

Asset (Money) Laundering Prevention Rules, 2009¹

In exercise of the power under Section 46 of Asset (Money) Laundering Prevention Act, 2008, the Government of Nepal has formulated the following Rules.

Chapter-1

Preliminary

1. Short Title and Commencement: (1) These Rules shall be cited as "Asset (Money) Laundering Prevention Rules, 2009"
 - (2) These Rules shall come into force at once.

2. Definition: Unless the subject or context otherwise requires, in this Rules,-
 - (a) "Act" means Asset (Money) Laundering Prevention Act, 2008.
 - (b) "Customer" means individual, firm, company, organization or entity having business relation with the bank, financial institution or non-financial institution.
 - (c) "Technical Committee" means the committee formed pursuant to Rule 5.
 - (d) "Directives" means the Directives issued by the Financial Information Unit pursuant to Rule 7.
 - (e) "Regulatory Body" means the entity or officer authorized by the existing law to regulate any business.
 - (f) "Coordination Committee" means the coordination committee formed pursuant to Section 8 of the Act.
 - (g) "Reporting Institution" means bank, financial institution, non-financial institution and government entity having obligation to report information and particulars to the Financial Information Unit as per the provisions of the Act, Rules and the Directives.

Chapter-2

Threshold Transaction and Functions of the Coordination Committee and the Technical Committee

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3. Threshold Transaction: (1) Nepal Rastra Bank may, while prescribing the threshold of transaction for the purpose of Section 6 (1) of the Act, prescribe different threshold for different transaction by taking into account the area, subject matter and the nature of the transaction involved.
- (2) Nepal Rastra Bank may, while prescribing the threshold pursuant to Sub Rule (1), consult the regulatory body.
 - (3) Nepal Rastra Bank shall, while prescribing or amending the threshold pursuant to Sub Rule (1), publish a public notice thereof.
4. Functions of the Coordination Committee: (1) The Coordination Committee may, for the purpose of Section 8 of the Act, furnish recommendations to the Government of Nepal on the following matters.
- (a) Prevention of the offence;
 - (b) Monitoring of the activities made for the prevention of the offence;
 - (c) Obtaining the membership of the international organizations working for the prevention of the offence;
 - (d) The policy, strategy, plans to be adopted and made by the Government of Nepal and the implementation of the decisions made;
 - (e) Implementation of the annual report of the FIU on the prevention of the offence;
 - (f) Other matters as deemed necessary by the committee.
- (2) The coordination committee may, while furnishing recommendations pursuant to Sub Rule (1), furnish the recommendations to the concerned ministry as per necessity based on the subject matter or straight to the office of the Prime Minister and the Council of Ministers.
5. Formation of the Technical Committee: (1) For the purpose of assisting the Financial Information Unit to execute the objective of the Act, there shall be a Technical Committee constituted as follows:
- (a) Chief, the Financial Information Unit Coordinator
 - (b) Representative, the Department Member
 - (c) Representatives, Nepal Rastra Bank (one from each of the Foreign Exchange Department

and the Regulation Department)	Members
(d) Representative, Nepal Police	Member
(e) Representative, Nepal Securities Board	Member
(f) Representative, Insurance Board	Member
(g) Deputy Director, Financial Information Unit	Member Secretary

(2) The Technical Committee shall assist the Financial Information Unit in the following functions:

- (a) Formulation of measures or strategy necessary for the control of the offence;
- (b) Implementation of the measures or strategy formulated pursuant to (a);
- (c) Promotion of awareness for the control of the offence;
- (d) Performing other functions prescribed by the Coordination Committee.

(3) The coordinator may call the meeting of the Technical Committee as per necessity and the meeting procedure shall be as fixed by the committee itself.

(4) Officials of the concerned authority or any other expert may, as per necessity, be invited to the meeting of the Technical Committee.

