



FINANCIAL MONITORING UNIT (FMU)  
GOVERNMENT OF PAKISTAN

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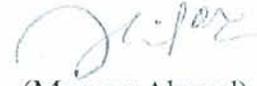
No. FMU/DNFBP/ 1137 /2020

January 27, 2020

Subject: **Guidelines for AML/CFT Regulatory and Supervisory Authorities of DNFBPs**

In continuation to our letter No. FMU/DNFBP/1097/2020 dated January 14, 2020 and in compliance with Finance Division Notification No. F. No. 4-2 AML-I/NRA-2014-18, dated December 23, 2019, please find attached guidelines for AML/CFT Regulatory and Supervisory Authorities of DNFBPs, for information and further necessary action at your end, please.

Yours truly,

  
(Muneer Ahmed)  
Director

Distribution:

- i. The Secretary Ministry of Law & Justice
- ii The Chairman, Federal Board Of Revenue
- iii The Chairman, Securities & Exchange Commission of Pakistan
- iv The President, Institute of Chartered Accountants of Pakistan (ICAP)
- v The President, Institute of Cost & Management Accountants of Pakistan (ICMAP)

Copy forwarded for information to:

The Additional Secretary (IF/Inv), Ministry of Finance, Islamabad



**Anti-Money Laundering and Combating Financing of Terrorism Guidelines for  
Designated Non-Financial Business and Professions (DNFBPs)**

**Definitions**

1. In these guidelines, unless there is anything repugnant in the subject or context,-
- (a) **“Accountants”** means sole practitioners, partners or employed professionals within professional firms when they prepare for or carry out transactions for their client concerning buying and selling of real estate; managing of client money, securities or other assets; management of bank, savings or securities accounts; organisation of contributions for the creation, operation or management of companies; creation, operation or management of legal persons or arrangements, and buying and selling of business entities.  
*Explanation:-* The term “Accountants” is not meant to refer to ‘internal’ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML/CFT measures.
  - (b) **“AML Act”** means the Anti-money Laundering Act, 2010 (VII of 2010);
  - (c) **“AML & CFT Regulator/Supervisor”** means designated regulatory or supervisory authority for relevant DNFBPs who are members of it, or regulated or supervised by it.
  - (d) **“Beneficial owner”** means the natural person who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted and includes legal heir(s) and the person who exercise ultimate effective control over a person;
  - (e) **“Customer Due Diligence” or CDD** means
    - a) identifying the customer and verifying the customer’s identity on the basis of documents, data or information obtained from customer and/or from reliable and independent sources;
    - b) identifying, where there is a beneficial owner who is not the customer, the beneficial owner and taking adequate measures, to verify his identity so that the DNFBP is satisfied that it knows who the beneficial owner is, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement;
    - c) understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship; and
    - d) monitoring of accounts/ transactions on ongoing basis to ensure that the transactions being conducted are consistent with the DNFBP’s knowledge of the customer, their business and risk profile, including, where necessary, the source of funds and, updating records and data/ information to take prompt action when there is material departure from usual and expected activity through regular matching with information already available with the DNFBP.
  - (f) **“CTR”** means report on currency transactions exceeding such amount as may be specified by the National Executive Committee by notification in the official Gazette.

