

Instructions No. 1 of 2017

On Anti-Money Laundering and Counter-Terrorism Financing Measures for Money Exchange Businesses

The National Committee for Anti-Money Laundering and Counter-Terrorism Financing ,

Pursuant to the provisions of Decree Law no. 20 of 2015 on anti-money laundering and counter terrorism financing and amendments thereto, particularly Articles 20/14 and 23/3 thereof,

And the provisions of Presidential Resolution no. 41 of 2016 on licensing and supervising money exchange businesses,

Based on the powers conferred upon it,

And to serve the public interest,

Has issued the following instructions:

Article 1

Definitions

1. The terms and expressions contained in these instructions shall have the meanings indicated below, unless the context indicates otherwise:

Law: Decree law no. 20 of 2015 on anti-money laundering and counter-terrorism financing (AML/CFT).

PMA: The Palestine Monetary Authority.

Committee: The National Committee for Anti-Money Laundering (NCAML).

The Committee of enforcing UN Security Council Resolutions (UNSCRs): The committee established by virtue of Article 47 of the Law and formed by presidential decree no. 14 of 2015, in charge of implementing UNSCRs.

Unit: The Financial Follow-up Unit (FFU).

Money Exchange Activities: Activities stipulated under Article 9 of the Resolution on licensing and supervising exchange businesses.

Moneychanger: the natural person or legal entity licensed by the PMA to undertake exchange activities, pursuant to the provisions of the Presidential Resolution on licensing and supervising exchange businesses.

Customer: the natural person or legal entity dealing with a financial entity.

Business Relationship: the relationship between the customer and money exchanger related to exchanging acts .

Beneficial Owner: the natural person who ultimately owns or controls a customer or the account of the person on whose behalf a transaction is conducted, or the person who exercises ultimate, actual control over a legal entity or its management.

Politically Exposed Person (PEP): any person along with their family, relatives, and associates, who is or has been entrusted with prominent public functions or political positions in Palestine or abroad including political party leaders, judges, legislative council members, prosecutors, heads of State-Owned Enterprises, heads of charitable institutions, bodies or associations and NGOs or authorities of the State of Palestine or of any other foreign state and heads and representatives of international organizations.

Customer Due Diligence (CDD): Identifying the customer, determining their legal status, activity, sources of property and the purpose and nature and beneficial owner (if any) of the business relationship, in addition to verifying such and the ongoing monitoring of transactions carried out as part of the business relationship using any of the means identified in relevant legislations, and identifying the nature and purpose of the future relationship between the financial entity and the customer.

2. Definitions included in Decree Law no. 20 of 2015 on AML/CFT and its amendments shall apply wherever mentioned in the present instructions.

Article 2

Scope of Application

The provisions of the present instructions shall be applicable to:

1. Moneychangers licensed by the PMA
2. Money exchange companies operating in Palestine, their branches and subsidiaries operating abroad to the extent permitted by laws and regulations in force in such countries.

Article 3
Prohibition

Moneychangers are prohibited from dealing or entering into a business relationship with anonymous persons, persons with false or fictitious names or persons with which they are banned to deal as per legislations in force or based on instructions of the PMA.

Article 4
Customer Due Diligence

Moneychangers shall undertake due diligence measures in the following cases:

1. When a customer wishes to carry out any financial transaction with a value equal to or greater than five thousand US dollars (\$5000) or of an equivalent value in other currencies whether conducted as a single transaction or several transactions that appear to be linked; in case the transaction amount is unknown at the time it is conducted, the customer identity should be identified as soon as the amount is known or as soon as the threshold is reached.
2. Upon a request to initiate or receive local or international wire transfers regardless of their value.
3. Whenever there is a suspicion of money laundering or terrorism financing.
4. Whenever the moneychanger has doubts about the accuracy or adequacy of previously obtained customer identification data.

Article 5
CDD Procedures

Moneychangers shall undertake the following identification and verification measures:

1. Use official documents provided by the customer when dealing with such to identify the customer, the nature of his/her activity or source of property and verify such information by obtaining a signed copy of such documents evidencing that such is a true and exact copy.
2. Take necessary steps to verify the accuracy of information obtained from the customer using reliable and independent sources including contacting the official entities that issued the documents mentioned under paragraph 1 of this Article.

