (b) instrumentalities or proceeds from any instrumentalities used in or intended for use in money laundering or predicate offence (c) property that is the proceeds and used in or intend or allocated for use in, the financing of terrorism, terrorist acts or terrorist entity or (d) property of correspond in value, whether in Bangladesh or outside Bangladesh.

(4) Before passing a confiscation order the Court shall take reasonable measure to identify, any charges of securities against any loan or advance of a Bank or Financial Institution are applicable to the property or whether the property is payable the Bank or Financial Institution. If these liens or securities can be determined the Court may exclude these property from the confiscation order, and in this situation the Court may pass a confiscation order on corresponding value of the property.

### Part-V

#### Bangladesh Financial Intelligence Unit (BFIU) and other Regulators

8. **Central Agency.**—(1) Bangladesh Financial Intelligence Unit (BFIU) serves as a national central agency for receipt, analysis and dissemination, if necessary of :

- (a) suspicious transaction or activity reports or complain from any individual or entity regarding money laundering and terrorist financing or any related offences;
- (b) money laundering or terrorist financing related cases and
- (c) other information relevant to money laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis to concerned authorities. BFIU shall also perform responsibilities of Bangladesh Bank under the Act and the Anti Terrorism Act, 2009.

(2) In order to perform its duties under the Act and the Anti Terrorism Act, 2009 the BFIU shall exercise the power of Bangladesh Bank vested under the Act, the Anti Terrorism Act, 2009 and the existing other laws.

9. **Operational independence of BFIU.**—For ensuring autonomy and operational independence of BFIU the Government shall take the following measures, namely :

- (1) The post of the chief executive officer of BFIU shall be called Head of BFIU and the Head of BFIU shall be or equivalent to the Deputy Governor of Bangladesh Bank.
- (2) The Head of BFIU shall be appointed by the Governor of Bangladesh Bank and may be assigned other duties of Bangladesh Bank as well as Head of BFIU.
- (3) Head of BFIU shall report the BFIU's activities to the NCC through an Annual Report.
- (4) BFIU shall publish an Annual Report of its activities in every year.

- (5) The Head of BFIU may appoint one or two Deputy Head of BFIU, in consultation with the Governor of Bangladesh Bank at the level of or equivalent to the post of Executive Director of Bangladesh Bank.
- (6) The Deputy Head of BFIU shall perform the regular job of Head of BFIU in the absence of Head of BFIU and shall inform the decisions that the Deputy Head of BFIU has taken during the absence of the Head of BFIU.
- (7) BFIU shall perform its duties without any undue internal or external or government or political influence or interference.
- (8) The BFIU shall be provided by Bangladesh Bank on behalf of the Government, with adequate financial, human and technical resources, to perform its duty efficiently, as and when requested by Head of BFIU.
- (9) **Office Premises of BFIU and its security :**
  - (a) BFIU shall be situated in the premises of Bangladesh Bank with appropriate space and security and shall enjoy the security measures of Key Performance Installation (KPI) as designed by the government; and
  - (b) Bangladesh Bank and concerned law enforcement authority shall provide physical and logical required security to the BFIU as advised by the Head of BFIU.
- (10) **Human Resources :**
  - (a) primarily BFIU shall be staffed by Bangladesh Bank but Head of BFIU may request other organization to provide competent manpower to work in the BFIU.
  - (b) every BFIU employee must have background check by Head of BFIU. Security clearance from law enforcement authority where it deems fit.
  - (c) no transfer or posting of BFIU employee shall be taken place without prior consent of the Head of BFIU.
  - (d) BFIU shall ensure high professional standards, including standards concerning confidentiality; BFIU employee shall have high integrity and be appropriately skilled.
  - (e) every BFIU employee shall have to sign and submit a confidentiality oath before working in the BFIU.

- (f) if any employee of BFIU breaches the confidentiality or integrity or shows negligence to perform his or her duties the administrative action shall be taken by the Head of BFIU following the service rule of the concern employee.
  - (g) head of BFIU may approve reward and recognition, in financial or in any other forms, for extraordinary performance of the BFIU employee on regular basis or as and when required.
  - (h) head of BFIU may approve risk allowance to the BFIU employee considering the job description.
  - (i) BFIU employee shall have the proper security from the law enforcement authority if it is requested with the approval of the Head of BFIU.
- (11) **Internal Audit** : No confidential case shall be subject to Internal Audit of Bangladesh Bank. BFIU shall have an audit committee headed by Deputy Head of BFIU for regular audit of confidential items. The committee shall submit its report to the Head of BFIU annually or as and when instructed by the Head of BFIU.

