

## Introduction

Money laundering has been identified as a major threat to the financial services community. It is important that the management of Banks and other Financial Institutions view prevention of money laundering as part of their risk management strategies and not simply as a stand-alone requirement that is being imposed by the legislation. Money laundering has potentially devastating economic, political, security, and social consequences. The fight against money laundering is a priority for our country. Bangladesh along with 140 countries was a signatory to the 1988 Vienna Convention, which called for fighting Money Laundering and for enacting laws to combat it. Key provisions of the Vienna convention are as follows:

01. Criminalize laundering
02. Identify & trace proceeds of crime
03. Freeze and seize
04. Financial records
05. Override banking secrecy
06. Mutual legal assistance
07. Sharing confiscated assets
08. Reversing onus of proof.

The government of Bangladesh recognized the necessity of enacting legislation in line with international practice and standards. Hence Money Laundering Prevention Act' 2002 came into force in April' 2002.

### 1.1 What is Money Laundering?

- 1.1.1. "The U.S. Customs Service, an arm of the Department of the Treasury, provides a lengthy definition of money laundering as "the process whereby proceeds, reasonably believed to have been derived from criminal activity, are transported, transferred, transformed, converted or intermingled with legitimate funds for the purpose of concealing or disguising the true nature, source, disposition, movement or ownership of those proceeds. The goal of the money-laundering process is to make funds derived from, or associated with, illicit activity appear legitimate."
- 1.1.2 Another definition of Money Laundering under U.S Law is, "... the involvement in any one transaction or series of transactions that assists a criminal in keeping, concealing or disposing of proceeds derived from illegal activities."
- 1.1.3 The EU defines it as "the conversion or transfer of property, knowing that such property is derived from serious crime, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in committing such an offence or offences to evade the legal consequences of his action, and the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from serious crime."

- 1.1.4 A definition of what constitutes the offence of money laundering under Bangladesh law is set out in Section 2 (Tha) of the Prevention of Money Laundering Act 2002 (Act No. 7 of 2002) which is read as follows: “Money Laundering means -  
(Au) Properties acquired or earned directly or indirectly through illegal means;  
(Aa) Illegal transfer, conversion, concealment of location or assistance in the above act of the properties acquired or earned directly or indirectly through legal or illegal means;”  
Properties have been defined in section 2(Da) of the Act as “Properties means movable or immovable properties of any nature and description.

## 1.2 Why Money Laundering is done?

Criminals engage in money laundering for three main reasons:

- 1.2.1 First, money represents the lifeblood of the organization that engages in criminal conduct for financial gain because it covers operating expenses, replenishes inventories, purchases the services of corrupt officials to escape detection and further the interests of the illegal enterprise, and pays for an extravagant lifestyle. To spend money in these ways, criminals must make the money they derived illegally appear legitimate.
- 1.2.2 Second, a trail of money from an offense to criminals can become incriminating evidence. Criminals must obscure or hide the source of their wealth or alternatively disguise ownership or control to ensure that illicit proceeds are not used to prosecute them.
- 1.2.3 Third, the proceeds from crime often become the target of investigation and seizure. To shield ill-gotten gains from suspicion and protect them from seizure, criminals must conceal their existence or, alternatively, make them look legitimate.

## 1.3 Why we must combat Money Laundering.

- 1.3.1 Money laundering has potentially devastating economic, security, and social consequences. Money laundering is a process, vital for making crime worthwhile. It provides the fuel for drug dealers, smugglers, terrorists, illegal arms dealers, corrupt public officials, and others to operate and expand their criminal enterprises. This drives up the cost of government due to the need for increased law enforcement to combat the serious consequences that result. Crime has become increasingly international in scope, and the financial aspects of crime have become more complex due to rapid advances in technology and the globalization of the financial services industry.
- 1.3.2 Money laundering diminishes government tax revenue and therefore indirectly harms honest taxpayers. It also makes government tax collection more difficult. This loss of revenue generally means higher tax rates than would normally be the case if the untaxed proceeds of crime were legitimate. We also pay more taxes for public works expenditures inflated by corruption. And those of us who pay taxes pay more because of those who evade taxes. So we all experience higher costs of living than we would if financial crime, including money laundering were prevented.

- 1.3.3 Money laundering distorts asset and commodity prices and leads to misallocation of resources. For financial institutions it can lead to an unstable liability base and to unsound asset structures thereby creating risks of monetary instability. The loss of credibility and investor confidence that such crises can bring has the potential of destabilizing financial systems, particularly in smaller economies.
- 1.3.4 One of the most serious microeconomic effects of money laundering is felt in the private sector. Money launderers often use front companies, which co-mingle the proceeds of illicit activity with legitimate funds, to hide the ill-gotten gains. These front companies have access to substantial illicit funds, allowing them to subsidize front company products and services at levels well below market rates. This makes it difficult, if not impossible, for legitimate business to compete against front companies with subsidized funding, a situation that can result in the crowding out of private sector business by criminal organizations.
- 1.3.5. Among its other negative socioeconomic effects, money laundering transfers economic power from the market, government, and citizens to criminals. Furthermore, the sheer magnitude of the economic power that accrues to criminals from money laundering has a corrupting effect on all elements of society.
- 1.3.6 The social and political costs of laundered money are also serious as laundered money may be used to corrupt national institutions. Bribing of officials and governments undermines the moral fabric in society, and, by weakening collective ethical standards, corrupts our democratic institutions. When money laundering goes unchecked, it encourages the underlying criminal activity from which such money is generated.
- 1.3.7 Nations cannot afford to have their reputations and financial institutions tarnished by an association with money laundering, especially in today's global economy. Money laundering erodes confidence in financial institutions and the underlying criminal activity -- fraud, counterfeiting, narcotics trafficking, and corruption -- weaken the reputation and standing of any financial institution. Actions by banks to prevent money laundering are not only a regulatory requirement, but also an act of self-interest. A bank tainted by money laundering accusations from regulators, law enforcement agencies, or the press risk likely prosecution, the loss of their good market reputation, and damaging the reputation of the country. It is very difficult and requires significant resources to rectify a problem that could be prevented with proper anti-money-laundering controls.

## 1.4 The Money Laundering Cycle

Money laundering is often a diverse and complex process, but it basically involves 3 stages:

Placement, layering and Integration. The three basic steps may occur as separate and distinct phases. They may also occur simultaneously or, more commonly, may overlap. How the basic steps are used depends on the available laundering mechanisms and the requirements of the criminal organizations. The table next page provides some typical examples.

1.4.1 **Placement:** Placement is when the cash proceeds from a criminal activity (the dirty money) first enter the financial system. For example, stolen goods are sold for cash, which is then deposited into a bank account. Cash can also be placed into the financial system by:

- Depositing relatively small amounts of cash into several bank accounts to avoid detection.
- Buying foreign currency, international money orders, bank drafts, travelers' cheques or other instruments with the cash.
- Buying high-value real estate.
- Buying business assets and equity investments.

1.4.2 **layering:** Layering takes the form of a series of transactions designed to distance the money from the initial criminal activity, so that investigators will not be able to follow the trail and identify the perpetrators. Layering often involves the movement of funds from one country to another via electronic transfers.

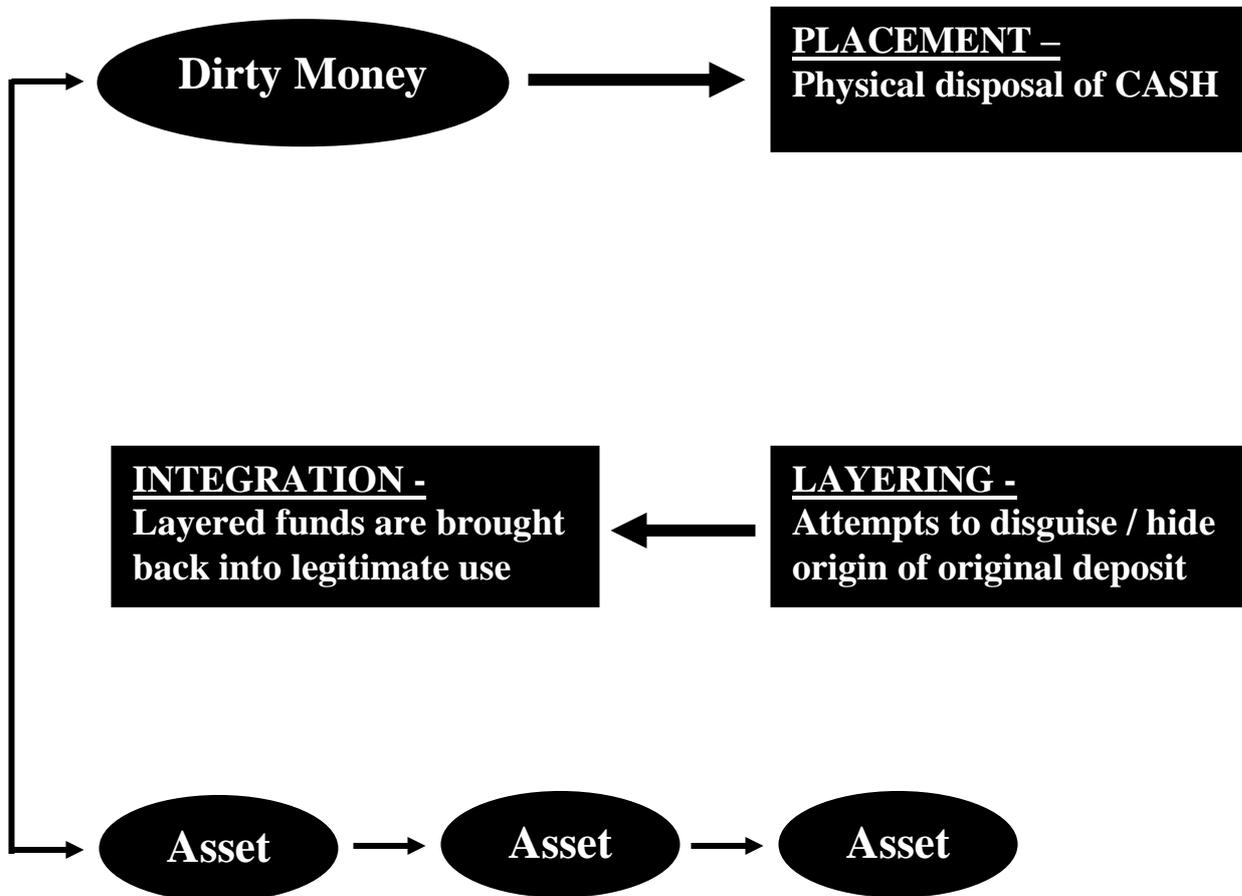
- Electronic funds transfer between non-existent or fictitious companies.
- Paying large financial debts from an account funded by criminal money.
- Depositing or clearing foreign bank drafts and travelers' cheques
- Capital market investments.