Chapter-3

Functions, Duties and Power of the Financial Information Unit

6. Functions, Duties and Power of the Financial Information Unit: In addition to the functions, duties and power stated in Section 10 of the Act, the functions, duties and power of the Financial Information Unit shall be as follows:

- (a) Function as a focal point for the prevention of money laundering;
- (b) Write to the concerned organization to freeze the property for 30 days at maximum if the analysis of the transaction or the information, particulars received from the reporting institution presents reasonable ground to

believe that the property involved in the suspicious transaction is likely to be transferred, sold or in any manner transformed or changed unless frozen at once;

- (c) Install and operate electronic information network for the control of the offence;
- (d) Receive information from the regulatory body on whether or not the reporting institutions regulated by the concerned regulatory body has acted in accordance with the Act, these Rules and the Directives;
- (e) Share with the reporting institution and the regulatory body the information received from foreign state or international organizations regarding the individuals and organizations involved in the offence and the states with weak mechanisms for controlling the offence;
- (f) Sign Memorandum of Understanding with the Financial Information Unit of other country for the purpose of Section 10 (1) (d) of the Act;
- (g) Obtain, as an FIU, membership of international organizations working for the prevention money laundering;
- (h) Conduct or cause to conduct training, seminar, study, research and make publication and transmission about the offence and its control in coordination with the regulatory body, bank, financial institutions and non-financial institutions so as to promote public awareness;
- (i) Prepare and submit long term action plan to the coordination committee and annual action plan to Nepal Rastra Bank;
- (j) Maintain record of the information and particulars relating to the tasks the FIU performs;
- (k) Submit annual FIU report of performance to the coordination committee and Nepal Rastra Bank within three months from the completion of the fiscal year;

7. Power to Issue Directives: (1) The Financial Information Unit may, for the purpose of controlling the offence, issue directives from time to time to the reporting institutions on the following matters in a way that does not contradict with the Act and these Rules:

- (a) Customer Identification, Introduction and Acceptance Procedure,
- (b) Identification of Suspicious Transaction,
- (c) Modes of reporting Suspicious Transaction,
- (d) Record of the transaction and business relation, particulars to be mentioned in such records and management and security of the record,
- (e) Diligence on and control of the transaction and internal inspection,
- (f) Other necessary matters.

(2) It shall be the duty of the employee and official of the concerned institutions to comply with the directives issued by the Financial Information Unit pursuant to Sub Rule (1).

Chapter-4

Obligation of the Regulatory Body, Reporting Institutions and Natural Person

8. Power to Designate Regulatory Body: The Government of Nepal may, if there is no regulatory body to regulate any institutions obliged by the Act and these Rules to report to the Financial Information Unit, designate any regulatory body in consultation with the Coordination Committee to regulate such institution or person.
9. Obligation of Regulatory Body: The regulatory body shall have the following obligation in relation to the prevention of the offence:
 - (a) Execute or cause to execute the Act, these Rules and the Directives,
 - (b) Issue necessary directives to the institutions it regulates,
 - (c) Inspect and supervise whether or not the concerned institutions or person has complied with (a) and (b),
 - (d) Provide the Financial Information Unit with the report of the inspection and supervision conducted pursuant to (c).
10. Obligation of the Reporting Institution: In addition to the obligation mentioned in the Act, the reporting institution shall have the following obligation:
 - (a) Maintain record of the transaction as prescribed by the Financial Information Unit,

- (b) Update customer profile of the existing customer as prescribed by the Financial Information Unit and submit the record thereof to the FIU within 5 years from the date these Rules come into force,
- (c) Maintain a separate confidential record of the suspicious transaction duly signed by the concerned officer and the chief of the office,
- (d) Designate a high ranking managerial level official as a compliance officer and provide the Financial Information Unit with the name, address and contact number of the compliance officer,

Provided that in case of the government office the chief of the office or any officer designated by him may perform the task of the compliance officer.

11. Obligation of the Compliance Officer: The obligation of the Compliance Officer designated pursuant to Rule 10 (d) shall be as follows:

- (a) Function as focal point to perform tasks in accordance with the Act, these Rules and the Directives,
- (b) Cause to maintain secure record of transaction,
- (c) Provide information about suspicious or other necessary transaction to the Financial Information Unit through letter or electronic means of communication like fax, email,
- (d) Provide information about transaction of the branch offices to the Financial Information Unit in a regular basis.

12. Obligation of Natural Person: It shall be the obligation of the concerned natural person to provide information and particular to the Financial Information Unit if such natural person is so required by the Act and the Directives issued in exercise of the power granted by these Rules.

