

CMA Rules to Implement the CFT Law Provisions

Issued by

The Capital Market Authority (CMA)

Based on Combating Terrorism Financing Law

No. M/21 dated 12/2/1439 AH

## Article 1

**Definitions:** The following terms and phrases- wherever mentioned in these rules- shall have the meaning assigned thereto unless the context requires otherwise.

- **CMA:** Capital Market Authority.
- **Person:** Any natural or legal person.
- **Licensed person:** A person licensed by CMA to carry on securities business.
- **Transactions:** Any disposition of funds, properties, cash, or in kind proceeds, including, but not restricted to, depositing, withdrawing, selling, purchasing, loaning, exchanging loaning or extending of credit, mortgaging, gifting, financing, transfer of funds in any currency, whether in cash or cheques, payment orders, stocks, bonds or any other financial instruments, or using safe deposit boxes and any other disposition of funds.
- **Financial Group:** Is a group that consists of a company or any other types of legal or natural persons that exercise control coordination over the rest of the Group for application of groups supervision, together with branches or subseries that are subject to the policies and procedures of Combating Terrorism financing at the group level.
- **Legal Arrangements:** The relationship established by a contract between two parties or more which does not result in a legal person, such as trusts or other similar arrangements.
- **Customer:** Any person who undertakes any of the following actions:
  - a. Arranging or undertaking a transaction, business relationship or an account.
  - b. A signatory of a transaction, business relationship or an account.
  - c. Assigning an account, transferring rights or obligation in accordance with a transaction.

- d. Authorized to conduct a transaction, or control business relationship or an account.
- e. Proceeds with taking any of the previous actions.

## **Article 2:**

### **Risk Assessment**

1. A licensed person shall identify, assess, understand and document Terrorism Financing (TF) risks in writing, and regularly update risk assessment and information related thereto. It shall also make the risk assessment report and underlying information available to CMA upon request. The nature of and extent of the assessment shall be appropriate to the nature and size of the business of the licensed person.
2. When assessing its TF risks, the licensed person shall focus on the following:
  - a. Customer risk factor and risk factor related to the beneficial owner or beneficiary of a transaction.
  - b. Risk factor emanating from countries or geographic area in which a customer operates or the place of origination or destination of a transaction.
  - c. Risk arising from the nature of products, services and transactions offered and the delivery channels of products or services.
3. When carrying out a risk assessment, a licensed person shall take into account any risk identified at the national level and any variables which may increase or decrease TF risks in a specific situation, including:
  - a. The purpose of the account or relationship.
  - b. The size of deposits or transactions undertaken by a customer.
  - c. The frequency of transactions or duration of the relationship.
4. Based on the outcome of the risk assessment, a licensed person shall develop and implement internal controls, policies and procedures against TF risks and set out the appropriate level and types of measures to manage and mitigate the risks that

have been identified; to monitor implementation of such policies, controls and procedures, and to enhance them as necessary.

5. For higher risk level, the licensed person shall apply enhanced measures to mitigate risks; for a lower level of risks, simplified measures may be applied to manage and mitigate the risks. Simplified measures shall be permitted if there is suspicion of terrorism financing.
6. The licensed person shall identify and assess TF risks that may arise from the development of new products, business or delivery mechanisms, or from the use of new or developing technologies for new or pre-existing products. The risk assessment shall be carried out prior to the launch of the new product, business practice or delivery mechanism or prior to the use of the new technology under development. The licensed person shall undertake appropriate measures to manage and mitigate identified risks.

### **Article 3;**

#### **Customer Due diligence**

1. The licensed person shall undertake due diligence measures at the following times:
  - a. Before opening a new account or establishing a new business relationship.
  - b. Before carrying out a transaction for a customer with whom the licensed person is not in an established business relationship, whether the transaction is carried out in a single operation or in several operations, which appear to be linked.
  - c. Whenever there is a suspicion of terrorism financing, regardless of the amounts involved.
  - d. Whenever there is a doubt about the veracity or adequacy of previously obtained customer information.
2. Due diligence measures shall be based on risk level and include, as a minimum, the following:

- a. Identify and verify the customer's identity, using reliable independent sources, documents, data or information, as follows:
  1. For a natural person, the licensed person shall obtain and verify the full name written in official documents, in addition to the residence address or national address, date and place of birth and nationality.
  2. For a legal person or legal arrangement, the licensed person shall obtain and verify the person's name, its legal form and proof of existence, the powers that regulate and govern the legal person or legal arrangement, the names of all directors and senior executives, registered official address and place of business, if different.
  3. Depending on the risks posed by a specific customer, the licensed person shall determine whether any additional information must be collected and verified.
- b. Verify the person purporting to act on behalf of a customer is so authorized, and verify the identity of that person in line with subsection (a) of Para. (2) of this Article.
- c. Identify the beneficial owner, and take reasonable procedures to identify the identity of the beneficial owners, using information and data obtained from a reliable and independent source, such that the licensed person is satisfied it knows who the beneficial owner is, as follows:
  1. The identity of the natural person that owns or controls 25 % or more of the stocks of the legal person shall be identified and reasonable measures must be taken to verify the identity of the natural person
  2. Where no controlling ownership interest exists as stipulated in the previous Para.1, or there is doubt whether the controlling shareholder is not in deed that beneficial owner, the identity of the natural person exercising control over the legal person through other means, or as a last means, the identity of the natural

person who holds the position of senior managing official must be verified.