1.4.3 **Integration:** If layering has succeeded, then integration allows the dirty money to be used as though it had been earned legally. This is how the laundered money finds its way back into the economy.

Integration means that the proceeds of layering are finally moved back into the financial system in such a way that they appear to be normal business funds.

- Sale of legitimate businesses purchased with the proceeds of criminal money.
- Loan transaction, where the loan is secured on a criminally funded asset.
- Sale of property initially purchased with the proceeds of criminal money.
- Sale of stocks and shares.

## Money Laundering Cycle



- 1.5 The Ten Fundamental Laws of Money Laundering
  - 1.5.1 The more successful a money laundering apparatus is in imitating the patterns and behaviour of legitimate transactions, the less the likelihood of it being exposed.
  - 1.5.2 The more deeply embedded illegal activities are within the legal economy and the less their institutional and functional separation, the more difficult it is to detect money laundering.
  - 1.5.3 The lower the ratio of illegal to legal financial flows through any given business institution, the more difficult it is to detect money laundering.
  - 1.5.4 The higher the ratio of illegal “services” to physical goods production in any economy, the more easily money laundering can be conducted in that economy.
  - 1.5.5 The more the business structure of production and distribution of non-financial goods and services is dominated by small and independent firms or self-employed individuals, the more difficult the job of separating legal from illegal transactions.
  - 1.5.6 The greater the facility of using cheques, credit cards and other non-cash instruments for effecting illegal financial transactions, the more difficult it is to detect money laundering.
  - 1.5.7 The greater the degree of financial deregulation for legitimate transactions, the more difficult it is to trace and neutralize criminal money.
  - 1.5.8 The lower the ratio of illegally to legally earned income entering any given economy from outside, the harder the job of separating criminal from legal money.
  - 1.5.9 The greater the progress towards the financial services supermarket and the greater the degree to which all manner of financial services can be met within one integrated multi-divisional institution; the more difficult it is to detect money laundering.
  - 1.6.10 The greater the contradiction between global operation and national regulation of financial markets, the more difficult the detection of money laundering.

**Money Laundering  
Prevention Act' 2002**

## 2.1 The Salient features of Money Laundering Prevention Act' 2002

2.1.1 Bangladesh responses to anti-money laundering in a way that an act named Money Laundering Protirodh Aain, 2002" (Money Laundering Prevention Act 2002) has been passed by the parliament of the Peoples Republic of Bangladesh. So far as financial providers are concerned, the Act:

- Defines the circumstances, which constitute the offence of money laundering and provides penalties for the commission of the offence (See Section 2 Tha & 13 of the Act).
- Requires banks, financial institutions and other intuitions engaged in financial activities to retain correct and full information used to identify their customers and transaction records at least for five years after termination of relationships with the customers (See Section 19 Ka of the Act), and
- Imposes an obligation on banks, financial institutions and other institutions engaged in financial activities and their employees to make a report to the Bangladesh Bank where:
  - they suspect that a money laundering offence has been or is being committed (See Section 19 Ga of the Act) and;
  - provide customer identification and transaction records to Bangladesh Bank from time to time on demand (See Section 19 Kha of the Act).

## 2.2 The Offence of Money Laundering

The money laundering offences are, in summary:

2.2.1 It is an offence for any person to obtain, retain, transfer, remit, conceal or invest moveable or immovable property acquired directly or indirectly through illegal means. (See Section 2 Tha). Concealing or disguising the property includes concealing or disguising its nature, source, location, disposition, movement, ownership or any rights with respect to it.

2.2.2 It is an offence for any person to illegally conceal retain transfer, remit, or invest moveable or immovable property even when it is earned through perfectly legitimate means. (See Section 2 Tha). It is a defence if the person concerned can prove that the offence was committed without his knowledge or it has occurred despite his best efforts to prevent it. (See Section 20(1) of the Act).

2.2.3 It is also an offence for any individual or entity to provide assistance to a criminal to obtain, retain, transfer, remit, conceal or invest moveable or immovable property if that person knows or suspects that those properties are the proceeds of criminal conduct.

2.2.4 It is an offence for banks, financial institutions and other institutions engaged in financial activities not to retain identification and transaction records of their customers.

- 2.2.5 It is an offence for banks, financial institutions and other institutions engaged in financial activities not to report the knowledge or suspicion of money laundering to Bangladesh bank as soon as it is reasonably practicable after the information came to light.
- 2.2.6 It is also an offence for anyone to prejudice an investigation by informing i.e. tipping off the person who is the subject of a suspicion, or any third party, that a report has been made, or that the authorities are acting, or are proposing to act, in connection with an investigation into money laundering. Preliminary enquiries of a customer to verify identity or to ascertain the source of funds or the precise nature of the transaction being undertaken will not trigger a tipping off offence before a suspicions report has been submitted in respect of that customer unless the enquirer knows that an investigation is underway or that the enquiries are likely to prejudice an investigation. Where it is known or suspected that a suspicions report has already been disclosed to the authorities and it becomes necessary to make further enquiries, great care should be taken to ensure that customers do not become aware that their names have been brought to the law enforcement agencies.
- 2.2.7 It is an offence for any person to violate any freezing order issued by the court on the basis of application made by Bangladesh Bank.
- 2.2.8 It is an offence for any person to express unwillingness, without reasonable grounds to assist any enquiry officer in connection with an investigation into money laundering.

### 2.3 Penalties for Money Laundering

All offences under the Act are non-bail able and the penalties for the commission of the offences are prison terms and/or fines as prescribed in the Act as follows:

- 2.3.1 The offence of money laundering is punishable by terms of a minimum imprisonment for six months and a maximum of up to seven years plus a fine amounting to double the money laundered (See Section 13 of the Act).
- 2.3.2 The punishment for violation of Seizure Orders is a minimum imprisonment for one year or a fine of at least Taka Ten Thousand, or both (See Section 14 of the Act).
- 2.3.3 The punishment for violation of Freezing Orders is a minimum imprisonment for one year or a fine of at least Taka Five Thousand, or both (See Section 15 of the Act).
- 2.3.4 The offence of divulging information by informing i.e. tipping off the person who is the subject of a suspicion, or any third party is punishable by a minimum imprisonment for one year or a fine of at least Taka Ten Thousand, or both (See Section 14 of the Act).

- 2.3.5 The offence of obstructing investigations or failure to assist any enquiry officer in connection with an investigation into money laundering is punishable by a minimum imprisonment for one year or a fine of at least Taka Ten Thousand, or both (See Section 17 of the Act).
- 2.3.6 If any bank, financial institution and other institutions engaged in financial activities fail to retain customer identification and transaction records or fail to furnish required information as per the Act, Bangladesh Bank will report such failure to the licensing authority of the defaulting institution so that the concerned authority can take proper action for such negligence and failure (See Section 19 (3) of the Act).
- 2.3.7 Bangladesh bank is empowered to impose fines of not less than Taka Ten Thousand and not more than Taka One Lac on any bank, financial institution and other institutions engaged in financial activities for the failure or negligence to retain customer identification and transaction records or fail to furnish required information to Bangladesh bank (See Section 19 (4) of the Act).
- 2.3.8 If any Company, Partnership Firm, Society, or Association violates any provisions of the Act, it will be deemed that every owner, partner, directors, employees and officers have individually violated such provisions

## 2.4 Responsibilities of Bangladesh Bank

The Act gives Bangladesh Bank broad responsibility for prevention of money laundering and wide-ranging powers to take adequate measures to prevent money laundering, facilitate its detection, monitor its incidence, enforce rules and to act as the prosecuting agency for breaches of the Act. The responsibilities and powers of Bangladesh Bank are, in summary (See Section 4 and 5 of the Act):

- 2.4.1 To investigate into all money-laundering offences.
- 2.4.2 Supervise and monitor the activities of banks, financial institutions and other institutions engaged in financial activities.
- 2.4.3 Call for reports relating to money laundering from banks, financial institutions and other institutions engaged in financial activities analyze such reports and take appropriate actions.
- 2.4.4 Provide training to employees of banks, financial institutions and other institutions engaged in financial activities on prevention of money laundering.
- 2.4.5 To authorize any person to enter into any premises for conducting investigations into money laundering offences.
- 2.4.6 Persons authorized by Bangladesh Bank to investigate offences can exercise the same powers as the Officer in Charge of Police Station can exercise under the Code of Criminal Procedure.
- 2.4.7 To do all other acts in attaining the objectives of the Act.
- 2.4.6 The Courts will not accept any offence under the Act for trial unless a complaint is lodged by Bangladesh Bank or any person authorized by Bangladesh Bank in its behalf.

**Anti Money Laundering Policy  
of  
Bay Leasing & Investment Limited**

## **3.0 Anti Money Laundering Policy of Bay Leasing & Investment Limited.**

### **3.1 Overview**

Money Laundering is the process by which criminals attempt to hide and disguise the true origin and ownership of the proceeds of their criminal activities. The term “Money Laundering” is also used in relation to the financing of terrorist activity (where the funds may, or may not, originate from crime).

In conducting business with due skills, care and diligence, company should comply with relevant laws, rules, regulations, codes and standards of good practice and anti money laundering procedures should be strictly followed. Because company employees may personally be liable if any deviation is found in his assigned duties.

