Bank of Algeria

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Object: Guidelines about customer due diligence measures.

In application of the provisions of the law N°05-01 of February 06, 2005 modified and complemented, and article 27 of the law N° 12-03 of 28 November 2012 pertaining to the prevention and fight against money laundering and terrorism financing, these guidelines aim to clarify the CDD measures that banks, financial institutions, services of Algeria Post Office designated hereafter as *financial institutions*, must comply with.

Within this framework, it became necessary to precise the expectations of the Bank of Algeria in view of reports made in the occasion of monitoring missions onsite ,demonstrating that the financial institutions do not implement correctly the AML/CFT obligations concerning CDD measures.

The misunderstanding of the diligence obligations led to the implementation of inadequate measures and therefore to the risk of non detection of anomalies in transactions with customers, this affects in the end the transmission of Suspicious Transaction Reports to the Financial Intelligence Processing Unit FIPU.

It is usual that appropriate procedures and controls that lead to understand customers with satisfaction, constitutes the key of the device of fighting against money laundering and terrorist financing to banks and financial institutions managing the means of payment.

They lead not only to fight effectively against this scourge, but also protect these institutions from abusive use of their banking cycle and maintain the solidity, the safety and the integrity of the whole banking system.

Furthermore ,the impact of inadequacy or absence of standards in this regard, exposes the financial institutions to a serious risk ,particularly reputation damage, operational risk ,compliance risk, the latter being pointed out by the dispositions of the ordinance N°03-11 of 26 august 2003 pertaining to the currency and credit ,modified and complemented .

A major aspect of controls that the financial institution must implement resides in an adequate duty of diligence towards customers that comes through a rigorous compliance with the guidelines developed hereafter, of which the implementation must not however prevent the general public, especially persons with the precarious financial or social situation to reach banking services.

The attention of the financial institution is drawn about the fact that the knowledge elements of the customers obtained during the beginning of the business relationship or after, must lead to develop a risk profile of the customer.

The financial institution must imperatively take into account every element likely to modify the risk profile of the business relationship, and as a result, update the profile in order to detect anomalies that can be subject to reinforced examination.

1. The elements of distinction between business relationship and occasional customers;
According to the financial institution obliged to make sure of the adequacy of CDD measures for regular and occasional customers, is difficult to make in some situations.

1.1. Regular customers;
A customer is considered to be in a committed business relationship in two cases;

-When there is contract between the financial institution and the customer using his services in application from which many successive transactions are made between the two parties, or that creates for these ones ongoing obligations. Concerning the opening of a deposit account, payment account, or financial instrument one's, as far as there is contract between the customer and the financial institution, the customer relationship is a matter of business relationship.

The absence of an express agreement is not sufficient criteria to conclude that the customer is an occasional one. When the customer benefits in a regular manner from the intervention of a financial institution to carry out many transactions, or one transaction with continuous character, a business relationship is set up.

-In all cases, the duration is a determining element of the business relationship. The notion of duration is also found in absence of a contract, with the terms related to the intervention of a financial organism* in a regular manner*or in case of a* continuous transaction*.

1.2. Occasional customers;

The occasional customer carries out with a financial institution a punctual transaction, be it made in one or many transactions that seem to be linked each other .In practice, it involves temporary customer that does not request regularly the intervention of the financial institution .in some cases, it includes many transactions linked each other that can be viewed as one punctual transaction, for example, many manual exchange transactions made in a short period by the same customer on tourist stay attends many times the same financial organisms, from the one who splits deliberately the transactions to escape from CDD measures in matters of fighting against money laundering and terrorist financing .

2. Knowledge of the customer and transactions:

The norms of the knowledge of the customers lean on:

- Acceptance policy of the new customer,
- Customer identification and evaluation of movements and transactions.

2-1. The acceptance policy of new customers;

It's about to define clear criteria and norms in matters of acceptance of new customers, including especially a segmentation of the customers according to the level of risk they are associated with.

The main factors basing this classification must take into account some elements, like history of the institution customers, their original country, their renowned (example; public figure, or well-known person), the links between accounts, their professional activities, or any other indicators of risk.

