

**Pursuant to provisions of Article 10, Fourth of the Anti-Money Laundering and Counter-Terrorism Financing Law No. 39 of 2015, the following Instructions no. (2), of the year 2017, on:-**

**Customer Due Diligence for money exchange houses are issued:**

**Article (1) - Definitions:**

Without prejudice to the definitions contained in Law No. 39 for the year 2015 of Anti- Money Laundering and counter-Financing the Terrorism and the definitions contained in its Executive Regulations, for the purposes of applying these instructions, the words and phrases mentioned below shall have the meanings indicated next to them as following:

- **The law:** the law No (39) for the year 2015 of AML&CFT.
- **The office:** AML&CTF office in the Central Bank
- **Funds:** Assets and properties regardless of the way acquired, such as local currency, foreign currencies, financial and commercial instruments, deposits, current accounts, financial investments, deeds and documents in any form including electronic and digital, precious stones and metals and any asset with financial value such as immovable or movable assets and rights, interests and profit vested therein, whether inside or outside Iraq, and any other type of funds approved by the Council for the purposes of the present Law, in a statement published in the Official Gazette.
- **Money Laundering:** It's financial and logistical complicated operation in which crime of obtaining illicit money (different crimes) is being removed and make injecting it into banking and economic system in general without any doubts, and then these funds will be invested or paid in legitimate sources in order to get legitimacy and legal status for these funds. The Money laundering operation is going through three major stages including the following:-
  1. **First stage: deposit stage.** This stage is represented by depositing the illegal funds, which are mostly being in cash to be deposited in bank accounts or to be invested in legitimate projects, through buying shares or real estates.
  2. **Second stage:** coverage and Camouflage stage. In this stage, the illicit money will be moved internally and externally (this mostly is happening in countries which applying strict Banking secrecy). As

these operations are complicated, so that it is too hard to trace the source of illicit funds which are using banking operations and fake companies accounts, those don't practicing any real business activity but only receiving remittances and resend them to other parties.

**3. Third stage:** Integration Stage. At this stage illegal funds are merged into the local and international economy as legitimate funds through purchasing the shares, bonds, real estate, etc., and the establishment of investment projects as legitimate business (especially in developing countries), thus all evidences may refer to the real source of the illicit money are obliterated, so that they can look like legitimate projects and money launderers can make use of them.

- **Terrorism Financing:** the act is stated in Article 1/ ten of the law no. (39) of the year 2015.
- **Beneficial Owner:** The natural person who ultimately owns or exercises direct or indirect control over a customer or the natural person on whose behalf a transaction is being conducted. It also includes those persons who ultimately exercise effective control over a legal person or legal arrangement.
- **Business Relationship:** the relationship arising between the FI or DNFBP and its customer connected with the activities and services offered thereto, and which is expected to have an element of duration.
- **PEPs: The high- risks officials:** shall include any natural person, whether as customer or beneficial owner, who is or was entrusted with a prominent public function in the State of Iraq or in a foreign country, such as Head of States or of governments, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, and important political party officials; or entrusted with a prominent function by an international organization, such as directors, deputy directors and members of the board. The term also includes immediate family members and close associates. Close associates includes widely and publicly known close business colleagues or personal advisors or any persons who are in position to benefit significantly from close business associations with the high-level officials, and their relatives of the second degree.
- **CDD Measurements:** Institutions shall exert all efforts to identify the customer's status as well as to know the beneficiary owner.
- **Shell Bank:** a bank that is incorporated or licensed in a country or jurisdiction in which it has no physical presence and that is not

affiliated with a regulated financial group subject to effective banking regulation and supervision.

- **Physical presence:** The physical presence of the bank is to be considered available through the following:
  - The presence of an identified work place in order to receive the customers and practice the activity effectively and not just practicing activities through a local agent or low-level staff.
  - The presence of real management.
  - Keeping all transactions' records.
  - Subject to the supervision procedures whether these procedures are conducted by inspectors of a country where an institution was established or by a country in which an institution is practicing its businesses.
- **Customer:** any person that undertakes or attempts to undertake any of the following with a financial institution or a DNFBP:
  - a. Any person for whom a transaction, business relationship or account is arranged, opened or undertaken.
  - b. Any signatory to a transaction, business relationship or account.
  - c. Any person to whom an account, rights or obligations under a transaction have been assigned or transferred.
  - d. Any person who is authorized to conduct a transaction, or to control a business relationship or an account.
- **Non-resident costumer:** A natural or legal person who resides, its office is usually located outside of Iraq or who has not completed a year of residence inside Iraq regardless its nationality, and this state does not apply to individuals who have permanent economic activity and reside in the Republic of Iraq even if their residence was discontinuous.

**Article (2) the provisions of these instructions are to be applied on the Exchange houses of foreign currencies licensed by the Central Bank of Iraq:**

### **Article (3) Due Diligence requirements**

#### **First. General Rules**

- a. Exerting efforts to know identity of the customer as well as the real beneficiary, and verifying the documents, then on-going following-

up should be conducted on business operations through a continuous relationship in addition to identifying the nature of future relationship between financial, or DNFBP and the customer as well as the purpose of such relation.

