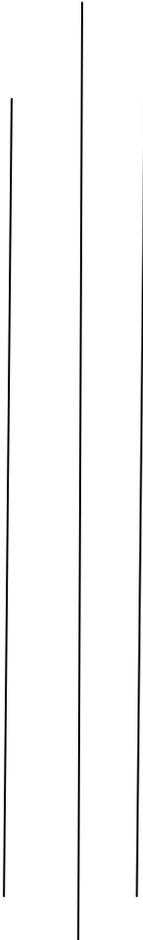


Financial Information Unit (FIU)

Annual Report

Fiscal Year 2066/67(2009/10)



Nepal Rastra Bank

Financial Information Unit (FIU)

Baluwatar, Kathmandu

Nepal

Foreword

Phrases like Anti Money Laundering (AML) and Combating Financing of Terrorism (CFT) came in our knowledge after getting membership of Asia Pacific Group on Money Laundering (APG) in 2002. This connection not only helped to know the importance of AML/CFT regime in our system, it also made us aware of our responsibility toward international community in this regard. Consequently, the Money Laundering Prevention Act, 2008 and Rules, 2009 came into force.

This Act has provided for the establishment of Financial Information Unit (FIU) as a central agency for receiving, analyzing and disseminating financial information. The FIU is established in Nepal Rastra Bank as per the provision of the Act.

To systematize the process of receiving data from different reporting agencies, the FIU has issued different directives for reporting institutions. Now, FIU is receiving a number of Threshold Transaction Reports and Suspicious Transaction Reports from different reporting agencies.

As we all know that AML/CFT is a new issue to us, FIU-Nepal is conducting series of workshops, interactions and training programs for different stakeholders to make them familiar with the concept and content of AML/CFT.

FIU is doing its best to discharge duties assigned by law. However, there is still a long way to go. The FIU is continuously achieving greater degree of efficiency and trying to be more resourceful so as to meet legal mandate

This is a report of our activities conducted for a year. It contains the activities conducted by FIU Nepal within the fiscal year 2066/67 (2009/10) which includes policy decisions, issuance of directives, awareness program, international cooperation, etc. We are hopeful that enforcement of AML/CFT regime will help to enhance transparency and contribute in combating crime in the country. We are also confident that FIU will receive all round cooperation from all stakeholders in this noble effort.

Dharma Raj Sapkota

Chief, FIU- Nepal

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1. Executive Summary

As an active member of the international community, Nepal is working with different global and regional agencies established to promote co-operation in different issues of international concern. Among such different issues, AML/CFT is major one. We are actively participating in the activities of Asia Pacific Group (APG) on Money Laundering from 2002 after getting its membership. To fulfill our international commitment and to combat money laundering and terrorist financing in the nation a comprehensive law in this regard is passed by the parliament in 2008. For the enforcement of the provision of the Money Laundering Prevention Act, 2008, Financial Information Unit (FIU) is established in Nepal Rastra Bank as per the provision of the Act.

This year, Nepal received correspondence from International Cooperation Review Group (ICRG) stating that Nepal could be listed as a non-cooperative country. ICRG is conducting a comprehensive study of our efforts on AML/CFT before making any final decision through Review Group. Commitment expressed by the Honorable Minister of Finance, Government of Nepal and continuous efforts of the FIU have made the FATF to wait for the final decision until the Mutual Evaluation Report of APG 2010.

To discharge its duties assigned by law and as a central point for the receiving, analyzing and disseminating the financial information related to AML/CFT, the FIU Nepal is working actively from the date of establishment. To enhance the AML/CFT Regime, FIU prepared a draft of AML Rules and forwarded it to Government of Nepal through Coordination Committee. These Rules are now in force as Money Laundering Prevention Rules, 2009. The FIU also forwarded a draft of Mutual Legal Assistance Bill and Amendment Bill to Money Laundering Prevention Act, 2008. In addition to these, the FIU has forwarded other policies recommendations to Government of Nepal through Coordination Committee.

To systematize the process of receiving data from different reporting agencies FIU has issued different directives for reporting institutions. Now, it is receiving a number of Threshold Transaction Reports (TTRs) and Suspicious Transaction Reports (STRs) from different reporting agencies. Now, the data are received in printed copy or electronic copy in a CD. FIU is in the process of establishing IT Network to receive and analyze data electronically.

To exchange international cooperation, the FIU is actively participating in international forums and expanding its relation with foreign FIUs through Memorandum of Understanding (MoU) and mutual cooperation. At the end of this fiscal year, we have concluded MoU with five jurisdictions for exchange of information related to ML and TF and correspondences have been made to various countries for concluding MoU with them.

