

# Ministerial Order no. ( 173 ) of 2017

Concerning the Obligations related to the Procedures of the Prohibition of and Combating Money Laundering and Terrorism Finance in the Business of the Persons Registered in the Commercial Register and the Audit Registry in the Kingdom of Bahrain as amended by Ministerial order (108) of 2018

Follow Us



00973 33624372

00973 33624373

[www.gspubahrain.com](http://www.gspubahrain.com)

**Ministerial Order no. ( 173 ) of 2017**  
**Concerning the Obligations related to the Procedures of the Prohibition of and Combating Money Laundering**  
**and Terrorism Finance in the Business of the Persons Registered in the Commercial Register and the Audit**  
**Registry in the Kingdom of Bahrain as amended by Ministerial order (108) of 2018**

The of Minister Industry, Commerce & Tourism:

Having pursued The Penal Code promulgated by Legislative Decree no. (15) of 1976, as amended,

The Auditors Law Legislative Decree no (26) of 1996.

Legislative Decree no. (4) of 2001 concerning the Prohibition of and Combating Money Laundering, amended by Law no. (54) of 2006, particularly Article (4/5) thereof,

The Commercial Companies Law promulgated by Legislative Decree no. (21) of 2001, as amended

Legislative Decree no. (28) of 2002 regarding electronic transactions, as amended

The Code of Criminal Procedures promulgated by Legislative Decree no. (46) of 2002, amended by Law no. (41) of 2005,

The Central Bank of Bahrain and Financial Institutions Law promulgated by Law no. (64) of 2006,

Decree no. (27) of 2015 concerning the f the Commercial Register

Legislative Decree no (7) of 2017 approving the Arabian treaty for combating money laundering and terrorism financing

Decree no. (9) of 2016 concerning the Reorganization of the Ministry of Industry, Commerce, and Tourism

The Order of the Minister of Finance and National Economy no. (7) of 2001 concerning the Institutions' Obligations in relation to the Prohibition of and Combating Money Laundering,

The Order of the Minister of Interior no. (18) of 2002 concerning the Determination of the Implementing Unit's Competencies in the Field of Applying the Provisions of the Prohibition of and Combating Money Laundering Law, amended by Order no. (9) of 2007,

And the Order of the Minister of Industry and Commerce no. (126) of 2011 the Obligations related to the Procedures of the Prohibition of and Combating Money Laundering and Terrorism Finance in the Business of the Persons Registered in the Commercial Register, amended by Order no. (6) of 2012

The order no (8) of 2012 regarding the establishment of anti-money laundering and terrorism finance policy committee

And according to the presentation of the Undersecretary of Commerce Affairs,

## Has resolved the following:

### Article (1) Definitions

Without prejudice to the definitions stipulated in the Prohibition of and Combating Money Laundering Law, the following words and expressions shall, in the application of the provisions of this Order, have the meanings assigned thereto, unless the context requires otherwise:

**Ministry:** the Ministry responsible for commerce affairs.

**Registered Person:** any natural person or corporate registered in the commercial register or audit registry and is subject to the provisions of this Order as per the provision of Article Two thereof.

**Client:** any natural person or corporate dealing or wishing to deal with a Registered Person.

**Compliance Officer:** the employee appointed by the Registered Person to control that person's compliance with the requirements of this Order according to the provisions of Articles (7) and (9) thereof.

**Committee:** the committee for determining money laundering and terrorism finance prohibition and combating policies stipulated in Article (4) of the Prohibition of and Combating Money Laundering and Terrorism Finance Law.

**Business Relationship:** the continuous arrangements between two or more parties under which one of the parties undertake to facilitate conducting regular or frequent transactions between them, or in which the value of transactions is unknown upon the conclusion of the contract, which requires verifying the same.

**Separate Process:** any process beyond the scope of Business Relationship.

**Suspicious or Extraordinary Deals:** any monetary process or group of processes which are paid in cash or in kind (excluding the payment made thorough the banking system) suspected by the Registered Person to be related to money laundering or Terrorism Finance, and illegal transferring money across borders on the ground of such process's extraordinary size, frequency, nature, the circumstances accompanying it or its extraordinary pattern that does not involve a clear economic goal or apparent legal purpose, or if the activity of the persons participating in the process(es) does not conform with their ordinary activity, or if the hometown of such persons is in countries that do not adequately apply the procedures of the prohibition of and combating money laundering and Terrorism Finance, or in countries listed on the FATF blacklist or process(es) where the client or ultimate beneficiary is an individual or organization(s) listed in the United nations or the domestic list.