The policies and procedures in matters of acceptance of new customers should adopt a duty of diligence consistent with the level of inherent risk for each category of customers so identified.

As a result, it is essential to carry on a rigorous and reinforced duty of diligence towards customer with higher risks (example: origin, politically exposed person), whereas, elementary requirements can be applied towards a customer gainfully employed with a low balance.

2-2. customer identification and evaluation of the movements and transactions:

2.2.1. Customer identification;

The customer identification comes in during the establishment of the business relationship and consists on gathering regulatory documents of identity, also the data and information that enable the financial institution to set up the customer's profile and the functioning of his account.

In order to enable him to run a risk profile of the customer, the financial institution, should in addition to the regulatory documents concerning the customer's identity (natural person, legal person, non-profit organizations) obtain at least data concerning ;

A. for a natural person;
*The customer’s filiations’;
*The customer’s nationality
*The customer’s activity (employee, professional, trader.)
*The intended purpose of the account opening
*Data about incomes and other business movements if necessary.
*The account/accounts terms of use (payment, withdrawal, transfer, cashing, payment of checks...)

B. For legal person;
*Elements concerning the ownership and control structure of the legal person that allows to identify the beneficial owner who has ultimately a controlling ownership interest on him, otherwise, holds the position of the senior managing officer.
*The identity of the fund managers and other managers of the legal person, non -profit organizations and other organizations.
*The intended purpose of the account opening
*Data about incomes and other business movements, also the origin of these movements, if necessary
*The account/accounts terms of use (payment, withdrawal, transfer, cashing, payment of checks...)

These data and information should be on the questionnaire “Know his customer” established for that purpose by the financial institution, that the customer should include and sign under his own responsibility.

The data thus collected about the customer should be updated yearly, at least in case of an important transaction, a substantial modification of documentation standards about the customer, or an important change in the management of the account.

The financial institution that notices a lack of data about the customer, should immediately take the necessary measures to obtain as soon as possible all useful information for adequate customer identification.

As such, the internal procedures should enable the identification of the beneficial owner, and take reasonable measures to verify by all means his identity, so that the financial institution will be sure to know the owner beneficiary.

This verification can be made by public database consultation and through web among others.

Where the financial institution is unable to comply with the applicable requirements under points (I) and (II) above, it should be required not

- to open the account,
- commence business relations
- perform the transaction;

he hould be required to terminate the business relationship and should consider making a suspicious transactions report in relation to the customer.

Furthermore, he should end the business relationship and, if necessary, make a Suspicious Transaction Report.

If update problems of customer identification data appear after the opening of an account, the financial institution should close the account, inform the holder, the Financial Intelligence Processing Unit, the banking commission and restore the balance, unless otherwise stipulated by a competent authority.

In case of suspicion of money laundering or terrorist financing, or doubt about the accuracy, veracity or adequacy of customer identification data previously obtained, banks need to take enhanced due diligence measures to respect of their clients before completing the transaction or the customer's request.

The financial institution should have clarified and applied policies to identify customers and their representatives.

The establishment and implementation of these policies involve a commitment of the high directorate that should carry on a permanent assessment as for their detailed and safe implementation, especially through internal control, evaluate the execution and report any deficiency to initiate remedial and adequate measures for their resolution.

2.2.2. Evaluation of the account movement and transactions;
2.2.2.1. Risk based approach:
A permanent evaluation is essential to the efficiency of the CDD measures that the financial institution sets up.

For that purpose, it is important to understand well transactions, ordinary and scheduled transactions towards the customer (fitted with the customer's risk profile) about the customer's account to identify atypical or suspicious transactions.

The nature of the evaluation to comply with should be consistent with the level of risk linked to each category of the customers by adopting a monitoring approach based on risks.

A reinforced supervision of customers with high risks is essential, whereas simplified CDD measures can be adopted for customers with lower risks.

The criteria of classification mentioned hereunder for guidance purpose can be adopted by the financial institution.