3. For a customer that is a legal arrangement, the identity of the originator, the beholder, the beneficiary or classes of beneficiaries and any other natural persons exercising ultimate effective control over the legal arrangement or assuming similar positions for other types of legal arrangements should be identified and reasonable measures should be made to verify this identity.
  - d. Understand and obtain additional information on the purpose of the business relationship, as necessary.
  - e. Understand the ownership structure and control over the customer that is deemed or constitutes a natural person or a legal arrangement.
3. The licensed person shall verify the identity of the customer and beneficial owner prior to the establishment of the business relationship or account opening or through both of them, or prior to carrying out a transaction for a customer with whom it has no established business relationship. In case of lower terrorism financing risks, the verification of the identity of the customer may be completed after the establishment of the business relationship, provided that this should be completed as soon as possible, if postponing the verification is essential in order not to interrupt the normal conduct of business. Appropriate and effective measures should be applied to control TF risks. The licensed person shall take measures to manage risks in the circumstances where the customer benefits from the business relationship before the verification is completed.
4. The licensed person shall carry out ongoing due diligence on all business relationships in accordance with the risks posed, verify the transactions carried out throughout the relationship to ensure its consistency with customer's data, activities and risks posed by the customer. In addition, it should be ensured that the documents, data and information collected under due diligence

process are kept updated and relevant by undertaking reviews of existing records, in particular for higher risk customers.

5. A licensed person shall apply due diligence measures on current customers and business relationships at the date of coming into force of the Combating Terrorism Financing Law (CTFL). In addition, due diligence measures shall be applied on existing customers and business relationships based on proportionate materiality and risks, and ongoing due diligence shall be conducted on existing customers and business relationships at appropriate time taking into account whether and when due diligence measures had been previously undertaken and the adequacy of data obtained.
6. A licensed person that is unable to comply with the due diligence obligations may not open an account, establish a business relationship or carry out a transaction. With regard to the customers' existing business relationship, it shall be terminated. In all cases, the licensed person should consider submitting a suspicious transaction report to the General Directorate of Financial Investigation.
7. When a licensed person has a suspicion of TF, and it reasonably believes that performing due diligence may tip off the customer, it may opt not to carry out due diligence measures and shall submit a suspicious transaction report to the General Directorate of Financial Investigation, stating the reasons as to why due diligence was not applied.
8. The licensed person shall determine the extent and depth of the application of due diligence measures based on the types and levels of risks posed by a specific customer or business relationship. Where the TF risks are high, enhanced due diligence shall be applied in line with the identified risks. Where TF risks are low, simplified due diligence measures may be carried out. If there is a suspicion of TF, simplified measures of due diligence may not be allowed. The simplified measures should be proportional to low risk.
9. A licensed person may rely on another financial institution to perform identification and verification of the customer,

identification and verification of the beneficial owner, and to take necessary measures to understand the nature and intended purpose of the business relationship.

10.If a licensed person relies on another financial institution as stated in the previous para (9) of this Article, the following shall be undertaken:

- a. Immediately obtain all necessary information related to required due diligence measures in accordance with the provisions of Combating Terrorism Financing Law and these Rules.
- b. Undertake procedures to satisfy those copies of identity identification data and other documents related to due diligence measures will be made available provided upon request without any delay.
- c. Ensure that the other financial institution relied upon is regulated, supervised and has in place measures for compliance with due diligence and record keeping requirement in keeping with CTFL and these Rules.
- d. Take into account the information available with the Permanent Committee for Combating Terrorism Financing (PCCTF) and these Rules.
- e. The ultimate responsibility of all requirements stipulated in this Law (CTFL) and its implementing rules on the licensed person relying on the other institution.

11.Where a licensed person relies upon another financial institution, whether domestic or foreign, the confidentiality requirements under Saudi laws shall not preclude the other institution from exchanging information as required with the licensed person to determine whether the relied upon financial institution applies appropriate standards.

12.A licensed person that relies upon another institution that is a part of the same financial group may consider that the other institution satisfies the conditions stated in the previous paras. (9) and (10) of this Article provided the group applies due diligence and record keeping requirements in line with CTFL, and its Implementation Rules, of such policies are



supervised at the group level by a competent authority, and any higher country risk is adequately mitigated by the group's policies and controls.

13. A licensed person shall use appropriate tools to determine whether the customer or beneficial owner has been assigned a prominent public function in the Kingdom or in a foreign state;
14. or a senior administrative positions or another function in one of the international organizations, a politically exposed person, his family members or close associates. This shall include the following jobs and positions:
  - a. Heads of states or governments, senior politicians or government, judicial and military officials; senior officials of state owned companies and prominent officials of political parties.
  - b. Presidents and directors of international organizations and their deputies, board members of or any similar post.
15. Family members of a politically exposed person shall include any natural person connected to PEP by blood or marriage up to the second degree.
16. A close associate of a PEP shall include any natural person who is known to have joint beneficial ownership of a legal entity or a legal arrangement, or who is in close business relationship with PEP, or who has a beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit of de facto of a PRP.
17. A licensed person shall obtain the approval of the senior management prior to the establishment of a business relationship or its continuation with a foreign politically exposed person. All reasonable procedures should be made to identify the source of his wealth and funds. Aggravated continuous due diligent measures shall be applied on the business relationship. This shall apply on domestic PEP where the TF risks are high.

