

Republic of Iraq

Central Bank of Iraq

Anti-Money Laundering and

Counter-Financing the Terrorism Office

**Guidelines of
The Indicators of Suspicious
Transactions Related to Non-Profit
Organization**

Guidelines of Risks Indicators related to suspicious transaction of Non- Profit Organization

Introduction:

The money laundering operation is considered the most dangerous phenomenon, which is hitting the modern national and global economy, it also represents a great challenge to the financial institutions, designated non-financial businesses and professions, and non-profit organizations. The AML & CFT operations originate huge amounts of money and causing a negative impact on the total economy because of its linkage to the illegal and suspicious activities. Money laundering operations include a wide range of activities take place through exploiting vulnerabilities of judicial and executive government authorities.

So funds, generated from money laundering crimes, will not be recorded in the local income records, as the source of these funds comes from dirty money, thus, the owners will try to wash it at a later stage, through conducting various financial transfers and activities, in order to change the features of these funds from illegal status to grant them the state of legitimacy. Therefore, the offenders of money laundering crimes are aiming to hide criminal sources of funds and then transforming them to look like as legal investments, later at the next stage, it will be mixed with the capital and profits of these projects to hide the original source from supervision authorities.

As a result of the rapid developments of the work methods represented by electronic connectivity of services in this sectors, so that the financial institutions and DNFBP sectors will be more vulnerable for violation of money laundering operations. So that for the purpose of avoiding all negative consequences of this kind of crimes, and as well as to raise the awareness related to combating money laundering and terrorism financing, this guidelines is issued.

The objective of these guidelines:

This guidelines is intended to provide information and instructions to reporting and obligated entities (or concerned parties) of the financial institutions, designated non-financial businesses and professions, and non-profit organizations sectors, in order to follow the perfect process for reporting in accordance with anti-money laundering and countering financing the terrorism Law No. (39) for the year (2015), and to ensure

applying the requirements of reporting against suspicious transactions, which involved in money laundering or financing the terrorism activities, and these efforts will contribute to fulfil the legal obligations in line with the relevant international standards, such as the forty recommendations of FATF,

This guidelines will also support the competent authorities to achieve effectively the national-level plan for countering measures regarding AML&CFT crimes.

Definitions:

According to the Anti-Money Laundering and Counter-Financing the Terrorism Law No. (39) for the year (2015):

1-Money laundering: Any person who commits one of the following acts shall be considered a perpetrator of a Money Laundering Crime:

- a- Converting, transferring or substituting funds by a person who knows or should have known that such funds are proceeds of crime, with the purpose of disguising or concealing the illicit origin thereof, or helping the perpetrator or accomplice of such offense or the predicate offense evade legal consequences for his/her acts;
- b- Disguising or concealing the true nature, source, location, status, disposition, movement or ownership of such funds, or rights pertaining thereto by a person who knows or should have known that such funds are proceeds of crime.
- c- Acquiring, possessing or using funds by a person who knows or should have known that such funds are proceeds of crime.
- Conviction of the accused of committing a money laundering offense shall not require a ruling regarding the predicate offense from which the funds were obtained.
- Conviction of a person for any predicate offense shall not preclude conviction of that same person for a money laundering offense. Provisions on multiple crimes and sanctioning from the Penal Code shall apply.

2-Terrorism Financing: Any act committed by a person who, by any means, directly or indirectly, willfully, collects or provides funds, or attempts to do so from a legal or illegal source, with the knowledge that they will be used or with the intent that they should be used, in full or in part, in order to carry out a terrorist act or for the benefit of a terrorist

organization or a terrorist. The act shall be considered terrorism financing regardless of the occurrence of the crime and of the country where this act occurs or where the terrorist or terrorist organization exists.