Chapter-5

Complaint, Inquiry and Investigation

13. Complaint may be lodged through electronic means of communication: A person lodging complaint with the Department pursuant to Section 13 of the Act can

- lodge the complaint through electronic means of communication such as fax and email.
14. Anonymous Complaint may be lodged: If anyone lodging complaint pursuant to the Act and these Rules wishes to remain anonymous, he can request such anonymity and the details like his name and address shall not be disclosed.
 15. Format of Complaint Register: The Department shall register the complaints it receives in a register as prescribed in schedule-1.
 16. Copy of the Evidence may be given: If the person lodging complaint before the Department as per the Act and these Rules submits any evidence along with the complaint, the Department can give the complainant the attested copy of the evidence submitted.
 17. Appointment of the Investigation Officer: The Department, while appointing or designating Investigation Officer, shall appoint or designate in a form as prescribed in schedule-2.
 - (2) While appointing or designating the Investigation Officer pursuant to Sub Rule (1), the time period within which the inquiry and investigation are to be completed and the name of the supporting staffs shall be mentioned.
 - (3) The investigation officer shall, if the investigation is not completed within the time period stipulated pursuant to Sub Rule (2), request the Department with reason for additional period of time.
 - (4) If an additional period of time is requested as per Sub Rule (3), the Department may, based on the nature of the inquiry and investigation, extend the time not exceeding 35 days at a time for a maximum period of 120 days.
 18. Format of Subpoena: The Department shall, while issuing notice to someone to appear for interrogation or statement or clarification in course of the inquiry or investigation, subpoena the concerned person in a form as specified in shedule-3.
 19. Format of Arrest Letter: The Department or the investigation officer shall, while arresting someone in course of inquiry or investigation, give the concerned person an Arrest Letter as specified in schedule-4.

20. Format of Detention Letter: The Department or the investigation officer shall, if someone needs to be detained in course of inquiry or investigation, give the concerned person a Detention Letter as specified in schedule-5.
21. Search and Seizure: (1) The investigation officer shall, while entering in someone's house or compound for the purpose of search in course of the inquiry or investigation, give notice of the search and prepare seizure report of the goods seized, if any.
- (2) For the purpose of Sub Rule (1) the format of search notice shall be as prescribed in schedule-6 and seizure report in schedule-7.
- (3) The investigation officer shall, if he needs to take with him the cash, kind or any other goods seized during search conducted as per Sub Rule (1), prepare the acknowledgement of his taking away of such goods and shall hand the paper over to the official of the bank, financial institution and non-financial institution if the search is conducted in such institution. If the search is conducted elsewhere, the acknowledgement shall be given to the landlord or the owner of the goods or the person taking charge of the goods. If such concerned person is not available or if such person does not accept to receive such acknowledgement, the investigation officer shall hand it over to the representative of the local body.
- (4) If the representative of the local body as mentioned in Sub Rule (3) is not available, the receipt shall be posted in the spot where the seizure report is created and it shall be mentioned in the seizure report.
- (5) Posting of the acknowledgement as prescribed in Sub Rule (4) shall be deemed as concerned person receiving the acknowledgement.
22. Format of Dating Record: The Department shall, while keeping the suspect on dating obligation, create attendance record as specified in schedule-8 and give the suspects summons in a form as specified in schedule-9.
23. Format of Bail/Guarantee: (1) The Department or the investigation officer shall use the form as specified in schedule-10 for the purpose of bail or guarantee from the suspects.
- (2) The suspect shall sign a document as specified in schedule-11 if he posts the property of his ownership as bail or guarantee and other person shall sign a

- document as specified in schedule 12 if he posts the property of his ownership as bail or guarantee for the suspect.
24. Supplementary Statement Permitted: The investigation officer may, if he thinks it necessary in course of inquiry or investigation to take information about the offence or the accused, take supplementary information or statement from the person having such information.
25. Format of Order to freeze or control property, account and transaction: (1) While taking into control or freezing the property, account or transaction relating to the offence, the Department shall take into control or freeze the same by issuing an order in a form as specified in schedule-13.
- (2) While freezing the property, account or transaction pursuant to Sub Rule (1), the claim, lien or right over such property, account or transaction may also be frozen.
26. Format of Inquiry or Investigation Report: The investigation officer shall, upon completion of inquiry or investigation, submit the report thereof in a form as specified in schedule-14.
27. Format of Charge Sheet: The Department shall, while filing a case, prepare and file a charge sheet in a form as specified in schedule-15.
28. Stay or postponement of the complaint: The Department may stay the following complaints:
- (a) The complaint that is not related to the offence,
 - (b) The complaint that does not require proceeding based on the available evidences,
 - (c) The complaint devoid of new evidence and details but is related to the complaint that was once stayed.
29. Information may be received through the Financial Information Unit: The Department may, if any information or particular needs to be sought from any institution of the foreign country in course of inquiry or investigation, seek such information or particular through the Financial Information Unit.
30. Record of the Freezing and Freed to be kept: (1) The Department shall, if it receives bail or guarantee from the suspect or on his behalf pursuant to Rule 23 or