#### **Article 4:**

##### **Record Keeping:**

A licensed person must keep all records obtained through due diligence measures, transaction files, commercial correspondence and copies of personal identification documents, including the results of any analysis, for a period of at least ten years after the end of a relationship or a transaction that has been done with a walk-in customer.

#### **Article 5:**

##### **Internal Policies, Procedure and Controls**

- 1- The policies, procedures and internal controls shall be proportionate to the nature and size of the licensed person's business and shall address the following:
  - a. Due diligence measures as required under this law (CTFL) and its Implementing Rules, including risk management procedures for utilization of a business relationship prior to completion of the verification process;
  - b. Transaction reporting procedures;
  - c. Appropriate combating terrorism financing compliance management arrangements, including the appointment of a combating terrorism financing compliance officer at the senior management level;
  - d. Adequate screening procedures to ensure high standards when hiring employees;
  - e. Ongoing employee training programs; and
  - f. An independent audit function to test the effectiveness and adequacy of internal policies, controls and procedures of combating terrorism financing.
  
- 2- A financial group shall implement a group-wide program against terrorism financing, apply the internal policies, controls, procedures to all of its branches and majority-owned subsidiaries and ensure effective implementation thereof by all branches and majority-owned subsidiaries. In addition to the issues set out in Para.1 of this Article, a group level policy shall also address the

sharing of information between all members of the group; the provision of customer, account and transaction information to group-level compliance, audit or combating terrorism financing functions; and the safeguarding of confidentiality and use of the information exchanged.

- 3- Where the combating terrorism financing requirements of a foreign country are less stringent than those imposed under the CTFL and this Implementing Rules, a licensed person shall ensure that its branches and majority-owned subsidiaries operating in that foreign country apply measures consistent with the requirements under the CTFL and this Implementing Rules. If the foreign country does not permit the proper implementation of such measures set forth under CTFL and these Implementation Rules, the licensed person shall inform the CMA of this fact and take any additional measures necessary to appropriately manage and mitigate the TF risks associated with its operations abroad. The licensed person shall comply with any instructions received from CMA in this regard.

**Article 6:**  
**Ongoing Monitoring**

A license person shall monitor and audit transactions on an ongoing basis to ensure that they conform with what the licensed person knows about the customer's commercial activities and risks and about the source of funds when necessary. Where the TF risks are high, the licensed person shall intensify the extent and nature of monitoring the customer to identify whether the transaction is not unusual and suspicious. The licensed person shall keep the analysis records for a ten-year period effective from the termination date of the relationship or after completion of a transaction for a walk-in customer and make it available to CMA upon request.

## **Article 7:**

### **STR Requirements**

1. Suspicious Transaction requirements stipulated under article 70 of the Combating Terrorism Financing Law include the following:
  - a) A licensed person shall directly report to the General Directorate of Financial Investigation if it suspects or has reasonable grounds to suspect that funds or parts thereof, are proceeds of crime or are related to terrorism financing or that such funds will be used in acts of terrorism financing, including attempts to initiate such a transaction,
  - b) A licensed person shall directly report to the General Directorate of Financial Investigation if it suspects or has reasonable grounds to suspect that any of the complicated, high-volume, or suspicious transaction that relates to terrorism financing, including the attempt to execute any of these transactions.
2. The licensed person must raise the suspicion in the form of a detailed report containing all related and available data and information available with any related parties. A licensed person that reports a suspicious transaction must respond without delay and fully to any requests for additional information received from Directorate, including customer information, accounts or transactions associated with the reported transaction.
3. Transaction reporting requirements stated under CTFL shall apply to all transactions regardless of the amounts involved.
4. A licensed person shall set indicators evidencing the existence of suspected acts of terrorism financing. The indicators shall be updated on a continuous basis according to the development and diversity of methods used to carry out such acts, while complying with the publications of CMA in this regard.
5. The reporting shall be provided as per the form adopted by the Directorate, and as a minimum shall include the following information:
  - a. Names, addresses and phone numbers of those carrying out suspicious transactions;

- b. A statement of the suspicious transaction, its involved parties, circumstances surrounding its detection and its current status;
  - c. Specifying the amount of the suspicious transaction and relevant bank or investment accounts; and
  - d. The reasons and causes of suspicion on the basis of which the official made such report.
6. The General Directorate of Financial Intelligence shall further specify the manner in which reports under the law are to be made and the information that shall be transmitted as part of the report.
7. The licensed person shall comply with the method specified by the General Directorate of Final Investigation for raising STRs stipulated under CTFL and the information that is part of the report.

**Article 8:**

**Effective date of these Rules**

These Rules shall become effective as per the date of their approval.