

■ **Basic Facts** about Money Laundering



وزارة الصناعة والتجارة
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Ministry of Industry & Commerce
Kingdom of Bahrain

Directorate of Company Affairs

Basic Facts about Money Laundering

A message from H.E Dr. Hassan Fakhro

The success of Bahrain in diversification away from a reliance on oil, and particularly in attracting inward investment, has been due in no small measure to the legitimacy which Bahrain enjoys as a regional and international business and financial centre.

This legitimacy is founded in the strong legal and regulatory regime which ensures that businesses which operate in Bahrain are legitimate and do their business in accordance with a set of rules and regulations which protect both the companies, their shareholders and their customers from the activities of unscrupulous operators.


In recent years a lot of attention has been given in international markets to the combating of money laundering, and no more so than in Bahrain, which views such criminal activities as not only being antipathic to legitimacy, but also as being a major threat to business security and development.

The Ministry views itself as one of the principle gatekeepers of the commercial environment, and as such has taken a great deal of effort to ensure that businesses incorporating and registering in Bahrain are bona fide, by adopting its own Know Your Customer (KYC) rules, and also that they are made aware of the steps required to combat money laundering.

This publication is intended to assist businesses to understand their obligations under the Anti-Money Laundering Law and the Ministerial Order, as well as to provide some examples of the types of schemes which are known to exist internationally, so as to help businesses to avoid becoming unwitting elements in criminal transactions.



Dr. Hassan Abdullah Fakhro
Minister of Industry & Commerce



What is Money Laundering?

■ What is Money Laundering?

Money Laundering "is defined as the process by which criminals attempt to conceal the true origin and ownership of the proceeds of their criminal activities. If undertaken successfully, it also allows the perpetrator (s) to maintain control of those proceeds and, ultimately, provides a legitimate cover for their source of income."

■ How is Money Laundered?

There are Three stages in Money Laundering which are as follow:

Placement

The physical disposal of cash proceeds of criminal activity in the Financial System. i.e. making cash payments into a Bank account or buying an Insurance policy.

Layering

Moving funds around to create a trail of complex transactions which authorities will have difficulty in following its source. i.e. accommodation bills or payment of Credit Card debts

Integration

This is the final stage in which the money launderer will take the money back into the legitimate economy i.e. buying assets or consultancy fees in a newly formed Company.

■ Suspicious Transactions

What are Suspicious Transactions.

Ministerial Order No. 23 of 2002 with Respect to the Prevention and Prohibition of the Laundering of Money, defines Suspicious Transactions as being :

'.any transaction or group of transactions, especially that relate to money transfers, about which doubts arise with the registered person concerning their link to money laundering or terrorist financing through their unusual size, repetition, nature, conditions and circumstances surrounding them, their unusual pattern that does not involve a clear economic objective or an obvious legal purpose, if the activities of the persons involved in the transaction(s) do not conform with their normal activities of if the domicile of such persons is situated in countries that do not adequately apply measures for prohibition of an combating money laundering

Examples of Common Indicators : General

- Customer is known to be involved in, or indicates his involvement in criminal activities
- Customer does not want correspondence sent to home address
- Customer has accounts with several banks in a particular jurisdiction for no obvious reason, or has recently established relationships with different financial institutions.
- Customer uses same address but frequently changes the names involved.
- Customer is accompanied by others and watched.
- Customer shows uncommon interest in your internal systems, controls and policies
- Customer appears to have only a vague knowledge of the amount of the transaction
- Customer goes to unnecessary lengths to justify the transaction
- Customer presents information/details which are confusing

- Customer is secretive, nervous or reluctant to meet in person.
- The transaction is suspicious but the customer seems to be blind to the fact that he might be involved in money laundering
- Customer provides a telephone contact which either does not exist or has been disconnected.
- Customer is involved in an activity unusual for that customer or business
- Customer insists that a transaction be done quickly.
- Customer attempts to develop a close relationship with staff
- Customer uses different names and addresses
- Customer attempts to bribe or offer unusual favors to provide services which are suspicious or unusual

■ Know Your Customer (KYC)

Why do you need to know your customer?

Why it is not enough that the customer pays for the goods or services you provide?.

A sound KYC policy is crucial for your business, not only to meet the legal requirements under the Money-Laundering legislation, but also in terms of identifying business risk. To be effective a KYC policy must include proactive monitoring of customers accounts. It is not sufficient to know your customer when he commences business with you, you have to maintain active monitoring of the relationship.