3. The following identification measures shall be taken in case the customer is a natural person:
 - a. Full name of the customer, his/her nationality, date and place of birth, ID number, passport number for non-Palestinians, current and permanent residence address, telephone number, business address, nature of business or activity, the purpose of the business relationship, income and source of wealth of the customer, and any other information that the moneychanger deems necessary.
 - b. Agents shall present a duly certified copy of the power of attorney in addition to identity documents of both the agent and the principal, in cases where a person deals with the moneychanger on behalf of another person.
 - c. For incompetent or incapacitated persons, identity documents of that person and the person legally representing them must be obtained in line with the CDD procedures stipulated in this Article.
 - d. Understand the purpose of the business relationship and obtain an undertaking from the customer saying that he/she is the original owner and sole beneficiary through a form drafter specifically for this purpose.
4. Requesting a written statement from each customer identifying the beneficial owner of the financial transaction that he/she wishes to carry out, identifying and verifying the identity of the beneficial owner in line with the CDD procedures stipulated in the present instructions.
5. The following measures shall be taken in case the customer is a legal entity:
 - a. Identifying the name, address, head office, legal status, registration date and number, names of owners and shares in the legal entity, in order for the moneychanger to understand the ownership structure of the legal entity. It is also required to identify managers and authorized signatories of the entity and the purpose and nature of the business relationship and to verify information indicated in this paragraph by obtaining certified documents, including the following:
 - Registration certificate issued in line with laws in force in Palestine, including certificates issued by the Ministry of Economy, Chambers of Commerce or Industry, municipalities or any other competent authority to register legal entities.
 - Articles of Association
 - By-laws
 - Authorized persons (presenting supporting documents to that effect).
 - Identity of legal representatives

- b. In case the beneficial owner of the entity is a politically exposed person, CDD procedures specific to PEPs as stipulated in the Law and these instructions shall apply.
- c. When identifying the beneficial owner of a legal entity, measures must be taken to understand the ownership and control structure of the entity. This includes relying on information from official documents obtained until the moneychanger is satisfied that they have identified the beneficial owner.
- d. Understand the purpose of the business relationship.
- e. Provisions under Paragraph 5 of this Article shall apply to foreign companies and moneychangers may request any other information they deem necessary.
6. Regarding charities, NGOs or NPOs and the like, the name of the association must be identified, along with its head office, legal form, type of activity, date of establishment, purpose of the business relationship, authorized persons, their nationalities and telephone numbers. The information required in this paragraph must be verified by obtaining certified documents, including the following documents duly certified and authenticated:
 - a. Registration certificate of the association, NGO or NPO issued by the competent registration authority.
 - b. Articles of Association
 - c. Documents indicating authorized persons. The identity of the authorized person to sign must be established in line with the identification measures stipulated in these instructions. The identification of authorized persons must be regularly updated.
 - d. Identity of the legal representative.
7. The moneychanger may delay the verification of the customer or beneficial owner identity until after the establishment of the business relationship when all of the following conditions are fulfilled:
 - a) Verification procedures shall be conducted as soon as possible.
 - b) Delay of the verification procedures is essential not to interrupt the normal course of business provided that such delay does not entail any risks of money laundering or terrorism financing.
 - c) Examining ML/TF risks for the case where verification was delayed and controlling such risks.
 - d) The moneychanger has adopted clear procedures to that effect, according to instructions issued the PMA.

8. Information requested under this Article for legal entities shall be updated annually, including for charity organizations, NGOs and NPOs. Information for natural persons shall be updated every two years. The updating requirement shall be implemented in all cases whenever the accuracy of the information obtained is doubtful.

Article 6

Reliance on Third Parties

When relying on a third party, the moneychanger shall undertake the following:

1. Immediately obtain all required CDD information as stipulated in Article 5 of the present instructions;
2. Assuring that copies of identification data and other documents relating to customer due diligence measures will be made available from the third party upon request and without delay;
3. Assuring that the third party is regulated and supervised and has measures in place for compliance with CDD and record keeping requirements;
4. Take into consideration the risk level of countries where the moneychanger relies on third parties;
5. The ultimate responsibility to verify and confirm the accuracy of customer information shall remain with the moneychanger's subject to the present instructions.