- has taken into control or frozen any property, account or transaction pursuant to Rule 25, maintain a record thereof.
- (2) The details including registration number of the complaint, name, family name, address, property, account, transaction and asset of the suspect, date of order issued to control or freeze the property, name of the office that takes into control or freezes the property, date and reference number of the letter written requiring the property to be taken into control or frozen shall be mentioned in the record maintained as per Sub Rule (1).
- (3) The Department shall, if the property taken into control or frozen pursuant to Sub Rule (1) gets freed, update the record thereof accordingly.
31. Freezing to be undone and assets to be returned: (1) The Department shall, if it has frozen in course of investigation any person's property, account, passport or asset guarantee received on his behalf, undo the freezing within 30 days from the date the decision, if any, is made not to sue such person.
- (2) In case the suspect gets acquitted from the charges filed under the Act and the decision is made not to make an appeal against the acquittal, the court shall undo the freezing of the account, passport, property, transaction of the suspect within 30 days from the date the statutory limitation for appeal expires.
32. Investigation Officer may be changed: If any investigation officer fails to perform the designated tasks for whatsoever reason or there exists reasonable ground to infer that it is not appropriate to have the investigation officer perform the designated tasks, the Department may appoint or designate another investigation officer in his place with explanation of the change.
33. Expert's Service may be received: The Department may receive the service of an expert of any discipline if such service is required in course of inquiry or investigation.
34. Expenses may be approved: The chief of the Department may approve the justifiable expenses, devoid of receipt, made by the investigation officer in course of the inquiry or investigation.

35. Oath to be taken: The person working as the investigation officer, supporting officer or expert pursuant to the Act and these Rules shall, prior to taking on duties, take an oath before the chief of the Department as prescribed in schedule-16.
36. Writing to maintain record: If the Department files charge or takes any action against any bank, financial institution or non-financial institution or any person, institution, the Department shall inform the concerned institution or regulatory body of such action.
37. Fine Procedure: (1) Where the Financial Information Unit is to fine any bank, financial institution or non-financial institution as per Section 31 of the Act, the concerned bank or institution shall be informed of the activities resulting to fine, grounds and reason for fine and the proposed amount of fine. Such bank or institution shall be given 7 days time to defend itself.
- (2) Where the Department is to fine any person as per Section 12 (2) and 18 (3) of the Act, the concerned person shall be informed of the activities resulting to fine, grounds and reason for fine and the proposed amount of fine. Such a person shall be given 7 days time to defend himself.
- (3) The Financial Information Unit or the Department may fine the institution or person if the institution or person fails to submit defense in accordance with Sub Rule (1) or (2) or the submitted defense is not satisfactory or reasonable.
38. Shielding performance in good faith: No charge or legal proceeding shall be initiated against the officials of the Financial Information Unit and the Department for any acts they perform in accordance with the Act and these Rules in good faith.
39. Confidentiality: (1) The information, particulars and documents received by the Financial Information Unit in accordance with the Act, these Rules or Directive shall remain confidential under Section 3 of Right to Information Act, 2008.
- (2) The information, particular and documents as mentioned in Sub Rule (1) shall not be provided to other entity except to the Department, investigation officer or the court.

(3) No information and copy of the documents received by the Department in accordance with the Act and these Rules shall be given to any entity or person except to the concerned investigation officer or the court.

40. Manual: (1) The Financial Information Unit may develop and implement necessary manual to perform the tasks it is required to perform as per the provisions of the Act and these Rules.

(2) The Department may develop and implement internal manual to perform the tasks it is required to perform as per the provisions of the Act and these Rules.

(3) The reporting institution may develop and implement internal procedure to perform the tasks it is required to perform as per the provisions of the Act, these Rules and the Directives.

Schedules – to placed later.