**10. Execution of suspension or freeze order of transaction of a reporting organization.**—In exercising the power of suspension and freezing of transaction of a reporting organization vested under section 23 sub section (c) of the Act BFIU shall adhere to the following procedures :—

- (a) suspend or freeze order shall contain as much detail as possible about the account and account holder.
- (b) every suspension or freeze order shall be for 30 (thirty) days only and BFIU may issue consecutive 7 (seven) orders on same ground on same account.
- (c) BFIU may issue different suspension or freeze order for different grounds on same account. Gap between two suspension or freeze order of BFIU shall not be an impediment to the applicability of the order.
- (d) reporting Organization shall consult with BFIU before any transaction on the account that was under a suspension or freeze order to confirm the expiration of the suspension or freeze order or obtain further instruction from BFIU.
- (e) a suspension order shall mean that no debit will be allowed except maintenance fee and excise duty deducted from that account, if it is not ordered otherwise. Credit may be allowed with proper due diligence if it is not mentioned otherwise.

- (f) no debit and credit shall be allowed in an account subject to a freeze order without written instruction from BFIU; Reporting Organization shall inform the balance of frozen account and linked accounts of the frozen account immediately to the BFIU after receiving the freeze order.
- (g) in case of false positive, BFIU shall have the authority to withdraw the suspension or freeze order any time if the order was issued on its motion after reviewing the application and supporting documents submitted by the aggrieved person or entity.
- (h) first suspension or freeze order and withdrawal of suspension or freeze order shall be approved by the Head of BFIU.
- (i) BFIU may form a Review Committee, consisting of at least three members, not below the rank of Deputy Director, to consider the application of the bona fide third party or from the 'false positive' of a freeze order.

**11. Penalties and Administrative Sanction.**—(1) BFIU may issue notice for explanation if it finds reasonable ground, or a reasonable basis to believe that the Reporting Organization is not complying or has not complied with the provisions of the Act or the Rules or the instruction of BFIU.

(2) The Head of BFIU shall approve the penalties or administrative sanctions under section 23 sub-section (3), (4), (5), (6), (7) and (8) of the Act, if the explanation is not accepted or if the BFIU did not receive the answer to the explanation notice within the mentioned time, infirming the Governor of Bangladesh Bank.

12. A fine imposed by sub-section section (3), (4), (5), (6), (7) and (8) of section 23 of the Act shall be realizable from the reporting organization as well as from the person/employee related with non compliance according to the instruction of BFIU.

13. A fine realized under the sub-section (3), (4), (5), (6), (7) and (8) of section 23 of the Act shall be deposited to the account of BFIU in Bangladesh Bank or in the bank and shall be debited for prevention of money laundering and related offences with the approval from Head of BFIU.

14. Before realizing a fine for non-compliance BFIU shall receive written assurance from the reporting organization that administrative or disciplinary measure has been taken against the identified concern officials.

**15. Role of Regulatory Authority.**—To fulfill the purpose of the Act the respective regulatory authority shall play the following active role :

- (a) regulatory Authority shall develop and implement market entry control to prevent criminals or their associate for holding, or being the beneficial owner of a significant or controlling interest, or holding a management function in reporting organizations.