The financial institution recognizes that the fight against money laundering is a team effort and has drawn a policy to combat this threat.

### **3.2 Policy Objective**

#### **BROAD OBJECTIVE**

To ensure that a framework is established within which money-laundering control is managed through stringent and appropriate procedures and the reporting of suspicious transactions and/or activities, in order to discharge our legal duties.

#### **SPECIFIC OBJECTIVE**

Beside these broad objectives, the specific objectives include:

1. To build up awareness amongst the staff
2. To focus on methods of Prevention of Money Laundering
3. To prevent use of Institution’s products or services for money laundering.
4. To prevent damage to the Institution’s name and reputation by associating with money launderers.
5. To ensure that the institution complies with money laundering legislation / regulations

### **3.3 Policy Scope**

This policy addresses the responsibility of management and employees for:

- Preventing, detecting, monitoring and reporting suspected, confirmed, detected money laundering issues;
- Client identification and verification (“Know Your Customer”) or KYC;
- Record keeping;
- Money laundering control training;
- Monitoring of accounts, activities, policies, procedures and plans;

## 3.4 Policy Statements

Following are the minimum standards to be observed while conducting financing business:

- Customer identity is ascertained before opening an account and/or making an account operational.
- New accounts to be generally subjected to a detailed interview to ascertain purpose of opening an account, sources of funds etc.
- All suspicious transactions to be noted and escalated to senior management whenever appropriate.
- Ensure suspicious transactions are reported to the Chief Compliance Officer at Head Office who will determine whether the report is required to be sent to the regulators.
- Provide the Compliance Officer at the Head Office with all reasonable access to information that may be of assistance to him in carrying his duties.
- Records are kept for all data obtained for the purpose of identification.
- Employees are trained on a regular basis on anti-money laundering measures.

## 3.5 Procedure

As financial organizations are committed to the prevention of money laundering, the management of BLIL has taken the following program:

- 3.5.1 Formation of Central Compliance Unit (CCU) at Head Office headed by Chief Anti Money Laundering Compliance Officer (CAMLCO). He will examine the report received from branches and if deemed necessary will report to Bangladesh Bank (Central Bank) for information.
- 3.5.2 All branch managers would act as Anti Money Laundering Compliance Officer (AMLCO) at branch level. He is the main point of contact and all suspicious activities are to be reported to him directly. He will oversee the day-to-day activities at the branch and confirm compliance of Bangladesh Bank's instructions.
- 3.5.3 Know Your Customer (KYC) (**Appendix-a**) and Transaction Profile (TP) (Appendix-b) have now become an integral part of an account relationship. They are mandatory and a vital reference point to all account relationships.
- 3.5.4 Appropriate customer identification, record keeping and reporting are primary points of consideration. The institution has a policy to keep all related documents / records for a minimum of five years even after closure of account.
- 3.5.5 Actual transactions of customers are often tallied with the details of the Transactions Profile submitted by the customers.
- 3.5.6 Head Office regularly collects information / statements from branches as per requirement of Bangladesh Bank and issues various circulars to the branches related to AML.
- 3.5.7 Workshops and Seminars are regularly being arranged to keep all related workforce updated with the skills of AML procedures.
- 3.5.8 Leaflets are printed explaining the laws, regulations and penalties for the account holders and general public to create awareness.
- 3.5.9 The institution also collects AML information from foreign correspondent institutions with whom the institution has a relationship.

Compliance is the responsibility of each employee. Therefore, all guidelines related to AML are regularly updated and circulated and ensured that all staffs are aware of the local AML laws, internal guidelines and other policies and procedures.

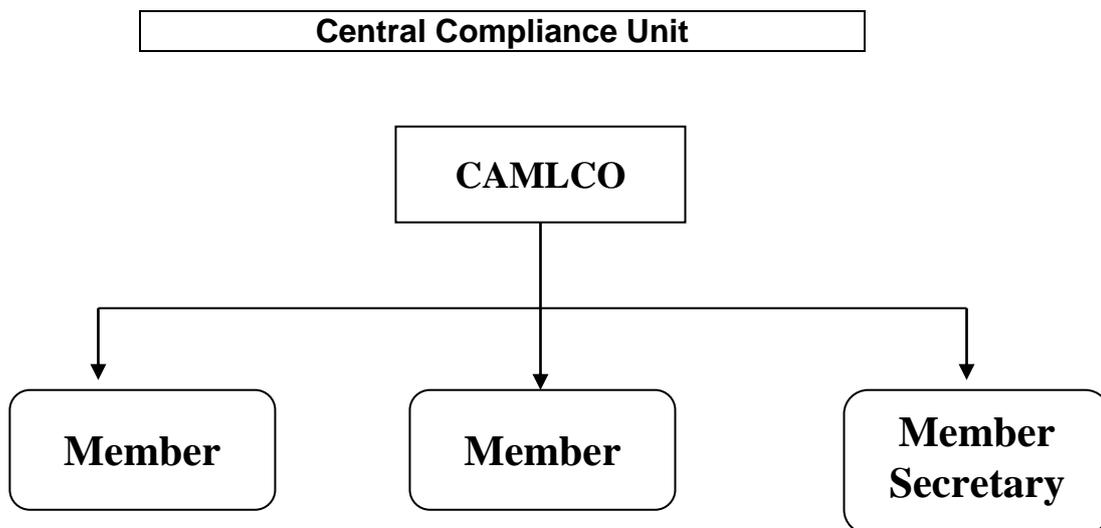
**3.6 Central Compliance Unit**

A Central Compliance Unit (CCU) consisting of 3 (three) members has been formed at Head Office headed by Chief Anti Money Laundering Compliance Officer (CAMLCO). The members of the unit are: -

Mr. Iftekhar All Khan Managing Director	CAM LCO
Md. Lutfur Rahman Vice President	Member
Mr. Samir Saha Principal Officer	Member

The terms of reference of the unit are as follows:

- i) The unit undertakes organizational strategy and program regarding internal controls, policies and procedures to prevent money-laundering activities.
- ii) The unit evaluates overall monitoring process and observes changes of laws/regulations and directives of Bangladesh Bank that require revision.
- iii) The unit keeps regular liaison with Bangladesh Bank, External and Internal Auditors and other Law Enforcing Agencies.
- iv) The unit ensures that the Institution’s AML policies are complete and updated.



## 3.7 Guideline for Branches & ALL Employees

### 3.7.1 Commencement of A/C Relationship

- i) Individual Customer shall fill in the 'Individual' Account Opening Form. Documents which are obtained as prescribed in the check list shall be attached along with the Account Opening Form (AOF).
- ii) Corporate Customers shall fill in the Company / Institutional Account Opening Form. Documents which are obtained as prescribed in the check list shall be attached along with the Account Opening Form (AOF).
- iii) While commencing A/c opening formalities the staff shall ensure the identify of the customer with any one of the documents referred in the check list of the forms.
- iv) All photocopies of documents to be attested by the introducer OR the staff should sight the above document in original and should stamp/write "original sighted" on the photocopy with the initial of the concerned staff.
- v) Inspection of all documents should be carefully done. The photo, name, address, tel. no./fax/email, signature, document expiry dates etc. should be carefully tallied.
- vi) For FCY A/C, the nominee should be authorized by the account holder with a authorization letter and the photograph of the nominee should be attested by the account holder. The concerned staff should carefully check this.
- vii) While dealing with corporate entities, the following details should be obtained, recorded and attached with the account opening form:
  - a) *Entity name*
  - b) *Full Registered address*
  - c) *Type of business activity*
  - d) *Trade license details*
  - e) *Names and photographs of Directors/Partners/Proprietor etc and their personal details.*
  - f) *Board Resolution for A/c opening*
  - g) *Memorandum & Articles of Association /By laws / Trust Deed etc.*
  - h) *Any other relevant document.*
- viii) Modifications and Additions to above-mentioned forms shall be done at the respective branches according to instruction circulars (No. BOD-07 & 08 / 2005) issued for this topic.
- ix) The customer in the presence of the designated officer of BLIL shall sign the above-mentioned forms.
- x) The concerned staff and the branch manager or branch in-charge or officer in charge shall sign the above documents.
- xi) Address of the customer must be verified after commencement of A/C relationship.
- xii) For all transactions the identity of the customer and counter checking the same with the information available in the system should be done.

## 3.8 Customer Due Diligence

Customer Due Diligence (CDD) is a fundamental principle of all anti-money laundering controls. Each staff of the BLIL is required to perform due diligence on all prospective clients prior to opening an account. This process is completed by fulfilling the documentation requirements and also a “Know Your Customer” profile which is used to record a client’s source of wealth, expected transaction activity at its most basic level.

Obligations for institution’s staff to perform customer due diligence have been strengthened with the introduction of a four step process. The steps are:

- i) required to verify the identity of customers
- ii) required to take reasonable measures to identify the beneficial owner of accounts
- iii) required to obtain information on the purpose and intended nature of the business relationship
- iv) required to perform ongoing monitoring of the business relationship in order to ensure that the financial transactions are consistent with the institutions knowledge of the customer’s activity, including source of funds.

The inadequacy or absence of KYC standards can subject institutions to serious customer and counterparty risks, especially **reputational, operational, legal and concentration risks**. It is worth noting that all these risks are interrelated. However, any one of them can result in significant financial cost to institutions (e.g. through the withdrawal of funds by depositors, the termination of inter-institution facilities, claims against the institution, investigation costs, asset seizures and freezes, and loan losses), as well as the need to divert considerable management time and energy to resolving problems that arise.

**Reputational risk** poses a major threat to institutions, since the nature of their business requires maintaining the confidence of depositors, creditors and the general marketplace. Reputational risk is defined as the potential that adverse publicity regarding a institution’s business practices and associations, whether accurate or not, will cause a loss of confidence in the integrity of the institution. Institutions are especially vulnerable to reputational risk because they can so easily become a vehicle for or a victim of illegal activities perpetrated by their customers. They need to protect themselves by means of continuous vigilance through an effective KYC programme.