Commented [AI-S(1): CDD 10.5

- (g) **"Dealers of Precious Metals / Stones"** means Dealers of Precious Metals / Stones when dealing in cash transactions with customers equal to or above a certain threshold.
- (h) **"Enhanced Due Diligence" or EDD** means diligence in addition to CDD and may be carried out in case of high risk customers;
- (i) **"FMU"** means the Financial Monitoring Unit established under section 6 of the AML Act;
- (j) **"Lawyers and legal professionals"** means sole practitioners, partners or employed professionals within professional firms when they prepare for or carry out transactions for their client concerning buying and selling of real estate; managing of client money, securities or other assets; management of bank, savings or securities accounts; organisation of contributions for the creation, operation or management of companies; creation, operation or management of legal persons or arrangements, and buying and selling of business entities.  
*Explanation:-* The term "Lawyers and legal professionals" is not meant to refer to 'internal' professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML/CFT measures.
- (k) **"Legal Person"** means body of persons or an entity (as a corporation, Non-Profit Organization (NPO), Non-Governmental Organization (NGO), Trust, Charity, Society, Association, club etc., established under any law and considered as having many of the rights and responsibilities of a natural person and especially the capacity to sue and be sued;
- (l) **"DNFBPs"** means Designated Non-Financial Businesses and Professions as defined in the AML Act.
- (m) **"Person"** includes an individual, association, authority, company, firm, institutions, partnership, society, trust or other entities;
- (n) **"Politically exposed persons" or "PEPs"** means any person entrusted with a prominent public function by the State of Pakistan, a foreign country or an international organization and includes Heads of state or government, and members and senior officials of legislature, judiciary, executive, military and regulatory authorities, and senior executives of corporations, departments or bodies that are owned or controlled by the state;
- (o) **"Real Estate Agents"** means Real Estate Agents when they are involved in transactions for client concerning the buying and selling of real estate.
- (p) **"Risk"** refers to risk associated with money laundering, financing of terrorism and proliferation finance;
- (q) **"STR"** means the report on suspicious transaction specified under Section 7 of the AML Act 2010.

### AML & CFT Regulator/Supervisor

2. The AML & CFT Regulator/Supervisor, shall ensure compliance of DNFBPs with the provisions and obligations specified by the AML Act 2010 and the Regulations issued there under on a risk-based approach having a clear understanding of the money laundering and terrorist financing risks: (a) present in the country; and (b) associated with the type of DNFBP and their customers, products and services.
3. The AML CFT Regulator/Supervisor, shall have mechanism to communicate designations to the DNFBPs immediately upon taking such action and provide clear guidance to DNFBPs that may be holding targeted funds or other assets, on their obligations in taking action under freezing mechanisms, without delay, to comply with United Nations Security Council Resolutions.
4. The AML & CFT Regulator/Supervisor shall prevent criminals as well as persons proscribed and their known associates as designated under United Nations (Security Council) Act 1948 and/or Anti-Terrorism Act 1997 from becoming professionally accredited or management function in or becoming a beneficial owner of DNFBP.
5. The AML & CFT Regulator/Supervisor, shall establish risk based guidelines, provide feedback and ensure that DNFBP applies AML/ CFT measures and in particular detecting and reporting of STRs to FMU.
6. The AML & CFT Regulator/Supervisor, shall ensure that a range of proportionate and dissuasive sanctions are available to deal with DNFBPs, their directors and senior management that fail to comply with AML & CFT obligations.
7. The AML & CFT Regulator/Supervisor, shall ensure that DNFBP have in place procedures and internal controls for ascertaining beneficial ownership, carrying out CDD measures, EDD measures where required, AML/CFT Obligations under laws and record keeping.

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28.3

Commented [AI-S(3)]: R-6 and 7-Targeted Financial  
Sanctions Terrorism Financing and Proliferation Finance

Commented [AI-S(4)]: Regulations and supervision R 28.4

Commented [AI-S(5)]: Guidance and feedback R 34

Commented [AI-S(6)]: Sanctions R35

### Risk Assessment and Mitigation

8. The DNFBPs shall take appropriate steps to identify, assess, and understand their ML/TF risks (for customers, countries or geographic areas; and products, services, transactions or delivery channels). This includes being required to:
  - (a) document their risk assessments;
  - (b) consider all the relevant risk factors before determining what is the level of overall risk and the appropriate level and type of mitigation to be applied;
  - (c) keep these assessments up to date; and
  - (d) have appropriate mechanisms to provide risk assessment information to AML & CFT Regulator/Supervisor.

