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ROYAL MONETARY AUTHORITY OF BHUTAN



**Anti Money Laundering and Countering of
Financing of Terrorism Guideline for Designated
Non-Financial Businesses and Professions
(DNFBPs) 2023**

In exercise of the powers conferred by Section 45 of the Anti- Money laundering and Countering of Financing of Terrorism (AML and CFT) Act 2018, the Financial Intelligence Department here by adopt this Guideline for the effective implementation of AML and CFT Act and Rules and Regulations 2022.

SHORT TITLE, APPLICABLE AND COMMENCEMENT

1. This Guideline shall:
 - a) Be cited as the AML/CFT Guideline for DNFBPs 2023;
 - b) Applicable to all DNFBPs as defined in section 187(7) of AML/CFT Act 2018
 - c) Come into force with effect from 27th October 2023.

AUTHORITY AND INTERPRETATION

2. The Financial Intelligence Department (FID) may issue notification/directive from time to time as may be necessary to give effect and implement this Guideline. This Guideline shall be based on the AML and CFT Act 2018 and Rules and Regulations 2022 (any amendment thereof) and may be read in conjunction with it.
3. If any issue arises in the interpretation of the provisions of these guidelines, the matter shall be referred to the FID, and the decision of the FID shall be final and binding on the stakeholders concerned.

OBJECTIVE

4. This policy document is intended to set out:
 - a) obligations of reporting entities with respect to the requirements imposed under the Anti-Money Laundering and Combating of Financing of Terrorism (AML/CFT) Act 2018 and AML/CFT Rules and Regulations 2022;
 - b) requirements on reporting entities in implementing a comprehensive risk-based approach in managing ML/TF risks; and
 - c) requirements on reporting entities in implementing targeted financial sanctions.

RISK BASED APPROACH

5. Section 34 of AML/CFT Rules and Regulations 2022 states the requirement for reporting entities to apply risk-based approach to identify, assess and understand the ML/TF risks to which they are exposed and take AML/CFT measures commensurate to those risks in order to mitigate them effectively and efficiently in pursuant to section 51 of AML/CFT Act 2018.

Risk Assessment

6. Section 35 of AML/CFT Rules and Regulations 2022 requires reporting entities to take appropriate steps to identify, assess and understand their ML/TF risks at the institutional level and keeping the assessment up-to-date through a periodic review, in relation to their customers, countries or geographical areas, products, services, transactions or delivery channels, and other relevant risk factors in pursuant to section 52 of AML/CFT Act 2018.

7. Reporting entities shall be guided by the results of the NRA issued by the NCC in conducting their own risk assessments and shall take enhanced measures to manage and mitigate the risks identified in the NRA.

Risk Control and Mitigation

8. Reporting entities are required to:
 - a) have policies, procedures and controls to manage and mitigate ML/TF risks that have been identified;
 - b) monitor the implementation of those policies, procedures and controls and to enhance them if necessary; and
 - c) take enhanced measures to manage and mitigate the risks where higher risks are identified and where specified by the competent authority or supervisory authority.

Risk Profiling

9. Reporting entities are required to conduct risk profiling on their customers and assign an ML/TF risk rating that is commensurate with their risk profile.
10. A risk profile must consider the following factors, where relevant:
 - a) customer risk (e.g. resident or non-resident, type of customers, occasional or one-off, legal person structure, types of PEP, types of occupation);
 - b) country or geographical risk (e.g. location of business, origin of customers);
 - c) products, services, transactions or delivery channels (e.g. cash-based or non cash-based, face-to-face or non face-toface, domestic or cross-border); and
 - d) any other information suggesting that the customer is of higher risk.
11. In identifying countries and geographic risk factors under section 10 (b), reporting entities may refer to credible sources such as mutual evaluation reports, follow up reports and other relevant reports published by international organisations and other inter-governmental bodies.
12. The risk control and mitigation measures implemented by reporting entities shall be commensurate with the risk profile of the particular customer or type of customer.
13. After the initial acceptance of the customer, reporting entities are required to regularly review and update the customer's risk profile based on their level of ML/TF risks.

AML/CFT Risk Reporting

14. Reporting entities as per section 40-42 of AML/CFT Rules and Regulations 2022 shall provide timely reporting of the risk assessment, ML/TF risk profile and the effectiveness of risk control and mitigation measures to their Board and (or) Senior Management. The frequency of reporting shall be commensurate with the level of risks involved and their operating environment.

AML/CFT COMPLIANCE PROGRAMME

Policies, Procedures and Controls

15. Reporting entities are required to develop AML/CFT policies, procedures and controls in pursuant to section 54 of AML/CFT Act 2018, which correspond to their ML/TF risks and the size, nature and complexity of their business operations.
16. Reporting entities must ensure that policies and procedures are kept up-to-date with the regulatory requirements.