**Operational risk** can be defined as the risk of direct or indirect loss resulting from inadequate or failed internal processes, people and systems or from external events. Most operational risk in the KYC context relates to weaknesses in the implementation of institutions’ programmes, ineffective control procedures and failure to practice due diligence. A public perception that a institution is not able to manage its operational risk effectively can disrupt or adversely affect the business of the institution.

**Legal risk** is the possibility that lawsuits, adverse judgments or contracts that turn out to be unenforceable can disrupt or adversely affect the operations or condition of a institution. Institutions may become subject to lawsuits resulting from the failure to observe mandatory KYC standards or from the failure to practice due diligence. Consequently, institutions can, for example, suffer fines, criminal liabilities and special penalties imposed by regulators. Indeed, a court case involving a institution may have far greater cost implications for its business than just the legal costs. Institutions will be unable to protect themselves effectively from such legal risks if they do not engage in due diligence in identifying their customers and understanding their business.

Supervisory concern about **concentration risk** mostly applies on the assets side of the balance sheet. As a common practice, supervisors/regulators not only require institutions to have information systems to identify credit concentrations but most also set prudential limits to restrict institutions' exposures to single borrowers or groups of related borrowers. Without knowing precisely who the customers are, and their relationship with other customers, it will not be possible for a institution to measure its concentration risk. This is particularly relevant in the context of related counterparties and connected lending.

### 3.8.1 Risk Categorization - Based on Activity /KYC Profile

When opening accounts, the concerned staff/Officer must assess the risk that the accounts could be used for "money laundering", and must classify the accounts as either High Risk or Low Risk. The risk assessment may be made using the KYC Profile Form given in branches in which following seven risk categories are scored using a scale of 1 to 5 where scale 4-5 denotes High Risk, 3- Medium Risk and 1-2 Low Risk:

- Occupation or nature of customer's business
- Net worth / sales turnover of the customer
- Mode of opening the account
- Expected value of monthly transactions
- Expected number of monthly transactions
- Expected value of monthly cash transactions
- Expected number of monthly cash transactions

The risk scoring of less than 14 indicates low risk and more than 14 would indicate high risk. The risk assessment scores are to be documented in the KYC Profile Form.

### **3.9 Watch List on the following issues regarding Foreign Inward / Outward Remittance**

3.9.1 Customer introduced by an overseas branch, affiliate or other bank based in countries where production of drugs or drug trafficking may be prevalent.

3.9.2 Use of Letters of Credit and other methods of trade finance to move money between countries where such trade is not consistent with the customer's usual business.

3.9.3 Customers who make regular and large payments, including wire transactions, that cannot be clearly identified as bonafide transactions to, or receive regular and large payments from: countries which are commonly associated with the production, processing or marketing of drugs; prescribed terrorist organizations; [tax haven countries].

3.9.4 Building up of large balances, not consistent with the known turnover of the customer's business, and subsequent transfer to account(s) held in other locations.

3.9.5 Unexplained electronic fund transfers by customers on an in and out basis or without passing through an account.

3.9.6 Frequent requests for TCs, foreign currency drafts or other negotiable instruments to be issued.

3.9.7 Frequent paying in of TCs or foreign currency drafts, particularly if originating from overseas.

3.9.8 Customers who show apparent disregard for arrangements offering more favorable terms.

**REMEMBER, all AML procedures are equally applicable to both local and foreign transactions.**

## 3.10 Monitoring of Transactions

On-going monitoring is an essential aspect of effective KYC procedures. Institutions can only effectively control and reduce their risk if they have an understanding of normal and reasonable account activity of their customers so that they have a means of identifying transactions which fall outside the regular pattern of an account's activity. Without such knowledge, they are likely to fail in their duty to report suspicious transactions to the appropriate authorities in cases where they are required to do so.

In order to be vigilant for any significant changes or inconsistencies in the pattern of transactions, monitoring of transactions should be done. Inconsistency is measured against the stated original purpose of the accounts i.e. the declared Transaction Profile (TP) of the Customer. Possible areas to monitor are: -

- a) transaction type
- b) frequency
- c) unusually large amounts
- d) geographical origin/destination
- e) changes in account signatories

3.10.1 Procedures were put in place to monitor customers' transactions. The Compliance Unit at the Head Office generates bi-monthly and quarterly reports to achieve this task.

3.10.2 Any transaction that does not fit within a customer's transaction profile should be reviewed by the Anti Money Laundering Compliance Officer and/or Branch manager, to determine whether the circumstances give rise to any suspicion of money laundering.

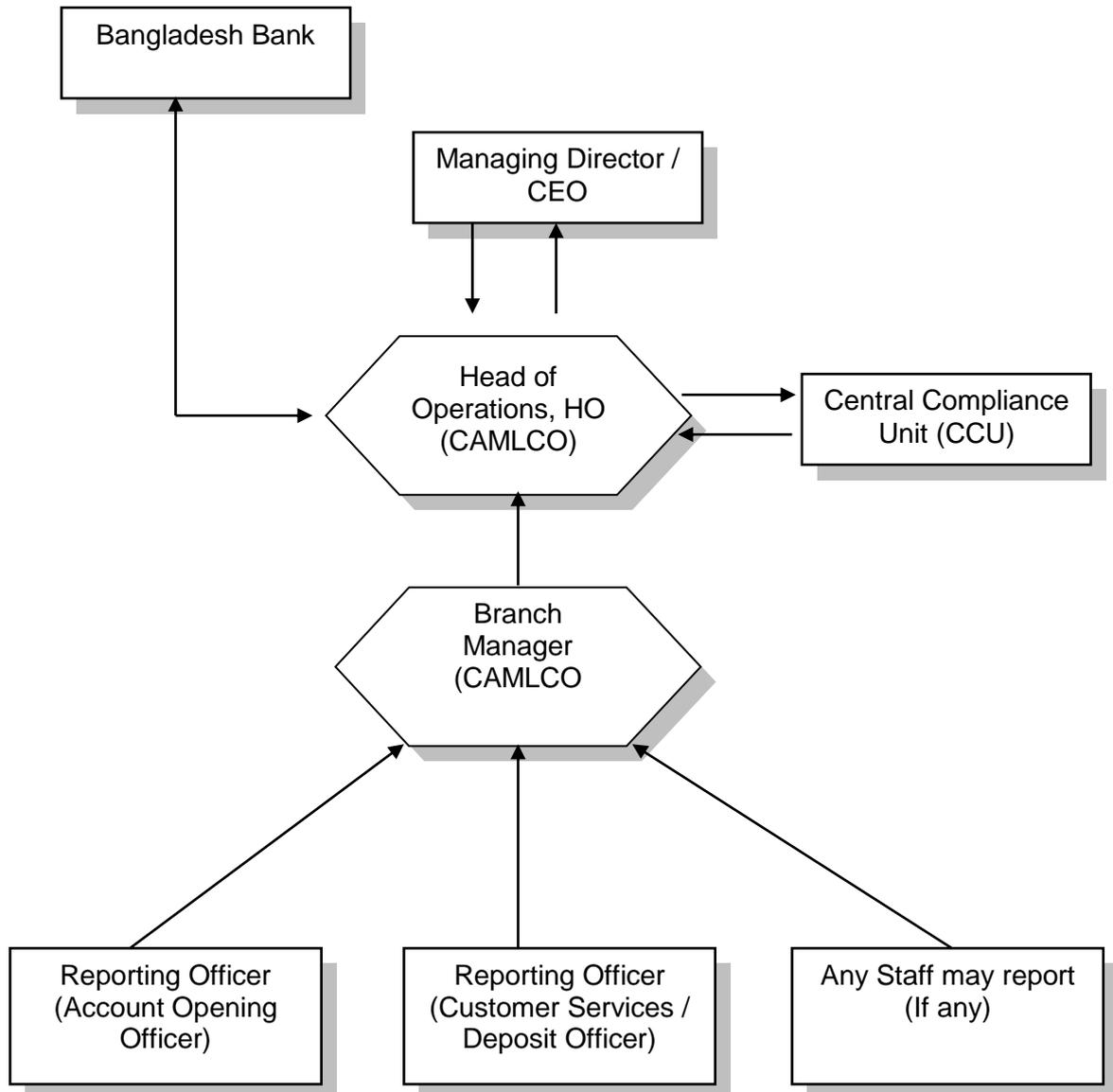
3.10.3 An employee should judge a transaction to be suspicious if, in their personal judgment, they know or suspect that the transaction might be connected to any criminal offence or activity as detailed in the predicate offences as per Money Laundering Prevention Act' 2002

### 3.11 Reporting of Suspicious Transactions

- 3.11.1 Any employee who identifies any activity or transaction which he deems to be suspicious must report that suspicion to the Anti Money Laundering Compliance Officer at the branch and to the branch manager, who in their turn and after agreeing with the employee's finding, will report it, through a written **Suspicious Transaction Report (STR)** (Appendix-3), to the Chief Anti Money Laundering Compliance Officer at the Head Office.
- 3.11.2 All suspicious reported to the AMLCO should be documented (in urgent cases this may follow an initial discussion by telephone). The report should include the full details of the customer and as a full statement as possible of the information-giving rise to the suspicion. The AMLCO should acknowledge receipt of the report.
- 3.11.3 STRs should not be discussed with anyone other than the Anti Money Laundering Compliance Officers at the branch and at the Head Office and with the branch manager — including the customer and other staff members — to avoid the risk of “tipping off”.
- 3.11.3 The Head Office maintains a register for recording the Suspicious Transactions Reports.
- 3.11.4 Failure to report suspicious and unusual transaction to the Central Compliance Unit shall tantamount to gross negligence of duty and disciplinary action.
- 3.11.5 The Chief Anti Money Laundering Compliance Officer at the Head Office will review the SIRs submitted by the branches and decide whether they should be reported to the relevant authorities.
- 3.11.6 Following the submission of a suspicious activity report, the branch is not precluded from subsequently terminating its relationship with a customer, provided it does so for normal reasons. It must not alert the customer to the fact of the disclosure as to do so would constitute a “tipping-off” offence.

