



NATIONAL BANK OF CAMBODIA

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Unofficial Translation

Directive
on
Customer Due Diligence Measures

Pursuant to the Law on Anti-Money Laundering and Combating the Financing of Terrorism promulgated by the Royal Kram No. NS/RKM/0620/021 dated 27 June 2020 the Cambodia Financial Intelligence Unit issues Directive on Customer Due Diligence measures.

1. Scope

This Directive shall apply to all reporting entity referred to in Article 4 of the Law on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT), including any person or profession that may be designated as a reporting entity pursuant to Article 4.15 of the AML/CFT Law.

2. Definitions

Terms used in this Directive are defined as below:

- a) "Controlling ownership interest" in a legal person, for the purposes of Article 3.10 (a) of the AML/CFT Law and this Directive, shall mean a direct or indirect ownership interest of 20% or more of the shares or voting rights.
- b) "Family members" shall mean individuals who are related to a Politically Exposed Person (PEP) as following:
 - i. parent;
 - ii. sibling;
 - iii. spouse;
 - iv. child; or
 - v. spouse's parent.
- c) "Close associate" shall mean a person who is in a position to conduct domestic and international financial transactions on behalf of a PEP. Also, a person who is publicly known to maintain a close personal, business or professional relationship with the PEP, include:
 - i. financially dependent individuals (e.g. persons salaried by the PEP such as drivers, bodyguards, secretaries);
 - ii. business partners or associates of the PEP;
 - iii. prominent members of the same organization as the PEP;

- iv. individuals working closely with the PEP (e.g. work colleagues); or
 - v. close friends.
- d) “One off or occasional transactions” shall mean transactions that are not normal and/or customary to the profile of the customer.
- e) “Senior management” shall mean any person who has authority and responsibility for controlling day-to-day activities of a reporting entity or legal person and for planning, directing or overseeing the reporting entity or legal person.

3. Risk Assessment

3.1 Risk-based approach

Reporting entity shall adopt risk-based approach to identify, assess, manage, and mitigate their Money Laundering or Terrorism Financing (ML/TF) risks in accordance with Article 8.1 and 8.3 of the AML/CFT Law. The risk assessment process shall include an assessment of the following categories of risk:

- a) customer risk;
- b) geographic risk associated with transactions, customers, products and services, and others;
- c) risks associated with individual products, services, delivery channels and/or technologies; and
- d) other factors giving rise to the risk of ML/TF within or involving the reporting entity.

3.2 Record keeping and ongoing monitoring


Assessments prepared pursuant to Point 3 of this Directive shall be recorded in writing and reviewed periodically, kept up-to-date and documented. Where new products, services, delivery channels and/or technologies are introduced, the ML and TF risks associated with them shall be assessed prior to their implementation.

3.3 Bases of the risk assessment

The nature, scope, and complexity of a risk assessment prepared pursuant to Article 8.3 of the AML/CFT Law and Point 3 of this Directive shall be commensurate with the size and complexity of the reporting entity’s business and ML/TF risk environment in which it operates.

4. Obligations of reporting entity

4.1 Customer Due Diligence (CDD) thresholds

4.1.1 The threshold for undertaking CDD measures required in Chapter III of the AML/CFT Law in relation to occasional or one-off transactions is 40,000,000 (forty million) Riels or foreign currency equivalent except for wire transfers or transactions involving reporting entity referred to in Article 4.10 and Article 4.13 of the AML/CFT Law. 

4.1.2 The threshold for undertaking CDD measures required in Chapter III of the AML/CFT Law in relation to remittance and wire transfers are 4,000,000 (four million) Riels or foreign currency equivalent.

4.1.3 The threshold for undertaking CDD measures required in Chapter III of the AML/CFT Law in relation to reporting entity referred to in Article 4.10 of the AML/CFT Law is 60,000,000 (sixty million) Riels or foreign currency equivalent.

4.1.4 The threshold for undertaking CDD measures required in Chapter III of the AML/CFT Law in relation to reporting entity referred to in Article 4.13 of the AML/CFT Law is 12,000,000 (twelve million) Riels or foreign currency equivalent.


4.2 Measures to be taken for the identification and verification of customers of reporting entity


4.2.1 Where one or more of the conditions for undertaking CDD set out in Article 8.4 of the AML/CFT Law are satisfied, and subject to the thresholds and exceptions referred to in Point 4.1 of this Directive, reporting entity shall identify and verify their customers in accordance with Article 8 of the AML/CFT Law and this Directive.

