



FIU NEWS LETTER

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1. Message from FIU Chief

As an active member of the international community, Nepal is working with various agencies in global and regional level so as to promote co-operation on the issues of international concern. Anti Money Laundering (AML)/Combating Financing of Terrorism (CFT) is undoubtedly the major issue. Having obtained the membership of Asia Pacific Group (APG) on Money Laundering on 2002, we have been a part of its activities ever since. A comprehensive AML- Money (Asset) Laundering Prevention Act, 2008- has come into force to combat money laundering and terrorist financing at home and fulfill our international commitment against ML/FT. The Act provides for the establishment of the Financial Information Unit (FIU) in Nepal Rastra Bank to function as a central national agency responsible for receiving, analyzing and disseminating the financial information in order to combat the potential offence of ML and FT. Consequently, the FIU has been operational since 21 April 2008.

So far, the FIU has issued ten different directives to the reporting institutions, namely to the bank and financial institutions, money remitter/transferor, money changer, casino, cooperatives and government agencies. As a result, it has started receiving a number of Threshold Transaction Reports (TTRs) and Suspicious Transaction Reports (STRs) in a systematic way. The directives to some other reporting institutions are at a final stage of drafting. In addition to this, FIU Nepal has concluded the MoU with the FIU of Bangladesh and Sri-Lanka for the exchange of information related to AML/CFT. The MoU with a number of other countries is in process, some being very close to the conclusion.

As ML/TF being a relatively new concept for us, the FIU- Nepal has been conducting series of workshops, interactions and training programs among different stakeholders so that they can be better familiar with the concept and the regime can ultimately see higher degree of compliance and contribution from them. This process is still continuing.

We, as FIU, are doing our best to carry out our legal mandates. We are confident that a little technical enhancement will put the FIU to a strong position to function more efficiently. We are hopeful that enforcement of AML/CFT regime will help to enhance transparency and control crimes in the country. However, this demands and requires a joint and co-ordinated approach. We express our commitment for this and seek co-operation from all concerned to make this noble effort a success.

Dharma Raj Sapkota
Chief, FIU Nepal



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2. An Overview of Institutional Arrangements under Nepalese AML/CFT Regime

The Nepalese AML/CFT regime provides for the various bodies with the specific mandates to each. The bodies being:

Coordination Committee

This body is to provide policy advice to the Government of Nepal on matters related to AML/CFT besides coordination among inter-related agencies. The committee consists of:

Secretary, Ministry of Finance	- Coordinator
Secretary, Ministry of Law and Justice	- Member
Secretary, Ministry of Home Affairs	- Member
Secretary, Ministry of Foreign Affairs	- Member
Deputy Governor, Nepal Rastra Bank	- Member

The Financial Information Unit functions as Secretariat and the FIU chief as Secretary. The Committee may prescribe procedures of its meetings.

Basically, it makes recommendation to the Government of Nepal on following matters:

- Prevention of the offence of ML/TF,
- Monitoring of the activities made for the prevention of the offence of ML/TF,
- Obtaining the membership of the international organizations working for the prevention of the of ML/TF,
- The policy, strategy, plans to be adopted and made by the Government of Nepal and the implementation of the decisions made;
- Implementation of the annual report of the FIU on the prevention of the of ML/TF,
- Other matters as deemed necessary by the committee.

Financial Information Unit (FIU)

Financial Information Unit (FIU) is established in Nepal Rastra Bank as per the provision of the Section 9 of the Money (Asset) Laundering Prevention Act, 2008. The Governor of Nepal Rastra Bank appoints at least first class officer of the bank as the chief of the FIU. The required number of staffs and office support for FIU are also provided by the bank.

As a central authority for receiving, analyzing and disseminating the data related to the AML/CFT, the FIU is authorized for following functions:

- To regularly obtain details of transactions from government entities, bank, financial institution and non-financial institution and maintain records thereto upon scrutinizing them,
- To conduct preliminary inquiry in case the notice, details and documents reported to it requires inquiry and investigation on money laundering
- To refer the case to the Money Laundering Investigation Department where the preliminary inquiry find grounds to believe that the transaction involves suspicious.
- To exchange information regarding money laundering with the Financial Information Units of other country and international organization and institutions on the basis of reciprocity.