- (b) Bangladesh Bank shall not approve the establishment of, or continued operation of shell Banks.
- (c) every Regulatory authority shall designate a dedicated wing or section to monitor the implementation of AML & CFT measure required for the organizations regulated by them and designate a Primary Contact Point to coordinate the AML & CFT initiatives.
- (d) provide the widest range of co-operation to BFIU in implementing the provision of the Act, Anti Terrorism Act, related rules and any instruction issued by BFIU.
- (e) shall have adequate knowledge about the risk, vulnerabilities and consequence of money laundering and terrorist financing in the regulated sector, individual organizations under its regulation and products and services of the regulated organizations by conducting risk assessment with the help of BFIU from time to time.
- (f) take immediate action on a request of BFIU when a request is made under section 23 sub-sections (3), (4), (5) and section 25 sub-section 2(b) of the Act.
- (g) circulate, instruct or motivate the concerned reporting organization under its regulation about the instruction of BFIU.
- (h) impart training, workshop, seminar or the awareness raising program on regular basis on Anti Money Laundering and Combating Financing of Terrorism.
- (i) engage the association of organizations under its regulation in prevention of money laundering and combating financing of terrorism.
- (j) examine the consistency of its instruction with provision of the Act, Anti Terrorism Act, rules under these acts or instruction issued by BFIU, before issuance of such instructions by the regulatory authority. Regulatory authority shall also share the inconsistency of BFIU's instructions, if any, with the BFIU for proper reconciliation.
- (k) give proper attention on anti money laundering and combating financing of terrorism compliance while conducting its regular inspection, supervision and monitoring.
- (l) inform or report to BFIU regarding identified non-compliance on anti money laundering and combating financing of terrorism requirements or any suspicious transactions or activities.
- (m) provide information and supporting document to the BFIU on request or spontaneously on money laundering or terrorist financing issues.

**16. Role of Self Regulatory Body and Association.**—To fulfill the purpose of the Act, the respective Self Regulatory Body and Association shall have the following role to play :

- (a) provide the widest range of co-operation to BFIU in implementing the provision of the Act, Anti Terrorism Act, related rules and any instruction issued by BFIU;
- (b) shall have adequate knowledge about the risk, vulnerabilities and consequence of money laundering and terrorist financing in the regulated section, individual regulated entity or products or services of regulated entity by conducting risk assessment with the help of BFIU on time to time;
- (c) circulate, instruct or motivate the concerned regulated entity about the instructions issued by BFIU;
- (d) impart training, workshop, seminar or the awareness raising program on regular basis;
- (e) inform or report to BFIU regarding identified non-compliance on anti money laundering and combating financing of terrorism or any suspicious transaction or activities; and
- (f) provide information and supporting documents to the BFIU on request or spontaneously on money laundering and terrorist financing issues.

## Part-VI

### Compliance Requirements for Reporting Organizations

**17. Customer Due Diligence and Record Keeping.**—(1) Reporting Organizations shall not open or maintain any anonymous or numbered accounts or accounts in fictitious names. To check against anonymous account or in fictitious name Reporting Organization shall follow the proper Customer Due Diligence (CDD) measures;

(2) **Timing of CDD :** Reporting Organization-Financial Institution (RO-FI) shall undertake CDD measures when :

- (b) it establishes business relations;
- (c) it carries out occasional transactions above the applicable designated threshold determined by BFIU from time to time including situations where the transaction is carried out in a single operation or in several operations that appear to be linked;
- (d) it carries out occasional transactions that are wire transfers;

- (e) when there is a suspicion of money laundering or terrorist financing, regardless of any exemption or thresholds; and
- (f) the RO-FI has doubts about the veracity or adequacy of previously obtained customer identification data.

(3) Required CDD measures for all customers.

RO-FIs shall identify the customer (whether permanent or occasional, and whether natural or legal person or legal arrangement) and verify that customer's identity using reliable, independent source documents, data or information (identification data). The verification of identity of a customer or a beneficial owner should include a series of independent checks and inquiries and not rely only on documents provided by the customer or beneficial owner. RO-FIs shall verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person.

(4) RO-FIs shall identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner, using the relevant information or data obtained from a reliable source, such that the RO-FI is satisfied that it knows who the beneficial owner is.

(5) RO-FIs shall understand and, as appropriate, obtain information on, the purpose and intended nature of the business relationship. For this purpose BFIU may define 'appropriateness' or the concerned RO-FI may ascertain the 'appropriateness' according to the BFIU vetted risk and vulnerabilities report of that RO-FI's.

(6) RO-FIs shall conduct ongoing due diligence on the business relationship, including :

- (a) scrutinizing transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the RO-FI's knowledge of the customer, their business and risk profile, including where necessary, the source of funds; and
- (b) ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant, by undertaking reviews of existing records, particularly for higher risk categories of customers.