Customer Due Diligence (CDD)

17. Reporting entities are required to determine the true identity of all customers requesting for its services as cited in Chapter VI of the AML/CFT Rules & Regulation 2022. Hence effective procedures shall be put in place to obtain requisite details for proper identification of the customers.
18. Prior to providing a service to a customer, a reporting entity shall cite the identification documentation as per Section 90, Chapter VI of the AML/CFT Rules & Regulations 2022 and record the specified information in relation to that customer and retain a copy of the document.
19. The DNFBPs shall conduct on-going due diligence on the business relation with the customer to ensure that the transaction are consistence with the firm's knowledge of customer's business risk and source of income as per Section 91, Chapter VI of the AML/CFT Rules & Regulations 2022.
20. The DNFBPs shall perform enhanced CDD where the ML and TF risks are assessed as higher risk. An enhanced CDD, shall include at least, the following:
 - (a) Obtaining CDD information as required under this Chapter VI of AML/CFT Rules and Regulations 2022;
 - (b) Obtaining additional information on the customer and beneficial owner appropriate to the identified risk (e.g., amount of assets and other information from public database);
 - (c) Inquiring on the source of wealth or source of funds. In the case of PEPs, both sources shall be obtained; and
 - (d) Obtaining approval from the Senior Management of the REs before establishing (or continuing, for existing customer) such business relationship with the customer. In the case of PEPs, Senior Management refers to Senior Management at the head office.
21. When conducting CDD, reporting entities are required to:
 - a) identify the customer and verify that customer's identity using reliable, independent source documents, data or information;
 - b) verify that any person acting on behalf of the customer is so authorised, and identify and verify the identity of that person;

- c) 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 reporting entity is satisfied that it knows who the beneficial owner is; and
 - d) understand, and where relevant, obtain information on, the purpose and intended nature of the business relationship.
22. Pursuant to section 184 of AML/CFT Rules and Regulations 2022, DNFBPs shall comply with the CDD requirements set out in Chapter VI of these Rules and Regulations in the following situations:
- a) Real estate agents- when they are involved in transactions for a client concerning the buying and selling of 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 Nu. 300,000/-.
 - c) Lawyers, notaries, other independent legal professionals and accountants 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; - management of bank, savings or securities accounts;
 - iii. organisation of contributions for the creation, operation or management of companies;
 - iv. creation, operation or management of legal persons or arrangements, and buying and selling of business entities.
23. In case of real estate business, the agents or lawyers are required to conduct CDD on both purchaser and seller of the property.
24. In conducting CDD, reporting institutions are required to comply with the requirements on targeted financial sanctions in relation to: terrorism financing; and proliferation financing of weapons of mass destruction and other Sanctions.
25. The DNFBPs shall not enter into a contract with a customer whose identity matches with any person as listed by the Domestic Designation Committee (DDC) with banned entities and those reported to have links with terrorists or terrorist organizations. <http://www.moha.gov.bt>

REPORTING OBLIGATION

26. Pursuant to Section 128, Chapter VII of the AML/CFT Rules & Regulations 2022, the reporting entities should report STRs, CTRs and other reports to the FID. This guideline establishes the specific reporting obligations.

Reporting Cash Transaction

27. Where an obligation to lodge a CTR (taken place within a month) arises the report shall be delivered to the FID within the 10th day of the succeeding month.

28. All the trading transaction, high value transaction, multiple trading transactions done in cash/ draft/ digital transaction (above the threshold limit of Nu. 300,000) shall be reported to the FID on a monthly basis in the required format via BFIAS portal as per Section 136-142 of the AML/CFT Rules & Regulations 2022.

Reporting of Suspicious Transaction

29. Every DNFBPS shall report any transaction or attempted transaction which the reporting entity has reasonable grounds to suspect; that funds are the proceeds of an unlawful activity or are related to terrorist financing shall be reported to FID in terms of Section 129- 135, Chapter VII of AML/CFT Rules & Regulations 2022.
30. DNFBPS shall lodge with the FID a Suspicious Transaction Report (STR) in the required format via BFIAS portal or other mechanism as deemed required by FID. Where an obligation to lodge a STR arises the report shall be made no later than two working days after the transaction or attempted transaction has taken place.
31. Pursuant to section 185 of AML/CFT Rules and Regulations 2022, the dealer in precious metals or dealer in precious stones shall submit STR to the FID if the transaction is in cash and exceeds Nu. 300,000/- or the equivalent in Ngultrum or other currency.
32. Suspicious transactions might fall into one or more of the following examples of categories. For details refer (Suspicious Transaction Guidelines for Reporting Entities 2019).
 - a) any unusual financial activity of the customer in the context of his own usual activities.
 - b) Customer is reluctant to provide details/documents on frivolous grounds
 - c) The transaction is undertaken by one or more intermediaries to protect the identity of the beneficiary or hide their involvement.
 - d) Large cash transactions
 - e) Size and frequency of transactions is high considering the normal business of the customer
 - f) any unusual method of payment.

The above list is only indicative and not exhaustive.

PROVISION OF ADDITIONAL INFORMATION

33. If a reporting entity has communicated information to the FID, the FID may, by written notice given to the reporting entity, require the reporting entity to give such further information as is specified in the notice, within the period and in the manner specified, to the extent to which the reporting entity has that information; or to produce, such documents as specified in the notice and relevant to the matter to which the communication relates.

APPOINTMENT OF AML/CFT COMPLIANCE OFFICER (AMCLO)

34. The DNFBPs shall designate an AML/CFT Compliance Officer (AMLCO) with reference to Section 47- 54 of the AML/CFT Rules & Regulations 2022

CONFIDENTIALITY AND PROTECTION OF INFORMATION

35. For Confidentiality and Tipping off provisions, the DNFBPs shall refer to Section 53-57 of AML/CFT Rules & Regulation 2022.

RECORD KEEPING

36. For Record keeping requirements, DNFBPs shall refer to Section 79-81of the AML/CFT Rules & Regulation 2022.