



DIRECTORATE GENERAL OF
DNFBPs
AML/CFT



FREQUENTLY ASKED QUESTIONS (FAQs)

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PREAMBLE

The Anti – Money Laundering and Countering Financing of Terrorism (AML / CFT) regime seeks to help instill public confidence in the country’s financial systems globally. AML / CFT regime in Pakistan is applicable for banks, financial institutions, financial service providers and the Designated Non – Financial Business and Professions (DNFBPs).

In this regard, the Federal Board of Revenue is pleased to publish Frequently Asked Questions (FAQs) on AML & CFT aiming to provide clear and concise understanding of the AML & CFT Obligations under the AML / CFT Regulations issued by FBR “*FBR Anti-Money Laundering And Combating Financing Of Terrorism Regulations For DNFBPs, 2020*” (AML / CFT Regulations).

These FAQs aim to facilitate FBR’s DNFBPs to comprehend and implement their obligations under the AML / CFT regulations and to meet regulatory requirements of Anti – Money Laundering Act and the related Rules and Regulations.

It includes information on a range of topics, such as Customer Due Diligence, Ultimate Beneficial Ownership, Politically Exposed Persons, STR & CTR filing requirements, Targeted Financial Sanctions (TFS) and more information about how to comply with AML / CFT Regulations issued by the Institute.

The following questions and answers have been prepared for illustrative purposes only and should not be considered as a substitute of AML / CFT regulations.

SECTION 'A' – GENERAL UNDERSTANDING

1. What are the applicability Criteria of DNFBPs/Reporting Entities (REs) for the purpose of AML / CFT Compliance requirements?

The FBR's AML/CFT Regulations deals with the responsibilities of the DNFBPs that in the ordinary course of business are engaged as real estate agent, dealer of precious metals and stones and Non-ICAP/ICMAP accountants, as specified in Section 2 (xii) (a)(b)(c) AML Act, 2010 (AMLA) and activities as prescribed in FBR's AML / CFT Regulations, 2020. Such DNFBPs have to comply with specific customer due diligence, record keeping and other AML / CFT Requirements as per the AML/CFT Regulations.

2. What is meant by “DNFBPs/Reporting Entities (REs)” for the purpose of AML / CFT Regulations?

- “Real Estate Agents” (REAs) is DNFBP when individuals or entities:
 - (i) execute a purchase and sale of a real property,
 - (ii) participate in a real estate transaction capacity and
 - (iii) are exercising professional transactional activity for undertaking real property transfer.
- “Jewelers” (Dealers of Precious Metals and Stones), who is a bullion dealer or engaged in sale of jewelry, precious stones and metals, are meant as DNFBP if the person/entity engage in a cash transaction with a customer of a value equivalent to two Million rupees or more.
- “Accountant” – means, other than those regulated by Institute of Chartered Accountants of Pakistan (ICAP) and Institute of Cost and Management Accountants of Pakistan (ICMAP), sole practitioners, partners or employed professionals within professional firms when they carry out the activities as specified:
 - (i) buying and selling of real estate
 - (ii) managing of client money, securities or other assets
 - (iii) management of bank, savings or securities accounts
 - (iv) Organization of contributions for the creation, operation or management of companies
 - (v) creating, operating or management of companies, trusts or waqf
 - (vi) acting as a formation agent of legal persons
 - (vii) buying and selling of business entities
 - (viii) acting as a director or secretary of a company, a partner of a partnership
 - (ix) arranging for another person to act as a director or secretary of a company, a partner of a partnership
 - (x) acting as a trustee of an express trust or performing the equivalent function for a waqf
 - (xi) arranging for another person to act as a trustee of an express trust or performing the equivalent function for a waqf
 - (xii) acting as a nominee shareholder for another person
 - (xiii) arranging for another person to act as a nominee shareholder for another person

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- (xiv) providing a registered office, business address or accommodation, correspondence or administrative address for a company, partnership, trust or waqf

3. Examples of Services that can be categorized as ‘Accountant’ or ‘Trust and Company Service Provider’ (collectively called Specified Services)

Some of the common examples of Services that can be categorized as ‘Accountant’ or ‘Trust and Company Service Provider’ (collectively called Specified Services) are as under;

Managing client funds, accounts, securities, or other assets

- The accountant is engaged in managing payments to or from its clients’ accounts as a specified service; and, with the exception of payments for professional fees, any instance where the accountant receives or holds client funds and controls the payment of those funds will also be specified service.