(7) Specific CDD measures required for legal persons and legal arrangements.

For customers that are legal persons, legal entities or legal arrangements, the RO-FI shall take appropriate process or measure to understand the nature of the customer's business and its ownership and control structure; the RO-FI shall identify the customer and verify its identity through the following information:

- (a) verify the legal documents that has created the relationship;
- (b) if necessary take legal opinion;
- (c) name, legal form and proof of existence;
- (d) the powers that regulate and bind the legal person or arrangement, as well as the names of the relevant persons having a senior management position in the legal person or arrangement;
- (e) the address of the registered office and, if different, a principal place of business; and
- (f) consider the risk profile of the relationship.

(8) For customers that are legal persons, the RO-FI shall identify and take reasonable measures to verify the identity of beneficial owners through the following information:

- a. the identity of the natural person(s) (if any) who ultimately has a controlling ownership or interest in a legal person;
- b. to the extent that there is doubt under (a) as to whether the person(s) with the controlling ownership or interest is the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural person(s) (if any) exercising control of the legal person or arrangement through other means; and
- c. where no natural person is identified under (a) or (b) above, the identity of the relevant natural person who holds the position of senior managing official.

(9) For customers that are legal arrangements, the RO-FI shall identify and take reasonable measures to verify the identity of beneficial owners through the following information:

- a. for trusts, the identity of the settlor, the trustee(s) the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust including through a chain of control/ownership; and
- b. for other types of legal arrangements, the identity of persons in equivalent or similar positions.

**18. CDD for Beneficiaries of Insurance Policies.**—(1) In addition to the CDD measures required for the customer and the beneficial owner, RO-FIs shall conduct the following CDD measures on the beneficiary of life insurance, general insurance and other investment related insurance policies, as soon as the beneficiary is identified or designated:

- (a) for a beneficiary that is identified as specifically named natural or legal persons or legal arrangements—taking the name of the person;
- (b) for a beneficiary that is designated by characteristics or by class or by other means—obtaining sufficient information concerning the beneficiary to satisfy the RO-FI that it will be able to establish the identity of the beneficiary at the time of the payout; and
- (c) for both the above cases—the verification of the identity of the beneficiary should occur at the time of the payout.

(2) RO-FIs shall include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable. If the RO-FI determines that a beneficiary who is a legal person or a legal arrangement presents a higher risk, it shall take enhanced measures which should include reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary, at the time of payout.

**19. Timing of verification.**—(1) RO-FIs shall verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers; or (if permitted) may complete verification after the establishment of the business relationship, provided that:

- (a) this occurs as soon as reasonably practicable;
- (b) this is essential not to interrupt the normal conduct of business; and
- (c) the money laundering and/or terrorist financing risks are effectively managed.

(2) RO-FIs shall adopt risk management procedures concerning the conditions under which a customer may utilize the business relationship prior to verification.

**20. Existing customers.**—RO-FIs shall apply CDD requirements to existing customers on the basis of materiality and risk, and to conduct due diligence on such existing relationships at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained.

**21. Risk-Based Approach.**—(1) Every RO-FI shall conduct periodic risk assessment and forward the same to the BFIU for vetting;

(2) Risk assessment report shall be utilized by the RO-FI after having vetted by BFIU;

(3) RO-FIs shall perform enhanced due diligence where the money laundering and/or terrorist financing risks are higher according to the vetted Risk Assessment Report;

(4) RO-FIs may apply simplified CDD measures where lower risks have been identified by the BFIU or as per the BFIU vetted risk assessment report conducted by the RO-FI itself or by the other independent body. The simplified measures should be commensurate with the lower risk factors, but are not acceptable whenever there is suspicion of money laundering and/or terrorist financing, or specific higher risk scenarios apply.

**22. Failure to satisfactorily complete CDD.**—Where a RO-FI is unable to comply with relevant CDD measures :

- (a) it should be required not to open the account, commence business relations or perform the transaction; or shall terminate the business relationship; and
- (b) it shall consider making a suspicious activity report (SAR) or suspicious transaction report (STR) about prospective customer or the customer or the denied person or entity.