3.12 Reporting To Bangladesh Bank

If any Suspicious Transaction Report (STR) is placed before the Central Compliance Unit (CCU), the unit pursues the following procedures to report of Bangladesh Bank.



### 3.13 Maintaining & Updating Information

- 3.13.1 The objective of Maintaining & Updating Information is to ensure that we are able to provide the basic information about customer and to reconstruct the individual transactions undertaken at the request of the relevant authorities at any given time.
- 3.13.2 In accordance with Anti-Money Laundering Prevention Act' 2002, Money Laundering information and documents will be stored in fire proof retention for at least a 5 years period.
- 3.13.3 The information relating to customers (personal details, proof of beneficial ownership, transaction profile etc...) should be kept up-to-date.
- 3.13.4 The Compliance Unit at Head Office will ensure, from time to time, that detailed and concerted renewal efforts are made.
- 3.13.5 When a report of suspicious activity has been submitted to Bangladesh Bank or where it knows that a client or transaction is under investigation, any relevant records should not be destroyed without the agreement of the Bangladesh Bank even though the five-year limit may have been reached.

### 3.14 Staff Training

The management of Bay Leasing & Investment Ltd. ensures ongoing training of the staff and the participation of all officers involved in frontline operations. Relevant seminars, workshops and lectures are held in order to keep abreast of money laundering-fighting methods.

The training includes the following:

- a) Responsibility of the employees in line with Central Bank regulations for obtaining sufficient evidence of identity, recognizing and reporting knowledge or suspicion of money laundering.
- b) Procedure for reporting of suspicious transactions.
- c) Potential effect on the company, on its employees and customers if there is any breach of law or regulation.
- d) Ways to identify suspicious transactions.
- e) Storing and updating records.
- f) Duties and responsibilities of the CAM LCO, AMLCO and other officers.

### 315 Our Responsibilities at a glance

- 1) Reporting of suspicious transactions and monitoring are not the sole responsibility of AMLCO and account opening staff. This is a collective responsibility of all concerned.
- 2) All officers must have thorough knowledge on KYC and TP and its application. They should always consult with মাঃ লঃ প্রঃ সার্কুলার নং- ০২, তারিখ ১৭.০৭.২০০২ইং issued by Anti Money Laundering Dept. Bangladesh Bank and related Head Office circulars issued / to be issued time to time.
- 3) **KYC and TP** are mandatory for all new and existing accounts including FCY accounts.
- 4) Source of funds to be ascertained and verified for all accounts including Term Deposit accounts.
- 5) Before allowing any facility to any customer, branch to ensure, up-to-date TP has been collected and KYC has been maintained.
- 6) First detecting officer of any ML issue will be treated as Reporting Officer. A Reporting Officer will keep his observations secret and only communicate with AMLCO through Suspicious Transaction Report (STR) form. AMLCO will keep all AML report in his personal safe custody maintaining highest secrecy. He will not discuss this matter even with his fellow colleagues. If the report warrants CAMLCO's attention then the AMLCO will report it to CAMLCO:
- 7) Appropriate questions to be asked but not to alarm or tip off the customer.
- 8) One time / walk in clients should be avoided as far as possible.
- 9) It is wise not to deal with the clients who work beyond your command area (there may be exceptions).
- 10) To be vigilant about the small but frequent cash transactions in all accounts that do not comply with the account holders status / lawful income / business.
- 11) Closely monitor the transactions of the Loan accounts having large turnover that do not keep pace with the business size / sanctioned limit.
- 12) It is wise to obtain Head Office approval before involving with a customer (existing or prospective) who has political connection / influence.
- 13) We should be aware and cautious about the customers' behavior, attitude, social / political association, suspicious transactions, unlawful activities and undue approaches.
- 14) Accounts (deposit or loan) should not be closed without first consulting the AMLCO. At the time of closing account full information (i.e. KYC, TP etc.) of the customer and transaction records to be retained at least for 05(five) years after termination of relationship. Different statements relating to AML to be sent to Head Office within stipulated time duly signed by AMLCO.

### Conclusion

Meeting the requirements of this Policy is considered of paramount importance and takes precedence over other commercial aspects of managing our customer relationships. The management of MTB is fully aware that the financial system shall not be and cannot be used as a channel for criminal activities. Therefore, co-ordination and co-operation between the concerned parties are essential for its success.

Effective AML activities have beneficial consequences for financial institutions. Taking effective action against money laundering and terrorist financing makes a positive contribution to the well being and safety of the institution and its employees and shareholders.

We should all come forward to combat this evil force by implementing anti money laundering measures complying with the law of the land.

**Appendix**

**Appendix – a**

**Bay Leasing & Investment Limited**

\_\_\_\_\_ Branch

**Know Your Customer (KYC) Profile Form**

<b>Customer/Account Name :</b>
--------------------------------

<b>Account Number :</b>
-------------------------

<b>Name of Officer Opening the Account</b>
--

<p>What is the nature of the business relationship and source of funds ?</p>   <p>Describe how the source of funds have been verified and confirmation of whether or not the levels, types of amounts of transactions are commensurate with nature of the business described when the relationship was established.</p>
--

1. Who is the actual owner of the account (i.e. account holder acting as an agent/trustee) ?

.....

2. Original Passport / ID sighted & photocopy obtain.                      YES                      NO  
(If no, obtain deferral)

3. For non-resident & foreigners ensure the reason for opening the account in Bangladesh (i.e. why not in the country of residence / origin)

Type of visa (Resident / Work .....  
.....

**4. What does the Customer Do ?**

SI	Category	Risk Level	Rating
1.	Jewelry / Gems trade	High	5
2.	Money transmitters / changers	High	5
3.	Real Estate Agents	High	5
4.	Construction Promoters of Projects	High	5
5.	Offshore Corporation	High	5
6.	Art/antique dealers	High	5
7.	Restaurant/Bar/Casino/Night club owners	High	5
8.	Traders with a turnover of more than 1 crore per annum	High	4
9.	Import/Export agents	High	5
10.	Cash Intensive business (Cash deposit> 25 lacs in a month)	High	5
11.	Share & Stock Broker	High	5
12.	Finance Companies (NBFI)	High	5
13.	Travel agents	High	4

SI	Category	Risk Level	Rating
14.	Transport Operators	Medium	3
15.	Auto dealers (used/ reconditioned cars)	Medium	3
16.	Auto Primary (new car)	Low	2
17.	Shop owner (retail)	Low	2
18.	Business – Agents, Franchisees	Low	2
19.	Small trader (turnover less than 50 lacs per annum)	Low	2
20.	Software business	Low	1
21.	Manufacturers (other than arms)	Low	1
22.	Retired from service	Low	0
23.	Service	Low	0
24.	Self employed professionals	Low	2
25.	Operations in multiple locations	High	5
26.	Corporate Customers of Repute (irrespective of the category)	Low	2

**5. What is the net worth / sales turnover of the customer?**

Amount (TK.)	Risk Level	Risk Rating
1 Lac – 50 Lacs	Low	0
50 Lacs – 200 Lacs	Medium	1
> 200 Lacs	High	3

**6. How was the a/c opened?**

Mode	Risk Level	Risk Rating
Relationship Manager / Affiliate	Low	0
Direct Sales Agent (DSA)	Medium	1
Internet	High	3
Walk-in / Unsolicited	High	3

**7. Expected Value of transactions on a monthly basis.**

Value for CD A/C (Tk. Lacs)	Value for SB A/C (Tk. Lacs)	Risk Level	Risk Rating
0 – 10	0 – 5	Low	0
10 – 50	5 – 20	Medium	1
> 50	> 20	High	3

**8. Expected Number of transactions on a monthly basis.**

Number for CD A/C	Number for SB A/C	Risk Level	Risk Rating
0 – 100	0 – 20	Low	0
101 – 250	21 – 50	Medium	1
> 250	> 50	High	3

**9. Expected Value of Cash Transactions on a monthly basis.**

Value for CD A/C (Tk. Lacs)	Value for SB A/C (Tk. Lacs)	Risk Level	Risk Rating
0 – 10	0 – 2	Low	0
11 – 25	3 – 7	Medium	1
> 25	> 7	High	3

**8. Expected Number of Cash Transaction on a monthly basis.**

Number for CD A/C	Number for SB A/C	Risk Level	Risk Rating
0 – 15	0 – 5	Low	0
15 – 30	5 – 10	Medium	1
> 30	> 10	High	3

**Overall Risk Assessment :**

<i>Risk Rating</i>	<i>Risk Assessment</i>
>=14	High
<14	Low

**Comments :**

.....

.....

.....

.....

.....

Signature of Account Opening Officer	Authorized Signature : (Second Officer)	Manager's Signature :
Special Approvals Obtained (if any) :		
.....		
.....		
.....		
.....		

Completes the enclosed profile form for high net worth customers falling under the following criterion :

- a) New Customers whose initial deposit is more than Tk. 50 Lacs (initial means within one month of A/C opening)
- b) Existing customers whose total AUM (Asset under Management) grow to > Tk. 50 Lacs for 3 consecutive months.

**Appendix-b**

**Transaction Profit**

***For Individual Account***

Source of Income : \_\_\_\_\_

Nature and Volume of Transaction (Monthly) : \_\_\_\_\_

<b>Type of Transaction</b>	<b>No. of Transaction</b>	<b>Maximum Size (Per Transaction)</b>
Cash Deposit		
Cash Withdrawal		
Cheque Deposit		
Cheque Payment		
Inward Remittance		
Outward Remittance		
Transfer (Incoming)		
Transfer (Outgoing)		
Other Credit (Specify)		
Other Debit (Specify)		

***For Company / Institutional Account***

Source of Income : \_\_\_\_\_

Nature and Volume of Transaction (Monthly) : \_\_\_\_\_

<b>Type of Transaction</b>	<b>No. of Transaction</b>	<b>Maximum Size (Per Transaction)</b>
Cash Deposit		
Cash Withdrawal		
Cheque Deposit		
Cheque Payment		
Inward Remittance		
Outward Remittance		
Transfer (Incoming FCY / LCY)		
Transfer (Outgoing FCY / LCY)		
Outstanding Cash / Cheque Collection		
Letter of Credit / Guarantees		
Export Proceeds		
Loan Facilities		
Other Credit (Specify)		
Other Debit (Specify)		

\*\* Transaction Profile has been incorporated in the Account Opening Form.

