

People's Democratic Republic of Algeria

Ministry of Finance

Financial Intelligence Processing Unit

Guidelines on the AML/CFT
obligations for Notaries

July 2024

Guidelines on specific AML/CFT obligations for notaries

Financial intelligence processing unit,

- The head of the financial intelligence processing unit
- By Law No. 05-01 of Dhu al-Hijjah 27, 1425, corresponding to February 6, 2005, relating to the prevention and combating money laundering and terrorist financing, amended and supplemented,
- Pursuant to Executive Decree No. 22-36 dated 1st Jumada II 1443, corresponding to January 4, 2022, setting the missions, organization and functioning of the financial intelligence processing unit

After deliberation by the financial intelligence processing unit' Council

We issued guidelines which reads as follows:

- ❖ The provisions of these Guidelines apply to notaries according to Law No. 05-01 of 27 Dhu al-Hijjah 1425 corresponding to February 6, 2005, relating to the prevention and combating of money laundering and terrorist financing, amended and supplemented, and the Executive Decree No. 22-36 of Jumada al-Thani 1, 1443, corresponding to January 4, 2022, setting the missions, organization, and functioning of the financial intelligence processing unit
- ❖ Applies to Every natural or legal person who practices activities other than those practiced by financial institutions, especially regulated liberal professions, particularly Notaries when preparing, implementing and participating in transactions for the benefit of their customers with regard to the following activities:
 - Buying and selling real estate.
 - Managing customers' funds and other assets and their securities and other assets owned by the customer.
 - Managing bank accounts, savings accounts, or securities accounts.
 - Regulating contributions to establishing, operating or managing companies.
 - Establishing, operating or managing legal persons, buying and selling business entities.

These guidelines are accompanied by a glossary outlining the terms to be used.

- ❖ Notaries must apply due diligence measures, and in this capacity, they must implement a written plan for the prevention, detection and combating of money laundering and financing of terrorism, and to take into account the risks associated with money laundering and financing of terrorism, which include in particular:
 - Policies.

- procedures.
- Internal Control.

1. Risk-based approach

❖ Notaries must:

- Conduct a risk assessment of money laundering and terrorist financing by identifying, evaluating and understanding those risks, in accordance with the nature and size of the institution, as well as the extent of its activities, provided that this assessment includes:
 - Include information or results of any risk assessment conducted by the State.
 - Identify, evaluate and understand customer's risks, countries or geographic regions, products, services, transactions, delivery channels or service delivery channels.
 - look in all relevant risks factors before defining the level of risks, and the level the appropriate type of measures that should be taken to mitigate those risks.
- Updating assessment processes periodically and when needed.
- Document and maintain your risk assessments and updates.
- Establishing an appropriate mechanism to inform the Supervisory and Control Authority and the competent authorities of the results of the assessment processes spontaneously or upon request.
- Disseminate and explain the results of the risk assessment to all employees.

❖ Risk analysis and assessment mentioned above, must be carried out regularly appropriately, and must be compatible with the nature and size of the company, as well as the scale of its activities. The same applies regarding the nature and specificity of customers.

Notaries must also prove to supervision and control authorities and other competent authorities, the measures taken to identify and evaluate the risks of money laundering and terrorist financing ,allowing the assessment of the risk profile of the relationship with each customer,and identify changes in money laundering and terrorist financing risks, represented by new products and services provided by applying new technologies to their services, by identifying the purpose and intended nature of the business relationship with each customer, and identifying any change related to the risks of money laundering and terrorist financing.

❖ Notaries must identify and assess money laundering and terrorist financing risks associated with the development of new services, products and new professional practices, including new means of providing services, and those arising from the use of new technologies or under development in relation to both new and previously existing products., Also onduct a risk assessment before launching or using products, practices or technologies, by taking appropriate measures to manage and reduce those risks, in addition to specific risks related to business and transactions that do not requires the presence of the parties.

- ❖ Notaries must set policies, controls and procedures approved by senior management that enable it to address and reduce identified risks (According to its assessment or according to the national risk assessment), supervise and strengthen them if necessary, by taking into account enhanced risk management and mitigation measures when high risks are identified, and simplified risk management and mitigation measures when low risks are identified.

