
FREQUENTLY ASKED QUESTIONS (FAQ)

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1. What is Money Laundering?

Criminal activities, such as drug trafficking, smuggling, human trafficking, corruption and others, tend to generate large amounts of profits for the individuals or groups carrying out the criminal act. However, by using funds from such illicit sources, criminals risk drawing the authorities' attention to the underlying criminal activity and exposing themselves to criminal prosecution. In order to benefit freely from the proceeds of their crime, they must therefore conceal the illicit origin of these funds.

Briefly described, "money laundering" is the process by which proceeds from a criminal activity are disguised to conceal their illicit origin. It may encompass

- (i) the conversion or transfer, knowing that such property is the proceeds of crime
- (ii) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime; and
- (iii) the acquisition, possession or use of property, knowing, at the time of the receipt, that such property is the proceeds of crime.

2. How is Money Laundered?

- a) In the initial - or **placement** - stage of money laundering, the launderer introduces his illegal profits into the financial system. This might be done by breaking up large amounts of cash into less conspicuous smaller sums that are then deposited directly into a bank account, or by purchasing a series of monetary instruments (cheques, money orders, etc.) that are then collected and deposited into accounts at another location.
- b) After the funds have entered the financial system, the second - or **layering** - stage takes place. In this phase, the launderer engages in a series of conversions or movements of the funds to distance them from their source. The funds might be channelled through the purchase and sales of investment instruments, or the launderer might simply wire the funds through a series of accounts at various banks across the globe. This use of widely scattered accounts for laundering is especially prevalent in those jurisdictions that do not co-operate in anti-money laundering investigations. In some instances, the launderer might disguise the transfers as payments for goods or services, thus giving them a legitimate appearance.
- c) Having successfully processed his criminal profits through the first two phases the launderer then moves them to the third stage - **integration** - in which the funds re-enter the legitimate economy. The launderer might choose to invest the funds into real estate, luxury assets, or business ventures.

3. What is a Money Laundering offence?

Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of an offence of money laundering. As per ALPA 2008 involvement in following offence are regarded as money laundering offence:

- Converting and transferring property by any means knowing or having reasonable grounds to believe that it is proceeds of crime for the purpose of concealing or disguising the illicit origin of property, or assisting any person involved in the offence for evading legal consequences of offender.
- Concealing or disguising or changing the true nature, source, location, disposition, movement or ownership of property or rights with respect to such property knowing or having reasonable grounds to believe that it is proceeds of crimes.
- Acquiring, using, possessing property knowing or having reasonable grounds to believe that it is the proceeds of crime.

4. What are Proceeds of Crime?

“Proceeds of crime” means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property.

5. What is Financing of Terrorism?

Terrorist financing involves the solicitation, collection or provision of funds with the intention that they may be used to support terrorist acts or organizations. Funds may stem from both legal and illicit sources. The primary goal of individuals or entities involved in the financing of terrorism is therefore not necessarily to conceal the sources of the money but to conceal both the financing and the nature of the financed activity.

6. How are Efforts to Combat Money Laundering and Financing of Terrorism linked?

Money laundering is the process of concealing the illicit origin of proceeds of crimes. Terrorist financing is the collection or the provision of funds for terrorist purposes. In the case of money laundering, the funds are always of illicit origin, whereas in the case of terrorist financing, funds can stem from both legal and illicit sources. The primary goal of individuals or entities involved in the financing of terrorism is therefore not necessarily to conceal the sources of the money but to conceal both the funding activity and the nature of the funded activity.

Similar methods are used for both money laundering and the financing of terrorism. In both cases, the actor makes an illegitimate use of the financial sector. The techniques used to launder money and to finance terrorist activities/terrorism are very similar and in many instances identical. An effective anti-money laundering/counter financing of terrorism framework must therefore address both risk issues: it must prevent, detect and punish illegal funds entering the

financial system and the funding of terrorist individuals, organizations and/or activities. Also, AML and CFT strategies converge; they aim at attacking the criminal or terrorist organization through its financial activities and use the financial trail to identify the various components of the criminal or terrorist network. This implies to put in place mechanisms to read all financial transactions, and to detect suspicious financial transfers.