4.2.2 Customers who are natural persons

- a) Where CDD is required in relation to a natural person, reporting entity shall obtain from the customer at least the following information:
 - i. full name
 - ii. date of birth
 - iii. identity card/passport
 - iv. occupation/business
 - v. nationality
 - vi. address and
 - vii. whether they are acting on behalf of another person.
- b) The information referred to in Point 4.2.2 (a) of this Directive shall be verified the original documents, issued by the competent authorities, that contain photograph and requirements as in Point 4.2.2 (a) of this Directive.
- c) Where a customer subject to CDD requirements is acting on behalf of another person, the identification and verification requirements of Point 4.2.2 (a) and (b) of this Directive shall be completed for that person.

4.2.3 Customers who are legal persons

- a) Where CDD is required in relation to a legal person, reporting entity shall obtain from the customer at least the following information:
 - i. registered name of the legal person 

- ii. date of incorporation
 - iii. registered number issued by incorporating authority
 - iv. registered office
 - v. address of place or places of business
 - vi. nature of business undertaken
 - vii. names and addresses of directors or partners
 - viii. names and addresses of shareholders and
 - ix. names and addresses of any person who is authorized to represent legal person or beneficial owner of legal person
- b) The information referred to in Point 4.2.3 (a) of this Directive shall be verified by the original of the following documents:
- i. Memorandum or article or certificate of incorporation or partnership
 - ii. company registration documents showing the registered office and the names of directors or partners
 - iii. company registration documents showing the names of shareholders
 - iv. any company resolution authorizing a person to represent the customer
 - v. any authorization or permit that has been issued that allows the customer or any person who act on behalf of beneficial owner of the customer to conduct its business.
- c) Persons who are identified as the:
- i. directors,
 - ii. partners, or
 - iii. shareholders, of a customer shall be identified and verified in accordance with the requirements of Point 4.2.2 of this Directive.
- d) The requirements of Point 4.2.3 (a) (viii), (b) (iii) and (c) (iii) of this Directive do not apply to customers that are listed public companies.
- e) Reporting entity shall conduct a basic search or enquiry on the background of such customer to ensure that it has not been, or is not in the process of being, dissolved or wound-up.
- f) The identity of all account signatories shall be verified according to customer due diligence for natural person. When signatories change, care shall be taken to ensure that the identity of all current signatories has been verified.
- g) To verify the information provided, reporting entity shall check with the registry of customer on the authenticity of the information provided on the 

identity of customer and its directors, partner, shareholders, and any person who is authorized to represent legal person or beneficial owner of legal person.

4.2.4 Customers who are or who represent a trust or legal arrangement

- a) Where CDD is required in relation to a trust or a legal arrangement or a person that represents a legal arrangement, reporting entity shall obtain from the customer at least the following information:
 - i. the name of the trust or legal arrangement
 - ii. the name of the person who is authorized to hold or deal with the property of the trust or legal arrangement (trustee)
 - iii. the name of the person who provided or donated the property held on behalf of the trust or legal arrangement (trustor, donor)
 - iv. the name of appointor who appointed the person
 - v. the name of the person or persons or the class of persons for whose benefit the trust or legal arrangement has been established (beneficiaries)
- b) The information referred to in Point 4.2.4 (a) of this Directive shall be verified by the original of the following documents, of which copies shall be made:
 - i. the deed or other document that establishes the trust or legal arrangement.
 - ii. the deed or other document that appoints or identifies the persons referred to in Point 4.2.4 (a) (ii-v) of this Directive or any other person connected with the operation of the trust or legal arrangement.
- c) Reporting entity shall require a written assurance from the person who is authorized to hold or deal with the property of the trust or legal arrangement (trustee) that evidence of the identity of the beneficiaries has been obtained, recorded and retained, and that the trust or nominee is satisfied regarding the source of funds and wealth. This assurance together with any required identification information shall be immediately available to reporting entity when requested.

4.2.5 Other requirements relating to the identification and verification of customers who are legal persons or who are or are representing trusts or legal arrangements

Where a reporting entity is in the process of establishing business relations with a legal person, or persons representing a trust or a legal arrangement, it shall take reasonable measures to understand the structure and beneficial ownership of the legal person and the property that is held on behalf of the trust or legal arrangement.

4.2.6 Customers who are a Non-Government Organization or Foundation

- a) reporting entity shall require a non-government organization or foundation establishing business relationship to furnish the constitution documents or other similar documents to ensure that it is properly constituted and registered.
- b) the identity of all account signatories shall be verified in accordance with the requirements of Point 4.2.2 of this Directive. When signatories change, care shall be taken to ensure that the identity of all current signatories has been verified.
- c) reporting entity shall take steps to understand who is in control and makes decisions regarding the Non-government organization or foundation, and the use of the funds.