**23. CDD and tipping-off.**—In cases where RO-FIs form a suspicion of money laundering or terrorist financing, and they reasonably believe that performing the CDD process will tip-off the customer, they shall not pursue the CDD process, and instead shall file an STR to the BFIU.

**24. Record Keeping.**—RO-FIs shall maintain all necessary records of all transactions, both domestic and international, for at least five years from the date of the closer of the account or at least five years from of the completion of any one-off transaction in following manners :

- (1) Transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.
- (2) RO-FIs shall keep all records obtained through CDD measures, account files and business correspondence, and results of any analysis undertaken, for at least five years following the termination of the business relationship or after the date of the occasional transaction.
- (3) RO-FIs shall ensure that all CDD information and transaction records are available swiftly to BFIU or available to the respective investigation authority upon appropriate court order.

**25. Reporting Organizations-Designated Non-Financial Business or Profession.**—(1) Reporting Organizations-Designated Non-Financial Businesses and Professions (RO-DNFBP) shall comply with the CDD requirements set out in Rules 17, 19, 20, 21, 22 above in the following situations:

- (a) real estate developers—when they are buying and selling real estate.
- (b) dealers in precious metals and dealers in precious stones—when they engage in any cash transaction with a customer equal to or above 10(ten) lakh Taka or as determined by BFIU from time to time.
- (c) lawyers, notaries, other independent legal professionals and accounts when they prepare for, or carry out, transactions for their client concerning the following activities:
  - (i) buying and selling of real estate;
  - (ii) managing of client money, securities or other assets;
  - (iii) management of bank, savings or securities accounts;
  - (iv) organization of contributions for the creation, operation or management of companies; and
  - (v) creating, operating or management of legal persons or arrangement, and buying and selling of business entities.
- (d) trust and company service providers when they prepare for or carry out transactions for a client concerning the following activities:
  - (i) acting as a formation agent of legal persons;
  - (ii) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;

- (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- (iv) acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement; and
- (v) acting as (or arranging for another person to act as) a nominee shareholder for another person.

(2) In the situations set out in Rule 25 (1), RO-DNFBP shall comply with the record-keeping requirements set out in Rule 24 above.

(3) In the situations set out in Rule 25 (1), RO-DNFBP shall comply with the PEPs requirements set out from time to time by BFIU.

(4) In the situations set out in Rule 25 (1), RO-DNFBP shall comply with the new technologies requirements set out from time to time by BFIU.

(5) In the situations set out in Rule 25 (1), RO-DNFBP shall comply with the reliance on third-parties requirements set out from time to time by BFIU.

26. (1) The requirements to report suspicious transactions set out Section 15 subsection 1 (d) of the Act shall apply to all RO-DNFBP subject to the following qualifications:

- (a) Lawyers, notaries, other independent legal professionals and accounts when, on behalf of, or for, a client, they engage in a financial transaction in relation to the activities described in Rule 25 (1) (c). But Lawyers, notaries, other independent legal professionals, and accountants acting as independent legal professionals, are required to report suspicious transaction if the relevant information was obtained in circumstances where they are subject to professional secrecy or legal professional privilege. This would normally cover information Lawyers, notaries, or other independent legal professionals receive from or obtain through one of their clients: (a) in the course of ascertaining the legal position of their client, or (b) in performing their task of defending or representing that client in, or concerning judicial, administrative, arbitration or mediation proceedings.

- (b) Dealers in precious metals or stones—when they engage in a cash transaction with a customer equal to or above BDT 10 (ten) lakh.
- (c) Trust and company service provider—when on behalf or for a client, they engage in a transaction in relation to the activities described in rule 25 (1) (d).

(2) In the situations set out in Rule 25(1), RO-DNFBP shall comply with the internal controls requirements set out time to time by BFIU.

(3) In the situations set out in criterion Rule 25(1), RO-DNFBP shall comply with the higher-risk countries requirements set out time to time by BFIU.

(4) In the situations set out in Rule 25(1), RO-DNFBP shall comply with the tipping-off and confidentiality requirements set out from time to time by BFIU.

But where Lawyers, notaries, other independent legal professionals and accountants acting as independent legal professionals seek to dissuade a clients from engaging in illegal activity, this does not amount to tipping-off.