Stages of the money laundering process

The first stage: Depositing

In this stage, a money launderer is seeking to get rid of huge quantity of money through two methods, the first is to deposit it in banks or in other financial institutions, while the second is to turn these huge amount to a cash, foreign currencies, expensive cars and/or real estates, as these stuff are easy to be sold and disposition. Funds depositing is the most difficult process for the offender of money laundering and financing the terrorism, as the illegal money will be gone a long way for operation of legitimizing the dirty money.

In spite of all attempts of offender, the money will mostly be discovered especially when it includes a huge liquidity, as well as it is not difficult to get information regarding the person, who have deposited this money, and that will lead to the source of these funds.

Second stage: coverage or camouflage

Through this stage, the owners, of these funds generated by criminal activities, will intend to hide that money by conducting many operations using their bank accounts, in order to break the link of its dirty sources. So that they will seek to buy shares, bonds or transform their businesses from front companies to real complicit companies, or by means of electronic transfers. At that time, the criminal features of that money's source will be lost through giving it a legitimate cover, and then it becomes ready to be injected again into the economic cycle by establishing legitimate projects.

Third Stage: Mixing or Merging

It is the last stage, when the laundered money is being transformed and merged into an economy, at that time the money will look like as legitimate assets and these funds will be invested in other activities, which can generate continuous income that could be used to finance other crimes, or to be utilized at a later time. These three stages previously mentioned may occur at a separated and distinctive time, it may also take place at a same time or interrelated.

The concept of suspicion

Reporting entities may suspect about any unusual activity of a customer, when that customer engages in any activity or business that different from his regular activities, therefore, reporting entities should be acquainted with the nature of usual activity practiced by each customer, and how it differs from any new activity. The suspicion is also associated with the experience of officer responsible for analyzing the suspicious transaction, and how a convincing evidence could be deduced from that suspicion (unusual activity), since that convincing evidence is not being reached yet to the level of affirmation, so the suspicion means there is doubt or a state of uncertainty concerning the indicators of the possibility of perpetrating a money laundering or terrorist financing crime, or this crime is about to happen, so that reporting entities should consider whether any reasonable grounds have been detected in order to be used against the suspicious customer, and to inspect any circumstances leading that suspicion to the affirmative facts in which that customer is involved in money laundering, or terrorist financing activities, as well as the reporting entities must constitute its conclusions on reasonable and objective grounds when examining suspicious transactions, generally the reporting entities must send a report regarding any activity that arising any suspicious related to money laundering or terrorist financing crime. The reporting entities should also collect all the facts, including available information of the customer, and his business or activity background, in addition to any relevant behavioral aspects linked to the transaction subject of the report.

Main methods and trends of AML&CFT

Specific indicators of money laundering

The suspicion indicators have been concluded from the analyzed cases, and these indicators are classified as follows:

a) Indicators on Customer Due Diligence.

- (1) The suspect presents very limited or incomplete data with the purpose of concealing important information such as his actual place of residence.

- (2) Presenting false data or data that is hard to verify such as refusing to submit the original documents especially those related to identity verification.
- (3) Presenting unclear or suspicious information such as an inoperative telephone number or one that did not exist in the first place.
- (4) The value and recurrence of the operations (deposits /withdrawals / transfers...) are not consistent with the information available on the suspect, his activity, income, lifestyle and attitude.

b) Indicators related to Beneficial Owners.

- (1) Dealing through several persons and the existence of several authorized persons to sign on one single account among which there is no a clear relation especially persons of foreign nationalities.
- (2) Using bank accounts of other persons.
- (3) The beneficial owner belongs to an organization reputed for criminal activity.

c) Indicators with respect to account movement (When it is not commensurate with the nature of activity or when it does not have a clear economic justification).

- (1) Overseas or inside transfers conducted frequently or in large amounts and repetitively.
- (2) Transfers incoming to the account followed by cash or checks withdrawals or outward transfers.
- (3) Transactions are conducted in rounding numbers.
- (4) Depositing large amounts.
- (5) Deposits of large amounts are shortly followed by transfer operations.
- (6) Value, recurrence or type of transactions is not consistent with the nature of account and its expected activities.
- (7) A new account receiving a large transferred amount.
- (8) Recurrence of transfer/ deposit operations in such a manner that reflects structuring a large amount.