7. How are Corruption and Money Laundering linked?

Anti-corruption and anti-money laundering work are linked in numerous ways and especially in recommendations that promote, in general, transparency, integrity and accountability. The essential connections are: Money laundering (ML) schemes make it possible to conceal the unlawful origin of assets. Corruption is a source of ML as it generates large amounts of proceeds to be laundered. Corruption may also enable the commission of a ML offense and hinder its detection, since it can obstruct the effective implementation of a country's judicial, law enforcement and legislative frameworks.

When countries establish corruption as a predicate offence to a money laundering charge, money laundering arising as a corrupt activity can be more effectively addressed. When authorities are empowered to investigate and prosecute corruption-related money laundering they can trace, seize and confiscate property that is the proceeds of corruption and engage in related international cooperation. When corruption is a predicate offence for money laundering, AML preventive measures can also be more effectively leveraged to combat corruption.

8. Why controlling of money laundering is necessary?

Since money laundering is a financial crime, it does not serve the interest of any economic actor. In addition to saving the areas affected by it, controlling money laundering is necessary for the following reasons:

- Bring the suspect under the purview of legal action by inquiring, investigating and prosecuting him/her after identifying the suspicious transactions
- Criminalize money laundering and the financing of terrorism and proliferation
- Imprison and penalize the criminals involved in money laundering after bringing them into legal action
- Confiscate the properties earned and used in money laundering and the financing of terrorism and proliferation
- Initiate, promote and continue exchange of cooperation at national, regional and international level for control of money laundering
- Create an environment where the criminals in the days to come shall not be in a position to launder through illegal activities, and
- Expedite healthy development of national, regional and international economies.

9. Why Know Your Customer (KYC) and Customer Due Diligence (CDD) necessary?

Many of the methods applied by criminals to launder money or finance terrorism involve the

use of the financial system to transfer funds. Financial institutions, in particular banks, are most vulnerable to abuse for that purpose. In order to protect themselves, it is essential that financial institutions have adequate control and procedures in place that enable them to know the person with whom they are dealing. Adequate KYC and due diligence on new and existing customers is a key part of these controls.

KYC is the process of verifying the identity of clients and assessing potential risks of illegal intentions for the business relationship. The objectives of KYC guidelines is to prevent banks and other institutions from being used, intentionally or unintentionally, by criminal elements for money laundering activities. Documents collected from the client at the start of business relationship enable banks and other institutions (including online portals) to better understand their customers, their financial dealings and manage their risks prudently. The key components of KYC are as follows:

- Customer Acceptance Policy (CAP)
- Customer Identification Procedures (CIP)
- Monitoring of Transactions
- Risk Management

CDD policies are the cornerstones of an effective AML/CFT program. Put simply, they are the act of performing background checks on the customer to ensure that they are properly risk assessed before being on boarded. CDD means taking steps to identify customers and checking they are who they say they are. The application of strict Customer Due Diligence (CDD) by financial institutions and a high degree of transparency is crucial to fight money laundering and the financing of terrorism effectively. CDD must be applied upon establishment of a business relationship or in preparation of a specific cash transactions in excess of a certain amount. CDD must also be applied whenever financial institutions suspect money laundering or terrorist financing activities. The basic steps of CDD measures are the appropriate identification of a customer and/or beneficial owner, the verification of the identity of the customer or beneficial owner, as well as the collection of information on the customer's purpose and nature of the business relationship.

10. What is beneficial ownership?

Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement. Beneficial ownership information may be present in a company profile that can be availed from a company register in case of need.

11. What influence does money laundering have on economic development?

Launderers are continuously looking for new routes for laundering their funds. Economies with growing or developing financial centres, but inadequate controls are particularly vulnerable as established financial centre countries implement comprehensive anti-money laundering regimes. Differences in national anti-money laundering systems will be exploited by launderers,

who tend to move their networks to countries and financial systems with weak or ineffective countermeasures. As with the damaged integrity of an individual financial institution, there is a damping effect on foreign direct investment when a country's commercial and financial sectors are perceived to be subject to the control and influence of organised crime. Fighting money laundering and terrorist financing is therefore a part of creating a business friendly environment which is a precondition for lasting economic development.