Commented [AI-S(7)]: RBS 1.10

9. The DNFBPs shall:

- (a) have policies, controls and procedures, which are approved by senior management, to enable them to manage and mitigate the risks that have been identified by National Risk Assessment, AML & CFT Regulator/Supervisor and its own risk assessment;
- (b) monitor the implementation of those controls and to enhance them if necessary; and
- (c) take enhanced measures to manage and mitigate the risks where higher risks are identified.

Commented [AI-S(8)]: RBS R1.11

#### Customer Due Diligence (CDD)/ Beneficial Ownership

10. The DNFBP shall not establish or maintain business relationship through/under anonymous or numbered or fictitious names.

Commented [AI-S(9)]: CDD R10.1

11. The DNFBPs should be required to comply with the CDD requirements set out in FATF Recommendation 10 in the following situations:

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- 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 Two Million Pakistan Rupees.
- c) Lawyers, notaries, other independent legal professionals and accountants when they prepare for, or carry out, transactions for their client concerning the following activities:
  - buying and selling of real estate;
  - managing of client money, securities or other assets;
  - management of bank, savings or securities accounts;
  - organisation of contributions for the creation, operation or management of companies;
  - creating, operating or management of legal persons or arrangements, 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:
  - acting as a formation agent of legal persons;
  - 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;
  - providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
  - 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;
  - acting as (or arranging for another person to act as) a nominee shareholder for another person.

12. In relation to legal persons and legal arrangements, the DNFBP shall:-

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- (a) take all reasonable measures to identify and verify (i) the ownership and control structure of the customer and (ii) the natural persons who ultimately own or control the customer;
- (b) obtain information about the purpose and intended nature of their business relationship
- (c) identify the customer and verify its identity through the following information: (i) name, legal form and proof of existence; (ii) 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;
- (d) obtain the identity of the natural person(s) who ultimately has a controlling ownership interest in a legal person
- (e) to the extent that there is doubt under (d) as to whether the person(s) with the controlling ownership 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
- (f) where no natural person is identified under (d) or (e) above, the identity of the relevant natural person who holds the position of senior managing official
- (g) the DNFBP shall identify and take reasonable measures to verify the identity of beneficial owners through the following information: (i) 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); (ii) for other types of legal arrangements, the identity of persons in equivalent or similar positions.

13. The verification of the identity of customers and beneficial owners (whether permanent or occasional, and whether natural or legal person or legal arrangement), shall be completed before business relations are established by DNFBP.

Commented [AI-S(12)]: CDD 10.3

14. The DNFBP shall verify identity documents of the customers from relevant authorities and bodies and where necessary, use other reliable, independent sources and retain copies of all reference documents used for identification and verification.

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15. Where the customer is represented by an authorized agent or representative, or where customer is a legal person, the DNFBP shall identify the natural persons who act on behalf of the customer and verify the identity of such persons and the authority of such natural persons shall be verified through documentary evidence, including specimen signature of the persons so authorized.

Commented [AI-S(14)]: CDD R 10.4

16. Where beneficial owners is different from the customer all reasonable measures shall be taken to obtain information to identify and verify the identity of the beneficial owners using relevant information or data obtained from a reliable source, to the satisfaction of the DNFBP.

Commented [AI-S(15)]: CDD R 10.5

17. The DNFBP should understand and, as appropriate, obtain information on, the purpose and intended nature of the business relationship.

Commented [AI-S(16)]: CDD R 10.6

18. The DNFBP shall conduct ongoing due diligence on the business relationship, including:  
(a) scrutinising transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the DNFBP'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.

Commented [AI-S(17)]: CDD R 10.7

19. The DNFBP will maintain a list of all such customers where the business relationship needed to be closed on account of negative verification.

20. The DNFBP shall pay special attention to risk assessment prior to the launch or use of new products, practices and technologies and take appropriate measures to manage and mitigate the risk.

Commented [AI-S(18)]: New Tech R15.2

21. The DNFBP shall perform the CDD measures in relation to its 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.

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22. DNFBP shall perform Enhanced Due Diligence (EDD) where the ML/TF risks are higher.

