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ROYAL MONETARY AUTHORITY OF BHUTAN



**Anti-Money Laundering and
Countering of Financing of Terrorism
Guideline for
Money Services Business 2021**

1. INTRODUCTION

- 1.1) This guideline is issued pursuant to Section 45 of the AML and CFT Act of Bhutan 2018. This guideline applies to all Money Services Business (MSB) licensed by the RMA.
- 1.2) This guideline may be cited as the “**Anti Money Laundering and Countering the Financing of Terrorism Guideline for Money Services Business 2021**”.
- 1.3) In addition, the MSB’s are also to comply with the Anti-Money Laundering and Countering of Financing of Terrorism (AML/CFT) Rules and Regulations 2018 or amendment thereof.
- 1.4) For this Guidelines “Money Services Business” means any or all of the following businesses licensed by the RMA:
 - (a) money-changing business OTC (Banks);
 - (b) Authorized Money Changer

2. MONEY LAUNDERING AND FINANCING OF TERRORISM

- (a) Money laundering is the processing of the proceeds of crime to disguise their illegal origin. Once these proceeds are successfully ‘laundered’ the criminal is able to enjoy these monies without revealing their original source. Money laundering can take place in various ways.
- (b) Financing of terrorism can be defined as the willful provision or collection, by any means, directly or indirectly, of funds with the intention that the funds should be used, or in the knowledge that they are to be used, to facilitate or carry out terrorist acts. Terrorism can be funded from legitimate income.

3. OBJECTIVE

The purpose of prescribing AML/CFT Guidelines is to prevent the system of Money Services Business (MSB) engaged in the purchase of foreign currency notes/travelers’ cheques from being used for money laundering and terrorism financing.

4. IMPLEMENTATION OF THE AML/CFT MEASURES

In carrying out its business activities, an MSB is required to establish and implement effective AML/CFT measures in order to mitigate the risk of MSB transactions being carried out for money laundering, terrorist financing and other illegal purposes. These AML/CFT measures include the following:

- (a) Conduct of customer due diligence to identify and verify the customer;
- (b) Maintenance of relevant records and documents relating to transactions undertaken by an MSB;
- (c) Ongoing monitoring of transactions with customers to ensure information maintained by the MSB is current and updated to support detection of suspicious transactions; and

- (d) Submission of suspicious transaction reports to the Financial Intelligence Department when MSB has any suspicion of a transaction being associated with money laundering, terrorism financing or other illegal activities.

5. CUSTOMER DUE DILIGENCE

5.1 Customer due diligence (CDD) is about knowing the customer, be it an existing or a new customer. Pursuant to Section 62 of the AML and CFT Act, MSB shall conduct effective CDD to detect possible transactions for money laundering; financing of terrorism or other illegal activities at the point of customer contact, hence, safeguarding the MSB from the abuses of financial crimes and other unlawful activities.

5.2 An MSB must perform the following steps to conduct a comprehensive CDD before undertaking a transaction with the customer:

(a) Sight the original identification documents of all customers, regardless of the amount transacted.

(i) For individual customer:

- National Identity Card (CID) or driving license for Bhutanese/permanent resident;
- Passport or other valid official identification documents for foreigner.

ii) Corporate customer:

- Certified Memorandum / Article / Certificate of Incorporation / Partnership agreement or any other reliable references to verify the identity of the corporate customer;
- Certified identification document of directors/ shareholders/partners; or equivalent documents for foreign incorporation may be accepted;
- Authorization letter for any person to represent the company;
- Other relevant documents to identify the identity of the person authorized to represent the company in its dealing with MSB.

(b) For the purpose in paragraph 5.2(a), a MSB shall display a notice in the format below informing its customers to produce the relevant identification documents:

Notice to Customers

Please produce your identification documents before making a transaction as required under the Anti-Money Laundering and Countering the Financing of Terrorism Rules and Regulations 2018

(C) Verify that the customer is not listed in the United Nations Security Council Resolution (UNSCR) list of terrorists where there are existing sanctions against individual and entities related to, for example, the Taliban, Osama bin Laden and Al-Qaida organization. The updated and consolidated United Nations List can be obtained at <http://www.un.org/sc/committees/1267/pdf/AQList.pdf>. An MSB should also refer to the list issued by the Department of Law and Order (DLO), MoHCA.

