

# ROYAL MONETARY AUTHORITY OF BHUTAN

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## **FIU G5: Anti Money Laundering and Combating the Financing of Terrorism guideline for Money Service Business 2014**

## **1. INTRODUCTION**

- 1.1) This guideline is issued pursuant to Section 141(g) and Section 210 of the Financial Service Act (FSA) 2011. 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 Combating the Financing of Terrorism guideline for Money Service Business 2014**”.
- 1.3). In addition the MSB’s are also to comply with the relevant sections of the FSA and the Anti-Money Laundering and Combating the Financing of Terrorism Regulations 2015.
- 1.4) For this Guidelines “Money Services Business” means any or all of the following businesses:
  - (a) money-changing business OTC (Banks);
  - (b) Authorized Money Changer (Hotels/Stand Alone/ Handicraft Emporiums)

## **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.

## **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 who the MSB is dealing with;
- (b) Maintenance of relevant records and documents relating to transactions undertaken by a MSB;

- (c) Ongoing monitoring of transactions with customers to ensure information maintained by the MSB is current and relevant to support detection of suspicious transactions; and
- (d) Submission of suspicious transaction reports to the Financial Intelligence Unit In Royal Monetary Authority of Bhutan when a 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 who a MSB is dealing with, be it an existing or a new customer. The conduct of effective CDD enables a MSB 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 A 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 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 an MSB.

(b) For the purpose in paragraph 5.2(a), a MSB shall display up in a conspicuous position 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 Combating the Financing of Terrorism Regulations 2015 & FIU G5 – Anti Money Laundering and Combating the Financing of Terrorism Guideline for Authorized Money Changer 2014

(C) Verify that the customer is not listed in the United Nations Security Council Resolution (UNSCR) list of terrorist 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> . A MSB should also refer to the list issued by the Ministry of Home Affairs or the RMA.

(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 Unit in RMA on the ground that the transaction is terrorist-related

(e) An 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 a MSB is dealing with a “high risk” customer. The examples of a “high risk” customer are:
  - High net worth individuals;
  - Non-resident customers;
  - Customers from locations known for their high rates of crime (e.g. drugs producing; trafficking and smuggling)
  - 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 A 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**

The Financial Services Act 2011, Section 141 (a), provides for reporting entities to report both STRs and CTRs to the FIU. 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 54 of Foreign Exchange Regulation 2013. The statement duly certified by the MSB should also be sent to FIU no later than 15<sup>th</sup> 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 FIU no later than 15<sup>th</sup> day of the following month.

### **6.2). Reporting of Suspicious Transactions to the Financial Intelligence Unit**

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 funds are the proceeds of an unlawful activity or are related to terrorist financing it should be required to report its suspicions immediately to the FIU in terms of section **6.1 of the AML/CFT Regulations 2015**. MSB's should report to the FIU a Suspicious Transaction Report (STR) in the required format as specified **Annex II**. Where an obligation to lodge a STR arises the report shall be delivered to the FIU no later than 2 working days on being satisfied that the transaction is suspicious.

A transaction may be of suspicious nature irrespective of the amount involved. 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 FIU from time to time. The MLRO will also be responsible for reporting of suspicious transaction/s to the Financial Intelligence Unit (FIU). 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 him in effective discharge of his 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 FIU**

- (a) Reports required to be delivered to the FIU under this guideline may be delivered by post, by hand or electronically. The time limits apply irrespective of the delivery method used by the reporting entity. The reporting entity is responsible for ensuring that the reports are delivered to the FIU within the time required by this regulation. In urgent cases the reporting entity should notify the FIU of the details of the transaction by telephone and send the report by post, hand or electronically in accordance with these regulations.
- (b). Where 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 Unit, 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.
  - Mail: Deputy Governor  
Financial Intelligence Unit  
Royal Monetary Authority of Bhutan  
POST BOX: 154, CHHOPHEL LAM, KAWAJANGSA,  
THIMPHU BHUTAN  
TEL# :( +975-323111) FAX :( +975-2-322847)  
  
E-mail : [fiu.bt@rma.org.bt](mailto: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/CFT Regulation 2015, Financial Service Act 2011 and the need to monitor all transactions to ensure that no suspicious activity is being undertaken under the guise of money changing. 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 laid down.

## **10. MAINTENANCE OF RECORDS**

For Record keeping requirement MSB should refer section 16 of AML/CFT Regulation 2015 and Section 52 of Foreign Exchange Regulation 2013.

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 regulation applies shall not, either directly or indirectly, except for the purposes of the Royal Monetary Authority Act 2010, the Financial Services Act 2011, 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 FIU (or the RMA) 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 FIU the money changer or its employees must not disclose to a person other than the FIU (or the RMA) 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 FIU.

## **12. PENALTY**

Non compliance to any provision of this guideline shall be penalized with the relevant provisions of **section 23 of AML/CFT Regulation 2015 and section 56 of Foreign Exchange Regulation 2013.**