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23. The DNFBP shall apply EDD, proportionate to the risks of business relationships and transactions with natural and legal persons, countries/ geographies, channels, products, typologies identified as high risk by FATF, National Risk Assessment, AML & CFT Supervisor and its own risk assessment.

Commented [AI-S(21)]: High Risk R19.1

24. The DNFBP shall apply countermeasures proportionate to the risks for jurisdictions for which this is called for by the FATF and apply appropriate additional measures to manage the ML/TF risks, and inform their home supervisors.

Commented [AI-S(22)]: High Risk 19.2

25. The DNFBP shall ensure that EDD is performed in case of customers with FATF High Risk jurisdictions or countries that are susceptible to proliferation financing.

26. In relation to politically exposed persons (PEPs) and their close associates or family members, the DNFBP shall:

Commented [AI-S(23)]: PEPs R12.1 R12.2 R 12.3

- (a) implement appropriate internal policies, procedures and controls to determine if a customer or beneficial owner is a PEP;
- (b) obtain approval from the senior management to establish or continue business relations where the customer or a beneficial owner is a PEP or subsequently becomes a PEP;

- (c) take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs; and
- (d) conduct enhanced monitoring of business relations with the customer.

27. In relation to non-governmental organizations (NGOs), non-profit organizations (NPOs) and charities, the DNFBP shall:

- (a) conduct EDD of the customer;
- (b) ensure that the business relationship may not be used for unlawful objects;
- (c) issue the instruments in the name of the relevant NGO, NPO or charity, as given in its constituent documents;
- (d) conduct EDD of the authorized agents or representatives as well as members of the governing body of the Trust, NGO, NPO or charity.
- (e) ensure that the authorized agents or representatives as well as members of the governing body of any Trust, NGO, NPO or charity having existing relationship are not affiliated with any proscribed or designated individual or entity, whether under the same name or a different name. In case of any positive match, DNFBP should consider file STR and take actions as per law.

28. DNFBP may rely on a third party to conduct CDD on its behalf provided that DNFBP can:-

- (a) immediately obtains the necessary information relating to identification of the customer, identification of the beneficial owner and/or the nature of business of the customer;
- (b) take steps to satisfy itself that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay;
- (c) satisfy itself that the third party is regulated, and supervised or monitored for, and has measures in place for compliance with, CDD and record-keeping requirements in line with these guidelines; and
- (d) maintain data/ information confidentiality and non-disclosure agreement with the third party.
- (e) when determining in which countries the third party that meets the conditions can be based, regulated person should have regard to information available on the level of country risk.

Commented [AI-S(24)]: Third Party R17.1, R17.2

#### AML, CFT and TFS Obligations

29. If DNFBP suspects or has reasonable grounds to suspect that funds are the proceeds of money laundering, terrorist financing, proliferation financing or other criminal activity, it should report promptly its suspicions (STR) to FMU.

Commented [AI-S(25)]: STRs R20.1

30. The DNFBP shall report all suspicious transactions, including attempted transactions, to FMU, regardless of the amount of the transaction.

Commented [AI-S(26)]: STRs R20.2

31. In case where DNFBP is not able to satisfactorily complete required CDD measures, business relationship should not be established or any service provided or exiting relationship terminated and filing of STR may be considered.

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32. In cases where the DNFBP form a suspicion of money laundering or terrorist financing and they reasonably believe that performing the CDD process will tip-off the customer they are permitted not to pursue CDD process, and instead file an STR with FMU.

Commented [AI-S(28)]: CDD 10.20

33. The DNFBP shall generate CTR for every cash transaction of two million rupees and above or any other threshold notified by the Federal Government pursuant to the AML Act.

34. The basis of decision to file an STR with FMU shall be documented and kept on record together with all internal findings in relation to the suspicion.