FIU-Nepal is raising awareness through series of workshops, interactions and training programs targeted to different stakeholders. At the same time, FIU staff and staff of other related agencies have received international training to enhance their capacity on this area.

2. Annual Progress Report of Financial Information Unit (FIU) in Year 2066/67 (2009/10)

Nepal started its formal efforts on AML/CFT only after it became the member of Asia Pacific Group on Money Laundering (APG). Consequently, the offence of money laundering and financing of terrorism are criminalized. Different international legal instruments were adopted and a new law came into force. This law not only criminalized the money laundering and financing of terrorism, it provided for a regime to prevent such crime. The regime has been put in place and it has been operational.

The Coordination Committee is constituted under the Chairmanship of Secretary of Finance. Other members of this committee are Secretaries of Ministry of Law and Justice, Foreign Affairs, Home Affairs and Deputy Governor of Nepal Rastra Bank. The chief of FIU is the secretary of this committee and the FIU the secretariat. FIU also has other powers like, issuing directives to reporting institutions, inspecting them on the matter of AML/CFT, concluding MoU with foreign counterparts for exchange of information related to ML/TF.

This Act also provides for separate Investigation Department for Money Laundering offences. Currently, Government of Nepal has assigned this job to Revenue Investigation Department.

From the date of its inception, FIU-Nepal is working to achieve its objectives as assigned by the Act and Rules. This report contains following heading with a short description of the activities performed by FIU in the Fiscal Year 2066/67 (2009/10).

- ✚ Policy Decisions and Recommendations
- ✚ Enactment of Money Laundering Prevention Rules, 2009
- ✚ Directives to Reporting Institutions
- ✚ Receiving, Analyzing and Disseminating Data
- ✚ Awareness Programs
- ✚ International Relations
- ✚ Capacity Building Programs
- ✚ Miscellaneous Activities

2.1 Policy Decisions and Recommendations

Response to FATF's Letter to Finance Minister

In 16 July 2009, Nepal received a letter from FATF stating that Nepal was under the review of International Cooperation Review Group (ICRG). The objective of that letter was to warn Nepal about its weak regime on AML/CFT and encourage Nepal to make necessary reforms in the AML/CFT measures so as to comply with international AML/CFT standards. Having received the letter from the FATF the Coordination Committee has reassured its commitment to enhance Nepalese regime on AML/CFT and to provide all necessary assistance to review group. Likewise, Coordination Committee endorsed the response on the question of ICRG prepared by FIU and a team of officials was sent to Malaysia for face to face meeting with ICRG team members. This team presented AML/CFT action plan to ICRG for the year 2010 and the Finance Minister made political commitment to FATF on behalf of the Government of Nepal for the implementation of this plan.

Amendment in Money Laundering Prevention Act, 2008

A draft of necessary amendment to the Money Laundering Prevention Act, 2008 is prepared by FIU and the Coordination Committee has recommended the Government of Nepal to enact the proposed amendment.

Mutual Legal Assistance Bill

A draft of Mutual Legal Assistance Bill is prepared by FIU and submitted to the Coordination Committee. The Committee adopting this draft from FIU decided to forward it to Nepal Law Commission and Ministry of Law and Justice for necessary correction and action.

Risk Assessment Study

A committee is formed by Coordination Committee for the assessment of the areas of risk related to ML/TF in Nepal. The representatives of FIU, Revenue Investigation Department and Crime Division of Nepal Police are included in this committee. FIU is working as secretariat and facilitating this committee for risk assessment.

Establishment of Focal Point in Different Agencies

To coordinate the activities related to AML/CFT in respective agencies the Coordination Committee has decided to establish focal point in each ministries, regulators and government agencies.

Prohibition on Cash Transactions

The Coordination Committee has decided to prohibit cash transaction above five million Nepalese Rupees in real estate transactions.

Insertion of additional offences in the list of predicate offence

The Coordination Committee has decided to include crimes like extortion, abuse or exploitation of child, women and orphan, piracy and crime of involving in any prohibited profession, trade or business. Government of Nepal has included these crimes in the list of predicate offence by publishing a notice in Nepal Gazette 2066/12/23.

Recommendation for the adoption of International Instruments

The Coordination Committee has recommended to Government of Nepal to adopt the UN International Convention for the Suppression of the Financing of Terrorism 1999, UN Convention against Transnational Organized Crime, 2000 and UN Convention against Corruption, 2003. Likewise, the Committee has recommended to Government of Nepal to make necessary mechanism for the implementation of the UN Security Council Resolution, 1267, 1373 and other related decisions.