12. What is the connection of money laundering with society at large?

The possible social and political costs of money laundering, if left unchecked or dealt with ineffectively, are serious. Organised crime can infiltrate financial institutions, acquire control of large sectors of the economy through investment, or offer bribes to public officials and indeed governments. The economic and political influence of criminal organisations can weaken the social fabric, collective ethical standards, and ultimately the democratic institutions of society. In countries transitioning to democratic systems, this criminal influence can undermine the transition. Most fundamentally, money laundering is inextricably linked to the underlying criminal activity that generated it. Laundering enables criminal activity to continue.

13. What is a STR?

Suspicious transaction refers to any transaction (including attempted or proposed), regardless of the amount that appears unusual, has no clear economic purpose, appears illegal, does not commensurate with the customer's profile or business activities, involves proceeds from an unlawful activity and indicates that the customer is involved in money laundering or terrorism financing activities.

General Characteristics of Suspicious Financial Transactions

- Transactions having unclear economical and business target.
- Transactions conducted in relatively large amount cash and/or conducted repeatedly and unnaturally.
- Transactions conducted differently from that of usually and normally conducted by the relevant customer.
- Huge, complex and usual transaction.

A STR is a Suspicious Transaction Report or disclosure. A person must make a required report (within three days of the suspicion) if you know or suspect or have reasonable grounds for knowing or suspecting that another person is engaged in money laundering or that certain property is or is derived from the proceeds of criminal conduct or terrorist financing. The STR has to be reported even when the customer only attempts to establish a relation with the reporting entity. Many different types of finance-related industries are required to file STRs. These include:

- Depository institutions (for example, banks and credit unions)
- Securities and futures dealers (for example, stock brokers and mutual fund brokers)
- Money services businesses (for example, check cashing services, currency exchange)

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- bureaus, and money order providers)
 - Casinos and card clubs
 - Dealers in precious metals and gems (for example jewellery dealers)
 - Insurance companies
 - Mortgage companies and brokers

14. Which law should I disclose STR under?

The legal basis for the reporting of suspicion in respect of money laundering is set out in Assets (Money) Laundering Prevention Act, 2008. The legal basis for the reporting of suspicion in respect of terrorist financing is also the same.

15. When should I submit a STR ?

A person acting in the capacity of a financial services business or a non-financial services business is required to submit a STR to FIU as soon as that person knows or suspects (or has reasonable grounds for knowing or suspecting) that another person is engaged in money laundering or terrorist financing or that certain property is or is derived from the proceeds of criminal conduct or terrorist financing.

Further to that the information or other matter on which the knowledge or suspicion is based, or which gives the reasonable grounds for that knowledge or suspicion, came to them in the course of the business and makes the STR as soon as practicable after the information or other matter comes to them.

16. How do I submit a STR to the FIU?

A STR must be submitted at the FIU under a prescribed form under Unified Directive No.19 along with the necessary documents.

17. Does FIU-Nepal have the automated system for the reporting of STR?

The FIU Nepal is going to introduce the automated system called goAML to the reporting entities in the near future. For this purpose, the online reporting system will be first introduced among the 'A' class banks only. They have already been provided with the instruction to develop the mechanism that is compatible with the goAML software to report online.

18. What should I include in a STR?

The quality of a STR is only as good as the content therefore you should include, 'who, what, where, when, why and how'. Include as much information as you can which has led to your suspicion; including all supporting documentation and the analysis required under Unified Directive No. 19.

19. What is Suspicious Activity Report (SAR)?

SAR is a tool for monitoring suspicious activities that would not ordinarily be flagged under other reports (such as the currency transaction report). SAR can cover almost any activity that is

out of the ordinary. An activity may be included in the SAR if the activity gives rise to a suspicion that the account holder is attempting to hide something or make an illegal transaction. SAR is filed by the financial institution that observes the suspicious activity in the account.

20. What is Threshold Transaction Reporting (TTR)?

A Threshold Transaction Report (TTR) is a report that financial institutions and designated nonfinancial business and professions (DNFBPs) are required to file to FIU for each deposit, withdrawal, exchange of currency, or other payment or transfer, by, through, or to the financial institution which involves a transaction more than 1 million Nepalese rupees. The threshold amount may be reached by a single transaction or by a series of transactions in cash into a single account or by a single customer over a period of one working day. It may be considered to be an aggregate transaction in cash exceeding the prescribed threshold.