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- To inspect the transactions and records of bank, financial institution and non financial institution and to obtain any information or clarification about any suspicious transactions and records including the copies of the documents where necessary,
- To manage training programs required for the staff of government entities, Investigation Departments and FIU for prevention of money laundering,
- To carry out other functions as prescribed.

The FIU may issue necessary directives to the concerned government office, bank, financial institution and non-financial institution obliging the latter to comply with the method, form, time and other procedures of reporting the details, statistics, notices and information to the FIU under the Money (Asset) Laundering Prevention Act, 2008.

Money Laundering Investigation Department

Money (Asset) Laundering Prevention Act, 2008 has assigned a duty to the Government of Nepal to establish a Money Laundering Investigation Department to investigate the offences under this Act. The Department shall be headed by a First Class Officer of civil service. At present, the Government of Nepal has designated the existing Revenue Investigation Department to function as Money Laundering Investigation Department.

The Department works as a prosecuting agency on behalf of the GoN and exercises power to prosecute the cases of money laundering and terrorist financing. In course of investigation and inquiry of the offences, it exercises the following powers:

- To order the production of the concerned document, evidence or other required detail that are in possession of government entity, bank, financial institution and non-financial institution within a given time,
- To search any concerned government entity, bank, financial institution or non-financial institution or any other places and seize concerned document, deed, material evidence and other evidences with an acknowledgment of the seizure,
- To order the concerned official of the government entity, bank, financial institution or non-financial institution, other staff or a concerned person supposedly having information on the related facts to appear to the Department to give statement,
- To order the release of the suspect on reporting obligation whenever required; or on fixed reporting dates with or without bail or guarantee or order the detention where the suspect fails to post the bail amount, subject to approval by the District Court,
- To order the concerned entity to freeze assets, located in Nepal, of a concerned person at the request of another nation where the offence under this Act has occurred or any other international organization or in accordance with bilateral or multilateral treaty or agreement or on the other grounds like that,
- To cause the freezing of the disputed assets relating to the offence under this Act in the course of inquiry and investigation.



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Technical Committee

There is a Technical Committee to see the operational matters relating to ML/TF. The fundamental objective of this committee is to assist the FIU to execute the objectives of the Money (Asset) Laundering Prevention Act, 2008. The committee consists of:

Chief, the Financial Information Unit	- Coordinator
Representative, the AML Department	- Member
Representatives, Nepal Rastra Bank (one from each of the Foreign Exchange Department and the Regulation Department)	- Members
Representative, Nepal Police	- Member
Representative, Nepal Securities Board	- Member
Representative, Insurance Board	- Member
Deputy Director, Financial Information Unit	- Member Secretary

The coordinator calls the meeting of this committee as per necessity and the meeting procedure shall be as fixed by the committee itself. Coordinator can invite in the meeting of committee any officials of the concerned authority or expert, as per necessity.

The Asset (Money) Laundering Prevention Rules, 2009 mandates the committee to assist the FIU in the following functions:

- Formulation of measures or strategy necessary for the control of the offence;
- Implementation of the measures or strategy formulated;
- Promotion of awareness for the control of the offence;
- Performing other functions prescribed by the Coordination Committee.

3. Nepalese Efforts on AML/CFT

The formal and visible efforts against ML/TF began in Nepal soon after Nepal obtained the membership of Asia Pacific Group (APG) on Money Laundering in June 2002. Nepal ratified international legal instruments and a strong need for a comprehensive AML/CFT legislation was realized. Consequently, Asset (Money) Laundering Prevention Act was enacted criminalizing the offence of money laundering and financing of terrorism and it finally came into force in 2008. The Act has been a typical piece of legislation of this kind in Nepal. Besides, criminalization of the offence, it has provided for a regime to combat the crimes. The AML/CFT regime established by the Act and the Rules thereof has been operational. The regime has been able to give results despite the limitations and is on continuous process of gaining efficacy and maturity.