The key determining factor is whether the accountant has control over the flow of funds (if it has the control then the activity is specified service).

- Taking a payroll situation, for example, if accountant is preparing the vouchers or uploading the payments in the system that are then actioned by the client, in such a case the accountant is not controlling the funds, rather client is. However, if accountant is authorizing salary payments from the client’s account directly into client staff’s personal accounts, then this is a specified service.
- The accountant has the authority to make payments on behalf of its client’s business directly from client’s bank accounts.
- The accountant makes investments on behalf of a client in securities and/or other assets using funds from the client’s bank accounts which Reporting Entity has the authority to transfer.
- The accountant manages the sale and / or purchase of trust assets for the client using funds from the client’s bank accounts which accountant has the authority to transfer.
- The accountant disburses the funds generated from a company’s winding up / liquidation to a creditor in line with the relevant administration requirements.

Acting as a formation agent for legal persons or legal arrangements

- This activity refers to forming a legal person (such as a company) or legal arrangement on behalf of a client; for example, registering a company with the SECP.

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- Example of that kind of activity would be the Incorporation / Registration of a company with the SECP on behalf of a client.
- Example of that kind of activity would be the Incorporation of an entity (partnership/firm/society/company etc.) on behalf of a client

Providing an office or address for a company or legal arrangement

- A accountant which, in the ordinary course of business, provides a registered office or a business address, a correspondence address, or an administrative address for a company, or a partnership, or for any other legal persons or arrangement, is a specified service.

Acting, or arranging for another person to act as a director or secretary of the Company or a partner in a partnership firm

- This activity refers to the scenario where the accountant is acting as a Director of a company or a Partner in a partnership concerns. This also includes where the firm has arranged any other person to act in this capacity.

This activity will be classified as a specified service only if the practicing firm has the authority to act or arrange a person as a director of the company or a partner in a partnership concern.

- Where the accountant has only assisted the company / partnership in appointment of director / partner by sharing the database of the individuals and the firm has no authority with regards to the selection process of the candidate, that service will not be classified under the Specified Services.

4. What is “arranging” for someone to act?

Arranging for someone to act in a particular capacity has a narrow meaning. An example would be if the accountant has provided a client with a company director, selecting the director without further reference back to the client and completing some or all of the formalities to appoint the director. It does not include the normal process of headhunting or advertising to find a suitable candidate for a position that a recruitment agency would usually carry out.

5. What does in the ‘ordinary course of business’ mean?

Whether an activity is in the ordinary course of business is ultimately a question of judgment and depends on the nature of the entity’s business. There is no bright – line test to determine the answer, and that is because all businesses are different. However, some relevant factors to take into consideration would be whether the activity:

- Is normal or otherwise unremarkable
- Is frequent
- Is regular (meaning predictable, consistent)
- Involves significant amounts of money
- Is a source of income
- Involves significant resources
- Involves a service offered to customers

6. Is book keeping services provided to the clients falls under the purview of the AML / CFT Specified Services of Accountants?

If the entity is only providing book keeping services, it does not fall under the purview of AML / CFT specified services.

7. Is due diligence services provided by the Reporting Entity to the client in the sale / purchase of a business entity falls under the specified services?

The services provided by an Accountant in the buying or selling of business entities would include financial due diligence. This would be one of the main reasons why a customer / client would engage the services of an accountant in the first place. To exclude this service, it would undermine the intent of including accountants under AML / CFT.

8. What is meant by High-Net-Worth Individual in the context of Reporting Entity providing services to clients?

In practice, if the Reporting Entity is onboarding a new customer / client and the services to be provided to the client involve managing significant assets or funds (above a certain threshold identified by the Reporting Entity in its AML / CFT policy), the Reporting Entity would need more information and verification of the source of funds and/or wealth, and thus would fall under the requirements of Enhanced Customer Due Diligence as per International Practice. The Reporting Entity would also require Senior Management approval before onboarding of such clients.

