

Instructions of Anti-money laundering and counter terrorist financing in securities activities in Jordan

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Living in a world that is increasingly governed by the electronic nature of business and enterprise, it is paramount to the sanctity of legitimate business operations that measures are taken to ensure the continued employment of honesty and good business practices. This increasing requirement is all the more pressing when dealing in securities, particularly given the vast amounts of money that changes hands on any given day. In response to such needs, and the growing fear of potential adverse affects of criminal activity occurring in relation to the same, the Jordanian Securities Commission issued "Instructions on Anti Money Laundering and Counter Terrorist Financing in Securities Activities" (the "Instructions") in 2010, pursuant to the provisions of Article 12 of the Securities Law Number 76 of 2002 and the provisions of Article 14 of the Anti Money Laundering and Counter Terrorist Financing Law Number 46 of 2007.

The main objectives of the Instructions are three-fold; firstly, to verify that sufficient due diligence is carried out in each and every circumstance relating to a transaction, especially where electronic transactions are employed that may cause confusion regarding the identification of the Original Beneficiary; secondly, to provide specific and more stringent guidelines regarding certain Politically Exposed Persons (as defined in the Instructions), and in particular, their financial verification; and finally, to impress upon the importance of training employees in Anti Money Laundering and Counter Terrorism Financing Laws.

The Instructions apply to all "Subject Parties". Subject Parties are defined fairly broadly, and apply to licensed financial services companies, certain custodians, as well as to Mutual Investment Companies and Funds registered with the Securities Commission.

Article 13 of the Instructions provides that Subject Parties shall form an appropriate internal system to help employees counter money laundering and terrorist financing operations, and will include, as a minimum, details of the policies, procedures and internal controls enlisted to avoid such an eventuality. In particular, the system should include a method through which compliance with these Instructions can be monitored and verified through the assignment of independent staff within the internal audit unit. Further, in a day and age where many responsibilities are specifically designated to certain teams and positions within a corporation, fundamental yet basic information and expertise often escapes some employees; hence, in recognition of this shortcoming, Article 13 further provides for the implementation of Training Programmes of varying levels for all employees in order to increase awareness and knowledge about Anti Money Laundering and Counter Terrorist Financing Operations. This is in conjunction with Article 19 of the Instructions which requires all Subject Parties to acquaint employees with the Anti Money Laundering and Counter Terrorist Financing Laws. This in turn increases the responsibility of each and every employee to be able to identify any suspicious trend which may be construed as pertaining to Money Laundering or Terrorist Financing Operations and the ensuing reporting procedures which must be undertaken.

The Instructions further provides that the accurate identification of the Original Beneficiary is of principal

importance. Pursuant to Article 4 of the Instructions, if due diligence procedures pertaining to the identity of a prospective client or the nature of his/her business activities remains inconclusive, Subject Parties must refrain from entering in to a contract with the same Client because, as Article 6 states, it is prohibited to enter into trade with anonymous persons or persons with fictitious identities or with fictitious banks and companies. As such, stringent guidelines are imposed with regard to the nature of the documentation required to authenticate the identity of the Original Beneficiary; whether they are Jordanian or non-Jordanian citizens, any legal representatives of persons of diminished capacity or third party agents of customers. Please note that when dealing with a designated legal representative, the required information also includes details of the ownership structure and controlling administration of the Client.

Given the increasing popularity of electronic transactions and even communications in their entirety, there is a discernible need that extensive measures are taken to accurately discern the identity of a prospective client and the nature of his/her intended business. This is of particular importance when dealing with clients who are citizens of countries where there are no controls or systems in place to counter money laundering and terrorist financing activities and where international controls are not applied. This, combined with the possibility of trade with Politically Exposed Persons, presents a high risk situation that requires analysis through the employment of a Risk Management System (as recommended by Article 9 of the Instructions). This system calls for the classification of each potential client, by degree of risk, that may be incurred upon association and trade with them – further requiring the verification of the source of a high risk client's wealth in order to eradicate any doubts surrounding the legitimacy of any transaction that may occur with the client after the completion of all due diligence procedures.

Additionally, it is important to note that the practice of due diligence is not only of importance in relation to the identification of the Original Beneficiary or even of a Politically Exposed Person, but is also of paramount importance in the continued battle against money laundering and terrorist financing operations. As such, there is a continued need for extensive due diligence, both before the initiation of a transaction and throughout its duration. This requirement is fortified upon any shadow of suspicion relating to illegal practice irrespective of the value of the transaction, or if there is doubt or suspicion cast over the accuracy of data received and verified in the context of the Original Beneficiary's identity. Further cause for due diligence may be called upon in transactions of large sums of money or if the nature of transactions of a particular client change suddenly and inexplicably. Although due diligence may be contracted to a third party, Article 10 of the Instructions states that responsibility for the accuracy and authentication of any information pertaining to the client's identity and activities remains with the Subject Party.

Finally, the Instructions provides a number of general provisions regarding the auditing and reporting standards which Subject Parties must abide by – the need to keep and preserve certain documents and records, as well as any details relating to accepting and dispensing any sums of money to and from customers.

Overall, it is evident that threats of money laundering and terrorist financing operations are being taken extremely seriously in Jordan, particularly given the huge influx of foreign investment, both in the Middle East region in general and, in particular, in Jordan . Although growth and expansion are ever-invited, precautionary measures must also be enlisted to ensure the country maintains its integrity, its business practices and the institutions which reside therein.