I. Higher risks:
This category can be understood by three risk factors;

a. Customer risk factor:
- The business relationship is conducted in unusual circumstances.
- Non-resident customers
- Companies that have nominee shareholders
- Business that are cash-intensive
- The ownership structure of the company appears unusual or excessively complex given the nature of company's business.
- Politically exposed persons

b. Country or geographic risk factors;
- Countries identified by credible sources such as mutual evaluation or detailed assessment reports or published follow-up reports, as not having adequate AML/CFT systems.
- Countries subjects to sanctions, embargos or similar measures issued, for example, by the United Nations.
- Countries identified by credible sources as having significant levels of corruption or other criminal activity.
- Countries or geographical areas identified by credible sources like providing funding or support to terrorist activities or that have designated terrorist organizations operating within their country.

c. Products, services, transactions or delivery channel risk factors:
- Management of legacy and wealth
- Anonymous transactions (which may include cash)
- Non-face-to-face business relationships or transactions
- Payment received from unknown or un-associated third parties

II. Lower risks:
This category on which can be applied simplified CDD measures may be understood through three risk factors

1. Customer risk factors:

- Financial institutions and DNFBPs- when they are subject to requirements to combat money laundering and terrorism financing consistent with the FATF recommendations, have effectively implemented those requirements, and are effectively supervised or monitored in accordance with the recommendations to insure compliance with those requirements.
- Public companies listed on stock exchange and subject to disclosure requirements either by stock exchange rules or through law enforceable means, which impose requirements to ensure adequate transparency of the beneficial owner.
- Public administrations or enterprises

2. Product, service, transaction or delivery channel risk factors;

- A Pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme
- Financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes.

3. Country risk factors;

- The countries identified by credible sources such as mutual evaluation or detailed assessment reports, as having effective AML/CFT systems.
- Countries identified by credible sources as having a low level of corruption or other criminal activity.

During the development of the grate of level risk exposure, as presented hereunder, the submitted should take into account the risk variables associated with these levels, particularly the elements that include:

- The purpose of an account or a relationship
- The level of assets to be deposited by the customer or the size of transactions undertaken
- The regularity or duration of the business relationship

2.2.2.2- Associated CDD measures:
The CDD measures to implement should be consistent with the identified risk level

I. Enhanced CDD measures;
Financial institutions should understand the background and the purpose of complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or lawful purpose.

The degree and nature of monitoring of the business relationship with high risks should be increased to ensure about the unusual or suspicious character of the activities.

The enhanced CDD measures that can be applied for higher- risk business relationships include especially:

- Obtaining additional information about the customer, and updating more regularly the identification data of customers and beneficial owner.
- Obtaining additional information on the intended nature of the business relationship
- Obtaining information on the source of funds or source of wealth of the customer
- Obtaining information on the reasons of the intended or performed transactions
- Obtaining the approval of the senior management to commence or continue the business relationship

- Conducting enhanced monitoring of the business relationship by increasing the number and timing of controls applied and selecting patterns of transactions that need further examination
- Requiring the first payment to be carried out through an account in the customer's name with a bank subject to similar CDD standards

II. Simplified CDD measures:

- Simplified CDD measures can be applied on customers with lower risk of laundering resulting in controls and verifications hereafter:
- Verifying the identity of the customer and the beneficial owner after the establishment of the business relationship
- Reducing the frequency of customers identification updates
- Reducing the degree of on-going monitoring and scrutinizing transactions, based on a reasonable monetary threshold

It's important to notice that the non compliance with the provisions of these guidelines subjects the financial institutions to sanctions of the legislation and regulation in force.

Concerning freezing measures, especially those linked to terrorist's assets, terrorist organizations or other listed persons or entities, a disciplinary proceeding conducted, in case of failure by the banking committee against banks and financial institutions.

As far as financial services of Algeria Post-office, it will be reported to the competent authority pursuant to the provisions of article 12 of the law 05-01 modified and complemented to initiate the disciplinary proceeding to take sanctions against identified failures.

This note cancels and replaces the note DGGI N° 1362/2014 of 30 October, 2014 carrying CDD measures.

The General Director