Article 7

Higher Risks

Moneychangers shall comply with the following:

- 1- Classify all their customers according to the level of ML and TF risks they pose, and periodically review and update such classification.
- 2- Apply enhanced due diligence measures when ML/TF risks are higher.
- 3- Apply simplified due diligence measures only when ML or TF risks are considered low, by conducting an appropriate risk assessment by the State or the financial institution. Simplified due diligence measures must be commensurate with low risk elements and shall not be acceptable when there is a

suspicion of ML or TF suspicion, or when high risks are noticed, and/or upon the instructions of the PMA.

4- Establishing necessary internal policies, measures and procedures to avoid risks related to the misuse of indirect and non-face-to-face relationships with customers or any transactions carried out using technology.

5- When dealing with Politically Exposed Persons (PEPs) as classified in instructions no. number 1/2014 issued by the NCAML, moneychangers must show special care, as they are considered high risk persons, by applying the following measures:

- a- Applying the identification and verification measures set out in article 5 of the present instructions.
- b- Obtaining senior management approval prior to establishing or pursuing a business relationship with a PEP.
- c- Verifying the source of property of the PEP, and their sources of wealth.
- d- Establish a risk management system for PEPs or the beneficial owners of this category.
- e- Ensure a close and continuous follow-up of the transactions of such customers.
- f- Take the necessary measures to verify the circumstances surrounding any business relationship or transaction carried out with a PEP and its purposes if the moneychanger concludes that any of these elements is not based on clear economic justifications, and to keep records of the results of these measures.

Article 8

Remittance Identification Measures

Moneychangers shall comply with CDD measures stipulated under article 5 of the present instructions, while taking into account procedures and thresholds stipulated in instructions addressed to moneychangers as issued by the PMA, in the following manner:

1- In case the remittance is originating from the moneychanger, they must obtain detailed information on the person requesting the outgoing wire transfer (originator), including their name, identity or passport number, purpose of the transfer, relationship with the beneficiary, the beneficiary's name, and obtain the supporting documents thereto.

2- In case of an incoming remittance, the moneychanger shall obtain detailed information on the beneficiary of the transfer, including his/her identity or passport number, purpose of the transfer, the relationship between the originator and the beneficiary, the name of the originator and address in the originator's country. The information mentioned should be document supported.

3- Establish special policies, procedures and measures when dealing with the risks of using remittance for ML and TF, provided the volume and/or frequency of the remittances are taken into consideration, and while applying continuous due diligence measures to examine the activity of the originator in comparison with the nature of their real activity and sources of income.

4- If the information required in paragraphs 1 and 2 of this article is not fulfilled, the wire transfer should not be executed.

5- Moneychangers shall refrain from executing any remittance to any person or entity designated on the list of the International Sanctions Committee under UNSCR No. 1267 of 1999, or any lists issued by the UNSC Resolutions Implementation Committee and shall immediately notify the Unit when an incoming or outgoing remittance is requested for any such listed person or entity.

Article 9

Risk-Based Approach

Moneychangers shall adopt a risk-based approach that should include at a minimum the following:

- 1- Identify, understand and analyze money laundering and terrorism financing risks
- 2- Take into consideration the results of the risk assessment in implementing AML/CFT measures, and establish policies and strategies in line with these risks.
- 3- Submit the results of the measures applied as per this article to the PMA upon request.

Article 10

Special care

Moneychangers should grant special attention to the following cases:

- 1- When requesting big or complicated money exchange activities, and any type of unusual deal or transaction with unclear financial purposes.

- 2- Money exchange activities carried out with persons in countries that do not have appropriate legislative systems to combat money laundering and terrorism financing, in line with notifications communicated to moneychangers by the PMA.
- 3- Money exchange activities related to precious goods such as jewelry, gold, cars, antiques, real estate transactions and financial leasing.
- 4- Money exchange activities carried out with PEPs.
- 5- Large or repeated remittances during specific periods, in a way that is not in line with the nature of the customer's activity.