35. The DNFBP shall utilize all available avenues such as expertise/ experience, market knowledge, history and profile of the customers and any available pattern of transactions and shall examine the background of these transactions, as far as possible, and if suitable, shall generate the STR to the concerned authorities.

36. The DNFBP shall ensure implementation of Targeted Financial Sanctions to comply with United Nations Security Council Resolutions (UNSCRs). The DNFBP shall not provide any services to the individuals and entities and to those persons who are associated with such individuals and entities, whether under the proscribed or designated name, or with a different name proscribed under the UNSCRs.

Commented [AI-S(29)]: R-6 and 7-Targeted Financial Sanctions Terrorism Financing and Proliferation Finance

37. The DNFBPs shall report to AML & CFT Regulator/Supervisor any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including attempted transactions.

Commented [AI-S(30)]: R-6 and 7-Targeted Financial Sanctions Terrorism Financing and Proliferation Finance

38. The DNFBP shall monitor all its new and existing relationships on a continuous basis and ensure that no relationship with the proscribed or designated, individuals and entities exists and where, any such relationship is found, the same should be immediately reported to FMU through STR and other actions shall be taken as per the applicable law.

39. The DNFBP, its directors, officers and employees shall not disclose to any person the fact of filing of a STR or CTR with FMU, except where so required by law.

Commented [AI-S(31)]: Tip off R21.2

### Internal Controls

40. The DNFBP, including its owners, directors and management, shall comply with the provisions and implement appropriate procedures and internal controls to meet the obligations specified by the AML Act 2010, United Nations (Security Council) Act 1948, Anti-Terrorism Act 1997 and the Regulations issued thereunder.

41. The DNFBPs shall implement group-wide programmes against ML/TF with regard to the ML/TF risks and the size of the business, which should be applicable, and appropriate to, all branches and majority-owned subsidiaries of the financial group:
- (a) compliance management arrangements (including the appointment of a compliance officer at the management level);
  - (b) screening procedures to ensure high standards when hiring employees;
  - (c) policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management;
  - (d) the provision, at group-level compliance, audit, and/or AML/CFT functions, of customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes. This should include information and analysis of transactions or activities which appear unusual (if such analysis was done). Similarly branches and subsidiaries should receive such information from these group-level functions when relevant and appropriate to risk management;
  - (e) adequate safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off;
  - (f) an ongoing employee training programme; and
  - (g) an independent audit function to test the system.

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42. The DNFBPs shall ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures consistent with Pakistan requirements where the minimum AML/CFT requirements are less strict than Pakistan, to the extent that host country laws. If the foreign country does not permit the proper implementation of AML/CFT measures consistent with that of Pakistan requirements, financial groups should to apply appropriate additional measures to manage the ML/TF risks, and inform their home supervisors.

Commented [AI-S(33)]: Internal Controls 18.3

### Record Keeping

43. The DNFBP shall maintain all necessary records of transactions, both domestic and international, including the results of any scrutiny or analysis for a minimum period as specified but not less than ten years from completion of the transaction.
44. The records shall be sufficient to permit reconstruction of individual transactions including the nature and date of the transaction, the type and amount of currency involved and the customer involved in the transactions so as to provide, when necessary, evidence for prosecution of criminal activity.
45. The records may be maintained in paper or electronic form or on microfilm, provided it is admissible as evidence in a court of law.
46. The records of identification data obtained through CDD/ EDD process, including copies of identification documents, application forms, verification documents and other

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documents along with business correspondence, and results of any analysis undertaken shall be maintained for a minimum period of ten years after the business relationship is terminated.

Commented [AI-S(36): Record Keeping R11.2

47. The DNFBP shall retain such records for longer periods of time where transactions, customers or instruments are involved in litigation or the same are required by a Court of law or other competent authority.

48. The DNFBP shall satisfy, on timely basis, any enquiry or order from the relevant AML & CFT Supervisor, including designated Law Enforcement Agencies and FMU, for supply of CDD information and transaction records as per law.

Commented [AI-S(37): R11.4

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