THE FIGHT AGAINST MONEY LAUNDERING
Connecting the Money to the Crime

Compliance Unit
Bahrain Monetary Agency
Background

To most businesses, money laundering is something that happens generally in exotic locations, involving criminals only. The truth is it can happen anywhere, anytime, and you may not even be aware that you have been involved!

Though a relatively new subject, money laundering has in fact been around for centuries, however, the scale of the problem has escalated out of all proportion in the last 30 years due to the gradual removal of cross border capital controls and advances in funds transmission systems. Money laundering is now one of the major ongoing problems facing the international economy.

Did you know?

The International Monetary Fund (IMF) estimates money laundering to be between 2 to 5 percent of global Gross Domestic Product (GDP), equivalent to approximately US$590 billion to US$1.5 trillion annually.

This booklet provides banks, financial institutions and all other relevant Bahrain Monetary Agency (BMA) licensees with an overview of money laundering, the legislation in the Kingdom of Bahrain, as well as important steps to take to avoid becoming involved in the money laundering process.
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What is Money Laundering?

Money Laundering is the process through which the origins of illegal or “dirty” funds, generated by criminal activities, are concealed and transformed into apparently “clean” funds.

Characteristics of organized crime
- A group activity, usually carried out by a number of persons
- A long term and ongoing criminal activity
- A criminal activity carried out irrespective of national boundaries
- Large scale
- Generates proceeds, often for illicit use

Why do criminals want to “launder” proceeds?
1) Avoid prosecution
2) Increase profits
3) Avoid seizure of accumulated wealth
4) Appear legitimate
5) Tax evasion
Stages of the Money Laundering Process

STAGE 1: PLACEMENT
“Dirty” money is placed into the banking system. The aim of the launderer is to remove the cash from the location of acquisition so as to avoid detection from the authorities and to then transform it into other asset forms.

**Placement = Injection = Pre-washing**
The most common methods of placing money are through cash deposits and the purchase of cheques.

STAGE 2: LAYERING
Separating the illicit funds from its original source through a series of complex financial transactions, thereby making it difficult to trace.

**Layering = Washing**
Forms of Layering:
- International wire transfers
- Switching currency
- Changing jurisdiction
- Repayment of fictitious loans
- Dealings with stock, commodity and futures brokers

STAGE 3: INTEGRATION
“Dirty” money is integrated into the legitimate economic and financial system through complex integration schemes and is assimilated with all other assets in the system. Integration of the “cleaned” money into the economy is accomplished by the launderer, making it appear to have been legally earned. By this stage, it is exceedingly difficult to distinguish between legal and illegal wealth.

**Integration = Recycling**
Popular methods at this stage:
- Property investments
- Purchase of luxury assets
- Establishment of anonymous companies in countries with corporate secrecy laws
- Use of false loan repayments or forged invoices used as a cover for laundered money
Legislation has been developed in the Kingdom of Bahrain to address the problems associated with the laundering of proceeds of criminal activities, as well as the combating of terrorist financing.

**DECREE LAW NO. 4**

Decree Law No. (4) of 2001 with respect to the Prevention and Prohibition of the Laundering of Money, outlines the offences of Money Laundering, related offences, penalties and punishments for violations and establishes a Policy Committee which is responsible for formulating further policies and procedures, and for coordinating with internal and external bodies for the successful implementation of the Law.

**Money Laundering Legislation in the Kingdom of Bahrain**

**Policy Committee Members:**
- Bahrain Monetary Agency
- Ministry of Commerce
- Ministry of Labour and Social Affairs
- Ministry of Foreign Affairs
- Ministry of Justice
- Ministry of Interior
- Ministry of Finance and National Economy
- Ministry of Islamic Affairs

**Policy Committee Responsibilities**
- Formulate anti-money laundering policies
- Establish relationships with relevant entities
- Study regional and international developments
- Establish a framework for implementing the United Nations Convention and the Arab Convention Against Illicit Traffic of Narcotic Drugs and Psychotropic Substances
Following the Decree Law No. (4), the BMA has taken a leading role in anti-money laundering activities and has since issued the Money Laundering Regulation (EDBC/6/2001 of 14 October 2001), which is imposed on relevant BMA licensed institutions (“licensees”).

In the fight against terrorist financing, the BMA has additionally implemented the United Nations Security Council Resolutions (UNSCRs) 1267, 1373, 1390 and 1455, ordering financial institutions to identify and freeze accounts of organisations associated with members of worldwide terrorist groups, and is also in the process of employing the Special Recommendations on Terrorist Financing issued by the Financial Action Task Force (FATF). Regulations are also in place to ensure charitable contributions are not channelled to the financing of terrorism.

What are the main offences that constitute Money Laundering?
1. Assisting another to retain the financial benefit of crime
2. Acquiring, possession and use of the proceeds of crime
3. Concealing or transferring proceeds of crime to avoid prosecution or a confiscation order
4. Failure to disclose knowledge or suspicion of money laundering
5. Warning or informing the concerned suspected party (“Tipping off”)

Bahrain Monetary Agency Money Laundering Regulations

Who must report to the BMA?