Preparation for the membership of Egmont Group

The Coordination Committee has instructed the FIU to get membership of Egmont Group. The Committee has also instructed the FIU and NRB for installations of IT Network in FIU and extending international cooperation with foreign counter parts. FIU-Nepal has applied for Egmont Group membership in January 2010.

Preparation and enforcement of Integrated and uniform Customer Due Diligence to all Banks and Financial Institutions

A draft of integrated uniform Customer Due Diligence document is prepared by FIU in consultation with and cooperation of different banks and financial

institutions including Bankers Association. The Coordination Committee instructed the FIU to enforce it as soon as possible. Following this instruction FIU has prepared a draft of separate CDD directives to reporting institutions. The draft is being finalized and will be issued soon.

Insertion of condition for licensing by different regulators

The Coordination Committee has instructed all regulators to insert a condition related compliance of AML/CFT law, and guidelines issued by respective agencies while issuing or renewing license to the institution, firm or company for any regulated business.

2.2 Enactment of Money Laundering Prevention Rules, 2009

For further execution of the Money Laundering Prevention Act, 2008 and to fulfill the gaps which are not covered by the Act, the Money Laundering Prevention Rules, 2009 came into force. The draft of this Rule is prepared by FIU and every single rule is discussed in coordination committee. This committee recommended Government of Nepal to bring this Rule into force. Following are some of the major issues covered by this Rules.

- Extended the power and duties of coordination committee
- Formation of Technical Committee for the execution related matters
- FIU is authorized to issue AML/CFT directives to government offices
- Obligation of the Regulatory Body, Reporting Institutions and Natural Person
- Obligation of the Compliance Officer
- Procedure related to complaint, inquiry and investigation

2.3 Issuance of Directives to Reporting Institutions

One of the core functions of FIU is to receive financial information from different reporting institutions and maintain record thereof. FIU is authorized by Section 10 (3) of the Money Laundering Prevention Act, 2008 and Rule 7(1) Money Laundering Prevention Rules, 2009 to issue directives to different reporting institutions about the process of sending Threshold Transaction Reports and Suspicious Transaction Reports. Besides reporting procedure, the directives may also provide for how the

reported transaction has to be dealt with. In the Fiscal Year 2066/67 (2009/2010) following reporting institutions have been covered by FIU directives.

- Banks and Financial Institutions
- Remitters
- Money Changers
- Casinos
- Cooperatives involved in saving and credit business
- Government Offices
- Securities Business Persons
- Insurance Companies

A separate directive for each types of reporting institution mentioned above is issued in different time during the year. These directives include customer identification, threshold of transaction, methods of TTR and STR reporting, exemption from reporting obligation, classification and mitigation of risks, risk management, internal directives, compliance officer, etc. In addition to this, certain reporting institutions viz. Banks and Financial Institutions, Remitters and Money Changers have received additional directives. These additional directives include basis for the identification of suspicious transaction and nature of such transactions. This also includes Identification, Control in Transaction and Information of Terrorist related activities.

2.4 Receiving, Analyzing and Disseminating Data

FIU has received a number of Threshold Transaction Reports (TTRs) and Suspicious Transaction Reports (STRs). Most of the reporting institutions to which FIU has issued directives are sending both STRs and TTRs. Continuous follow up is going on so as to make all reporting institutions comply with the legal provision in this regard.

During this year FIU has received more than two hundred STRs. After necessary analysis and verification, a total of 177 STRs are forwarded to the Revenue Investigation Department for further investigation.

2.5 Awareness Programs

As the issue of AML/CFT being new to Nepal, FIU-Nepal is conducting series of awareness programs to relevant stakeholders. Different interaction programs were organized by FIU with local and international resource persons. These programs were organized in Kathmandu and outside. Here is a short description of the interaction program conducted by FIU during Fiscal Year 2066/67 (2009/2010).

- A two-days-interaction program was conducted in September 2009 for officials of government agencies, regulators and other stakeholders. Dr. Gordon Hook, the Executive Secretary of APG was the main resource person of this program.
- A three-days-Pri Mutual Evaluation interaction program was conducted on April 5-7, 2010 for different stakeholders including Revenue Investigation Department, CIAA, Police, Regulators, Association of Reporting institutions, other relevant government agencies and reporting institutions. Dr. Gordon Hook the Executive Secretary of APG was the main resource person of this program.
- Four one-day-interaction programs were conducted in Kathmandu for the compliance officers of the reporting institutions about the concept of AML/CFT and reporting system. The resource persons for these programs were also provided by the FIU.
- Three one-day-interaction programs were conducted in Biratnagar, Pokhara and Nepalgunj respectively for the compliance officer of the reporting institutions and concerned government officials of respective region about the concept of AML/CFT and reporting system.
- One-day-interaction program was conducted for compliance officers of different Cooperatives and representative of Division Cooperative Office around Kathmandu valley. The FIU officers were the resource person in the program.

