

Bangladesh Financial Intelligence Unit
Bangladesh Bank
Head Office
Dhaka.
Web site: www.bangladeshbank.org.bd

BFIU Circular No. 06

Date: 30 December, 2012

Chief Executive

All stock dealers and stock brokers, portfolio managers and merchant banks, securities custodians, asset managers.

Dear Sirs,

Instructions to be followed by Capital Market Intermediaries for compliance of the provisions contained in the Money Laundering Prevention Act, 2012 and Anti Terrorism Act, 2009(Including amendment of 2012)

Under the power conferred in section 2(L)(vii) of Money Laundering Prevention Act, 2009 and with the approval of the government (1) Stock Dealer and Stock Broker, (2) Portfolio Manager and Merchant Bank, (3) Securities Custodian and (4) Asset Manager have been included as Reporting Organizations by the AML Circular No. 26 issued on 30/09/2010 and the associated gazette-AML-01/2010 BB dated 30 September. These reporting organizations subsequently have been included in section 2 (w) (vii) of Money Laundering Prevention Act, 2012.

The following instructions are issued as per power conferred in section 23 and section 15 of Money Laundering Prevention Act, 2012 and Anti Terrorism Act, 2009 (including amendments of 2012) respectively for compliance by the above mentioned Capital Market Intermediaries to prevent money laundering and terrorist financing

1. Risk management Procedures:

- a. To manage the money laundering/terrorist financing (ML/TF) risk efficiently and comply with the provisions of Money Laundering Prevention Act, 2012 and Anti Terrorism Act, 2009 (including amendments of 2012) properly, each institution engaged in capital market (herein referred as Capital Market Intermediaries) shall form an 'Anti money Laundering and Combating Financing of Terrorism Compliance Unit (AML/CFT Compliance Unit)' at the head office under the leadership of a high official and where necessary shall establish a system for internal monitoring and control, through nominating a compliance officer at branch level. In order to accomplish properly the jurisdiction and function of the AML/CFT Compliance Unit, capital market intermediaries shall determine the institutional strategy and program which have to be approved by the board of directors/highest authority. AML/CFT Compliance Unit shall formulate and implement a complete guideline containing customer identification (Know Your Client), record keeping, transaction monitoring & reporting, internal control, policies and procedures from their point of view of preventing money laundering. Besides, instructions shall be provided, where necessary, for compliance at branch level to assess the effectiveness of ML/TF risk management procedures, every capital market intermediary shall arrange Independent Audit after a certain period.

1. Know Your Client (KYC):

- a.
 - i. Every capital market intermediary shall preserve correct and complete information of identification of all clients (individual/ corporate) that receive its service. Note that 'complete' means putting down all information required verifying a client's identity and 'correct' means the verification of the information received to verify a client's identity.

- ii. While acting as a securities custodian, intermediaries shall collect a certificate from the correspondent bank ensuring that required information for identification of its underlying customer has been preserved (containing a commitment of supplying information when necessary) and preserve the same. Besides, complete information of beneficiary has to be preserved in case of transferring sale proceeds of securities to a third party through NITA or Custodian account. Portfolio managers and asset managers shall preserve complete information of all clients(individual/ corporate) while providing services to its clients and also preserve trustee's required information of identification in case of a trust.
 - iii. Complete and correct information of identification of clients of the accounts (currently operating) opened before 30 September, 2010 shall be collected and preserved. In addition, necessary information of identification of the existing clients whose accounts were opened before issuance of this circular shall have to be updated. The instructions mentioned in the guidelines attached herewith shall be followed in both the cases
 - iv. No Beneficial Owner (BO) accounts or other types of account can be opened with anonymous or fictitious names.
- b. Every capital market intermediary shall have a complete Customer Acceptance Policy; where one's eligibility or ineligibility as a client shall be mentioned.
 - c. Taking ML/TF risk in consideration, every capital market intermediary shall classify its clients and on the basis of risk, conduct Enhanced Due Diligence (EDD) or Normal Due Diligence.
 - d. Every capital market intermediary shall update all the preserved information regarding identification of clients after a specific period of time.
 - e. Every capital market intermediary shall collect adequate information up to its satisfaction regarding client's profession, source of fund and other personal information. Please note that "Satisfaction of the institution" means satisfaction of the appropriate authority that necessary due diligence has been conducted considering the risks of the customers in the light of existing directions.
 - f. Every capital market intermediary has to identify the beneficial owner of the account and ensure the identification on the basis of the information collected from reliable sources up to its satisfaction. In case of individual, beneficial owner should be determined by the association with the client, while in case of corporate, the controlling shareholder or a person hold 20% or more shares should be identified as beneficial owner. Complete and correct information of identity of the beneficial owners shall have to be collected and preserved.
 - g. Considering ML risk associated with Politically Exposed Persons (PEPs) every capital market intermediary shall have to exercise Enhanced Due Diligence (EDD) for PEPs, where applicable. PEPs refer to the following individuals:

"Individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves."

2. Transaction monitoring, suspicious transaction detection and reporting:

- a. All officials of every capital market intermediaries are to remain conscious and alert to detect unusual/ Suspicious Transaction during day to day business. When any suspicious transaction as defined in section 2(z) of MLPA, 2012 and section 2 (16) of ATA, 2009 (including amendments of 2012) is detected, a Suspicious Transaction Report (STR) has to be submitted immediately as per section 25(1)(---) and 16(1) respectively of the said Acts to the General Manager, Bangladesh Financial Intelligence Unit, Bangladesh Bank, Head Office, Dhaka in a format as prescribed in the attached guidelines with this circular.

- b. If any applicant (individual/corporate) or the beneficiary of BO or other related account is a person/entity/group/organization of the sanction list prepared by relevant committee of United Nations Security Council or proscribed/scheduled by the government of Bangladesh or there are reasonable grounds to suspect that the associated money may be used for ML/TF, it shall also be considered for reporting. Moreover, the indicators (suspicion may be expanded beyond those) mentioned in the attached guidelines shall be considered for detecting suspicious transaction.
- c. Every capital market intermediary has to submit a half yearly report containing a summary of all STR reported in the last six months to the General Manager, Bangladesh Financial Intelligence Unit, Bangladesh Bank, Head Office, Dhaka as per the format provided in the attached guidelines, and such report must be submitted by the 15th of the next month. Please note that if no STR is reported within the reporting half year, still every capital market intermediary has to submit "NIL" statement.
- d. Any official of the concerned capital market intermediary shall not disclose any information related to STR to any client or any person/institution in any manner.

3. Other instructions

- a. To keep capital market intermediaries free from ML/TF risk, every capital market intermediary shall undertake proper screening mechanism while recruiting its employee so that the concerned institution do not face ML/TF risk by any activities of any official. .
- b. Every securities intermediary shall arrange appropriate training for all its employees to ensure the proper compliance of MLPA, 2012, ATA, 2009 (including amendments of 2012) and circulars/instructions issued by Bangladesh Financial Intelligence Unit from time to time.
- c. Every capital market intermediary shall preserve all information regarding clients identification (including transaction information) for a period of at least five years after closure of an account.
- d. Taking into consideration the size of business, nature, functions, legal framework etc. of capital market intermediaries a guidelines named “Guidelines on prevention of money laundering & terrorist financing of terrorism for capital market intermediaries” has been formulated and issued as per power conferred in section 23(d) and 15 (h) of MLPA, 2012 and ATA, 2009 (including amendments) respectively, to face the risk of money laundering and terrorist financing through these institutions and also to assist implementation of the above instructions. This guidelines can be downloaded from Bangladesh Bank website (<http://www.bb.org.bd/mediaroom/circulars/circulars/php>). Analyzing the area, size, nature, functions and risks of business, and also considering the instructions of the attached guidelines as minimum standard, every capital market intermediary shall formulate their own guidance notes, submit it with the approval of their Board of Directors/appropriate authority to this unit within 3 p(three) months and take necessary actions to implement it.
- e. Besides the instructions delineated in the Foreign Exchange Regulation Act, 1947, Guidelines for Foreign Exchange Transactions and other related instructions issued by Bangladesh Bank shall be subject to compliance for the capital market intermediaries where deem necessary.
- f. Every securities intermediary is advised to notify Bangladesh Financial Intelligence Unit, Bangladesh Bank, within o3 months what actions have already been taken and the future plan after issuance of this circular.

The instructions of this circular shall come into force immediately Please acknowledge receipt.

Yours Sincerely,

Enclosure: As described

(Debaprosad Debnath)
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