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9. Is being a joint signing authority with the client on their bank account falls under the ambit of the AML / CFT specified services?

The key determining factor is whether you have control over the flow of funds – if you do have control, it will fall under the ambit of the AML / CFT specified services.

10. Whether filing of Forms on behalf of the Company for its Incorporation classified in the reporting activity?

Filing of Statutory forms for the Incorporation of the Company or Body Corporate is mentioned in the definition of the “Trust or Company Service Provider” and, therefore, classified as a Reporting Activity.

11. Whether filing of Statutory forms / Annual Returns (Form A / B / 29 / 45) on behalf of the Company in accordance with the Companies Act, 2017 classified in the reporting activity?

Once the company is formed, the filing of Statutory Forms / Annual Returns is a regulatory requirement under the provisions of the Companies Act, 2017, therefore, does not fall under the Reporting Activity.

12. Are outsourcing of trainees to finance departments fall under definition of "Accountants"?

It depends on the terms and conditions of the engagement with the client. If the outsourced trainees are only deputed for book keeping where there is no authority involved, the service will not be covered under the definition of “Accountants”.

13. As an auditor, if the Reporting Entity is only certifying receipt of subscription money of its client in case of right issue, does it come under the category of Reporting Entity?

The certificate of receipt of Subscription money of the client does not fall under the purview of the Accountant or Trust and Company Service Provider definition.

14. All accountants other than registered with ICAP/ICMAP are required to submit Accountant Population Determination Survey?

All Practicing Accountants are required to submit Accountant Population Determination Survey.

15. When we will report suspicious activity of client? At the end of year or at the time of identification of suspicious activity?

The reporting entities are required to file the suspicious transaction report promptly to the Financial Monitoring Unit (FMU) whenever any suspicious activity of the client is identified.

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16. If an accountant incorporates a company via nominee director, will be the accountant bear status of DNFBP/Reporting Entity?

This activity will fall under the definition of Trust and Company Service Provider and therefore, the entity will be classified as a DNFBP/Reporting Entity.

17. Whether accountant perform risk assessment, client screening, enhance due diligence and monitoring on all client services or it is limited to those services covered as Accountant and Trust and Company Service Provider under AML Act, 2010?

It is mandatory for the DNFBP/Reporting Entity to conduct CDD for existing and new clients / customers to which the services of Accountant or Trust and Service Company Services are being provided. However, for other services such as audit, it is not mandatory but the DNFBPs are encouraged to conduct CDDs.

18. Does statutory audit fall under AML / CFT specified services?

No, the Statutory Audits does not fall under definition of the ‘Accountant’ or ‘Trust and Company Service Provider’.

19. Is there any financial limit or benchmark above which the APDS form become applicable in case of accountants?

The applicability is based on Services provided by the accountants. Hence, there is no financial limit / threshold / benchmark for the accountants to be classified as a Reporting Entity.

20. Will the gratuitous services (for which no consideration is paid) provided as accountant or trust service provider be classified under DNFBP/Reporting Entity?

The entity will also be classified as a DNFBP/Reporting Entity if the services of ‘Accountant’ or ‘Trust and Company Service Provider’ are provided without any consideration or professional fee.

21. Where entity is providing support services like mailing address for receiving notices and bank statements in client’s name, is that accountant a DNFBP/Reporting Entity?

Provision of address for the purpose of correspondence falls under the ambit of ‘Trust and Company Service Provider’ and, therefore, the entity will be classified as a DNFBP/Reporting Entity.

22. If an entity certify the Foreign Royalty Payment Form as per the requirements of SBP, will the entity fall within the definition of DNFBP/Reporting Entity?

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Certifying the Foreign Royalty Payment Form as per the requirement of State Bank of Pakistan does not fall under the definition of ‘Accountant’ or ‘Trust and Company Service Provider’.

23. Will providing Internal Audit Services falls under Accountant or Trust and Company Service Provider definition?

Provision of Internal Audit Services does not fall under the ambit of ‘Accountant’ or ‘Trust and Company Provider’ definition.