Where Nepal is today against ML/TF results from its journey that began in 2002 with membership of APG. In a short span of time, Nepal has made considerable amount of achievements mentioned as follows:

Membership of APG

The Asia/Pacific Group on Money Laundering (APG) is an autonomous and collaborative international organization founded in 1997 in Bangkok, Thailand consisting of 40 members and a number of international and regional observers. Some of the key international organizations who participate with and support the efforts of the APG in the region include the Financial Action Task Force, International Monetary Fund, World Bank, OECD, United Nations Office on Drugs and



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Crime, Asian Development Bank and the Egmont Group of Financial Intelligence Units. The Secretariat of APG is located in Sydney, Australia to serve as the focal point for APG activities. It gets the funding from all APG members in accordance with a specific funding formula. The APG assists its members to establish coordinated domestic systems for reporting and investigating suspicious transaction reports and to develop effective capacities to investigate and prosecute money laundering and the financing of terrorism offences. The APG has the following Key roles:

- To assess compliance by APG members with the global AML/CFT standards through a robust mutual evaluation program,
- To coordinate bi-lateral and donor-agency technical assistance and training in the Asia/Pacific region in order to improve compliance by APG members with the global AML/CFT standards,
- To participate in and co-operate with the international anti-money laundering network - primarily with the FATF and with other regional anti-money laundering groups,
- To conduct research and analysis into money laundering and terrorist financing trends and methods to better inform APG members of systemic and other associated risks and vulnerabilities, and
- To contribute to the global policy development of anti-money laundering and counter terrorism financing standards by active Associate Membership status in the FATF.

Adoption of International Legal Instruments

As its effort to controlling ML/FT, Nepal adopted different international legal instruments. By this, Nepal has criminalized any activities against these conventions as crime. Some major instruments in this regard are:

- Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963,
- Hague Convention for the Suppression of Unlawful Seizure of Aircraft, 1970,
- Montréal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971,
- Convention on the Prevention and Punishment of Crime Against Internationally Protected Persons Including Diplomatic Agents, 1973,
- International convention Against the Taking of Hostages, 1979, and
- SAARC Regional Convention on Suppression of Terrorism, 1987

Enactment of Money (Asset) Laundering Prevention Act, 2008

The Money (Asset) Laundering Prevention Act, 2008 has come into force from 28 January, 2008. This is a new legislation of this kind in Nepalese legal system. As there was no clear provision in our system to deal with the matters of ML/TF before, the introduction of this Act has been considered as major achievement of Nepal to fight against ML/TF.

The major aspects incorporated in this Act are:

- Criminalizing ML/TF and assigning fine and punishment for such crimes,
- Formation of Coordination Committee for coordination and advisory purpose,



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- Establishment of FIU for receiving, analyzing and dissemination data related to ML/TF,
- Establishment of Money Laundering Investigation Department for investigation and prosecution of the crime of ML/TF,
- Provisions for Investigation and Inquiry of the crime of ML/TF,
- Provisions for freezing and seizing of the assets related to ML/TF, and
- Provision for Due Diligence

Enactment of Money (Asset) Laundering Prevention Rules, 2009

The Money (Asset) Laundering Prevention Rules, 2009 came into force to give full effect to the Money (Asset) Laundering Prevention Act, 2008. Following are some of major areas the Rules cover.

- Extension of the power and duties of coordination committee,
- Formation of Technical Committee for the execution of related matters,
- Authorization of FIU to issue directives to government offices,
- Obligation of the Regulatory Body, Reporting Institutions and Natural Persons,
- Obligation of the Compliance Officer, and
- Express procedure related to complaint, inquiry and investigation

The Memorandum of Understanding (MoU) with Foreign FIUs

Given that the offence or ML/TF are highly likely to be committed across countries, international cooperation among states in this regard is a need for every state even to make their domestic regime viable and effective. Therefore, Nepal has initiated strengthening close relation with the FIUs of other states through conclusion of MoU. In 2009 alone, we have concluded MoU with Bangladesh and Sri-Lanka. The FIU believes that this endeavor will help promote exchange of information related to ML/TF, eventually contributing to fulfill the object of AML/CFT legislation of Nepal.

The conclusion of the MoU with a number of other jurisdictions is in process.

Directives to Reporting Institutions

The FIU has issued directives to various reporting institutions. These directives focus on Customer Due Diligence (CDD) requirement, intending to establish effective record keeping of the customers by banks, financial institutions and non financial institutions.