In this context, they must ensure continued commitment to these procedures and their regular update.

2.Customer Due diligence

- ❖ To avoid exposure to risks associated with customers, Notaries must ensure the existence of internal standards for identifying customers and constantly matching them according to the risks mentioned in the first paragraph above regarding the risk-based approach, as it entails a strict due diligence towards customers and transactions that may pose a risk, and monitoring of suspicious activities and transactions.
- ❖ “Know Your Customer” standards must take into account the basic elements of risk management and control procedures, in particular:
 - New customer acceptance policy.
 - Identifying customers, the beneficial owner and monitoring movements and transactions.
 - Continuous monitoring of all customers.

The actions referred to above must be approved by senior management.

On the other hand, Notaries must conduct a careful examination of the transactions carried out throughout the duration of the business relationship, in order to ascertain its compatibility with the knowledge they have about their customers, their activities and risk profiles, including the source of funds if necessary. In addition to making sure that documents or information obtained while exercising her due diligence remain updated and compatible, especially for high-risk customer categories.

As for existing customers, Notaries should apply due diligence procedures according to importance of risks they represent, to be applied in a timely manner, taking into account the existence of existing customer due diligence measures, at the time of their implementation, and the importance of the information obtained.

Notaries must take due diligence measures, when they establish business relationships, or when carrying out occasional transaction of more than 2 million Algerian dinars or its equivalent in legal currency, including in cases where the transaction is carried out in one or several transactions that appear to be linked., or when there exist a suspicion of money laundering or terrorist financing, regardless of the minimum level stipulated in the regulation, or when DNFBPs doubt the validity or suitability of previously obtained customer identification data.

- ❖ Notaries must take procedures to identify customers, whether existing or occasional, residents or non-residents according to the nature of customers.

1. If the customer is a natural person:

- Verifying the identification the natural person through documents (especially the original and valid documents with a picture) National ID card, driver's license, passport for foreigners, and at a minim the client's name and his nationality, date and place of birth, and his permanent address, The identity card number or passport number of the foreign person, and the place and date of issuance, Parents' name, Marital status, and wife's name.
- Information about the customer's economic activity, It consists of: The nature of the client's work or activity and his sources of income, Professional title, employer, and the value of income monthly.
- Information related to residence address, personal actual or current residence.
- Customer contact information, like Phone numbers, addresses, mail address if any.
- Any other information the notary deemed it necessary to obtain according to the nature and degree of risk.

2. If the customer is a legal person, including all types Non-profit organizations, notary must:

- Understand the nature of the legal person and its activities, in addition to its ownership structure and control structure.
- Identify and verify the identity of the legal person by obtaining the information specifically requested via an original copy of its status and any document proving that it is registered or legally approved and that it exists officially, and Actual address at the time of its identification, by verifying the address by submitting an official residence document, in addition to the need to know all the powers that govern and bind the legal person, as well as the names of the relevant persons who hold management positions.
- Identify the beneficial owners of clients and take reasonable measures to verify the identity of these persons using relevant information or data obtained from a reliable source, so that they have assurance that they know who the beneficial owners are.
- For agents and brokers who work for others or act on behalf of the client, notaries must, in addition to the documents stipulated above, verify the powers granted to them.

A copy of each document proving the identity, agency and address.

It is not possible in any case for notaries to maintain, or deal with unidentified persons or persons with clearly fictitious or fictitious names.

- ❖ An exception to the provisions the two paragraphs above, when the risks of money laundering or terrorist financing appear low and it is necessary not to interrupt the normal practice of the activity, the identity of the customer and the beneficial owner must be verified before or during the establishment of a business relationship or the execution of transactions in the case of occasional customers, notaries must complete practical verification after establishing the business relationship, provided that:

- That this happens as soon as reasonably possible.

- It must be necessary so as not to disrupt the normal workflow.
- Effectively manage money laundering and terrorist financing risks.