Legal Requirements

The Ministerial Order No. 23 of 2002 with Respect to the Prevention and Prohibition of the Laundering of Money, requires that all 'registered persons', before establishing business relations or conducting transactions, shall : 'establish the identities of their customers, representatives and beneficiaries from the transaction by using all reasonable methods and adopt all the possible precautions to ascertain the validity of documents or details concerning their identities. Such data shall be kept in their registers for reference, whenever necessary'

The Ministerial Order goes on to define the identity details that must be established and kept in the records of customers, who are natural persons, as being :

- a) Customer's full name
- b) Date of birth
- c) Nationality
- d) Full details of the identity card or passport
- e) CPR Card number (if any)
- f) Occupation
- g) Usual residence address
- h) Employer's name and address

In the case of a corporate client, the details required to be maintained are:

- a) Customer's full name
- b) Legal status
- c) Registration number and place
- d) Objects
- e) Address of the head office and branches (if any)
- f) Names of board members
- g) Legal representative of the corporate person and his I.D

In the case of a corporate client, in addition the Memorandum & Article's of Association and the Power of Attorney must also be verified. The Decree # 4 of 2001 With Respect to the Prevention and Prohibition of Laundering of Money , requires at Article 5, that an institution shall :

- (a) keep for a period of five (5) years after the relationship has ended a copy of the evidence of identity of each client , and
- (b) keep a transaction record of any new or unrelated transaction for a period of five (5) years after the termination of the transaction so recorded.

The Ministerial Order also requires that senior officers of every registered person should have knowledge of the international rules and guidelines in relation to the combating of money laundering, and in particular to the Forty Recommendations of the FATF, which also emphasizes on the above mentioned requirements.


■ Main sources of illegal funds

The FATF annual Money Laundering Typologies Report is a good source of information on new trends, and can be a useful , though not exclusive, guide to the schemes which businesses need to be aware of in order to avoid being unwittingly used as a part of a criminal structure

In its 1995/1996 Report the FATF identified drug trafficking and financial crime as being the most frequent source of illegal proceeds reported by respondents to their annual survey, with the primary source being drug trafficking.

Other sources of illegal funds may include:

- Terrorism
- Major Thefts
- Fraud
- Robbery
- Forgery and Counterfeiting
- Blackmail and Extortion etc



Bahrain's anti-money laundering regulations

■ Bahrain's anti-money laundering regulations

Under the Money Laundering Law, a money laundering offence includes :

- Conducting a transaction with crime proceeds
- Receiving/Transferring crime proceeds
- Tampering with evidence
- Concealing crime proceeds
- Possession of crime proceeds
- Knowing of and providing facilities

Furthermore it is not necessary that a person should be convicted of the underlying criminal activity to be guilty of a money laundering offence. A person can be charged separately both with the offence of money laundering, and also with underlying criminal activity from which the money laundering offence was committed.

The Law also extends the reach of prosecution to every person who at the time of the offence acted in an official capacity in a corporate body, if such action was committed intentionally or where gross negligence is shown.

