

Regulation on Anti-Money Laundering in Securities Related Transactions

Issued Pursuant to Maldives Securities Act, section 60

Background

The Capital Market Development Authority (CMDA) has two key interests in anti-money laundering efforts. First, Securities fraud is one of the predicate offences related to money laundering. Second, the CMDA is responsible for ensuring that industry participants comply with anti-money laundering obligations through the enforcement activities. The licensing conditions for market intermediaries prohibit them to undertake money laundering activities.

Title

1. These Regulations shall be entitled: "Regulation on Anti-Money Laundering in Securities Related transactions", and shall come into force upon ratification by CMDA Board of Directors.

Scope

2. The provisions of these Regulations shall apply to all institutions licensed by CMDA, such as Dealers, Custodians, Investment Advisors, Asset Managers, Mutual Funds etc, hereinafter collectively referred to as "Licensees".

Definitions

3. The following words and expressions, wherever mentioned in these Regulations, shall have the meaning ascribed to them hereunder unless the context indicates otherwise:
 - 3.1. Money laundering: Every conduct involving the acquisition, possession, disposition of, moving, managing, keeping, exchanging, depositing funds, or manipulating its value or movement, the transference thereof, or any action that leads to concealing or disguising its source, original nature, location, disposition, ownership or related rights, with the knowledge that these funds are the proceeds of one of the crimes stipulated for under the relevant Laws of Maldives.
 - 3.2. Customer: The Customer of a Licensee, whether a natural or legal person.
 - 3.3. Original Beneficiary: the natural person having the original intention or real interest in the relationship between the Licensee and the Customer.
 - 3.4. Reporting Officer: a senior management officer in the company who is responsible for reporting any money laundering transactions or suspicious activities.
 - 3.5. Suspicious transaction: Any transaction believed, for justified reasons, to involve the proceeds of any of the crimes stipulated for under relevant Laws of Maldives.
 - 3.6. Politically exposed persons: Persons who occupy or have occupied prominent public positions in any country, such as heads of states or governments, prominent politicians, judges, military officers, senior government officials or prominent political party officials. This shall include their second degree family members.
 - 3.7. Words and expressions not defined in these Regulations shall have the meanings ascribed to them under the Maldives Securities Act and other relevant Laws of Maldives.
 - 3.8. CMDA: Capital Market Development Authority

Customer due Diligence Requirements – General Rules

4. Licensees shall take due diligence measures regarding the Customer and/ or the Original Beneficiary prior to and during dealing with the Customer. Due diligence measures shall include:
 1. Verifying the identity and activities of the Customer and/ or the Original Beneficiary.
 2. If a person acts on behalf of a Customer, the Licensee shall take adequate measures to verify his identity.

3. Dealing with anonymous persons or persons with fictitious names is prohibited.
- 4.1. Procedures for Verifying the Identity of a Customer Regarded Natural Persons
 1. Licensees shall not open an account for the Customer except after verifying his identity, permanent address, national identity card number or passport for non-Maldivians, nature and place of work, present and permanent address and the purpose of the transaction along with any other information that the Licensee deems necessary.
 2. If a Licensee deals with an agent of a Customer, it must obtain a notarized power of attorney indicating the appointment of such agent. A certified copy shall be retained by the Licensee who shall also verify the identity of the agent according to the procedures for verifying the Customer's identity stipulated in these Regulations.
 3. If the Customer is of limited capacity or incompetent, the information and relevant documents of the Customer's representative shall be taken.
- 4.2. Procedures for Verifying the Identity of a Customer who is a Legal Persons
 1. The documents of a legal person shall include: The name of the legal person, its legal form, capital, address, tax number if any, nature of activity, the names of authorized signatories, telephone numbers, date and number of incorporation, and any other information that the Licensee considers necessary.
 2. Verification of the existence of the legal person and its legal status through the necessary documents and the information contained therein, such as certificates issued by the Ministry of Economic Development or the relevant Authority under Laws of Maldives.
 3. Acquiring the documents identifying the natural persons authorized to deal in the name of the legal person and the verification of the identity of the agent as stipulated in these Regulations.
 4. Acquiring the names and addresses of partners and shareholders whose shares amount to more than 5% of the company's capital.
 5. Acquiring an official certificate issued by the competent authorities duly notarized if the company is incorporated abroad.
 6. All necessary safeguards shall be exercised to ensure the validity and accuracy of information provided by Customers.