The BMA Money Laundering Regulations apply to the following licensees:
- Banks and Financial institutions
- Mutual funds and other collective investment schemes
- Investment advisors and consultants
- Exchange houses

The Regulations focus on “Know Your Customer” (KYC) requirements, whereby licensees are required to establish effective procedures for verifying client identity and for the retention of customer due diligence information. However, the Regulations also contain requirements concerning internal audit, reporting suspicious transactions and complying with the instructions and directions of law enforcement agencies.

Licensees’ Legal Obligations

The BMA Regulations impose statutory requirements on all licensees in the following respects:
- Procedures for verifying the identity of clients
- Record-keeping procedures for evidence of client identity and transactions
- Internal reporting procedures for any suspicious transactions, including the appointment of a Money Laundering Reporting Officer
- Procedures for external reporting
- Training of relevant employees on their legal obligations and responsibilities
- Training of employees on the procedures for recognizing and reporting suspicious transactions

Role of BMA in combating Money Laundering

The BMA created the Compliance Unit to support the Ministry of Interior Enforcement Unit in its investigation efforts and to foster inter-agency and global cooperation against domestic and international financial crime. The Compliance Unit is structured to provide Bahrain’s policy makers with a strategic analysis of domestic and worldwide money laundering developments, trends and patterns.

The Compliance Unit is also responsible for carrying out compliance examinations on licensees to ensure their compliance with BMA Regulations and to help improve their systems of internal controls with respect to the prevention, detection, monitoring and reporting of suspicious transactions. In addition, the Unit verifies licensees’ compliance with Decree Law No. (4) and BMA Regulations to enforce laws, which require the reporting of any suspicions and the keeping of complete client records. These records and investigations, along with other data collected are analysed and shared with relevant regulatory bodies to follow-up and trace criminals and their assets.

TEST YOUR KNOWLEDGE OF BMA MONEY LAUNDERING REGULATIONS!

1. A relevant licensee should obtain a photocopy of TWO original identification documents to establish the identity of an individual account.
   - TRUE □ FALSE □

2. Licensees must not open an account or engage in any business dealings with customers under fictitious names or open numbered accounts, where the relevant licensee does not know the original identity of the account holder.
   - TRUE □ FALSE □

3. Banks are prohibited from entering, or continuing a correspondent banking relationship with a bank incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a regulated financial group (i.e. shell banks).
   - TRUE □ FALSE □

4. Relevant licensees, their directors, officers and employees must not warn or inform customers when information relating to them is being reported to the regulatory authorities.
   - TRUE □ FALSE □

5. Banks and other financial institutions must not accept any fund transfers unless all originator information is available, including originator’s name, address and account number.
   - TRUE □ FALSE □

   (Answer: All True!)
Preventing Money Laundering...the check list

**Customer due Diligence Systems & Monitoring Programs**
- Measures should be in place to determine a client’s true identity and also effective procedures should be in place to verify all client identity information
- Due diligence on all new and existing clients
- Undertake full identification and address verification for all clients
- Verify the customer’s residence or place of employment by a phone call or personal visit
- Verify source of funds used to open accounts
- Check prior banking references for large accounts
- Verify legal status of businesses opening accounts
- Verify beneficial ownership for corporate accounts
- Compare client names with the lists provided by the BMA of known or suspected individual terrorists or terrorist organizations
- Special due diligence for correspondent and private banking accounts

**Maintain Records**
- Retain all records concerning client identification and details of transactions for use as evidence in any potential investigation
- Maintain all client transaction records for at least five years
- Maintain copies of original suspicious transactions

**Recognizing Suspicious Transactions**
- Know enough about the client and his or her business to recognize unusual transactions
- Train staff to recognize suspicious transactions and behavior

**Reporting Suspicious Transactions**
- Require staff to report suspicious transactions to the Money Laundering Reporting Officer, giving all available details
- File a Suspicious Transaction Report with both the Bahrain Monetary Agency Compliance Unit and the Ministry of Interior Enforcement Unit

**Educate and Train**
- Train senior staff to be vigilant of developing money laundering typologies
- Train employees on internal anti-money laundering policies and procedures
- Increase staff awareness of money laundering risks to the financial industry and the consequences involved of not reporting suspicions
- Conduct frequent training sessions and monitor staff attendance

**Internal Audit**
- Ensure that internal audit and compliance regularly monitor licensees’ internal anti-money laundering systems
- Liaise closely with relevant regulatory bodies regarding the licensees’ vigilance policy and systems
Commitment to the KYC procedure is the golden rule for protection against being used as a conduit to launder money or to finance terrorism.

In compliance with BMA Regulations, a KYC program should be in place to help detect suspicious transactions. As part of continuous due diligence, the KYC program should be an ongoing process, with client information being periodically updated for not only new customers, but existing ones as well.

People and circumstances change - today’s good client can turn out to be tomorrow’s money launderer.

When dealing with customers, institutions should be able to answer the following questions:

- How well do I know this customer?
- Do I fully understand the transaction the customer wishes to complete?
- Am I comfortable with this transaction?
- Does the transaction make sense considering the customer’s profile?
- Is this a usual method for conducting other similar business transactions?