**27. Reporting Organization-Non Profit Organization or Non Government Organization (RO-NPO/NGO).—**(1) To fulfill the purpose of the Act Reporting Organization-Non Profit Organization or Non Government Organization (RO-NPO/NGO) shall—

- (a) preserve information relating to their goals, objectives and functions in details;
- (b) collect and preserve the correct and complete information of identification of those who control or direct the activities of the Organization (senior management, members of the Board of Directors, Executive Committee, Trustee Board or other) in details with supporting documents;
- (c) information preserved under sub-para (1) and (2) shall be made publicly available;
- (d) preserve details information relating to the function of their foreign branches (where applicable) and also preserve the updated information of the officers/staff working there;
- (e) collect and verify the identification information, relevant experience and other involvements of the selected candidates before recruitment;

- (f) collect correct and complete information of identification with supporting documents of those customers who have outstanding loan of Tk. 75,000 (Seventy Five Thousand) or above or deposit balance of Tk. 50,000 (Fifty Thousand) or above or as defined by BFIU from time to time and verify the authenticity of the information and documents and preserve it. They also preserve the identification information and documents of the customers and records of transactions for at least 5(five) years from the date of closure of the relationship with the customer. However, Organization that receives foreign aid, grant, donation or loan shall follow the rules delineated in this sub-para irrespective of the amount of outstanding loan or deposit balance;
- (g) here 'Customer' means beneficiary/beneficiaries of NPO/NGO such as any person, group of people, other RO-NPOs/NGOs or any other Organization;
- (h) Preserve the audited annual financial statement, explanatory notes of each sector and all information with supporting documents related to it at least for 5 (five) years;
- (i) All customers' transactions of RO-NPOs/NGOs involving Tk. 1,00,000 (One Lac) and above or the amount determined by BFIU from time to time shall have to be routed through banking channel;
- (j) the senior management, members of the Board of Directors, Executive Committee, Trustee Board and others (where applicable) shall ensure that all funds are spent in a manner that is consistent with the stated goals, objectives and activities of the RO-NPO/NGO Annual Independent Audit shall have to be conducted in this regard;
- (k) the senior management or the Board of Directors, where applicable, shall conduct a quarterly meeting with the officers of their organization on combating money laundering and financing of terrorism and also arrange training program for all of their officers. They shall maintain the record of the meeting and the training conducted;
- (l) no RO-NPO/NGO functioning in Bangladesh shall not receive any fund from or collect or make arrangement of any final financial asset or account necessary for any person or organization listed under the resolutions of United Nations Security Council including UNSCR-1267, UNSCR-1373 and UNSCR-1718;

- (m) while receiving funds from any country or any person organization of country under the Public Statement of Financial Action Task Force (FATF), Enhanced Due Diligence (EDD) shall have to be ensured considering the risk;
- (n) RO-NPO/NGO shall collect the correct and complete identification information and supporting documents of their donors;
- (o) every RO-NPO/NGO having foreign aid, grant, donation or loan shall receive the clearance document from the appropriate authority, preserve the clearance document and would not return any amount to the donor without the prior approval of the appropriate authority.
- (p) each RO-NPO/NGO shall:
  - (a) ensure appropriate monitoring system to ascertain that the fund given to their customers are not used for the purpose of money laundering and financing of terrorism. RO-NPOs/NGOs shall report immediately to the BFIU if any incident or transaction identified or appears suspicious to them according to the instruction of BFIU;
  - (b) report to the BFIU immediately if there is any suspicion or request by any donor in using them for such activities as are contrary to the existing anti money laundering and combating financing of terrorism regime; or
- (q) each RO-NPO/NGO shall provide such information and any other papers/documents as may be asked for by the BFIU.

**28. High Risk Countries.**—(1) Reporting Organization shall apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with natural and legal persons including financial institutions from countries for which this is called for by the FATF.

(2) Before establishing relationship with foreign counterpart RO-FIs shall consider the status of the AML/CFT systems of that country.

**29. Reporting of Suspicious Transaction.**—(1) Reporting Organization shall submit suspicious transactions or activity report immediately to the BFIU following the issued instruction.

(2) Divulging of any information related to STR or SAR is prohibited under section 23 of the Act and is punishable under section 6 of the Act.