Appendix-c

**Bay Leasing & Investment Limited**

\_\_\_\_\_ **Branch**

Strictly Private & Confidential

**Internal Suspicious Activity Report Form**

To	Anti Money Laundering Compliance Officer	Date :
From	Name (Mr. / Ms)	Branch / Department
	Job Title	SAR Ref. No.

Customer / Business Name	Transaction Date(s)
Account Number(s)	Copies of Transactions and Account Details Attached <input type="checkbox"/> Yeas <input type="checkbox"/> No
<b>Description of Transaction(s).</b> <i>(Nature of transaction, Origin &amp; destination of Transaction etc)</i>	
<b>Source of Funds and Purpose of Transaction</b> <i>(If you can, try to tactfully ask the customer)</i>	
<b>Reason why you think the transaction is suspicious</b> <i>(Give as much details as possible)</i>	
<b>Signatures of</b> -----	

**TO BE COMPLETED BY AMLCO :**

<p><b>ACTION TAKEN TO VALIDATE</b></p> <ul style="list-style-type: none"><li>■ Acknowledgement sent to the originator on _____.</li><li>■ Reviewed account documentation</li><li>■ Discuss with the relationship manager / branch manager.</li><li>■ Other</li></ul> <p><b><u>AGREED SUSPICIOUS.</u></b>      Yes / No</p> <p><b><u>COMMENTS / NOTES OF AMLCO</u></b></p>          <p>Date : _____</p> <p style="text-align: right;">_____ Signature AMLCO</p>
--

**Appendix-d**

<b><u>KYC REQUIREMENT FOR HIGH NET WORTH CUSTOMERS</u></b>				
<p style="text-align: center;"><b>A. Source of Wealth</b></p> <p><b>Type of source of wealth :</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;"> <ul style="list-style-type: none"> <li>■ Business ownership</li> <li>■ Profession*</li> </ul> </td> <td style="width: 33%; vertical-align: top;"> <ul style="list-style-type: none"> <li>■ Top executive</li> <li>■ Investment *</li> </ul> </td> <td style="width: 33%; vertical-align: top;"> <ul style="list-style-type: none"> <li>■ Inheritance</li> <li>■ Other</li> </ul> </td> </tr> </table> <p>Instructions :    Please refer to the list of questions (enclosed) to be used when obtaining source of wealth. You may need to choose more than one category for a business owner with inherited wealth.</p> <div style="border-bottom: 1px solid black; margin-bottom: 5px; width: 60%; margin-left: 20px;"></div> <div style="border-bottom: 1px solid black; margin-bottom: 5px; width: 60%; margin-left: 20px;"></div> <div style="border-bottom: 1px solid black; margin-bottom: 5px; width: 60%; margin-left: 20px;"></div> <div style="border-bottom: 1px solid black; margin-bottom: 5px; width: 60%; margin-left: 20px;"></div>		<ul style="list-style-type: none"> <li>■ Business ownership</li> <li>■ Profession*</li> </ul>	<ul style="list-style-type: none"> <li>■ Top executive</li> <li>■ Investment *</li> </ul>	<ul style="list-style-type: none"> <li>■ Inheritance</li> <li>■ Other</li> </ul>
<ul style="list-style-type: none"> <li>■ Business ownership</li> <li>■ Profession*</li> </ul>	<ul style="list-style-type: none"> <li>■ Top executive</li> <li>■ Investment *</li> </ul>	<ul style="list-style-type: none"> <li>■ Inheritance</li> <li>■ Other</li> </ul>		
<p style="text-align: center;"><b>B. Notes of Face-to face meeting with customers.</b></p>     				
<p style="text-align: center;"><b>C. Annual Review of Customer Profile</b></p>				
<p>Profession – E.g. Physician, lawyer, engineer, accountants and sports professional etc.                      Investment – Someone who buys and sells assets of any type : real estate, securities, companies, royalties and patents etc.</p>				
<p><b>Prepared by :</b>                    <b>(Authorized Signature)</b></p> <p><b>Name :</b></p> <p><b>Date :</b></p>	<p><b>Reviewed by :</b>                    <b>(Branch Manager)</b></p> <p><b>Name :</b></p> <p><b>Date :</b></p>			

**Note : This form must be renewed every year.**

**List of Questions to be used when obtaining source of wealth**

Wealth Generated From Business Ownership

- Description and nature of the business and its operations
- Ownership type: private or public?
- What kind of company?
- Percent of ownership?
- Estimated sales volume?
- Estimated net income?
- Estimated net worth?
- How long in business?
- How was the business established?
- Other owners or partners (yes/no)?
- Names of other owners or partners?
- Percent owned by other owners or partners?
- Number of employees
- Number of locations?
- Geographic trade areas of business
- Other family members in business?
- Significant revenues from government contract or licenses?

Wealth Derived From Being a Top Executive

- Estimate of compensation?
- What does the company do? (for example, manufacturer, service...)
- Position held (for example, President, CFO)
- Length of time with company?
- Area of expertise (for example, finance, production, etc...)
- Publicly or privately owned?
- Client's past experience (for example, CEO at another company...)

Primary Source of Wealth was Through Inheritance

- In what business was the wealth generated?
- Inherited from whom?
- Type of asset inherited (for example: land, securities, company trusts...)
- When were the assets inherited?
- How much was inherited?
- Percent ownership for a business that is inherited

Wealth Generated From a Profession (Physician, dentist, lawyer, engineer, entertainer, professional sports...)

- What is the profession, including area of specialty (ex: arts - singer, construction - engineer)
- Source of wealth (Ex: lawyer who derived wealth from real estate, Dr. running a clinic...)
- Estimate of income

Wealth Generated From Investments

- Where did the source of wealth come from? (example, invested in shares, bonds, etc.)
- What do they currently invest in? (for example, real estate, stock market...)
- What is the size of the investment?
- Cite notable public transactions if any
- What is the client's role in transaction (ex: takes positions, buy companies, middle man)
- Estimated annual income/capital appreciation?
- How long has the client been an investor?

**Appendix- e**

**Bay Leasing & Investment Limited**

\_\_\_\_\_ **Branch**

**Explanation to Walk-in / One-off Customers**

The AML Circular # 2 requires us to obtain satisfactory evidence of identification of applicants who do not maintain accounts with us for conducting one off transactions. You are therefore kindly requested to provide the following details, together with appropriate documentary evidence, before this transaction may proceed.

Thank you for your co-operation.

Name	
Date of Birth	Nationality
Father's Name	Mother's Name
ADDRESS	
Other Identification (ID Card Number, Passport details etc)	
Value of Transaction (In figure)	
(In word )	
Date	Signed

**Anti-Money Laundering Department  
Bangladesh Bank  
Head Office  
Dhaka**

Ma: La:Pra: Circular No. 01

04 Jayasta, 1409  
Date: -----  
18th May, 2002

**All Banks, Financial Institutions  
and Money Changers.**

Dear Sir/Madam

**Money Laundering Prevention Act, 2002**

We invite your attention to the above mentioned subject.

02. Money Laundering Prevention Act, 2002 (Act No. 7 of 2002) has been published in the Bangladesh Gazette (extra issue) on 7th April, 2002 with the purpose of combating money laundering. As per article 1(2) of the Act, the Government of the Peoples Republic of Bangladesh has made this Act effective from April 30, 2002 AD (Baishakh 17, 1409 Bangla) by an Official Notification in the Gazette.

The reprint of the Gazette notification of this Act is enclosed herewith.

03. As per provisions of the above Ac~ instructions will be issued later on from time to time. Meanwhile, please

- (Ka) ensure compliance of the said Act,
- (Kha) inform all concerned about the Act and
- (Ga) acknowledge receipt of this circular.

Yours Sincerely

**Sd/**

**(Md.Ebtadul Islam)**  
Deputy General Manager  
Telephone: 7120375

(This following is an unofficial English version of the Act and in case of a difference in meaning between the two original Bangla version will prevail)

## Money Laundering Prevention Act, 2002

(Act No.7 of 2002)

Whereas it is just and necessary to prepare rules with a view to preventing money laundering, Therefore, it is enacted as under

### First Chapter

#### Introduction

1. Short Title and Introduction- (1) this Act will be called as 'Money Laundering Protirodh (Prevention) Am (Act), 2002  
(2) This Act will be in force on the date to be fixed through Government Gazette;
2. Definition- If nothing is contrary to the subject and reference, in this Act-  
(Ka) "Illegal means" will mean any recognized by any Act, Rules or Regulations;  
(Kha) "Crime" means any crime under this Act  
(Ga) "Court" means Money laundering Court  
  
(Gha) "Financial Institution" means financial institution defined under Section 2 (Kha) of Financial Institution Act, 1993 (Act No. 27 of 1993);  
  
(Umah) "Code of Civil Procedure" means Code of Civil Procedure, 1980 (Act V of 1908);  
  
(Chaa) "Determined" means determined by rules;  
  
(Ja) "Code of Criminal Procedure" Means Code of Criminal Procedure, 1998 (Act V of 1898);  
  
(Jha) "Rule" means rule prepared under this Act;  
  
(Eionh) "Bangladesh Bank" means Bangladesh Bank established under the Bangladesh bank Order, 1972 (P.O. No. 127 of 1972);  
  
(Ta) "Bank" means the Bank Company defined by Section 5 (Na) of Bank Company Ain (Act), 1991 (Act No. 14 of 1991);  
  
(Tha) "Money Laundering" Means  
(Au) Properties acquired or earned directly or indirectly through illegal means'  
(Aa) Illegal transfer, conversion, concealment of location or assistance in the above act of the properties acquired or earned directly or indirectly through legal or illegal means;  
  
(Da) "Properties" means movable or immovable properties of any nature and description;  
  
(Dha) "Supreme Court" means Bangladesh Supreme Court constituted under Paragraph 94 of the Constitution of the People's Republic of Bangladesh;  
  
(Na) "High Court" means the High Court Division of the Supreme Court
3. **Supremacy of the Act.**- Notwithstanding whatever may contain in any other Act in force, the provisions of this Act will remain in force.