**The ultimate beneficiary:** the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted

**Competent Body:** the Implementing Unit of the Ministry of the Interior or and the Competent Unit at the Ministry.

**Competent unit at the Ministry:** the unit referred to in Article (8) of this Order.

**Article (2)**  
**Persons subject to this Order**

The provisions of this Order shall be applicable to the Registered Persons authorized to practice the activities bellow:

1. Sale and trade of jewelry
2. Audit

As well as all subsidiaries and branches of such persons whether operating in Bahrain or outside Bahrain. In accordance with risk-based approach approved by the ministry

The provisions of this Order shall not be applicable to the persons subject to the supervision of the Ministry of Justice, Islamic Affairs and Waqf, the Ministry of Labor and Social Development or the Central Bank of Bahrain, and any other registered person that are subject to any form of supervision of any other legal entity.

The Ministry shall publish on its website a list of activates of registered person that are obliged to adopt this odder.

Registered Persons shall abide by the regulations, guidelines issued by the Ministry of Industry, Commerce & Truism.

**Article (3)**  
**Obligations of Registered Persons**

The Registered Person shall be committed to the following:

- a- Implement all policies and procedures as outlined in legislative Decree (4) of 2001 concerning the Prohibition of and Combating Money Laundering, and rules set out by the committee or the ministry to prevent the abuse of registered person operations for purpose of money laundering or terrorism financing.
- b- Not establishing a Business Relationship with money laundering and terrorism finance purpose
- c- Warning anyone associated with that Registered Person to not breach the provisions of the above two paragraph.
- d- Paying special attention in all kinds of processes and deals. The background and purposes of such processes and deals shall be inspected, and the findings of such inspection shall be recorded in writing and reported in the approved electronic template to the Competent Body
- e- Obliging that Registered Person's branches working abroad to adopt measures of preventing money laundering and terrorism financing in accordance with the FATF recommendations, and apply the provisions of this Order to the extent allowed by the laws and regulations applicable in the countries where such branches work, especially if such branches are in countries that do not or inadequately abide by the provisions of the Order. The Registered Person shall also be committed to informing the Competent Bodies in case the laws of the countries where such branches work hinders the application of the provisions of this Order.

- f- Implement all FATF recommendations.
- g- To establish sufficient and effective controls and procedures to implement the resolutions of the United Nations and the domestic lists and to report any suspicions related thereto.
- h- Develop and apply procedures based on a risk-based approach.
- i- Apply the results of the national risk assessment and reflect its results on internal processes and procedures and update those procedures whenever the national risk assessment report is updated.
- j- Develop internal control systems to perform customer due diligence and obtain information from reliable and up-to-date sources.
- k- Not receiving cash exceeding BD 3000 or equivalent in other currencies for gold and jewelry activities dealers.

**Article (4)**  
**Additional obligations to Auditors**

in addition to the obligations stated in Article (3) of this order, Auditors registered with the Ministry shall during their course of auditing accounts of all client's ensure about the followings:

A -Existence of internal control systems and procedures with the client capable for detecting, monitoring and reporting of suspicious or extraordinary deal.

B - Adequacy & Sufficiency of the regulations and internal procedures to verify the identity of customers.

C – Nonexistence of suspicious or extraordinary deal with their clients. In the event that they reveal suspicious or unusual transactions, the auditor shall send a report to the competent body.

D- To ensure that the client has no relationship of any kind or with any persons or entities listed on the United Nations and the domestic lists. In the event that suspicious or unusual transactions is discovered, the auditors shall send a report to the competent authority.

In case the client is a Registered Person, auditors shall verify the following, in additional to mentioned above,

A- The Registered Person is reporting about all suspicious or extraordinary deal to the Competent Unit at the Ministry.

B - The registered person shall not infringe any of the obligations stipulated in this resolution

The auditors must report about this, in all auditors' reports or solvency letters they have issued.

## **Article (5)**

### **Clients' Identity**

#### **First: Procedures of Identity Identification:**

- a- Registered Persons shall, before conducting any Business Relationship or Separate Process (es), be committed to verifying the identity of the client and the ultimate beneficiary of any Business Relationship or Separate Process (es), the registered person is also obliged to follow reasonable and sufficient procedures to verify the source of the money thereof by all forms of authentication, and to not conduct the deal if the customer is unknown or do not provide proof of their identity or identity of the ultimate beneficiary.
- b- The Registered Person shall develop the appropriate procedures that oblige each client, who wishes to establish a Business Relationship or Separate Process (es) with that Registered Person, to identify his identity and identity of the ultimate beneficiary and present sufficient proofs.
- c- When one of the institutions gets merged with another institution, the institution merged with shall not be required to identify the identity of the merged institution's clients as per the provisions of this Order if:
  - 1- The merged institution has already applied the procedures of maintenance stipulated in Paragraphs (a), (b) and (c) of Article (6) of this Order.
  - 2- The detailed investigations did not result in any doubts on the conformity of the merged institution's procedures of the prohibition of and combating money laundering and terrorism finance with the requirements provided in Legislative Decree no. (4) of 2001 concerning the Prohibition of and Combating Money Laundering and Terrorism Finance amended by Law no. (54) of 2006.