Notaries must approve appropriate risk management procedures regarding the circumstances in which the client can benefit from the business relationship before the verification process, and this process must include a set of actions; restrictions, or controls on the number, types, and/or the amount of transactions or operations that can be carried out, and monitoring large or complex transactions that exceed the expected determinants of this type of relationship.

It is prohibited to delay of the verification process when there are indicators of high risks, and When There is suspicion of money laundering or financing Terrorism, and when it comes to basic and representative customer identity information regarding identity card or passport information, or identity papers and documents related to the legal person.

❖ The notary must take Reasonable action according to the risks of Money laundering and financing Terrorism arising from the client and business relationship, to determine the beneficial owner in relation to the Natural person, and verify their identities through the following:

- Determine whether the client is acting for himself and for his own benefit, and if so, It requires his signature on a statement stating he is the beneficial owner of the business relationship.
- in case the client does not act on his own behalf and for his own benefit, Or when a Notary doubts the validity of a statement, The natural person or natural persons who actually and ultimately benefit or control the business relationship, or for whose benefit or on whose behalf the transaction is conducted, or who ultimately and effectively control the customer's accounts, must be identified, and the capacity in which the customer is acting on behalf of the beneficial owner must be determined..

Applying the procedures for identifying and verifying the identity of a natural person stipulated in these guidelines on the beneficial owner or beneficial owners identified under the provisions of the first part of this paragraph, in a sufficient manner that guarantees DNFBPs they were able to determine The beneficial owner.

The identity of the beneficial owners of clients who are legal persons must be verified, as stated already, identify the true beneficiaries of clients and take reasonable measures to verify the identity of these persons, and this using the following definition elements:

A-The identity of the natural person(s) who ultimately owns a share in the legal entity enabling it to exercise effective control.

B-After applying element (a), there is doubt as to whether the person(s) with a controlling interest is the beneficial owner(s), or when no natural person exercises control through participation, DNFBPs should verify the identity of natural persons, if any, and those who exercise, by any other means, actual control over the legal entity, including control over its directorate, administrative or supervisory body, or general assembly.

C- If no natural person is identified in relation to the implementation of points (a) or (b) above, the relevant natural person holding the position of lead director will be identified.

Notaries must verify the identity of the relevant natural person who holds the position of lead director.

❖ To make sure the validity and accuracy of the data held about customers and its effectiveness, Notaries must update it annually, depending on the following priorities:

- The importance of the risks represented by the client.
- When a large transaction carried out and does not align with the customer's knowledge, business and risk profile.
- On a fundamental change in customer authentication standards, as well as immediately in the two cases previously mentioned¹.

However, if at some point the information available to them regarding a client is insufficient, they must take the necessary measures to obtain all useful information as soon as possible.

❖ Notaries can apply simplified due diligence measures in relation to some clients if lower risks are identified and assessed and that this assessment is consistent with national and sector risk assessments, and their own risk assessments of terrorism financing. Its measures should be proportional to the lowest risk factors, in which the simplified measures consist in particular of the following:

- Verifying the identity of the customer and the beneficial owner after establishing the business relationship.
- Reduce the frequency of updates to customer identification elements.
- Reducing the intensity of continuous due diligence and the depth of inspection of operations based on a reasonable limit.

In no case can it be applied CDD measures, when there is suspicion of money laundering or terrorist financing or in specific cases of higher risk.

¹When there is suspicion of money laundering or terrorist financing, regardless of the minimum level stipulated in the regulations, and in the event that notaries have doubts about the authenticity or suitability of previously obtained customer identification data.

- ❖ Notaries must have an appropriate risk management system in place to determine whether a potential customer, existing customer or beneficial owner is a politically exposed person as defined in Law No. 05-01 of Dhu al-Hijjah 27, 1425, corresponding to February 6, 2005, relating to prevention and combating money laundering and terrorism financing ,mentioned above, and take all reasonable measures to determine the source of funds and ensure enhanced and permanent monitoring of the business relationship.

They should also obtain a license from senior management before entering into a relationship with any new client (A politically exposed person) And the application of requirements to individuals of his family, and on people he is closely associated with. The ascendants, first-degree descendants and their spouses are considered family members of the above-mentioned persons. A person closely associated with the above-mentioned persons is any natural person known to have close business relationships with them.