2.6 International Relations

As an active member of the international community, Nepal is working with different global and regional agencies established to promote co-operation in different issues of international concern. Among such different issues, AML/CFT is major one. We are actively participating in the activities of Asia Pacific Group on Money Laundering (APG) since 2002. FIU-Nepal is participating in annual meetings of APG. This year also representatives from different agencies including FIU participated in the Annual Meeting and Technical Assistance Forum of APG held in Singapore.

To extend the cooperation in exchanging financial information related to ML/TF and other related crimes, FIU-Nepal has initiated a process to establish close relation with other FIUs. The Coordination Committee has also directed FIU to accelerate this process. During this fiscal year we have concluded Memorandum of Understanding (MoU) with FIU of Malaysia, Thailand and Mangolia. The FIU is in process of extending this relation to the FIUs of other countries.

In addition, FIU Nepal has extended cooperation to FIU-India and FinCEN, USA. This cooperation is based on good faith.

2.7 Capacity Building Programs

Though Nepal became member of APG in 2002, the activities against ML/TF started after the enactment of Money Laundering Prevention Act in 2008. This Act provided for different institutional arrangements necessary to prevent the crime of ML/TF. FIU is established with Nepal Rastra Bank and the staffs of the FIU are from Nepal Rastra Bank. At the time of establishment of the FIU, no staff of FIU was well aware of ML/TF. They were not well informed of the functions of the FIU either. The situation was similar in Investigation Department i.e. Revenue Investigation Department too. So, enhancing capacity of its staff became a basic priority of the FIU. With the cooperation of APG, IMF, American Treasury Department and other

international agencies working in the field of AML/CFT, FIU-Nepal became able to provide different types of trainings and exposures to its staff. FIU is also facilitating other related agencies for this purpose. Here is the list of training and programs on which FIU staff has got opportunity to participate.

- Two officials from the FIU and one from NRB IT Department have visited to the Bank Negara Malaysia and Thailand for the observation of IT Network of respective FIU
- One official from the FIU has participated in APG Assessor Training Workshop, 2009 held on Sydney, Australia.
- One official from the FIU has participated in IMF (STI) Seminar on Designing Effective Legal Frameworks for Problem Banks and Resolving Banking Crises, held in Singapore.
- One official from the FIU has participated in the SEACEN BNM Banking and Financial Law School Course, held in Kuala Lumpur Malaysia.
- One official from the FIU has participated in the Asia Pacific Group (APG) Conference to Assist Jurisdictions to meet G20 Objectives, held on States of Jersey.
- Two officials from the FIU have participated in the AUSTRAC's AML/CFT Leadership Conference held in Kuala Lumpur Malaysia.
- One official from the FIU has participated in the APG Typologies Workshop 2009 held in Siem Reap Cambodia.
- Three officials from the FIU and one from Investigation Department have participated in Joint IMF/ITP AML/CFT course for Financial Intelligence Unit (FIU) for India and south Asia countries, held in Pune, India.
- Two officials from the FIU have participated in the Joint IMF/ITP Anti- Money-Laundering and Combating the Financing of Terrorism (AML/CFT) Workshop on policy Development, held in Pune, India.
- Two officials from the FIU have participated in the Bank Negara Malaysia (FIU) Regional Basic Analytical Skill Workshop, Held in Kuala Lumpur, Malaysia.

- One official from FIU, One from NRB Regulation Department, One from Office of Attorney General and one from Investigation Department participated in Joint APG/ IMF Evaluation Training Workshop held in Singapore.

2.8 Miscellaneous Activities

Technical Committee

Money Laundering Prevention Rules, 2009 has made provisions for technical committee under the chairmanship of FIU Head. Rule 5(1) constitutes this committee with representatives from Nepal Rastra Bank, Investigation Department, Police, Securities Board and Insurance Board. Establishing cooperation in functional aspects of AML/CFT is main objective of this committee. FIU is working as secretariat of the committee and providing necessary logistic support. Three different meeting of this committee were conducted in this fiscal year.

Risk Assessment Committee

The Coordination Committee has decided to study the possible risk of ML/TF in Nepal in its 6th meeting dated 2066/7/23. Following this decision, a risk assessment committee is constituted and FIU is working as the secretariat of the committee. FIU is also providing every necessary support to this committee. The committee will assess ML/TF risk in Nepal from November 2010.