24. Is provision of tax advisory services captured under the AML / CFT specified services?

Provision of services related to Tax Advisory does not fall under the ambit of ‘Trust & Company Service Provider’.

25. Apart from the videos, webinars and other guidance material, if we have questions regarding the Reporting Entity's obligations, can we contact FBR, is there any helpline or direct number that can be shared for queries of AML focal points?

For Resolution of Queries related to AML/CFT Regulations compliance, the contact details are as under;

Dedicated Email Address: help.dnfbp.fbr@gmail.com

Dedicated Direct helpline: +92 51 9106606

SECTION 'B' – AML REGIME

26. Who will be designated as the AML/CFT Compliance Officer by the DNFBP/Reporting Entity?

The DNFBP is to designate Senior Management Personnel as the AML/CFT Compliance Officer. The contact details of the designated person are to be shared with FBR for all AML/CFT related correspondence.

27. What is meant by “Senior Management”?

Senior Management includes;

- a) A sole proprietor of the Reporting Entity
- b) Individual holding the position of Chief Executive Officer / Managing Partner, Chief Operating Officer in a Reporting Entity
- c) A partner or an employee of the Reporting Entity with sufficient knowledge of the Reporting Entity’s money laundering and terrorist financing risk exposure, and of sufficient authority, to take decisions affecting its risk.

28. How to conduct risk assessment?

DNFBPs are required to assess the money laundering and financing of terrorism risk that they may reasonably expect to face in the course of their business. In making this assessment, the Reporting Entity is required to consider nature, size and complexity of its business, products and services it offers, methods by which it delivers products and services to its customers, types of customers it deals with, countries it deals with, any guidance material by FBR and any other factors that are set out in AML/CFT regulations.

Reporting entities also need to consider whether any of their products involve new or developing technologies that may favor customer anonymity.

Further, the ‘**National Risk Assessment Report, 2019 (NRA)**’ will help the Reporting entities in accessing this risk. To understand the NRA, you may consult them in focused FAQs on NRA available

at [https://download1.fbr.gov.pk/Docs/20214634246758DNFBPsFrequentlyAskedQuestions\(FAQs\)onAML-CFT.pdf](https://download1.fbr.gov.pk/Docs/20214634246758DNFBPsFrequentlyAskedQuestions(FAQs)onAML-CFT.pdf).

29. In a Sole Proprietor’s case, who is to be the AML/CFT Compliance Officer?

Sole Proprietor must designate an employee to be the Compliance Officer. However, if there are no employees, FBR has imposed Condition No 3 (2022) which states that the Sole Proprietor shall be deemed to be AML/CFT compliance officer for the purpose of section 7G of the AML Act,

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2010 and FBR's DNFBPs AML/CFT Regulations, 2020. Moreover, the Compliance Officer can carry out other duties not related to AML / CFT compliance. It does not have to be a standalone position.

SECTION 'C' – CUSTOMER DUE DILIGENCE

30. What is meant by “Customer Due Diligence” under AML / CFT Regulations?

“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, and taking adequate measures, to verify his identity so that the Reporting Entity 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

Monitoring of business relationships on ongoing basis to ensure that it is being conducted in consistent with the Reporting Entity’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 Reporting Entity.

31. Who to conduct Customer Due Diligence on?

CDD to be conducted on the following (if applicable):

- The customer/client (new and existing); and
- Any beneficial owner of a customer; and
- Any person acting on behalf of a customer.

For further details, see Section 8-10 of the FBR’s AML/CFT regulations, 2020.

32. Does the Reporting Entity need to do CDD on all clients?

It is mandatory for the Reporting Entity to conduct CDD for existing and new clients / customers to which the services/products are being provided.