3.Record keeping

- ❖ Notaries must keep records and respond quickly to the requests of the competent authorities and put them at their disposal:
 - Documents obtained as part of customer due diligence procedures and Accounts registers and trade correspondences, in addition to the results of any analysis conducted during a period of at least five (5) years after the end of the business relationship or the date of the occasional transaction.
 - All documents related to the transaction that were conducted, during a period of at least five (5) years after the its implementation.

This documentation must be sufficient to allow the reconstruction of individual transactions, in order to provide evidence if necessary in the context of criminal prosecutions.

3. Suspicious transaction report

- ❖ Notaries are obligated to report suspicions in the specified organizational form and must request an acknowledgement of receipt.

Notaries must postpone the implementation of any transaction involving funds that appear to be the result of a crime or a predicate offence, or suspected to be directed to money laundering and/or linked to terrorist financing and report it to the financial intelligence processing unit. Also, the report must be carried out, even if it is not possible to postpone the implementation of those transactions or after their completion.

Every item that would modify the assessment previously made must be reported, during notification of the suspicion and every information that leads to confirming or denying the suspicion without delay to the financial intelligence processing unit

Notaries must adhere to the precautionary measures stipulated in Article 18 of the Law No. 05-01 related to preventing and combating money laundering and terrorist financing, amended and supplemented, and its implementation must be ensured.

- ❖ STRs reporting are to be sent to financial intelligence processing unit. The reporting of the suspicion and its consequences, or the information to be sent to the unit, falls within the framework of professional confidentiality and cannot be viewed by the client or the beneficiary of the transactions.

Notaries are required to submit additional information related to suspected money laundering or terrorist financing upon request from the financial intelligence processing unit, within the required deadline.

Notaries are required to respond during the same period to any other request for information received from a unit, even without prior notice, regarding the customer(s) or relevant transactions

- ❖ If notaries can not comply with obligations related to due diligence measures, it is necessary:
 - Not to establish business relationships or carry out operations.
 - Termination of the business relationship for existing clients.
 - Consider sending STRs to the unit regarding the client's suspicious operations or activities.
- ❖ In case of suspicious transaction related to money laundering or terrorist financing, when there is reasonable grounds someone can inform the client while they continue to implement due diligence procedures, they must refrain from implementing this procedure and send a STR to THE financial intelligence processing unit

4. High risk countries:

- ❖ Notaries apply the following enhanced due diligence procedures to business relationships and financial operations conducted with natural and legal persons, including financial institutions from countries it designated by the financial intelligence processing unit, whether based on what the FATF determines or what it sees fit independently:
 - A-Enhanced due diligence procedures stipulated in this instruction.
 - B-Any additional enhanced measures or procedures issued by the Unit
 - C-Any other enhanced measures which have a similar effect in mitigating risks.

Notaries must apply measures generalized from the unit regarding procedures for high-risk countries.

6. Information and training/internal control

❖ Notaries must develop and implement programs to prevent and combat money laundering and terrorist financing, taking into account the risks resulting from money laundering and terrorist financing, and include policies and internal control procedures as follows:

- Appoint at least a senior officer at the management level (The notary himself if he is a natural person), responsible for compliance in the field of prevention and combating money laundering and terrorist financing, responsible for ensuring compliance with oversight, policies and procedures in the field of prevention and combating money laundering and terrorist financing. This person is also the main correspondent for the financial intelligence processing unit and other competent bodies..
 - Enabling the compliance officer to work independently, in a way that ensures the confidentiality of the information received or referred to him, and enabling him to view the records and data necessary for him to carry out the examination and review of the systems and procedures specified for combating money laundering and the financing of terrorism..
 - An independent assessment function to test and evaluate the effectiveness of systems for combating money laundering and terrorist financing.
 - Selection procedures that ensure that employees are appointed according to the required standards.
 - A constant staff training program in combating money laundering and terrorist financing field. The schedule and content of organized sessions should be adapted to the specific needs of the organization.
- ❖ The compliance officer shall do the following:
- Immediately inform the financial intelligence processing unit about operations suspected to include the crime of money laundering, terrorist financing, or any of the predicate crimes, whether these operations have been carried out or not, including: any transaction attempt.
 - Receive Notifications from any employee if the employee suspects that the operation to be carried out is a transaction suspected of being linked to money laundering, terrorist financing, or any of the predicate crimes..
 - Provide the financial intelligence processing unit with data related to operations suspected of being linked to money laundering, terrorist financing, or any of the predicate crimes, and any other information requested from it, and facilitating its access to relevant records and information.
 - Ensure compliance with the legal framework in combating money laundering and terrorist financing.