The directives provide the reporting institutions with a clear procedure to follow while reporting Threshold Transaction Report (TTR) and Suspicious Transaction Report (STR) to the FIU. Furthermore, the directives make mandatory provisions on the duties and responsibilities of the Compliance Officer and the head of the institution vis a vis AML/CFT.

Interaction, Workshops and Seminar

AS ML/TF is relatively new subject to Nepal, the FIU-Nepal is conducting series of workshops, interactions and training programs among the concerned stakeholders to make them familiar with the concept and content of AML/CFT.

FIU has conducted a couple of interaction programs for policy makers viz. the parliamentarians, high level bureaucrats and chief of banks and financial institutions. Interactions were held in Kathmandu, Biratnagar, Pokahara and Nepalgunj among the compliance officer of



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different reporting institutions and other stakeholders. Introduction of the concept of ML/TF still continues targeting wider range of individuals who has a role to play in the regime.

4. FIU's Future Plan

The FIU is aware that it needs to have proactive operational approach to stick to its legislative mandates. Besides, it has no option but to be resource intensive to fully discharge the mandates of collecting, analyzing and disseminating the financial information. Relevant studies, international cooperation, installation of efficient electronic data base are on FIU priorities in addition to day to day functions. To this end, the following activities are in progress at present.

Potential Risk Assessment

Unless risks are identified, curbing ML/FT remains a distant goal. Thus, a Risk Assessment Committee is constituted under the chairmanship of FIU chief for the purpose of carrying out a study to identify inherent risks in various sectors. The committee consists of the representatives from relevant national agencies including Money Laundering Investigation Department, Crime Investigation Department of Nepal Police and the FIU itself.

This Committee has got the ToR of making a study into the potential risks of money laundering and terrorist financing from different angles and to suggest identified risk sectors along with effective measures to mitigate those risks.

Membership of Egmond Group

With the membership of APG, Nepal has obtained a status of active member in the Asia Pacific Region. APG membership has helped Nepal to be familiar with measures adopted by the APG member in combating ML/TF. It has also offered Nepal a tremendous opportunity to interact with the nations of this region. However, membership of Egmont Group of FIUs (the Association of the FIUs of the world) is necessary for Nepal to interact with the entire global community and to benefit from external experience.

Egmont Group provides a forum for FIUs around the world to improve cooperation in the fight against money laundering and financing of terrorism and to foster the implementation of domestic programs in this field. This support includes:

- Expanding and systematizing international cooperation in the reciprocal exchange of information,
- Increasing the effectiveness of FIUs by offering training and promoting personnel exchanges to improve the expertise and capabilities of FIU staff,
- Fostering better and secure communication among FIUs through the application of technology, such as the Egmont Secure Web (ESW),
- Fostering increased coordination and support among the operational divisions of member FIUs,
- Promoting the operational autonomy of FIUs, and
- Promoting the establishment of FIUs in conjunction with jurisdictions with an AML/CFT program in place, or in areas with a program in the early stages of development.



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Only Egmont Group membership qualifies Nepal to exchange information (relating to ML/TF) with and among the FIUs around the world. Nepal has made preliminary application for Egmont Group membership.

Directives to other Reporting Institutions

Apart from the directives issued to bank and financial institutions, money changer, money remitter/transferor, casino, cooperatives and government agencies the directives to Securities Companies, Gold and Precious Stone entrepreneurs, Real estate companies and other reporting institutions are being drafted.

Installation of Electronic Database

To make the record system of FIU more systematic and equipped with modern technology we are in the process of installing Electronic Database. Once established, it will help to receive, analyze and keep data in effective, easy and secure way. It is also expected that the system will also help the cross verification of data.



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5. Frequently Asked Questions

What is Money Laundering?