**Part-VII****Exchange of Information**

**30. Exchange of information and intelligence with domestic authority.**—(1) As per provision of section 24 sub-section 2 of the Act, for the purposes of the Act, the governmental, semi-governmental, autonomous organizations or any other relevant institutions or organizations shall, upon any request or spontaneously, provide the Bangladesh Financial Intelligence Unit with the information preserved or gathered by them; while making request under section 24 sub-section 2 of the Act BFIU shall follow the following procedures;

(2) BFIU shall write a requisition letter mentioning the section of the Act by which authority it is requesting for information.

(3) In the requisition letter BFIU shall have to mention the description of information or document sought, purposes and proposed use of information and document.

(4) For the purposes of the Act governmental, semi-governmental, autonomous organizations or any other relevant institutions or organizations shall provide requested information, documents to the BFIU. If any governmental, semi-governmental, autonomous organizations or any other relevant institutions or organizations fail to supply information or submit a report being requested without any reasonable ground, BFIU may raise the issue in the NCC or Working Committee meeting.

(5) As per the provision of section 24 sub-section (2) of the Act, the governmental, semi-governmental, autonomous organizations or any other relevant institutions or organizations shall spontaneously provide the preserved or gathered information to the BFIU with the intimation of their headquarters.

**31. General Principle of Exchange of Information with Foreign Counterpart.**—Pursuant to section 24 sub-sections (4) and (5) of the Act the BFIU may exchange information with a foreign FIU. Other competent authorities in Bangladesh may also exchange information with their relevant foreign counterpart authorities under relevant laws or guidelines. When exchanging information with a foreign counterpart the following requirements shall apply:

- (a) the competent authority should ensure appropriate controls, safeguards and confidentiality provisions for the exchanged information;
- (b) requesting party shall ensure that the exchanged information shall not be used other than for the stated purpose;
- (c) if any foreign competent authority fails to comply with the provisions of sub rule (a) and (b), Bangladeshi competent authority may refuse to provide further information;

- (d) where competent authorities need bilateral or multilateral agreements or arrangements to co-operate, these shall be negotiated and signed in a timely way, and with the widest range of foreign counterparts; and
- (e) requesting competent authorities shall be requested to provide feedback in a timely manner to the competent authority from which they have received assistance, on the use and usefulness of the information obtained.

32.—(1) Competent authorities shall not refuse a request for assistance on the grounds that:

- (a) the request is also considered to involve fiscal matters; and/or
- (b) laws require financial institutions or RO-DNFBP to maintain secrecy or confidentiality (except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies); and/or
- (c) there is an inquiry, investigation or proceeding underway in Bangladesh, unless the assistance would impede that inquiry, investigation or proceeding; and/or
- (d) the nature or status (civil, administrative, law enforcement, etc.) of the requesting counterpart authority is different from that of its foreign counterpart; and/or
- (e) Competent authorities shall maintain appropriate confidentiality for any request for cooperation and the information exchanged, consistent with both parties' obligations concerning privacy and data protection. At a minimum, competent authorities shall protect exchanged information in the same manner as they would protect similar information received from domestic sources; and/or
- (f) Competent authorities can refuse to provide information if the requesting competent authority cannot protect the information effectively.

(2) Competent authorities can conduct inspection or inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically.

**33. Exchange of Information between BFIU and foreign FIUs.**—(1) For the purposes of and in exercising the power of exchange of information with foreign FIUs of the Act, BFIU shall follow the 'Principle of Information Exchange' of Egmont Group:

(2) BFIU shall use most efficient and secure channel for exchange of information;

(3) BFIU shall exchange:

- (a) all information required to be accessible or obtainable directly or indirectly by it, in particular under as per provision of the Act from the reporting organization; and
- (b) any other information which it has obtained or accessed, directly or indirectly, at the domestic level, subject to the principle of reciprocity, whether the foreign FIU is administrative, law enforcement, judicial or other in nature.

(4) BFIU shall provide feedback to their foreign counterparts, upon request and whenever possible, on the use of the information provided, as well as on the outcome of the analysis conducted, based on the information provided.