- Training employees to enhance their abilities to detect money laundering operations, terrorist financing, or any predicate crimes.
- Preparing policies to combat money laundering and terrorist financing, and developing internal procedures to comply with the provisions of the law and the instructions issued.
- Keeping all internal documents and reports it receives and referred to the unit.
- Preparing periodic reports on unusual operations or those suspected of being linked to money laundering, terrorist financing, or any of the predicate crimes.
- Establishing the necessary systems for self-assessment of risks in light of the information and data available to designated non-financial businesses and professions, and reviewing them periodically.
- Develop systems and procedures that ensure that internal audit bodies perform their role, which is to examine internal control and oversight systems to ensure their effectiveness in combating money laundering and terrorist financing, with the need to review them periodically to complete any deficiency in them or update and develop them to increase their efficiency and effectiveness.

Notaries have to make sure to report these procedures to all Users And That it allows for every agent To report every suspicious transaction to an official Compliance regarding the preventing and combating money laundering and terrorist financing.

The program for preventing, detecting and combating money laundering and terrorism financing falls within the program of internal control system regarding notaries

❖ 7.Branches and subsidiaries

Notaries that take the form of a group must establish, at a level the group, Anti-money laundering and terrorist financing programs that apply and are appropriate to all its branches and related subsidiaries it has. In addition to the measures stipulated previously these programs include also:

- Policies and procedures approved by senior management for exchanging information required for customer due diligence and managing money laundering and terrorist financing risks.
- Providing information related to customers and operations received from branches and subsidiaries, and compliance, auditing, anti-money laundering and terrorist financing functions at the group level.,asThis information should include data and analysis of transactions or activities that appear unusual.

Likewise, when relevant and appropriate for risk management, Branches And Branches Affiliate should also receive the information from Conformity staff of the group.

- Guarantees regarding Confidentiality and Use of the information exchanged, With assurances of not disclosure

- ❖ When the host country does not allow the appropriate implementation of prevention and anti-money laundering and terrorist financing measures provided for in the law In addition to these guidelines, Notaries must ensure that its branches in which they have a major share, they apply appropriate additional measures in order to manage money laundering and terrorist financing risk

Notary's branches and affiliates established abroad can apply Measures to Combat money laundering and terrorism financing Terrorism in the country of origin when they consider it more restrictive.

8. implementation of Security Council resolutions

- ❖ Notaries must implement immediately the decisions issued by the sanctions committees the UN Security Council resolutions taken under Chapter VII of the United Nations Charter, especially the freezing of assets.and prevent entry in business relationships or to carry out transactions accordingly, they must put in place the necessary electronic systems to ensure the implementation of the above-mentioned UN resolutions.

Done in Algiers, on July 08, 2024



Terminology:

The words and phrases contained in these instructions shall have the following meanings:

Customer: The natural or legal person or who deals with designated non-financial businesses DNFBPs and professions.

Occasional customer: The client who is not connected to the DNFBPs with ongoing business relationship.

Business relationship: The relationship that arises between the client and any DNFBPs, that relates to any of the activities.

Beneficial owner: The natural person or persons who in the end;

- 1- They hold or control the customer, the customer's agent, or the beneficiary of life insurance contracts.
- 2- The natural person for whom a transaction is conducted or for whom a business relationship is concluded.

It includes also people who, in the end, exercise actual control over the legal entity.

Politically exposed person: Every Algerian, foreigner, elected or appointed, who has exercised or is exercising in Algeria or abroad senior legislative, executive, administrative or judicial positions, as well as senior officials in political parties.