- b.** The company is prohibited from entering into exchange activities with unknown persons, fictitious names, with fictitious banks or companies.
- c.** The company must conduct CDD in the following situations :
  - 1. If the value of the transaction or several of them are exceeded than \$ 10,000, it is equivalent in Iraqi dinars, or equal to its value in foreign currency.
  - 2. Purchasing or selling cash amounts without clear justification increasingly and remarkably.
  - 3. Exchanging huge quantities of small-value banknotes with notes of big-value categories without a clear reason.
  - 4. The customer executed several cash transactions by several people on behalf of the client on the same day.
  - 5. Customer withdraws partially from implementing the process of the transaction when he is being informed that special procedures should be taken for unusual transactions.
  - 6. Presenting large amount of cash to conduct a transaction that includes a fake or old money.
  - 7. Transfers identical amounts of money (daily, or weekly) which are totally forming big sums of money.
  - 8. The customer is asking to exchange a large amount of foreign currency to another one.
  - 9. If the company has a doubt regarding the transaction is involved in Money laundering or terrorism financing for any reason regardless its value.
- d.** If the company couldn't to fulfill completely the procedures of the CDD ,It shall not enter into any relationship with that Customer or carry out any transaction for him and notify the Anti-Money Laundering & Countering financing the Terrorism Office according to the template specified by AML/ CTF office for this purpose.
- e.** The company shall constantly ask customers for updating the documents obtained through CDD procedures, especially for those who are implementing transaction constantly, and that update should be made at least once every two year.

**Second: The Procedures of identifying and verifying the customer's identity:**

a. procedures for identifying the natural person shall take in consideration the following:-

1. Data of costumer Identification shall include costumer's full name, his / her nationality, permanent residence address, activity type, the purpose and nature of the business relationship, (consolidated ID Card if available), place and date of birth , phone number , passport and residency (for non-Iraqis) .
2. In the event that the person is acting on behalf of the customer, the company shall get a copy of the authorization letter which should be attested by Notary public, in addition to identifying the identity of the authorized person as provided in paragraph (a) of this paragraph.

b. Institutions shall rely on official identification documents to identify the customer, verify their veracity and validity in addition to keep a copy of these documents signed by the competent employee stating that these are true copies.

c. Legal person: if the customer is legal person, so that data, documents that show the nature of the legal person, legal entity, name, country, financial structure, activities, and Data of persons authorized to deal with the account under an official authorization, as well as names and addresses of main shareholders as well as board's members.

**Third: Principle of investigation and examination according to effective standards and continuous training for employees.**

Companies should establish examination procedures to ensure high standards and the competence when hiring officials or employees, in addition to develop an ongoing training program for officials and employees on anti-money laundering and countering terrorist financing techniques, and this program should include the following:

1. The company shall set plans, Continuous and appropriate training programs at least once a year to train officials and employees on methods of AML/CFT.
2. The Company's training program should be continuously implemented to ensure that the officials and employees will maintain their knowledge, skills and capacities in order to increase their efficiency and that will lead to accurate compliance with rules, and regulations identified for AML/CFT system, in addition to make sure that they will be familiar with the latest development related to general methods and trends of money laundering and Terrorism financing operations and combating systems, as well as the local, regional and global developments in this regard.
3. The company shall make a periodic review on training needs, study these needs, as well as it should put in consideration the issues of expertise, skills, existing capacities, functions and roles required.
4. Planning for programs and seeking to achieve them in coordination with FIs, AML&CFT office and CBI, taking into account the following:
  - a. The training shall include officials and employees of the company.
  - b. The company shall get technical assistance from specialized institutes when implementing these programs, As these institutes are established for this purpose or the training in AML/CFT fields is one of its purposes whether those institutes were local or global, in addition to make use of the local and international expertise in this regard.

**Fourth: Mechanism of Sending Suspicious Transactions Reports:**

Suspicious transactions reports are to be filled and sent to the Anti-Money Laundering and Counter the Financing of Terrorism office, with taking into account strict confidentiality, and this reporting process will be conducted through the following methods:

1. Hand delivery to the reporting officer of the Anti-Money Laundering and Counter Financing the Terrorism unit.
2. E-mail of the Anti-Money Laundering and Counter Financing the Terrorism office ([info.aml&cbi.iq](mailto:info.aml&cbi.iq)).
3. Fax number of the Anti-Money Laundering and Counter Financing the Terrorism office (00964-7760084).
- 4- In case of emergency and if the situation requires, reporting entities may call the anti-money laundering and counter-financing the terrorism office regarding the suspicious transactions through using a mobile phone

number of operations (00964-7809291412), and then the suspicious transaction report is to be sent later as soon as possible.

**Fifth: prohibited names from dealing:**

It is necessary for money exchange houses are to follow-up names of individuals and entities, those prohibited from dealing, which are being sent by TFFC, published on the website of AML&CFT office, or on official Gazette, consequently, the company should do what is required.

**Sixth: Due diligence procedures for customers who are purchasing amounts that exceed than \$ 10,000 as follows:**

- a. CDD means the following:
  - Identify the customer's identity and legal status.
  - Customer's activity, the purpose and nature of business relationship and beneficiary owner.
  - Ongoing following-up regarding operations implemented via continuous relationship through any method specified in relevant legislations.
  - Identifying the future business relationship between a company and a customer, as well as the purpose of such a relationship.
- b. The company should not deal with numbered accounts, deal or enter in business relationships with anonymous persons, fake names or with shell banks or companies.
- c. The company should conduct CDD procedures before, and during the establishment of continuous relationship, as well as in case there is a doubt regarding the accuracy or sufficiency of data obtained previously through the process of identifying customers' identity or when executing transaction for them.
- d. If the company determined the identity of the beneficiary owner, it should also identify the identity of both a customer and beneficiary owner and verifying whether a customer is a natural or legal person according to the CDD form prepared by CBI.
- e. The company shall maintain all documents, records and official papers for a period of five years from the date of relationship termination with the customer.

**Seventh: These instructions shall be entered into force from the date of publication on the official website of the central bank of Iraq.**

Ali Mohsen Ismael

The CBI Governor

August 7<sup>th</sup>, 2017