4.3 Beneficial owners

The reporting entity shall undertake additional CDD until it has identified the natural person who is the beneficial owner in accordance with the requirements of Article 8.5 (b) of the AML/CFT Law if, upon completing the identification and verification requirements set out in Point 4.2.2 - 6 of this Directive, a reporting entity is not satisfied that:

- a) the customer is both the legal and beneficial owner of the customer or
- b) the customer is both the legal and beneficial owner of the property that is subject of a transaction or proposed transaction with the customer.


4.4 Politically Exposed Persons (PEPs)

4.4.1 In relation to foreign PEPs, reporting entity shall undertake CDD measures required by the AML/CFT Law and Point 4.3 of this Directive and in addition they shall:

- a) obtain senior management approval before establishing (or continuing, for existing customers) such relationships;
- b) take reasonable measures to establish the source of funds and wealth of such persons and beneficial owners identified as PEPs;
- c) ensure that enhanced, ongoing monitoring is conducted on that relationship; and
- d) put risk management systems in place to identify customers or beneficial owners who are foreign PEPs.

4.4.2 In relation to domestic or international PEPs, reporting entity shall undertake CDD measures required by the AML/CFT Law and Point 4.3 of this Directive and in addition they shall:

- a) take reasonable measures to determine whether a customer or beneficial owner is a domestic or international PEPs; and
- b) apply enhanced, ongoing monitoring where a customer is identified as a domestic or international PEPs and the relationship is assessed as a higher risk relationship.

4.4.3 The measures referred to in Point 4.4.1 - 4.4.2 of this Directive shall also be applied to the family members and close associates of all PEPs. 

4.5 Reliance on intermediaries or other third parties for Customer Due Diligence or introduced business

4.5.1 Reporting entity may rely on third parties to undertake CDD measures relating to the identification of the customer or beneficial owner or ownership and control structure of customer and obtaining information relevant to obtaining an understanding the nature and purpose of the business relationship. Such measures shall, at a minimum, be in accordance with the requirements of Article 8 of the AML/CFT Law and this Directive. The ultimate responsibility of CDD always remains with reporting entity.

4.5.2 Reporting entity shall ensure that a third party relied upon to undertake the CDD measures referred to in Point 4.5.1 of this Directive retains copies of identification data and any other relevant documents produced as part of the CDD process in their records, which shall be made available to the reporting entity when required without delay.

4.5.3 Reporting entity shall satisfy themselves that a third party relied upon to perform CDD measures is regulated, supervised or monitored for compliance with the FATF standards relating to CDD and record keeping in other jurisdictions.

4.5.4 Reporting entity shall not employ third parties to undertake CDD measures if they are based in jurisdictions that have been identified as posing a high level of ML/TF risk pursuant to instruction issued by CAFIU.


4.5.5 A reporting entity may rely upon a third party to conduct the CDD referred to in Point 4.5.1 of this Directive if it is part of the same financial group as the reporting entity and:

- a) the group applies CDD and record keeping requirements that are in accordance with the requirements of the AML/CFT Law and this Directive;
- b) the implementation of group wide CDD and record keeping requirements are supervised at group level by a competent authority; and
- c) CDD processes undertaken in higher risk countries, adequately mitigate risk by the group's AML/CFT policies and controls.

4.5.6 Reporting entity shall periodically review the CDD measures undertaken by third parties.

4.6 Simplified Customer Due Diligence

4.6.1 Where a reporting entity has undertaken a written risk assessment that demonstrates that a product and service, geography, transactions, delivery channel and/or technologies, or class of customers has a low risk of ML/TF, it may apply simplified CDD measures, which are less stringent than CDD measures, in relation to that product, delivery channel and/or technologies, or class of customers.

4.6.2 Simplified CDD measures that are applied by a reporting entity shall be: 

- a) commensurate with the ML/TF risks identified in the risk assessment; and
- b) clearly set out in writing in the reporting entity's AML/CFT procedural guidelines and manuals.

4.6.3 Given a specified commencement date referred to in Point 4.6.1 of this Directive reporting entity shall not apply simplified CDD measures whenever there is a suspicion of ML/TF, or where specific higher-risk scenarios apply.

4.7 Enhanced Customer Due Diligence (EDD)

4.7.1 Reporting entity shall conduct EDD for all categories of higher risk customers, including foreign PEPs and where other categories of risk, including geographic risk or risk associated with products, services, delivery channels and/or technologies are high to ensure that reporting entity is not abused by money launderers and financiers of terrorism.

4.7.2 All risk factors, including country or geographic risk, products and services risk and risks associated with types of transaction, delivery channel and/or technologies, such as money exchange, non-face-to-face business and relationship, private banking...etc. shall be included in determining whether a customer or transaction presents a high risk of ML or TF.