## Second Chapter

### Responsibility and power of Bangladesh Bank in preventing Money Laundering

- 4 Responsibility of Bangladesh Bank in preventing Money Laundering.** - The responsibility of Bangladesh Bank will be to prevent and resist crime of money laundering and for resisting such criminal activities —
- (Ka) To conduct enquiry about the crime of money laundering;
  - (Kha) Observe and supervise activities of banks, financial institutions and other financial institutions engaged in financial activities;
  - (Ga) To invite statement from the banks financial institutions and other institutions engaged in financial activities about any connected with money laundering;
  - (Gha) Examination of the statement received under (Ga) above and taking of proper action accordingly;
  - (Umah) To give training to the staff/officer of the bank, financial institutions and other institutions engaged in financial activities.
  - (Cha) To perform other work in fulfillment of the objective of this Act.
- 5. Power of enquiry, etc.—(1)** Bangladesh bank or any person authorized by Bangladesh Bank can enquire into the crime committed under this Act and other related issues and for such enquiry if it is required to enter into any place the same can be done after following the required system.
- (2) In case of enquiry in to a matter the power which an Officer in Charge of a Police Station can exercise under the Code of Criminal Procedure, Bangladesh Bank or any person authorized by Bangladesh Bank will able to exercise the same power while enquiring into the crime committed under this Act.

## Third Chapter

### Money Laundering Court

- 6. Establishment of Money Laundering Court.** (1) In order to fulfill the objective of this Act all Courts of Sessions will be regarded as Money Laundering Court and all Session Judges will be the justice of Money Laundering Court.
- (2) Session Judge will settle all cases under this Act himself or he can send the case to any Additional. Seas on Judge under him for settlement.
- 7. Jurisdiction of the Court.** (1) The Court will be able to impose the prescribed punishment for the crime committed under this Act and in applicable cases pass other orders including order for enquiry, confinement, seizure, fine and compensation.
- (2) If the crime under other Act is associated with the crime under another Act in such a manner that in order to dispense justice it is necessary to proceed for trial for the both crimes together or cases are to be instituted together, then trial for the crime committed under this Act can be done at the same time under other Act in the same Court.
- But the condition is this that if money laundering is associated with the schedule of crimes under such Act which is imprisonable for a period of less than three years the same will not be treated as a punishment under this Act.

8. Acceptance of the crime for trial etc. (1) Notwithstanding what is contained in any other laws all crimes under this Act will be cognizable for trial under this Act.
- (2) All crimes under this Act will be Non-bailable.
- (3) Subject to other provisions of this Act, no accused or punishable person will be released on bail, if-(Ka) no opportunity is given to the complainant party on the application for releasing him on bail. (Kha) The Court is satisfied that there is reasonable ground to adjust him guilty on the charges brought against him; or (Ga) The Court is satisfied that the justice will not be hindered if he is released on bail.
9. Application of Code of Civil and Criminal Procedure, etc.-(1) If nothing otherwise exists in this Act, provisions of the Code of Civil and Criminal Procedures will be applicable as the case may be in ease of filing of complain, enquiry, seizure, attachment of property, trial and settlement or the comes under this Act.
- (2) Person conducting cases in the Court on behalf of the complainant will be called as Public Prosecutor.
- (3) The Court will be able to order the enquiry officer to do further enquiry on the crime of the cases under trial and in such cases the Court will be able to fix up time limit for submission of the above enquiry report.
10. Legal seizure of property. --- ON the basis of written application from Bangladesh Bank or any person authorized by Bangladesh Bank the Court will issue legal seizure of property to this effect that the property of the accused in whatever condition it may remain will be banned from sale or transfer.
11. **Freezing of the property.**-- (1) On the basis of written application of Bangladesh Bank or person authorized by Bangladesh Bank the Court will issue Freezing Order for the properties of the person who is accused under this Act.
- (2) If the Freezing Order is issued as per Sub-section (1) above
- (Ka) The Court will publish it in the form of Notification in the Bangladesh Gazette and national daily for information of general public.
- (Kha)The concerned property will in no way can be transferred or the concerned property can not be made encumbered.
- (3) In the Freezing Order under this Section, the name of the accused, designation, name of father and mother, address, profession etc should be mentioned as far as possible.
- (4) If the bank account of the accused is under Freezing Order, if nothing contrary is mentioned in the above Order, a.; receivables of the accused will be credited in the frozen bank account.
12. **Appeal.** Whatever different may exist in the Code of Civil and Criminal Procedures, the aggrieved party aggrieved order, judgment degree or punishment imposed by the Court will be able to appeal in the High Court within 30 days of the date of the above order, judgment, degree or punishment order.

## Fourth Chapter Crime and Punishment

13. Punishment for Money Laundering----(1) If any person is engaged in Money Laundering in any way he will be regarded as a person who has committed a crime. (2) The concerned accused for the crime mentioned in Sub-section (1) will be sentenced to imprisonment for at least a period of six months and a maximum of seven years and will be fined for an amount not exceeding double the amount involved in the crime.
14. Punishment for violation of seizure order.- (1) If any person violates the seizure order under Section 10 he will be imprisoned for at least one year *maximum* or fined for at least Taka ten thousand *maximum* or he may be punished with both.
15. Punishment for violation of the Freezing Order.- (1) If any person violates the Freezing Order under Section 11 he will be imprisoned for at least one year *maximum* or fined for at least Taka five thousand *maximum* or he may be punished with both.
16. Punishment for divulgence of information. — (1) No person will obstruct the enquiry or divulge information relating to enquiry or relevant other information to other person with a view to casting adverse influence on the enquiry.
- (2) If any person violates the provision of Sub-section (1) he will be imprisoned for at least one year *maximum* or fined for at least Taka ten thousand *maximum* or he may be punished with both.
17. Punishment for obstruction in enquiry.- (1) No person will express his unwillingness without any reasonable ground to assist the enquiry officer in his enquiry activities under this Act.
- (2) If any person violates the provision of Sub-section (1) he will be imprisoned for at least one year *maximum* or fined for at least Taka ten thousand *maximum* or he may be punished with both

## Fifth Chapter

### Miscellaneous

18. Agreement with the Foreign Country.—(1) The government may enter in to agreement with any foreign country in order to fulfill the objective of this Act.  
(2) If any agreement is entered into with a foreign country under Sub-section (1) above, the government will declare the name of such country as the 'country under agreement' in order to fulfill the objective of this Act by Notification in the Government Gazette.
19. Responsibility of the banks, financial institutions and other institutions engaged in financial activities in preventing and identifying money Laundering—(1) In checking and identifying money laundering banks, financial institutions and other institutions engaged in financial activities— (Ka) As a client of it , it should preserve the correct and full information of all of its clients and in the event of closing of transactions it should preserve records of transactions for at least five years from the date of closure;  
(Kha) Will provide the records so preserved as per Sub-section (Ka) above to Bangladesh Bank from time to time on demand; (Ga) Information regarding abnormal transactions and doubtful transactions which are likely to be related to money laundering should be informed to Bangladesh Bank.
- (2) Bangladesh Bank will determine the information to be preserved as per Subsection (1) and issue Circular or Gazette Notification from time to time.

(3) In the event of failure of providing and preserving the information as mentioned in Sub-section (1) Bangladesh Bank will inform the licensing authority of the defaulting bank, financial institution and other institutions engaged in financial activities so that the concerned authority can take proper action for negligence and failure against the concerned bank, financial institution and other institution engaged in financial activities as per their own rule or provision.

(4) Whatever may contain in Sub-section (3), Bangladesh Bank will be able to impose fine up to a maximum of Taka one lac and a minimum of Taka ten thousand to the defaulting bank, financial institution and other institution engaged in financial activities for failure to preserve and supply information as mentioned in Sun-section (3) and also for negligence.

20. Crime committed by the Company etc.— (1) If the violator of any provision of this Act is a company, it will be regarded that each proprietor, director, manager, secretary or any other officer or employee or representative of the company has violated the provision: But the condition is this that the concerned person will not be responsible for the violation if he can prove that the above violation has been done beyond his knowledge or he has failed to check the violation despite his best effort.

**Explanation :-** In this section— (Ka) “Company” will mean any company, statutory body, partnership concern, Association or institution formed with one or more than one person; (Kha) “Director” will mean any partner a member of the Board of Director in whatever name it is called.

(2) Registration of the company which is engaged in money laundering directly or indirectly will be liable to be cancelled.

21. Power to frame rules.— Government by Notification in Government Gazette can frame rules in order to fulfill the objective of this Act.

### Schedule

#### [Reference - conditions of Section 7(2)]

- (Ka) Penal Code, 1860 (XLV of 1860);
- (Kha) Arms Act, 1878 (XL of 1878)
- (Ga) Foreign Exchange Regulation Act, 1947 (VII of 1947);
- (Gha) Anti-Corruption Act, 1957 (XXVI of 1957);
- (Umah) Special Power Act, 1974 (XIV of 1974);
- (Cha) Madak Drabwa Niatran Am (Drugs Control Act), 1990 (Act No. 20 of 1990);
- (Chaa) Jana Nirapatra (Bishesh Bidhan) Am [Public Safety (Special power) Act], 2000 (Act No 7 of 2000);
- (Ja) Nan O Shishu Nirjatan Daman Am (Women and Children Oppression Prevention Act), 2000 (Act No.-8 of 2000).

**Anti-Money Laundering Department  
Bangladesh Bank  
Head office  
Dhaka**

Sraban 2, 1409

Ma: La: Pra : Circular No. 02 .