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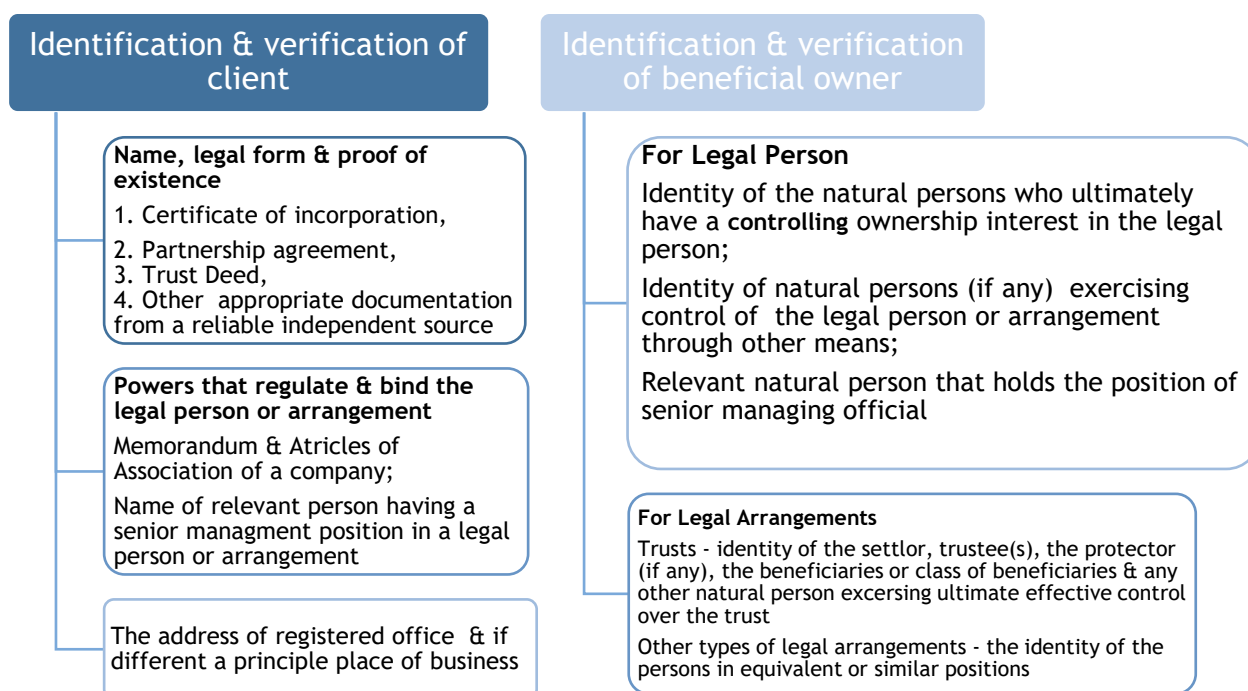
33. What is the requirement to apply CDD measures to existing customers?

Reporting Entities are required to apply CDD requirements to 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.

Reporting Entities also conduct CDD on existing customer when there is a significant change in client's profile.

34. How to conduct CDD / Know Your Client (KYC) of Legal person?

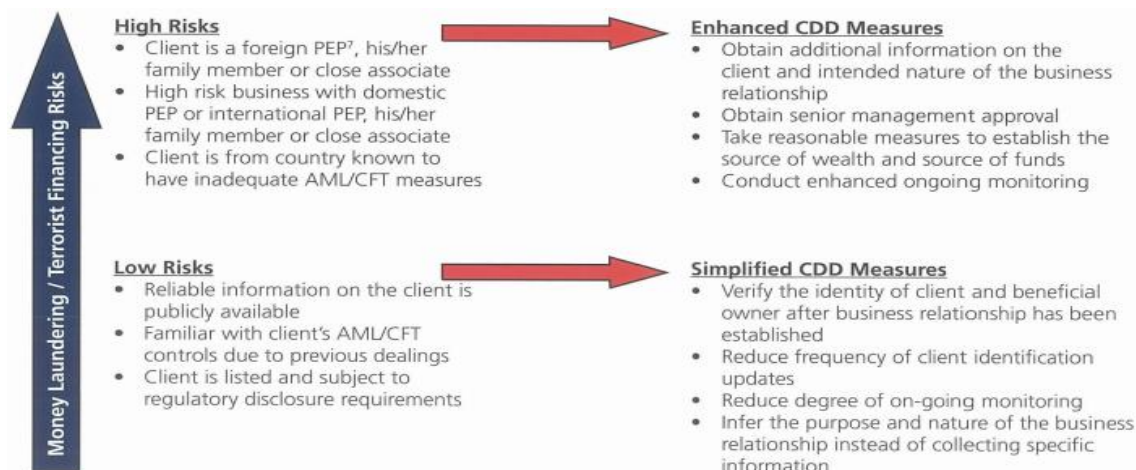
The information usually obtained in the process of CDD is:



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35. What is Risk Based Approach for Customer Due Diligence?