- (9) Sudden activity/movement over an inactive account especially when done in large amounts.
- (10) Local transfers in large amounts followed by transfers overseas in different currencies.

d) Indicators related to Information Provided by Other Entities.

- (1) The appearance of signs of luxury on the suspect and his family in an exaggerated way which might not match his economic status (especially if it was sudden).
- (2) There is a criminal record for the suspect, the beneficial owner or any of the parties involved in the operation.
- (3) The purchase of real estates/ cars/ jewelry/ other assets of high value.
- (4) Forgery is proved in documents or deeds.
- (5) There are parties in the operation (suspect, beneficial owner or others) under investigations by a foreign entity.
- (6) A natural person and legal person share a common address.
- (7) Absence of an accounting system (for companies).
- (8) There are fake contracts with other parties.
- (9) A natural or legal person is existed in high risk area or non-compliant country according to FATF evaluation regarding anti-money laundering and counter-financing the terrorism.

e) Indicators on the Cross Border Transportation of Funds

- (1) Possessing a large amount of cash across borders.
- (2) Not presenting the declaration/disclosure form on cash possession.
- (3) Presenting a false declaration/disclosure.

f) Risks indicators related to Financial Transactions.

- (1) Type of goods in action is not consistent with the nature of the customer's activity.
- (2) The clients who pay loans before the deadline especially if the payment is in cash.
- (3) The clients who request loans against assets of unknown source.

- (4) Transfers in equal or close values for several persons in different countries, or to one beneficiary in several accounts.

g) Indicators on the conduct/attitude of the Suspect.

- (1) Avoid direct contact with the bank employees such as constantly dealing through ATMs and avoiding the bank officials whenever they try to contact him.
- (2) Signs of confusion and nervousness appear on the suspect or his representative during the execution of the operation.
- (3) The suspect owns several bank accounts without clear justification.
- (4) The suspect or his representative inquires a lot about the AML details.
- (5) The suspect or his representative requests the cancellation of the transaction as soon as the bank employee tries to obtain missing important information.

Second: Suspicion Indicators on Terrorist Financing.

The following indicators were concluded from the TF cases, putting into consideration that some of them are common between money laundering and terrorist financing:

- (1) Raising donations in an unofficial or unlicensed manner.
- (2) Repeated or large transfers from or to countries suffering from problems, political or security disorders.
- (3) The value of transactions does not match the information available on the suspect, his activity, income, lifestyle and attitude.
- (4) The increased number of inward or outward transfers without clear justification.
- (5) Transactions conducted with persons/entities that have no clear connection with the suspect.
- (6) Transactions with several persons without clear justification especially if they are of different nationalities.
- (7) Possessing a large amount of cash across the borders.
- (8) There are parties under investigation by a foreign entity.

- (9) The transfer of repeated or large amounts to persons in a region reputed for criminal activity.
- (10) Making transfers to a number of persons in different countries without a justification.
- (11) Signs of confusion and nervousness appear on the suspect or his representative during the execution of the operation.
- (12) The name of the suspect or the beneficial owner is available in the United Nations lists.

As well as we would like to provide a list of

The additional suspicion indicators:

First: With Respect to Money Laundering:

a) Indicators of the Financial Institutions Employees.

- (1) An employee who suddenly has a high standard of living that does not match the salary he earns.
- (2) An employee who intentionally works long periods of times constantly without getting any leaves.
- (3) An employee who insists on conducting the operations of a certain client or facilitating the performance of services for him and excluding him from the application of measures, instructions and internal directives or offering him advice to circumvent them.

b) Client and beneficial owner Due Diligence Indicators.