(d) If the customer is listed in the above lists, an MSB must reject the transaction and submit a suspicious transaction report to the Financial Intelligence Department in RMA on the ground that the transaction is related to terrorist.

(e) MSB must note down the particulars of the customer and make a duplicate copy of the original identification document for money changing that is equivalent or exceeds the threshold of USD 5,000 in aggregate and USD 1,000 per transaction respectively.

(f) Where the amount of forex tendered for encashment by a non-resident or a person returning from abroad exceeds the limits prescribed for Currency Declaration Form (CDF), the MSB should invariably insist for production of declaration of the CDF.

5.3 In certain situations, regardless of the amount transacted, an MSB is required to perform additional steps to conduct enhanced due diligence (EDD) as stated in paragraph 5.4, in addition to the CDD process being undertaken. These situations include the following:

- (a) When the customer (i.e. individual or corporate customer), sends a representative to execute the transaction;
- (b) When a MSB is performing a non-face-to-face business transaction through bank account or in a form of instruction received from internet, fax, or telephone, with the customer of whom the business relationship has been established;
- (c) When an MSB is dealing with a “high risk” customer. The examples of a “high risk” customer is:
 - Non-resident customers;
 - Customers linked to higher risk countries
 - Customers from countries or jurisdictions with inadequate AML/CFT laws and regulations as highlighted by the Financial Action Task Force (FATF) at <http://www.fatfgafi.org/documents/repository/fatfpublicstatement22june2012.html>;
 - Politically exposed persons who are being or have been entrusted with prominent public functions, such as heads of state or government, senior politicians, senior government officials, judicial or military officials and senior executives of public organizations.

5.4 The measures for a MSB to conduct EDD include, but are not limited to the following:

- (a) Obtain more detailed information from the customer, in particular, on the purpose of transaction and the source of funds;

- (b) Make duplicate copy of the original identification documents(s), even if the amount of the transaction is less than the respective thresholds set in paragraph 5.2(e)

5.5 An MSB must not continue the transaction if it fails to conduct proper CDD and/or EDD on the customer.

6. REPORTING OBLIGATION OF THE MSB

As per Section 145, Part VII of the AML/CFT Rules & Regulations 2018, MSB shall report both STRs and CTRs to the FID. This Guideline establishes the specific reporting obligations.

6.1). Monthly report to the FIU

MSB's are required to send a copy of the monthly statement of Foreign Exchange Purchase as specified in section 51 of Foreign Exchange Rules and Regulation 2020. The statement duly certified by the MSB should also be sent to FID no later than 10th day of the following month.

MSB's (money-changing business OTC (Banks)) are required to send a copy of the monthly statement of Foreign Exchange Purchase as per the format in **Annex I** to FID no later than 10th day of the following month

6.2). Reporting of Suspicious Transactions to the Financial Intelligence Department

The MSB must ensure that its staff is vigilant against money laundering transactions at all times. An important part of the AML/CFT measures is determining whether a transaction is suspicious or not. If an MSB suspects, or has reasonable grounds to suspect, that the fund is the proceeds of an unlawful activity or are related to terrorist financing it should be reported immediately to the FID. MSB's should report to the FID Suspicious Transaction Report (STR) in the required format as specified **Annex II** no later than 2 working days once MSB is satisfied that the transaction is suspicious.

A transaction may be suspicious in nature irrespective of the amount of transactions. Some possible suspicious activity indicators are given below:

- Customer is reluctant to provide details/documents on frivolous grounds.
- The transaction is undertaken by one or more intermediaries to protect the identity of the beneficiary or hide their involvement.
- Large cash transactions.
- Size and frequency of transactions is high considering the normal business of the customer.
- Change in the pattern of business transacted.

The above list is only indicative and not exhaustive.