All the CDD measures would be applied, however the extent of the measures would depend on risk of ML / TF.



36. How often should the ongoing monitoring of client relationship be carried out?

Reporting Entity's policy and procedures should specify how often ongoing monitoring is to be conducted. A clear cycle should be indicated for each risk category or type of customer / client, for example at least once a year for very high / high risk cases, at least once every two years for medium risk cases and every three years for low-risk cases, or where a review is triggered by a defined event.

37. When can Simplified Due Diligence (SDD) measures be applied?

Simplified due diligence is the lowest level of due diligence that can be conducted on a client / customer. This is appropriate where there is low risk of products/services or customer becoming involved in money laundering or terrorist financing.

Simplified measures should not be permitted whenever there is a suspicion of ML/TF. For further details, see Section 10 of the FBR's AML/CFT regulations, 2020.

38. What are the SDD measures?

SDD measures may include but shall not be limited to:

- (a) Verifying the identity of the customer and the beneficial owner after the establishment of the business relationship;
- (b) Reducing the degree of on-going monitoring and scrutinizing transactions;

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(c) Not collecting specific information or carrying out specific measures to understand the purpose and intended nature of the business relationship but inferring the purpose and nature from the type of transactions or business relationship established.

39. When Enhanced Due Diligence measures are applied?

Enhanced due diligence measures are applied in situations that are flagged and assessed as high risk where there is an increased likelihood of money laundering or terrorist financing presented either by customers, service/ product; and/or jurisdiction.

40. Can Customer Due Diligence be outsourced?

You can authorize another person or business to act as your agent to carry out CDD, or to get the necessary information from clients. However, you are still legally responsible for ensuring that the CDD meets the required regulatory compliance.

Please refer to regulation 12 of FBR's AML/CFT regulations for details regarding reliance on Third Party.

SECTION 'D' – SUSPICIOUS TRANSACTION REPORT (STR) / CURRENCY TRANSACTION REPORT (CTR) FILING**41. Can STR only be generated for a customer with whom business relation has been established?**

It is normal practice for an entity to turn away business that they suspect might be criminal in intent or origin. Where an applicant or a customer is reluctant / refused to provide adequate documentation (including the identity of any beneficial owners or controllers), consideration should be given to filing a STR.

42. Should STR only be generated for transactions that have been executed?

No. STR can be generated where an attempted transaction gives rise to knowledge or suspicion of Money Laundering / Terrorist Financing.

43. What is the procedure to file STR / CTR?

The Financial Monitoring Unit (FMU) has developed an online portal for the filing and submission of STR / CTR. The portal is called goAML (<https://goamlweb.fmu.gov.pk/PRD/Home>).

The Reporting Entity will be required to register themselves on the portal for the purpose of filing the STR / CTR.

44. Is there a requirement to file STR with the FBR?

As per the AML/CFT regulations and the AML Act, the reporting entities are only required to file STR with FMU through goAML portal.

45. What is meant by 'tipping off'?

Disclosing the fact that a STR or related information has been filed with the FMU is called Tipping Off. It is considered as an offense and is strictly prohibited under the AML Legislations.

46. What is CTR?

CTR stands for Currency Transaction Report which has to be filed with the FMU. It is a threshold-based report of cash transaction involving payment, receipt, or transfer of an amount by customers of a Reporting Entity.

SECTION 'E' – TARGETED FINANCIAL SANCTIONS

47. Who should be included in the screening of sanctions list?

Sanctions list screening should be performed for client, beneficial owner of the client and person(s) acting on behalf of a client.