- (1) The client uses different addresses.
- (2) The client is careful not to reveal his identity or requests that explicitly.
- (3) The deposit of cheques issued to third parties and endorsed for the account owner while they do not seem relevant to the account owner and the nature of his business.

c) Risks indicators related to offshore transaction:

- 1-**Using of documentary credits and other financing means to transfer funds to other countries and these transactions are inconsistent with the normal or regular client's activity.

2-The clients who conduct large and regular repayment for loans or installments, including the e-remittance which cannot be identified as transactions for legitimate purpose particularly those transferred to the countries known with drugs trade, terrorist organizations activities.

3-regular requests for travel cheques, foreign currencies cheques or other negotiable banking tool.

d) Indicators related to secured and unsecured loans:

- (1) The clients who repays their loan or installment unexpectedly
- (2) The clients who requests loans on basis of guarantee submitted for bank or third party and the source of that guarantee is unknown or unfamiliar with the clients' activities.

E) Indicators on Miscellaneous Financial Transactions:

- (1) Investment requests where the source of funds is not clear or does not match the apparent financial status of the client.
- (2) The non-resident individuals who request loans with bank guarantees issued by foreign banks and the purpose of the transaction raises suspicion.
- (3) Loans against putting deposits under lien with financial institutions overseas, especially if they exist in countries known for producing, processing and consuming drugs or involved in other dangerous criminal activities.
- (4) The client does not show any signs of worry towards the exchange rates and transactions fees.
- (5) The client who exchanges a foreign currency and requests the issuance of several cheques/wire transfers to third parties.
- (6) The client who repeatedly requests the exchange of a currency different from the currency of the country where he works or resides without a clear justification.
- (7) Repeated requests for travelers' cheques for unclear reasons.

d) Other Indicators

- (1) The client has unusual knowledge of the money laundering issues, i.e. he refers directly or indirectly to his wish to avoid reporting, or raises

the issue that the transaction does not involve money laundering or resorts to justifying the transaction in an exaggerated manner or shows unusual interest in the policies, internal systems and regulations.

- (2) The client uses a credit card issued by a foreign bank that does not have a branch/headquarters in the country of residence of the client, especially if the client does not reside or work in the country where the card was issued.
- (3) The monetary transactions in which unusual denominations are used.
- (4) The complex operations without the need for that or the ones that do not appear to have an economic benefit.
- (5) The operation involves a country that does not have an anti-money laundering (AML) system or is suspected of facilitating money laundering operations or is known for manufacturing drugs or illicit trafficking in them.
- (6) Exchanging large amounts of cash of small denominations with large denominations without clear reasons.
- (7) Executing several transactions on the same day in different branches without clear justification or in an illogical manner.

Second: With Respect to Terrorist Financing (TF).

- (1) The clients who transfer several amounts overseas along with instructions to pay in cash or in case non-resident clients receive amounts transferred from abroad along with instructions to pay in cash.
- (2) Establishing shell companies and institutions, or using their accounts to conduct suspicious transfers.
- (3) The suspect provides limited or incomplete data, i.e. he conceals on purpose some important information such as his actual place of residence, or he provides false data or data that is hard to verify such as refusing to present the original documents, especially those related to identity verification, or he provides unclear or suspicious information such as an inoperative telephone number or a telephone number that does not exist in the first place.
- (4) An open account in the name of a person/entity involved in the activities of one of the associations or institutions whose objectives are related to the requests of a terrorist organization or his name is mentioned as a party in the operation.

- (5) Using common addresses for persons participating in cash operations, especially when it is the same address of a commercial establishment and/or the address does not match with the profession designated by them.
- (6) A large number of persons deposit money in one account without the presence of an appropriate explanation for that.
- (7) Operations conducted through/for persons in a manner that do not go along with their professions (such as a student or unemployed person receives or sends a large number of wire transfers).
- (8) Deposits shortly followed by money transfer especially those conducted to or from high-risk regions (such as the targeted countries designated by the national authorities, the international entities or the countries that do not implement the Financial Action Task Force (FATF) recommendations or insufficiently implement them, etc.).
- (9) Using a number of accounts to collect money then transfer the amounts to individuals or commercial institutions especially if they exist in high-risk regions.