4.7.3 EDD shall include at least:

- a) obtaining more detailed information from the customer, in particular, on the purpose, intended nature and reasons of the business relationship and source of funds and wealth;
- b) undertaking more frequent audit and reviews of customer activity by compliance officer and auditor;
- c) undertaking independent research and sourcing of additional information about the customer;
- d) obtaining approval of senior management to the commencement or continuation of the business relationship; and
- e) implementing monitoring and reporting mechanisms to identify potential ML/TF activities.

4.8 Ongoing Customer Due Diligence

4.8.1 Reporting entity shall conduct on-going CDD and scrutiny, to ensure the information provided is updated and relevant and ensure that the transactions being conducted are consistent with the reporting entity's knowledge of the customer, their business, ownership and control structure, and risk profile, including, where necessary, the source of funds and wealth.

4.8.2 Unwillingness of the customer to provide the information requested during initial or ongoing CDD procedures or to cooperate with reporting entity' CDD process shall be regarded as suspicious and may justify making a report pursuant to Article 12 of the AML/CFT Law. *u*

4.9 Existing customers

4.9.1 Reporting entity shall take necessary measures to ensure that the records of existing customers remain up-to-date and relevant. Further evidence of the identity of existing customers shall, where necessary, be obtained to ensure compliance with CDD standards set by this Directive.

4.9.2 Reporting entity shall conduct regular reviews on existing records of customers. These reviews shall at least, be conducted when:

- a) a significant transaction is to take place;
- b) there is a material change in the way the account is operated;
- c) the customer's particulars change substantially; or
- d) information held on the customer is insufficient.

4.9.3 In the event that the circumstances above do not arise, reporting entity shall, based on risk assessment, obtain additional information in line with their current standards from those existing customers that are of higher risk.

4.10 Insurance


4.10.1 Reporting entity shall undertake the additional CDD measures required in this Part in addition to the measures required in the AML/CFT Law and this Directive when it establishes a relationship with a customer that involves a life insurance policy or other form of investment related insurance policy.

4.10.2 When the beneficiary of a life insurance policy or other form of investment related insurance policy is identified or designated, the reporting entity shall:

- a) take the name of the beneficiary, where the beneficiary is identified as a named natural or legal person or a named legal arrangement.
- b) obtain sufficient information concerning the beneficiary to enable the reporting entity to establish the identity of the beneficiary at the time of the payout, where the beneficiary is designated by characteristics or is a member of a class of persons.

4.10.3 Whichever form of identification is undertaken in accordance with Point 4.10.2 of this Directive, the verification of the identity of the beneficiary shall be undertaken prior to the payout of the life insurance policy.

4.10.4 Reporting entity shall:

- a) include the beneficiary of a life insurance policy or other investment related insurance policy as a relevant risk factor in determining whether EDD shall be undertaken. If reporting entity determines that a beneficiary who is a legal person or a legal arrangement presents a higher risk, it shall take enhanced measures which include reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary, at the time of payout. 

- b) ensure that the requirements of risk assessment of this Directive are included as part of their practices and procedures.

4.11 Record keeping

4.11.1 Reporting entity shall record customer identification and domestic and international transactions including CDD measures records, transaction records, account files, business correspondence and the results of any analysis undertaken in relation to the customer, including documents associated with suspicious transaction reports for at least five years after account is closed or the business relationship is ended, or after the date of the one off or occasional transaction.

4.11.2 Where CAFIU notifies a reporting entity that records subject to preservation pursuant to Article 11 of the AML/CFT Law are subjected to an on-going investigation or suspicious transaction report submitted, they shall be retained beyond the stipulated retention period until it is confirmed by the CAFIU that such records are no longer needed.

4.11.3 Copy of documents and/or data related to reports prepared pursuant to Article 12 of the AML/CFT Law shall be retained for at least five years after the date of creation of the document or five years after the ending of the business relationship with the customer, whichever is the later.

4.11.4 Reporting entity shall retain records as mention in Point 4.8.1 of this Directive as originals or copies, or in electronic form, provided that such forms are secured and retrievable upon request and provided in an accurate and timely manner.

5. The submission of information

CAFIU may require the reporting entity to swiftly provide any or any additional documents or information or data when needed for the purpose of this Directive.

6. Sanction

Any reporting entity which do not comply with this Directive shall be penalized as stated in Article 36 and Article 37 of the AML/CFT Law.

Up on receiving this directive, all reporting entities shall effectively implement this Directive from the date of the signature.

Phnom Penh, 2021
Cambodia Financial Intelligence Unit
Head
(Signed and Sealed)

Attention to:

- Office of the Council of Ministers
- National Coordination Committee on Anti-Money Laundering and Combating the Financing of Terrorism and Financing of Proliferation
- Cambodia Financial Intelligence Unit's Board of Directors
- Documentations-Archives

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