21. What do I do if I am requested to provide additional information from the FIU?

Reporting Entities who receive a request for additional information from the FIU should respond as instructed by the Act, Rule and Directives.

22. Can I terminate the business relationship?

Whether or not to terminate a business relationship is a commercial decision for the Reporting Entities. Where a RE makes a decision to terminate a business relationship after it has made a STR and is concerned that in doing so it may prejudice an investigation or contravene the tipping off rules, it should consult with the FIU accordingly. The decision to terminate a relationship, however, remains with the Reporting Entities.

23. What is ‘Tipping Off’?

The Assets (Money) Laundering Prevention Act, 2008 provides that it is an offence if a person knows, or suspects, that an internal suspicion report to a FIU Nepal has been or will be made or if any information or other matter concerning the internal suspicion report or STR has been or will be communicated to FIU and s/he discloses to any other person information or any other matter about, or relating to, that knowledge or suspicion unless it is for a purpose set out in those laws.

24. What is Financial Information Unit (FIU) Nepal?

FIU-Nepal is Nepal’s financial intelligence unit. It is a central, national agency responsible for receiving, processing, analyzing and disseminating financial information and intelligence on suspected money laundering and terrorist financing activities to the Investigation Department, other relevant law enforcement agencies and foreign FIUs. The FIU was established on 21 April, 2008 under the section 9 of the Assets (Money) Laundering Prevention Act, 2008 with the Nepal Rastra Bank (the central bank) as an independent unit.

The FIU is also assigned to function as the secretariat of the Coordination Committee constituted as a standing committee under the coordination of secretary of Ministry of Finance including

secretaries from Ministry of Home, Law, Justice and Parliamentary Affairs, Foreign Affairs and Deputy Governor from Nepal Rastra Bank as members. The chief of FIU is the Secretary of the committee.

The legislation, in regards to AML/CFT, mandates the FIU to:

- Receive and collect reports on suspicious and prescribed threshold financial transactions and other information relevant to money laundering and terrorist activities financing from government agencies, financial institutions and non-financial institutions;
- Analyze and assess the information received from reporting agencies;
- Provide suspicious and other relevant information to the investigation department and others relevant;
- Direct the banks, financial institutions and non financial institutions regarding the reporting;
- Ensure compliance by reporting entities with their obligations under the act, rules and regulations;
- Inspect transactions and records of bank, financial institution and non financial institution;
- Manage training and awareness programs;
- Penalise bank, financial institution and non financial institution in the failure of reporting compliance;
- Develop information exchange mechanism with other fius or related international institution by entering into memorandum of understanding or membership.

25. What is Predicate Offence?

As per Asset (Money) Laundering Prevention Act, 2008 any offence under the prevailing laws are classified as predicate offence.

- Participation in an organized criminal group and racketeering,
- Disruptive (terrorist) act and terrorism,
- Trafficking in human being and migrant smuggling in any form,
- Any kinds of sexual exploitation including the children,
- Illicit trafficking in narcotic drugs and psychotropic substances,
- Illicit trafficking in arms and ammunition,
- Illicit trafficking in stolen and other goods,
- Corruption and bribery,
- Fraud,
- Forgery,
- Counterfeiting of coin and currency,
- Counterfeiting and piracy of products, or imitation, illegal copy or theft of products,

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- Environmental crime,
 - Murder, grievous bodily injury,
 - Kidnapping, illegal restraint or hostage-taking,
 - Theft or robbery,
 - Smuggling (including custom, excise and revenue),
 - Tax (including direct and indirect),
 - Extortion,
 - Piracy,
 - Insider Dealing and Market Manipulation in securities and commodities ,
 - Ancient monument conservation,
 - Forest, National park and wild animals,
 - Money, banking, finance, foreign exchange, negotiable instruments, insurance, cooperatives,
 - Black marketing, consumer protection, competition, supply
 - Election,
 - Communication, broadcasting, advertising,
 - Transportation, education, health, medicine, foreign employment,
 - Firm, partnership, company, association,
 - Real estate and property,
 - Lottery, gambling, donation,
 - Citizenship, immigration and passport.
 - Offence of terrorist financing or association with terrorist organization.