Risks indicators related to Non- Profit Organization

1. Receiving funds through several individual and commercial accounts in addition to accounts of non-profit organizations and transferring these funds to foreign beneficiaries in a short period of time.
2. In case where a sudden increase is detected of financial transactions' amounts of the account of an NPO.
3. In case where NPO appears to keep funds in its account for a very long period.
4. In case where NPO receives donations only from abroad or significant part of the donations is originated from abroad.
5. In case where directors of NPO are foreign nationals; particularly existence of transactions with large amounts carried out by the directors to their own countries and destination is a high-risk jurisdiction.
6. In case where NPO has unexplained links; for example, several NPOs transfer money to each other or share the same address, same managers or personnel.
7. In case where NPOs have no enough personnel, suitable offices or telephone numbers have large financial turnover as if they operate intensively.
8. In case where an incompatibility is detected between the nature and size of financial transactions, the amount of funds and the apparent sources, or the stated purpose and activity of the NPO.

Legal framework of reporting process on suspicious transaction

- 1- Based on the provisions of Article (12/Fifth) of the Anti-Money Laundering and Financing of Counter-Terrorism Act No. (39) for the year 2015:
 - (A)- Report to the Office immediately regarding any transaction or attempted transaction if they suspect that such transaction involves money laundering or terrorism financing using the reporting form prepared by the Office.
 - b- Attorneys and other independent legal professionals and accountants are not required to report a transaction under item (a) if the relevant information was obtained in circumstances where they are subject to professional secrecy.
- 2- Based on the provisions of Article (12/Sixth) of the Anti-Money Laundering and the Counter-Financing the Terrorism Act No. 39 of 2015," Provide the Office with information and documents it requires in a timely manner".
- 3-Based on the provisions of Article (12 / Seventh) of the Anti-Money Laundering and Counter-Financing of Terrorism Act No. 39 of 2015, "all records should be submitted to courts and other competent authorities, when required."

The reporting mechanism of suspicious transactions

The suspicious transaction report (attached hereto) is to be filled and then it will be sent it to anti- money laundering and counter-financing the terrorism office with full confidentiality, and the report will be handed over through the following means:

- 1- Delivering by hand.
- 2- E-mail of the AML&CFT office.
- 3- Post service.
- 4- Mobile phone.

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Main instructions to be followed by the reporting entities or obligated parties:

- 1- Using all available means to follow up the suspicious transaction and deals through the supervision reports, list of non-compliance countries, and designated individuals and entities on the international lists.
- 2- Following up the latest development regarding the trends of the AML&CFT, and the measures for combating it, which are recommended by FATF, IMF, WB, Basil committee and other international organization regarding this field.
- 3- Taking into consideration the following issues in managing the inactive accounts as follows:
 - ❖ Identifying a specific period for the inactive accounts, then after the end of this period, these accounts will be referred to main administration.
 - ❖ Any payments should not be conducted to these accounts unless there is an approval from branch manager or his deputy.
 - ❖ Verifying accurately the cheques of drawee.
 - ❖ The payments will not be conducted from these accounts except cheques.
- 4- Programming an automatic system for developing reports in order to improve the effectiveness of the internal system of AML&CFT field, and these reports for example will include but not limited to:
 - Reports on the movements and balance of current accounts: these will include all of the customer and employees, it is supposed to include each account during specific period, balance of every month, average of balance, and the number of transactions conducted, so as to detect the unusual activity.
 - Remittance reports: it is including the incoming and outgoing, internal and external amount of any currency, method of payment whether it was executed in cash or cheque, and it is supposed to be carried out on each customer separately.
 - The reports on the movement and the balance of external banks' accounts: it should include the remittance conducted by any means, amounts and the currency, the name of the bank, and the beneficiary owner should be identified, as well as the number and the size of the transactions conducted with external banks and any changes occurred.