7. APPOINTMENT OF MONEY LAUNDERING REPORTING OFFICER (MLRO)

- (a) An MLRO may be appointed by every MSB for monitoring transactions and ensuring compliance with the AML/CFT Guidelines issued by the FID from time to time. The MLRO will also be responsible for reporting of suspicious transaction/s to the FID. Any suspicious transaction/s, if undertaken, should have prior approval of MLRO.
- (b) The MLRO shall have reasonable access to all the necessary information/ documents, which would help in effective discharge of responsibilities.
- (c) The responsibility of the MLRO may include:
 - Putting in place necessary controls for detection of suspicious transactions.
 - Receiving disclosures related to suspicious transactions from the staff or otherwise.
 - Deciding whether a transaction should be reported to the appropriate authorities
- (d) The MLRO for MSB's (money-changing business OTC (Banks)) will be the existing Anti Money Laundering Compliance Officer for the Banks.

8. DELIVERY OF REPORTS TO FID

- (a) Reports required to be delivered to the FID under this guideline shall be delivered by post, by hand or electronically. The reporting entity is responsible for ensuring that the reports are delivered within the time required by this guideline. In urgent cases the reporting entity should notify the FID of the details of the transaction by telephone and send the report by post, hand or electronically in accordance with these regulations.
- (b) In the event the reports are delivered by post or by hand they shall be double enveloped with the outer envelope addressed to The Dy. Governor, Royal Monetary Authority, PO Box 154 Thimphu and the inner, sealed envelope, addressed to Head, Financial Intelligence Department, RMA, PO Box 154, Thimphu.
- (c) In the case of electronic delivery, this may be by facsimile or by email but in the case of STRs a paper copy of the report should also be sent to the FIU. Receipt by the FIU of the electronic copy will meet the timing obligations under these regulations.
E-mail : fiu.bt@rma.org.bt

9. STAFF TRAINING

All the managers and staff of the MSB must be trained to be aware of the policies and procedures relating to prevention of money laundering, provisions of the AML and CFT Act 2018 and AML/CFT Rules and Regulation 2018, and the need to monitor all transactions to ensure that no suspicious activity is being undertaken in the process of money changing activities. The steps to be taken when the staff comes across any suspicious transactions (such as asking questions about the source of funds, checking the identification documents carefully, reporting immediately to the MLRO, etc.) should be carefully formulated by the MSB and suitable procedure should be put in place.

10. MAINTENANCE OF RECORDS

MSB shall keep records for a period of 5 years from the date of transactions as per section 68(3) of the AML and CFT Act of Bhutan 2018

The following documents should be preserved for a minimum period of ten years.

- Records including identification obtained in respect of all transactions.
- Statements / Registers prescribed by the RMA from time to time.
- All Inspection Reports.
- Details of all suspicious transactions reported in writing or otherwise to the MLRO.
- Details of all transactions involving purchase of foreign exchange against payment in cash
- All correspondence/ reports with the appropriate authority in connection with suspicious transactions.
- References from Law Enforcement Authorities, including FIU, should be preserved until the cases are adjudicated and closed.

11. CONFIDENTIALITY AND PROTECTION OF INFORMATION

11.1) Confidentiality

A person to whom this guideline applies shall not, either directly or indirectly, except for the purposes of the Royal Monetary Authority Act 2010, the AML and CFT Act, these guidelines or otherwise in connection with the performance of his or her duties:

- (a) make a record of any information; or
- (b) divulge or communicate to any person any information; acquired by him or her by reason of, or in the course of, the performance of his or her duties.

11.2) Tipping Off

- i). Where a reporting obligation for a MSB arises or has arisen under section 6.2, the reporting entity or its employees must not disclose to a person other than the FID that the reporting entity has determined that the reporting obligation has arisen or disclose any other information from which the person to whom the information is disclosed could reasonably be expected to infer that the reporting obligation has arisen.
- ii). Where a MSB is required to provide additional information to the FID the money changer or its employees must not disclose to a person other than the FID that the reporting entity has been required to provide such information or provide to a person any other information from which the person to whom the information is disclosed could reasonably be expected to infer that the MSB has been required to provide additional information to the FID.

12. PENALTY

Noncompliance to any provision of this guideline shall be penalized as per PART XVIII of the AML and CFT Rules and Regulation 2018