The BMA Regulations require specific ORIGINAL client documentation to be obtained before opening an account for individuals or legal persons.

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<thead>
<tr>
<th>NATURAL PERSONS</th>
<th>LEGAL PERSONS</th>
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<tbody>
<tr>
<td>• Full name</td>
<td>• Certificate of Incorporation and/or Certificate of Commercial Registration</td>
</tr>
<tr>
<td>• Full address, including residential address</td>
<td>• Memorandum of Association</td>
</tr>
<tr>
<td>• Date of birth</td>
<td>• Articles of Association</td>
</tr>
<tr>
<td>• Nationality</td>
<td>• Partnership Agreement</td>
</tr>
<tr>
<td>• Occupation</td>
<td>- The above documents, where applicable, or equivalent documents for foreign entities, should verify the entity name, registration number, legal form, registered address, and type of business activity</td>
</tr>
<tr>
<td>• Employer’s name and address</td>
<td>- Identity of beneficial owners (in case of closed companies and companies not traded on stock exchanges)</td>
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<tr>
<td>• Copy of passport including number and photograph</td>
<td>- TWO items of identification documents should be obtained, at least one of which should contain a photograph in order to verify full name and full address of applicant</td>
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<tr>
<td>• CPR number for local residents only</td>
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If you suspect Money Laundering - Report it!

Article 10.3 of Decree Law No. (4) of 2001, ensures that institutions will be protected from any civil or criminal liability even if their suspicion proves wrong. However, strict penalties are in place for any person committing, attempting, or participating in a money laundering offence. Among other numerous contraventions and respective penalties, the Law also covers the failure to report suspicious transactions. If you fail to report a suspicious transaction, you could be fined up to BD 20,000!

When to file a suspicious transaction report

Once an institution has reasonable grounds to suspect a particular transaction is related to a money laundering or terrorist financing offence, a Suspicious Transaction Report must be filed with both the BMA Compliance Unit and the Ministry of Interior Enforcement Unit.

What information to report

Institutions may be asked to provide specific information when reporting a suspicious transaction, such as:

- Name, age, address, telephone number, description of the person(s) involved in the suspicious transaction and their associates
- The type of activity associated with the suspicious transaction, i.e. payment made by an unusually large volume of cash, currency exchange, loan repayment, an unusual recipient or originator of funds, etc.
- The amount of the suspicious transaction
- Descriptions of the individuals and the date, time and location of the transaction
- Any bank or credit card information or other personal information regarding the subject that may be available
- The circumstances, details and events that aroused suspicion

Identifying suspicious transactions

Institutions are in the best position to know what is normal for their business and therefore what is suspicious. It is important to remember that behavior is suspicious, not people. Also, it is the consideration of many factors, not any one factor, which will lead to the conclusion that there are reasonable grounds to suspect a transaction is related to a money laundering or terrorist financing offence.

BEHAVIOR IS SUSPICIOUS, NOT PEOPLE

Q: What is reported to the Compliance Unit and the Enforcement Unit?
A: Any suspicious transaction related to money laundering or terrorist financing.

Q: What does MLRO stand for?
A: MLRO is short for Money Laundering Reporting Officer. As per BMA Regulations, relevant licensees must have an MLRO as a focal point for monitoring and reporting suspicious transactions.

Under Decree Law No.(4) of 2001 with respect to the Prevention and Prohibition of the Laundering of Money, penalties in connection with money laundering crimes include imprisonment for a period not exceeding 7 years and a fine not exceeding BD 1 million.
Ignorance of the law is no excuse!

Be alert to these RED FLAGS!
- Clients who provide insufficient or suspicious information
- Clients who try to avoid reporting or record keeping requirements
- Unusual fund transfer activities
- Activity inconsistent with the client’s business
- Changes in bank-to-bank transactions

WOULD YOU SOUND THE ALARM?

Miss Nada makes frequent or large transactions and has no record of past or present employment experience.

Mr. Nabeel receives large incoming wire transfers on behalf of a foreign client, with little or no adequate explanation.

Bank XYZ is unable to track the original account holder of a suspicious correspondent account transaction.

Mr. Ahmed just repaid a problem loan unexpectedly.

Answer: Yes for all!
Where to get more information:

- Bahrain Monetary Agency
  www.bma.gov.bh
- Bahrain Ministry of Commerce
  www.commerce.gov.bh
- Basel Committee on Banking Supervision
  www.bis.org
- Financial Action Task Force on Money Laundering (FATF)
  www.fatf-gafi.org
- United States Government Financial Crimes Enforcement Unit
  www.fincen.gov
- Office of the Comptroller of the Currency
  www.occ.treas.gov
- Wolfsberg Group of Banks
  www.wolfsberg-principles.com
- World Bank Group
  www.wblg.org
- United Nations Office on Drugs and Crime (UNODC)

Contacts

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  Tel: 17718888
  Email: amlu@batelco.com.bh
  Website: www.amlu.gov.bh