FIU Website

A comprehensive website is prepared with the help of NRB IT Department. This website contains different national and international instruments relating to AML/CFT, Directives issued by FIU and other useful documents including 40+9 Recommendations of the FATF.

FIU E-News Letter

The first issue of the FIU E-News Letter has been published and posted in the FIU website. This News Letter includes information about the activities of FIU, concept of AML/CFT, future plan of FIU and frequently asked questions.

Installation of IT Network

Process of establishment of IT Network for receiving and analyzing the data with FIU is in progress. IT and General Service Departments of Nepal Rastra Bank are on board in this process of procurement of the system.

3. Actions Necessary to Strengthen Nepalese AML/CFT Regime

Despite the works performed in the year 2066/2067 as mentioned above, there are a number of activities Nepal has to do to strengthen Nepalese AML/CFT regime. The process of reforming AML/CFT regime of Nepal has started and the following issues require topmost priority for this purpose. All relevant institutions have equal role to play in this regard.

3.1 Establishment of IT System in FIU

The FIU is in need of an IT system with specific features required for FIU to accomplish its legal duty of receiving, analyzing and disseminating the financial information related to ML/TF. Once established, IT system will help to receive data from reporting institutions electronically through secure gateway. It is also expected that this system will help to maintain data in a secure way and make analysis process easier and more efficient.

Nepal Rastra Bank has already initiated the process of procurement of IT System including necessary hardware. The contract for commissioning and installation of FIU IT system will be awarded by the end of 2010.

3.2 Amendment of Money Laundering Prevention Act, 2008

To make present Money Laundering Prevention Act, 2008 more comprehensive, a draft of amendment is already forwarded to Government of Nepal from FIU through Coordination Committee. The Coordination Committee forwarded it to the Council of Ministers. The Council of Ministers has approved the text of amendment. Now the amendment bill is under the consideration of the Legislative Parliament.

3.3 Enactment of Mutual Legal Assistance Bill

A comprehensive legislation providing for mutual legal assistance is necessary for enhancing international cooperation. For this purpose a draft of Mutual Legal Assistance Bill is already forwarded to the Government of Nepal, Ministry of

Law and Justice from FIU through Coordination Committee. Ministry of Law and Justice is considering different aspects of the provision of the draft so as to finalize it.

3.4 Amendment of Extradition Law

Although Extradition Act, 2045 (1988) is in force in Nepal, it provides for limited scope of extradition. The Act allows extradition only on the basis of treaty concluded between Nepal and foreign country. Under the existing law, the extradition is not possible between Nepal and any other country with which Nepal has not concluded extradition treaty.

To address the shortcomings of the existing extradition law, the Ministry of Law and Justice has prepared a draft of new extradition bill. The ministry is considering the different aspects of the provision contained in the draft before forwarding it to the Legislative Parliament. Enactment of new extradition Act is necessary to ensure compliance with the international AML/CFT standard relating to international cooperation.

3.5 Enactment of Law against Organized Crime

Though different chapters of Muluki Ain cover some aspects of organized crime, no comprehensive law exists in this regard. Ministry of Home is preparing a draft bill against organized crime. It is necessary to make such law to combat organized crimes like Money Laundering, Terrorist Financing, corruption, obstruction of justice, smuggling of migrant workers and other organized crime in our society.

3.6 Ratification of Different International Conventions

Adoption of different international instruments is also necessary to strengthen AML/CFT regime. Nepal has already adopted some UN and SAARC conventions in this regard. However, Nepal is yet to ratify three important conventions, namely UN Convention against Corruption, 2003, UN Convention against Transnational Organized Crime, 2000 (the Palermo Convention) and the UN Convention for the Suppression of the Financing of Terrorism, 1999. Recognizing the importance of these conventions for controlling ML/TF, the Council of Ministers has passed these conventions and forwarded it to Legislative Parliament for the ratification.

3.7 AML/CFT Risk Assessment

Though Nepal is actively working against the crime of ML/TF, existing risk needs to be assessed. The risk can be avoided only if inherent risks are identified. Realizing the need for a comprehensive risk assessment, a risk assessment committee comprising of the representatives of Nepal Police, Department of Revenue Investigation (DRI) and Financial Information Unit (FIU) has been formed. The risk assessment will begin from November 2010. Once completed, this study will help to formulate necessary policy accordingly and concentrate our activities for the sectors that are more vulnerable to ML/TF.

Thank You !