Article 11

Record Keeping

Moneychangers must retain all records and documents for at least 10 years from the date of the completion of the financial transaction or the end of the business relationship. In case the business relationship was ended due to an investigation in money laundering or terrorism financing, information and documents must be kept until the end of the investigation. The record keeping mechanism shall be in line with standards accepted by Palestinian courts and/or laws in force in the country. Records shall include:

1. Information related to CDD measures stipulated under Article 5 of the present instructions
2. Information to clarify financial transactions and commercial and cash operations whether domestic or foreign
3. Information related to all incoming and outgoing remittances stipulated under Article 8 of the present instructions.
4. Business correspondence
5. Copies of personal identification documents or registration certificates

Article 12

Internal Procedures

Moneychangers shall abide by the following:

1. Appoint a reporting officer at senior management level in the company or the moneychanger himself/herself in case of an individual entity, and a deputy reporting officer in case of his/her absence in charge of the following:
 - a. report to the Unit immediately, in paper form and electronically, of transactions suspected to be related to money laundering, terrorism financing or a predicate offense, whether such transactions have taken place or not, using the form annexed to these instructions drafted specifically for such cases.
 - b. Receiving notifications from the moneychanger or any of his/her employees whenever they suspect that an attempted transaction may be linked to money laundering, terrorism financing or a predicate offense.
 - c. Providing the Unit with information on transactions suspected to be related to money laundering, terrorism financing, or a predicate offense, in addition to any other information requested, and facilitating its review of any relevant records or documents for the performance of its duties.
 - d. Verifying compliance of the moneychanger with provisions of the Law and instructions issued pursuant thereto.
 - e. Training employees in order to enhance their capacities to detect money laundering and terrorism financing schemes.
 - f. Establishing AML/CFT policies and an internal procedural guide for compliance with provisions of the Law, regulations and instructions issued pursuant thereto.
 - g. Retaining all documents and internal reports received from and sent to the Unit.
 - h. Preparing periodic reports on unusual transactions or transactions suspected to be linked to money laundering and terrorism financing.
 - i. Establishing the necessary systems to classify customers according to their risk level in light of information and data available to the moneychanger and reviewing such periodically.
2. The reporting officer must be able to act independently and maintain the confidentiality of information received or sent by him/her as per the present instructions. The Reporting Officer shall have access to records and data required to perform the tasks of inspection and revision of systems and procedures adopted by the moneychanger to combat money laundering and counter terrorism financing.
3. Allocate the adequate, fit and qualified human resources in the field of AML/CFT, proportionate to the size of the money exchange company, its operations and risks it faces.

Article 13

Daily Financial Transactions Reports

1- Moneychangers must provide the Unit with daily reports on financial transactions carried out by or through them, and include information on the parties to the financial transaction and its value in line with the following:

- a- All transfers with a value equal to or exceeding USD 500 or its equivalent in other currencies.
- b- All types of cheques with a value equal to or exceeding USD 5,000 or its equivalent in other currencies.
- c- All properties transferred to or from Palestine in all forms, with a value equal to or exceeding USD 5,000 or its equivalent in other currencies.
- d- All currency exchange transactions, with a value equal to or exceeding USD 5,000 or its equivalent in other currencies.

2- Financial transactions identified in this article are deemed unusual transactions for the purposes of combating money laundering and terrorism financing.

3- Moneychangers shall work on establishing the necessary electronic systems to provide the required reports and information to the Unit, in line with the provisions of the present article.

4- Technical instructions shall be issued to ensure compliance with this article based on instructions issued by the Unit in coordination with the PMA.

Article 14

Implementation of UNSCRs

Moneychangers shall immediately implement obligations under resolutions issued by the Committee for the Implementation of UN Security Council Resolutions, circulated by the PMA, and establish the necessary electronic system to guarantee effective implementation thereof.

Article 15

External Auditor Obligation

The external auditor of the money exchange business shall examine the moneychanger's implementation of the present instructions and the adequacy of the moneychanger's relevant policies and procedures. The auditor shall file a report in that regard to the PMA upon discovery of any violation to the provisions of the present instructions.

Article 16

Repeal

1. Anti-Money Laundering instructions no. 2/2009 for money exchange businesses operating in Palestine issued by the Committee shall be repealed.
2. All texts conflicting with the present instructions shall be repealed.

Article 16

Entry into Force

All competent authorities shall implement the provisions of the present instructions, each within their own purview. The present instructions shall enter into force on the day they are published in the Official Gazette.

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The National Committee for Anti-Money Laundering and Counter-Terrorism Financing .