Date-----

July 17,2002

**All Banks and Financial Institutions**

**Instruction to be followed for compliance of the provisions  
contained in the Money Laundering Prevention Act. 2002.**

Dear Sirs,

Attention is drawn to the Ma:La:Pra: Circular No.. Oh dated 18.05.2002 of the Foreign Exchange Policy Department to the captioned subject.

02. For proper compliance of the provisions of Money Laundering Prevention Act, 2002 the following instructions are issued as per power conferred in section 4 of the above act for compliance by the banks and financial institutions.

(Ka) As per article 19 (i) (Ka) of Money Laundering Prevention Act, 2002 each bank and financial institution will preserve correct and full information of their customer. Incase of request to remit money through draft/TT from any person other than the account holder correct information with regard to full name and address of the person requesting for such remittance should be preserved. Detail instructions to be followed in this regard can be seen at Appendix 'Ka'.

(Kha) Correct and detail up to date information of transactions in each account should be preserved and as per article 14(1) (Ka) of Money Laundering Prevention Act, 2002 the bank and financial institution will preserve record of transaction for a period of at least five years from the closing of transactions in the account of an client.

(Ga) To ensure compliance of the article 19 of the Money Laundering Prevention Act, 2002 each bank and financial institution will establish arrangement for internal observation and control through formation of a Central Compliance Unit under the leadership of a high official at the Head Office and nomination of a officer at the branch level of each bank and financial institution . In order to accomplish properly the Jurisdiction and function of the Central Compliance Unit, each bank and financial institution will determine institutional strategy and program. Central Compliance Unit will issue the instructions to be followed by the branches. These instructions will be prepared on the basis of combination of observation of transactions, internal control, policies and procedures from the point of view to prevent money laundering.

(Gha) In order to identify and monitor unusual transactions, each bank and financial institution will collect and preserve the prospective, transaction profile of the client. Transactions in the account will be considered as unusual of the same is inconsistent with the declared transaction profile provided if on enquiry the client failed to give sat satisfactory explanation.

(Umah) All employees of the bank and financial institution are to remain conscious and alert to identify unusual/suspicious transactions and just after detection of unusual/suspicious transactions which may have connections with money laundering as per article 19(1) (Ga) of Money Laundering Prevention Act, 2002 will be reported in writing as per proforma at Appendix-Ga attached herewith to the nominated compliance officer of the of the branch (REF. Appendix 'Kha' on the features of detecting unusual/suspicious transactions). The Compliance Officer will immediately analyse the reported incident properly and record in writing with reasons in details~ whether the transaction is connected with money laundering or not. if the reported issue appears to be connected with moffey laundering he will send immediately the details of the incident along with a copy of the above form to the Central Compliance Unit. Central Compliance Unit will examine and analyse the report eceived and record its observation on the above form Ga and if the incident is considered to be reportable to Bangladesh Bank, the same should be sent immediately to Anti- Money Laundering Department, Bangladesh bank, Head Office, Dhaka.

On the issue of reported unusual/suspicious transactions, no officer of the bank or financial institution will disclose the same to the clients or any other persons so that the investigation are hampered or influenced adversely.

(Cha) The nominated officer will send a consolidated quarterly statement of the cases reported to him to the Central Compliance Unit, Head office as per Appendix- Gha attached herewith, Central Compliance Unit will send the information of the reported cases to Anti-Money Laundering Department, Bangladesh Bank, 1-lead office Dhaka Off quickly basis in the same proforma

(Chha) In order to ensure proper compliance of the Money Laundering Prevention Act, 2002 each bank and financial institution will arrange proper training to its officers.

03. Formation of Central Compliance Unit and the reporting activities of unusual suspicious transactions should be taken immediately as per instruction mentioned above. Detailed internal instructions to be followed by the Central Compliance Unit and the branches should be prepared by 15th September, 2002 and should be in formed this department of it with a copy there of

Mean while please acknowledge receipt of it.

Enclosure : As stated.

**Your's Sincerely**

**Sd/-  
(A.K.M. Mostafizur Rahman)  
Deputy General Manager  
Phone - 7120659**

**The Indicative List of Information to be obtained  
to Establish Customers' Identity**

For every transaction correct identity of the customer has to be carefully ascertained. In this connection, in the applicable cases, importance should be given to the personal interview with the customer. For ensuring full satisfaction about the correct particulars of the customer, following information and documents should be collected and preserved.

**Account Holder Customer:**

**(Ka) Personal Account:**

(1) Name. (2) Present and Permanent Address, (3) Date of Birth, Age (4) Nationality, (5) TIN No. (if any) (6) Passport or employer certificate or certificate about the credentials by the Ward Commissioner/Union Chairman, (7) Photograph of the account holder (must be taken).

**(Kha) Corporate or Business Firm Account:**

- (i) **Sole Proprietorship** : Requisite information as stated in 1 (a) relevant for the account operator along with trade license.
- (ii) **Partnership**: Requisite information as stated in I (a) relevant for the partners along with Trade License and Partnership Deed.
- (iii) **Limited Company**: Certificate of Incorporation, Articles and Memorandum of Association, Formal Resolution adopted in the Board meeting, declaration about the Directors and the information of I (a) relevant for the account operator (or verifying the genuineness of the information about the company and the directors, certified copies of the returns submitted to the Registrar of Joint Stock Companies should be taken. If the Company is incorporated outside Bangladesh, documents attested by the Bangladesh Embassies/High Commissions in the respective countries should be submitted).

**(Ga) Account of Other Organizations:**

- (i) **Club/Society**: Particulars of the office, bearers, Constitution or By-Laws, if registered the Government authorization letter etc.
- (ii) **Co-operative Society/Limited Society**: By-Laws authenticated by the Co-Operative Officer, particulars of the office bearers, resolution for opening of account, certificate of registration etc.
- (ifi) **Private School, College and Madrasha**: Full particulars of the members of the Governing Body or Managing Committee, Resolution for opening of Account, etc.
- (iv) **Trustee Board**: Certified copy of the deed of the trust, full particulars of the members of the trustee Board, resolution for opening of Account, etc.

(2) **Customer Other than Account Holder:**

In case of request for remittance and other banking services made by the persons not maintaining an account with the bank full name and address of the requesting persons have to be preserved.

**Indicative list of issues to be looked into for identifying unusual/suspicious transactions**

If proper explanation is not received on enquiry from the client on transactions which is inconsistent with the declared transaction profile of the client, then those~ transactions can be treated as unusual transactions.

Suspicious transactions will mean those transactions which have arisen out of activities mentioned in article 2 (Tha) of Money Laundering Prevention Act, 2002. In other words, the transactions which generally do not appear to have not been arisen out of known and legal earnings of the clients will be regarded as unusual transactions:

1. Some of the relevant features in identifying unusual/suspicious transaction at the branch level of banks/financial institutions are mentioned below:
  - 1.1 Transactions for unusually large amount inconsistent with the known income of the individual or company.
  - 1.2 Request for remittance to different destinations in favour of other parties with whom connection of the client is not clear.
  - 1.3 Although small deposits are made in each occasion, the accumulated total deposit is large enough to be inconsistent with the known activities of the client.
  - 1.4 At the time of opening account inability/unwillingness/delay in giving information about the client.
  - 1.5 Direct contact with the branch is often avoided by the representative of the company.
  - 1.6 Sale/purchase of securities for large amount inconsistent with the legal known income of the client.
2. Some of the relevant issues to be looked in to by the Central Compliance Unit of the bank/financial institution in examining unusual/suspicious transactions:
  - 2.1 Sudden unusual increase/decrease in cash transaction and internal remittance through any branch.
  - 2.2 Receipt of fewer number of reports on unusual/suspicious transactions in comparison to other branches.

**Reporting Form of Unusual / Suspicious Transaction**

Reference :Ma: La: Pra: Circular No.02 dated 17/07/2002,Section 2(Uma).

----- Bank / Financial Institution

----- Branch

**1. Reporting Officer:**

Name :  
Department/Division :  
Designation :

**2. Information of the Suspected Person/Institution in the Case of the Unusual/Suspicious Transaction:**

Ka) Name  
Kha) Address (Present and Permanent)  
Ga) Date of Birth  
Gha) Nationality  
Uma) Passport No. (If any)  
Cha) TIN No. (If any)  
Chha) Account No & Type of Account  
Ja) Account Opening Date  
Jha) Name and Address of the Introducer for Opening the Account:

**3. Description of Unusual/Suspicious Transaction:**

Ka) Amount of Money Involved :  
Kha) Dates of Transaction :  
Ga) Type of Transaction :

**4. Reasons/Situations for Treating the Transaction as Unusual/Suspicious Transaction:**

**5. Other Information:**

Signature of Officer  
Time  
Date

-----  
(To be filled in by the Compliance Officer of the Branch)

1. Report on the basis of investigation and analysis after detecting Unusual /Suspicious Transactions:
2. Whether the reported incident prima-facie falls under money laundering and reportable to the Central Compliance Unit or not: Yes/No.
3. Date and Reference No of reporting to the Central Compliance Unit:

Date and Signature of the  
Branch Compliance Officer

-----  
(To be filled in by the Central Compliance Unit)

1. Report on the basis of investigation and analysis after detecting an unusual /suspicious transactions
2. Whether the transaction falls under money laundering and need to be reported to Bangladesh Bank: Yes/No.
3. Date and Reference No of reporting to Bangladesh Bank.

Signature of the designated officer of the Central Compliance Unit  
Reference No.  
Telephone and Fax No-

**Appendix-Gha**

Quarterly Statement of Unusual / Suspicious Transactions :

----- Bank  
----- Branch

**Consolidated quarterly statement as at -----**

Sl. No.	Date of Reporting	Brief description of the incidence	Whether the incidence has been reported to the Central Compliance Unit, if so, Ref No and date	Whether the incidence has been reported to Bangladesh Bank by the Central Compliance Unit, if so, Ref No and date
(1)	(2)	(3)	(4)	(5)

Signature of Authorized Officer  
Date

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\* Not required to be filled in by the branch