Enhanced due diligence

5. Licensees shall exercise enhanced due diligence to identify the Customer and his activities in relation to the following:
 - 5.1. Identifying whether the Customer is a politically exposed person (a high-risk person) – If a Customer is a politically exposed person, Licensees shall consider the compatibility of the transactions that this person conducts with the nature of his activities. It shall also consider the degree of divergence and interrelationship among the Customer's accounts.
 - 5.2. Licensees shall exercise enhanced due diligence regarding the following Customers:
 1. Customers from countries that do not have anti-money laundering legislation.
 2. Customers who deal indirectly with Licensees, particularly those who use modern technology such as trading through the internet trading (where applicable).
 3. Charities and private organizations.
 4. Customers whose transactions represent a high risk of money laundering according to the Licensees' discretion.
 - 5.3. Licensees shall exercise special due diligence regarding extraordinarily complex and large transactions that do not have a clear investment purpose, that appear suspicious or that represent an unusual investment policy. Such suspicious transactions shall be reported to the CMDA immediately.

Reporting

6. Licensees shall designate a Reporting Officer and provide CMDA with the name of the Reporting Officer and his deputy, and a copy of the measures that they have taken to implement the provisions of the Anti Money Laundering Law and these Regulations.
 - 6.1. Licensees shall also observe that the Reporting Officer satisfy the following conditions:
 1. Be a member of senior management.
 2. Have the necessary experience and qualifications.
 3. Be fully competent with a clean record.
 4. Any other conditions decided by CMDA.
 - 6.2. The Licensee shall also appoint someone to deputize for the Reporting Officer in case of his absence. The deputy should fulfill the same conditions as the Reporting Officer.
 - 6.3. Reporting procedures
 1. The Reporting Officer shall comply with the provisions of the Anti Money Laundering Law (if any), related regulations, and these regulations. The Reporting Officer shall report to CMDA any suspicious transactions in writing along with the data and documents related to the transactions in question and the basis of the suspicion.
 2. Chairman and members of the Board, management, and all staff members of Licensees shall comply with these Regulations and report any suspicious transactions to the Reporting Officer.
 3. It is prohibited to disclose, directly or indirectly by any means whatsoever, any measures taken with regard to suspicious operations, whether to the client or to any party other than the competent authorities.

General rules

7. The Licensee shall comply with the following general rules.
 - 7.1. Licensees shall record in a special register any sums paid by the Customer in cash exceeding MRF 50,000 (fifty thousands) a day or its equivalent in foreign currencies.
 - 7.2. Dispensing any sums to Customers, except as provided by the Regulation on code of conduct of business, is prohibited.
 - 7.3. In the event that the cheque is handed to any other authorized party, Licensees shall document all information related to the recipient including his name, place of residence, place of work, and national identity card number if he is Maldivian, or a photocopy of his passport if non-Maldivian.
 - 7.4. A Licensee shall obtain the authorization of its CEO or highest executive authority before establishing a relationship with any of the Customers mentioned in Article 5. The same authorization is necessary if it is discovered that a Customer of the Licensee has become in the category of clients mentioned in Article 5.

Internal anti money laundering systems

8. Licensees shall create adequate internal systems that include policies, procedures, and internal safeguards to prevent money laundering. These systems shall include:
 - 8.1. A clear anti money laundering policy adopted by the board of directors or management as the case may be.
 - 8.2. Detailed written anti money laundering procedures that define accurately the duties and responsibilities that are compliant with the adopted policy and relevant regulations as issued by the CMDA.
 - 8.3. An adequate mechanism for verifying compliance with anti money laundering regulations, policies and procedures in force.
 - 8.4. Training programs needed by staff at different levels and a commitment to attend training courses organized by the CMDA or any other relevant organization.

8.5. Licensees shall provide the Reporting Officer with the means to perform his duties in an independent manner to ensure the secrecy of information coming to him and measures taken by him. To achieve this objective, the Reporting Officer shall have the right to access records and data that are needed to investigate and review anti money laundering systems and measures adopted by the Licensee and the degree of the Licensee's commitment to implementing these systems and measures. The Reporting Officer may also propose additional steps to redress any shortcomings or need for updating or development to raise their effectiveness and efficiency.

Record Keeping:

- 9. The Licensees shall comply with the following record keeping requirements.
 - 9.1. Licensees shall keep special files of suspicious transactions containing copies of reports, data and documents related thereto.
 - 9.2. Licensees shall document in their records the information indicated in Article 4 of these Regulations, supported by photocopies of documents that prove the correctness of this information. These records shall be kept for a period of no less than 5 years from the end of the relationship with the client or from the date of the last transaction conducted by the client.
 - 9.3. Information shall be updated regularly and continuously or whenever any suspicion regarding them arises at any stage of dealing.

Compliance

- 10. Licensees shall make arrangements to comply with the provisions of these Regulations within a period not exceeding six months from the date of their coming into force.
- 11. Notwithstanding the provisions of provision 10 of this article, Licensees shall promptly report any suspicious transactions to the CMDA.

Amendments

- 12. The Board of the CMDA shall issue necessary decisions for the implementation of the provisions of these Regulations. The Board of the CMDA also shall issue necessary amendments to these regulations as and when necessary.