(5) While requesting assistance from a foreign counterpart BFIU shall mention as much detail as possible about the identity of the person or entity concern, kinds and quantum of information sought, purpose and use of the information, confidentiality measure it will take and provision of reciprocity in the request letter.

**34. Exchange of information between financial supervisors.—(1)**

Financial supervisors may exchange information domestically available to them, including information held by financial institutions, in a manner proportionate to their respective needs with foreign counterparts.

(2) Financial supervisors may exchange the following types of information when relevant for AML/CFT purposes, in particular with other supervisors that have a shared responsibility for financial institutions operating in the same group:

- (a) regulatory information, such as information on the domestic regulatory system, and general information on the financial sectors;
- (b) prudential information, in particular for Core Principles supervisors, such as information on the financial institution's business activities, beneficial ownership, management, and fit and properness; and
- (c) AML/CFT information, such as internal AML/CFT procedures and policies of financial institutions, customer due diligence information, customer files, samples of accounts and transaction information.

(3) BB may conduct inquiries on behalf of foreign counterparts.

(4) Financial supervisors shall ensure that they have the prior authorization of the requested financial supervisor for any dissemination of information exchanged, or use of that information for supervisory and non-supervisory purposes, unless the requesting financial supervisor is under a legal obligation to disclose or report the information. In such cases, at a minimum, the requesting financial supervisor shall promptly inform the requested authority of this obligation.

**35. Exchange of information between law enforcement authorities.—**(1) ACC may exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to money laundering, associated predicate offences, including the identification and tracking of the proceeds and instrumentalities of crime under agreement. CID of Bangladesh Police may exchange domestically available information with foreign counterpart for intelligence or investigation purposes related to terrorist financing.

(2) ACC or CID of Bangladesh Police, as the case may be, may also use their powers, including any investigative techniques available in accordance with domestic law, to conduct inquiries and obtain information on behalf of foreign counterparts. The regimes or practices in place governing such law enforcement co-operation, such as the agreements between Interpol, Europol or Eurojust and individual countries, may govern any restrictions on use imposed by the requested law enforcement authority.

**36. Exchange of information between non-counterparts.—**(1) Competent authorities of Bangladesh may exchange information indirectly with non-counterparts, applying the relevant principles above.

(2) Such requests shall mention the purpose and on whose behalf the request is made.

**Schedule:**

**Form-1**

**Request letter for freeze or suspend Accounts**

Date.....

1. Name of the suspected person or entity  
Address.....  
.....  
.....
  - Father name : .....
  - Mother name : .....
  - A/C no : .....
  - Bank/FI/SMIs etc. : .....
  - Status of the case inquiry/investigation : .....
  - Expiry date of existing suspension or Freeze order (if any) : .....
  - Requested Freeze or suspension period : .....
2. Cause of the suspension for ML/TF (if the case is generated of its own motion):

[ N.B. request letter should be issued at least 07 (seven) working days before the expiration of all existing order ]

Name:

Designation:

Phone:

Investigating Officer:

E-mail:

## Form-2

## Analysis Report

Date : .....

## 1. Detail of suspected person or entity

Name .....

Address.....

2. Father name .....

3. Mother name.....

4. Detail of person or entity related with the suspected person or entity.....

5. Information or document analyzed with source.....

6. Reporting Organization.....

7. Government Ministries, Division, Organization.....

8. Briefing about the case.....

9. Indication of suspension or clue for future investigation.....

10. List of supporting documents.....

Round seal  
of BFIU

**Form-3**  
**Feedback Report to BFIU**

SL. NO.	Name and address of suspected person or entity	Suspects (Predicate Offence)	Forward's date of Reference to BFIU or others	Action taken	Status	Assistance Need/ Comments

Name:

Designation:

Phone/Fax:

E-mail:

Primary Contact Point :

By the order of the President

**Dr. M Aslam Alam**  
*Secretary*

মোঃ নজরুল ইসলাম (উপসচিব), উপপরিচালক, বাংলাদেশ সরকারি মুদ্রালায়, তেজগাঁও, ঢাকা কর্তৃক মুদ্রিত।  
আবদুর রশিদ (উপসচিব), উপপরিচালক, বাংলাদেশ ফরম ও প্রকাশনা অফিস,  
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