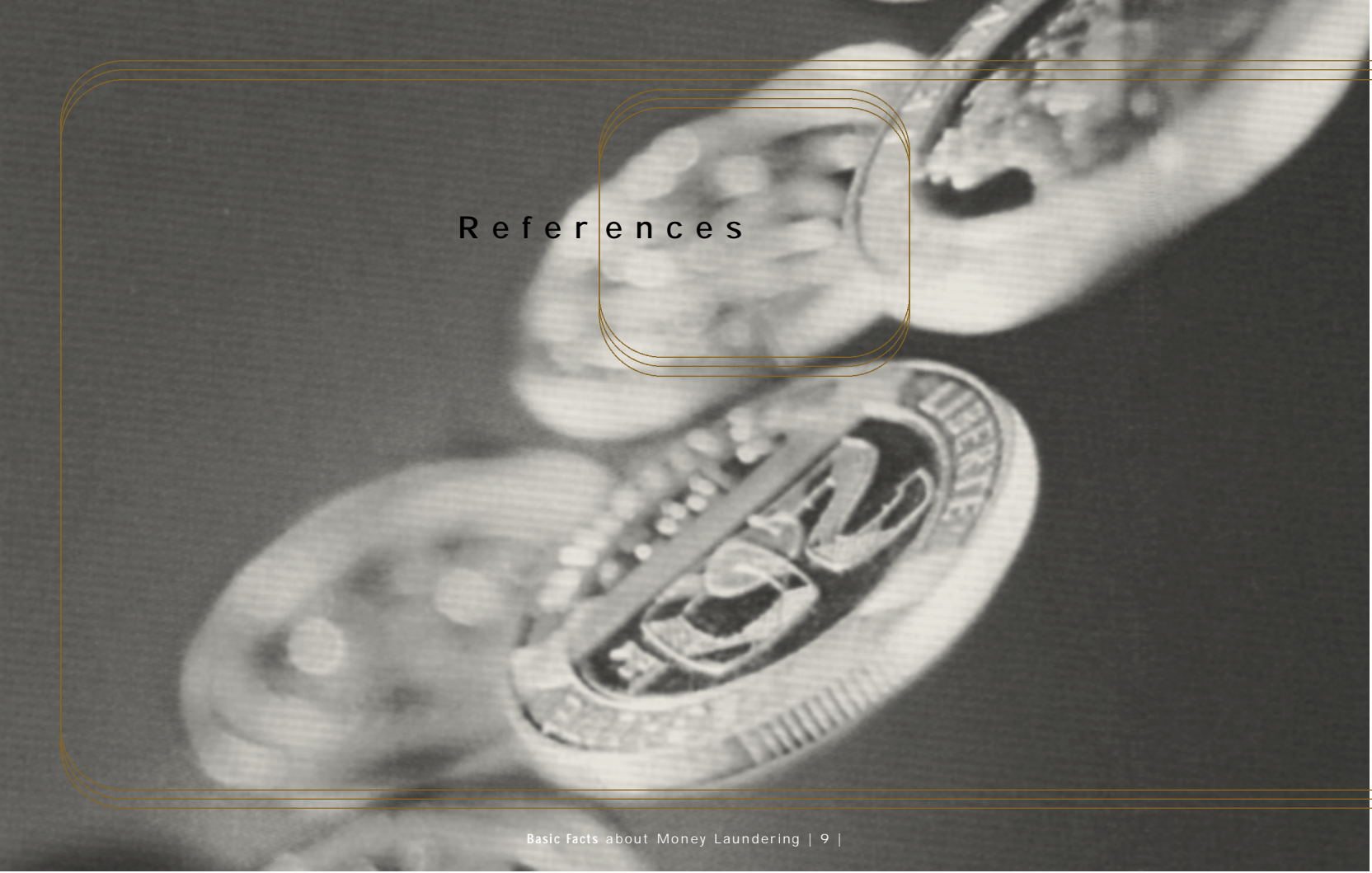
In addition the Law also details offences which are 'related to money laundering', these include :

- Failure to disclose information
- Failure to comply with official orders
- Prejudicial disclosure of information

■ Punishments

The Decree number 4 of 2001 With Respect to the Prevention and Prohibition of Laundering of Money , specifies at Article 3 that,

- Any person committing, attempting or participating in a money laundering offence shall be liable to imprisonment for a period not exceeding seven (7) years and a fine not exceeding Bahrain Dinars One Million (BD 1,000,000/-).
- In cases where the offence of money laundering is committed by a corporate body and notwithstanding the liability of any natural person, the corporate body shall be liable to the punishment of a fine prescribed in this Law in addition to confiscation of the property which is the subject matter of the offence.

A stack of US coins, including a quarter, a dime, and a penny, is shown in a close-up, slightly blurred view. The word "References" is centered over the coins in a white, sans-serif font. The coins are arranged in a stack, with the quarter on top, the dime in the middle, and the penny at the bottom. The background is dark and textured.

References

- Any person who commits any of the offences related to money laundering shall be liable to imprisonment for a period not exceeding two (2) years and/or a fine not exceeding Bahrain Dinars Fifty Thousand (BD 50,000/-) or both.
- Any person who contravenes the provisions of Regulations and Ministerial Regulations issued under this Law shall be liable to imprisonment for a period not exceeding three (3) months or a fine not exceeding Bahrain Dinars Twenty Thousand (BD 20,000/-) or both.

■ References

For more information, please refer to the followings:

1. Amiri Decree Number 4 of 2001.
2. Ministerial Order number 23 of 2002.
3. Anti-Money laundering guidelines booklet.

Useful sites to visit for more information on suspect countries are

<http://www.fatf-gofi.org>

http://www.state.gov/www/global/narcotics_law/1999_narc_report/index.html

http://www.oecd.org/daf/fa/first_en.htm

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