

Introduction

Federal Government vide Anti-Money Laundering (Second Amendment) Act, 2020 ["Amendments"] made the following changes in the Anti-Money Laundering Act, 2010 ["Act"] to bring it in line with international standards prescribed by Financial Action Task Force (FATF) and to strengthen Anti-Money Laundering regime in Pakistan. These amendments were approved in the joint session (i.e. National Assembly and Senate) of the Parliament.

These amendments would identify AML/CFT regulatory authorities for Designated Non-Financial Businesses and Professions. Customer Due Diligence process ["CDD"], record keeping requirements and dissuasive sanctions are also made part of these amendments.

This document is a synopsis of significant amendments made in the Act.

Punishment for money laundering enhanced

Section 4 has been amended to enhance the amount of fine, in case of offence of money laundering, in addition to imprisonment of up to 10 years, from Rs. 5 million to Rs. 25 million including director, officer or employee of a legal person and in case of legal person this limit has been enhanced from Rs. 5 million to Rs. 100 million.

Composition of National Executive Committee ["NEC"] broadened

Section 5 has been substituted to provide for the composition of NEC which now includes following additional members:

- Director General, Military Operations
- Director General (C), ISI
- Director General FATF Cell

Some notable changes in the **functions of NEC** are highlighted below:

- NEC to **make recommendations** to the Federal Government for the:
 - **implementation** of this Act;
 - **determination** of offences existing in Pakistan;
 - **application of countermeasures** to combat money laundering and financing of terrorism
- NEC to **seek reports** from authorities including:
 - **annual report of the Suspicious Transaction Reports** ["STRs"] and report on currency transaction ["CTRs"];
 - **statistics in relation to offences of money laundering** and the financing of terrorism, and actions taken by AML/CFT regulatory authorities or by oversight body for Self-Regulatory body ["SRB"].

AML/CFT regulatory authority

Section 6A has been inserted to provide that the following **Regulators** are AML/CFT regulatory authorities as specified in Schedule IV:

- **SBP** for any entity administered by SBP;
- **SECP** for any entity licensed or regulated by SECP;

- **FBR** for **Real Estate** Agent, jewelers and for dealers in precious metals/stones and **Accountants** that are **not** members of ICAP and ICMAP;
- **National Savings** AML/CFT Supervisory Board for National Savings Schemes; and
- **Pakistan Post** AML/CFT Supervisory Board for Pakistan Post.

The following **SRBs** are AML/CFT regulatory authorities as specified in Schedule IV:

- **ICAP** and **ICMAP** for their respective members; and
- **Pakistan Bar Council** for lawyers and other independent legal professionals enrolled under the Pakistan/Provincial Bar Council.

Following are major **powers and functions** to be exercised by **AML/CFT regulatory authority**, namely:

- **licensing** or registration of reporting entities;
- **imposing conditions** to conduct any activities to prevent the offence of money laundering;
- **issuing regulations**, directions and guidelines with respect to financing of proliferation obligations;
- **providing feedback** to reporting entities;
- **monitoring and supervising**;
- **compelling production of information**;
- **impose sanctions** on reporting entity for violating any requirements of relevant rules or regulations.
- **Maintaining statistics.**

Specified regulators to cooperate with their foreign counterparts

Section 6B has been inserted to provide that Specified Regulators to co-operate with their foreign counterparts and to make reciprocal arrangements to share, request and receive information relating to the requirements of this Act.

Appointment of Oversight Body for SRBs

Section 6C has been inserted to provide that Federal Government will appoint **Oversight Body** for specified SRBs which will perform following **powers and functions**:

- **prescribe regulations** for the SRB;
- **monitor and oversee** the SRB;
- **impose sanctions** upon their SRB who fails to comply with any provision of this Act.

Conducting CDD

Section 7A has been inserted to provide that every reporting entity to **conduct CDD** in the following matters:

- entering into a **business relationship**;
- **conducting transaction** above the prescribed threshold;
- there is a **suspicion of ML/TF**; or
- **there are doubts** about the accuracy of previously obtained data.

Corporate and Secretarial Function
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Every reporting entity is required to:

- **identify** and **verify** the customer's identity;
- identify and verify **beneficial owner's identity**;
- understand the **purpose of the business relationship**;
- monitor the business relationship on an **ongoing basis**.

Maintenance of record/transactions made mandatory

Section 7(C) has been inserted to provide that every reporting entity to maintain record of all transactions/records for a period of **at least 5 years** following the **termination of business relationship**.

Bar on commencing business and performing CDD process

Section 7(D) has been inserted to provide that where a reporting entity is **unable to complete CDD**, it shall not commence business relations and consider filing STR.

Where a reporting entity forms a suspicion of ML/TF, and believes that performing CDD process will tip-off the customer, it shall not pursue the CDD process and file a STR.

Bar on transactions with anonymous customer

Section 7(E) has been inserted to provide that reporting entity will not enter into any transaction with a customer **who is anonymous or provides a fictitious name**.

Risk understanding made mandatory

Section 7(F) has been inserted to provide that every reporting entity to take appropriate steps to identify, assess and understand the risks in terms of this Act.

ML/TF compliance management arrangements and training programs made mandatory

Section 7(G) has been inserted to provide that every reporting entity will implement ML/TF compliance management arrangements and training programs.

Implementation of Policies and procedures made mandatory

Section 7(H) has been inserted to provide that every reporting entity to implement policies and procedures to ensure their compliance with the provisions of this Act and orders, rules or regulations made thereunder that impose TFS obligations upon reporting entities.

Use of certain investigation techniques prescribed for investigating officer

Section 9(A) has been inserted to provide that **Investigating officer may with the permission of the court, use the following techniques for investigation of offences of money laundering, associated predicate offences and financing of terrorism:**

- **undercover operations;**

- **intercepting communications;**
- **assessing computer system and controlled delivery.**

Power of investigating officer revamped

Section 16 has been omitted to remove the power of **investigating officer** after obtaining warrant from the court to arrest any person who has been guilty of an offence punishable under this Act.

Now, the investigating officer has the power to arrest a person without a warrant and can start investigation without the permission of the court under section 21 of the Act.

Punishment and fine for non-assistance to authorities

Section 25 has been substituted to provide **that whoever willfully fails or refuses to provide the required assistance will now be guilty of misconduct and be punished as follows:**

Natural Person	Legal Person
Imprisonment up to 5 years	Rs. 10 million
Rs. 1 million	

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