48. What happens if a customer's name appears on sanctions list?

If a customer's name is matched with a name on a sanctions list, further checks will be needed to determine whether it is a true match. In case of a true match or suspicion of a proscribed / designated person, following actions have to be taken immediately by the Reporting Entity:

- a) Freeze without delay the customer's funds and assets or block the transaction (if it is an existing customer);
- b) not provide any services, property or funds to the person in question in accordance with the respective SRO;
- c) reject the transaction or attempted transaction or the onboarding of the customer, if the relationship has not commenced;
- d) Lodge a STR with the FMU and notify FBR in the manner as may be directed by FBR from time to time; and
- e) Implement any other obligation under the AML Act 2010, United Nations (Security Council) Act 1948 and Anti-Terrorism Act 1997 and any regulations made there under.

SECTION 'F' – ULTIMATE BENEFICIAL OWNERSHIP

49. What is meant by Ultimate Beneficial Owner?

“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.

50. How would you differentiate between direct or indirect ownership or control?

Direct owner refers to individuals and entities who directly own shares in any legal entity. For example, if you own 25% or more of the shares in a particular entity, you become a direct owner. A direct owner need not necessarily be an individual (natural person) and can also be another entity as in the case where the parent company is a direct owner in its subsidiary. A person can be an indirect owner, if a company or any other business entity in which he has shares, owns another company. For example, if Company ‘B’ is owned to the extent of 25% by Company ‘A’, and Company ‘A’ is owned to the extent of 50% by a natural person, then the said Person is an indirect owner of Company ‘B’ through Company ‘A’, to the extent of 12.5% ownership in Company ‘B’ i.e. 50% of 25%.

51. How would you differentiate between beneficial ownership and legal ownership?

Ownership is the right to possess, use, sell, donate or give as a gift any asset or property belonging to a person known as the “owner.” An owner can either be a beneficial owner or a legal owner.

A legal owner of an asset may either be a natural person or a legal person that holds the legal title of that asset.

On the other hand, a beneficial owner is the person with the right to enjoy or benefit from the asset – this can include the right or entitlement to any income from the property. In majority of the situations, the same person is the legal owner as well as the beneficial owner. A beneficial owner must always be a natural person, as a legal person cannot exert “ultimate” control over an asset or entity. This is due to the fact that legal persons are always controlled, directly or indirectly, by natural persons.

52. How would you differentiate between a legal person and a natural person?

Legal persons are any legal entities which are formed and established through a law, such as public companies, private companies, limited liability partnerships, associations not for profit, etc. registered under the Companies Act, 2017.

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Natural persons are individuals, who for the purpose of FATF recommendations, shall be recognized as ultimate beneficial owners if exercising ownership and control rights in companies indirectly through legal persons.

SECTION 'G' – RECORD KEEPING

53. What is meant by Record in the context of AML Legislation?

Records means information related to client due diligence, enhance due diligence, business relationships, or transactions (domestic or International) and all information related to STRs and CTRs.

54. For how long, the Reporting Entity is required to keep the records?

Records related to Customer Due Diligence, business relationships and enhanced due diligence shall be kept for a minimum period of five years. Further, the records related to STRs and CTRs shall be kept for a minimum period of ten years from the date of filing of STR / CTR.

Where transactions, customers or instruments are involved in litigation or where relevant records are required by a court of law or other competent authority, the Reporting Entity shall retain such records until such time as the litigation is resolved or until the court of law or competent authority indicates that the records no longer need to be retained.

SECTION 'H' – POLITICALLY EXPOSED PERSONS (PEPs)

55. Who are Politically Exposed Persons (PEPs)?

PEP means an individual who is or has been entrusted with a prominent public function either domestically or by a foreign country, or in an international organization and includes but is not limited to:

- (i) For foreign PEPs, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations and political party officials;
- (ii) For domestic PEPs, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, political party officials;
- (iii) For international organization PEPs, members of senior management or individuals who have been entrusted with equivalent functions.

56. Is there a time limit to declassify a customer as PEP who is no longer a PEP?

The entity should consider the level of influence that the individual could still exercise and whether the individual's previous and current function are linked in any way.