Money laundering is the processing of criminal proceeds to disguise their illegal origin. This process is of critical importance for criminal as it enables them to enjoy profits of illegal earnings. The offence of money laundering includes different activities including earning directly or indirectly from tax evasion or terrorist activities or by committing any offences stipulated in the Act and notice of the Government of Nepal. Further, the offence of money laundering covers any investment in criminal activities or acquiring, holding, possessing or utilizing any assets earned from illegal activities including criminal activities. Besides, concealing the source of illegal assets, transforming and transferring of illegally gained property for the purpose of avoiding legal actions are also deemed to be an offence of money laundering. Section 4 of the Money (Asset) Laundering Prevention Act, 2008 has defined money laundering in line of internationally accepted definition as mentioned above.

What is terrorist financing?

Terrorist activity financing may involve funds raised from legitimate sources, such as personal donations and profits from businesses and charitable organizations, as well as from criminal sources, such as the drug trade, the smuggling of weapons and other goods, fraud, kidnapping and extortion. The offence of terrorist financing is recognised as offence of money laundering in the Money (Asset) Laundering Prevention Act, 2008.

The Government of Nepal has power to declare any national or international organization involved in terrorist activities as terrorist organization. Thus, financing such organization can be considered as terrorist financing.

How is money laundered?

Generally, three stages are used for money laundering. Initial one is placement. In this stage, the launderer introduces his illegal money into the financial system. This might be done by using different tools.

After the funds have entered the financial system, the second stage which is known as layering begins. In this phase, the launderer engages in a series of conversions or movements of the funds to distance them from their source. In some instances, the launderer might disguise the transfers as payments for goods or services, thus giving them a legitimate appearance.

Having successfully processed his criminal profits through the first two phases the launderer then moves them to the integration stage. At this stage the funds re-enter the legitimate economy as legal earning of the launderer.

What are the agencies working for AML/CFT in Nepal?

The Money (Asset) Laundering Prevention Act, 2008 has established a coordinated mechanism to work against Money laundering and Financing of Terrorism. In the Apex, there is a Co-ordination Committee constituted under the chairmanship of the Secretary of the Ministry of Finance, consisting of five other members including FIU Chief as secretary. The committee deals with policy matters.



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The Act provides for a separate department for the investigation and prosecution of the cases related to ML and TF. Presently, Government has assigned this job to the Revenue Investigation Department.

A Financial Information Unit (FIU) is established in Nepal Rastra Bank as a central point for receiving and disseminating data from different reporting institutions. FIU not only receives data from local agencies, it can extend its arms in foreign land through establishing mutual relations with its foreign counterpart FIUs.

Who are reporting Institutions?

Banks, Financial Institutions, Non financial Institution and Government Offices are reporting institutions. For the purpose of anti money laundering of Nepal:

"Bank" means a bank licensed by Nepal Rastra Bank for carrying out 'A' class financial transactions under the prevailing bank and financial institution law.

"Financial Institution" means financial institution licensed by Nepal Rastra Bank for carrying out 'B', 'C', and 'D' class financial transactions under the prevailing bank and financial institution law and the term also denotes the cooperatives, person, firm, company or institution holding license to purchase and sale of foreign currency or any other transactions, company holding license for insurance business, insurance broker and also securities market or business as per prevailing laws.

"Non-Financial Institution" means the following institutions:-

- (1) Any firm or company registered as per prevailing laws to carry out any trade or business including casino, precious metals or other than those firm, company or institution which does not come under financial institutions.
- (2) Any institution whether or not organized or registered as per the laws,
- (3) Any institution prescribed by Nepal Government by publishing notice in the Nepal Gazette.

"Government Office" means the Land Revenue Office, Office of the Company Registrar and by notice on gazette dated 30 March, 2009 Department of Customs and subordinate offices, Department of Inland Revenue and subordinate offices, Department of Immigration and subordinate offices, Department of Transport Management and subordinate offices, Department of Post and subordinate offices, Department of Cooperative and subordinate offices, Department of Commerce and subordinate offices, Department of Industry and subordinate offices, Department of Education and subordinate offices, and Metropolitan city, Sub Metropolitan city and Municipalities are also reporting government offices.

Who can I contact if I suspect a case of money laundering?

The Revenue Investigation Department [Harihar Bhawan, Lalitpur] assigned to investigate and prosecute money laundering offence is the best place to report any suspected cases of ML/TF. You can also contact the FIU Nepal, Nepal Rastra Bank, Central Office, Baluwatar Kathmandu.