#### **Second: Identity Information:**

- a- A copy of the identity information that shall be verified and maintained in clients' records in relation to natural persons is as follows:
  - 1- The full information of the passport.
  - 2- ID card.
  - 3- Profession.
  - 4- Permanent place of residence.
  - 5- Name and address of employer.
  - 6- The business relationship's commencement date, type, amount, currency and details.
- b- The identity information that shall be verified and maintained in clients' records in relation to corporates is as follows:
  - 1- Name of corporate or company.
  - 2- Legal form.
  - 3- Number and place of registration.
  - 4- Type of the activity undertaken.
  - 5- Address of the head office and branches (if any).
  - 6- Names of the members of the Board of Directors.
  - 7- The corporate's legal representative and the ID information thereof.
  - 8- The business relationship's commencement date, type, amount, currency and details.

In addition to the aforementioned, the legal person incorporation documents shall be verified, including but not limited to the Memorandum of Association, Articles of Association and the Legal Person's representation document.

C- the registered person must adopt enhanced due diligence in case of possibility that the transaction would involve a money laundering or terrorism financing crime in accordance with the following factors:

- 1- The procedures outlined in preceding (A) and (B) paragraphs identified a higher risk.
- 2- Another person deal on behalf of the client when the client isn't physically present when you carry out identification process.
- 3- When entering into a business relationship with a Politically Exposed Person (PEP).
- 4- Any other situation where might a higher risk of money laundering or terrorism financing exist.
- 5- If the ultimate beneficiary of the business relationship or separate process(es) is a person who must apply the enhanced due diligence.

the level of risk by which clients are classified depends on the following

1. client's background
2. Country of origin / Nationality
3. Linked accounts with Clients
4. Nature Business activities
5. Ultimate beneficiary

D- The enhance due diligence includes the following

1. Obtaining further information to establish the client's identity and ultimate beneficiary.
2. Adopting extra measures to ensure the authenticity of documents submitted in terms of nature, And the relevance of the business relationship or separate process (es) to the nature of the client's activity, etc..
3. If the payment is done by transfer, then the amount should be transferred from a recognized financial institution that adopt Anti- Money Laundering measures.
4. Finding out the source of funds and the purpose of the transaction.
5. Adopting special measures to ensure about the ultimate beneficial from legal structure.
6. Any other procedures and measures more strict in proportion to the nature of the transaction or business relationship

E- in case the client was government or semi- government or related to government of Bahrain or any GCC countries, and in case the client is well- known to the registered person from the previous business history, a continuous review of such transactions shall be made in accordance with the provisions of

paragraph (F) of this article, then the registered person may adopt the measures outlined in paragraph (A) and (B) of this order.

F- the registered person shall improve and update his procedures related to client's identification by adopting a risk-based approach, in addition, the registered person shall continuously monitor the client's transaction and end any business relationship if found suspicious or extraordinary and report that immediately to competent body.

## **Article (6)**

### **Procedures of Maintenance of Documents and Records**

- a- Registered persons shall maintain the information and documents related to the identity of the clients and the representatives thereof and the beneficiaries from the deal, and shall also maintain accounting records and other records related to the details of transactions. Such records shall include the deal's type, date and value, the information related to the method of payment and the identity information. Any changes made to the status of the clients shall be regularly included in these records. Registered persons shall have a system and procedures which ensure that these records are updated. The information and documents shall be adequate to identify the deal, whether a single deal or a group of deals, starting from the initial documents up to the completion of the deal.  
The registered person shall retain the results of suspicious and/ or extraordinary deals along with customer Due Diligence information and results of investigations, all of those must be made available to the competent authorities in accordance with the law.
- b- The aforementioned documents and records, as well as all the correspondence related to the deals, shall be maintained for a term of five years from the expiry date of the deal. The maintained records and the supporting documentation thereof shall be easily retrievable.
- c- Should the deal be associated with account transfers, from the clients or on behalf thereof, registered persons shall ascertain that such transfers include the name of the party giving the order and the beneficiary and the amount and source of the transfer - and the account number and address thereof, and that the transfer is done through the banking system. The non-fulfillment of the aforementioned information immediately after it is required to be provided shall result in considering the deal suspicious or extraordinary and shall be reported to the Competent Unit at the Ministry, immediately.
- d- Registered persons shall fulfill all the information, documents and records referred to in this Article within no more than, in all cases, six months from the effective date of this Order.
- e- Each Registered Person must file an electronic annual report to the Competent Unit at the Ministry through the Ministry website, which shall be including all the cash transactions exceeding BD 6,000 or its equivalent, whether in one or several transactions made during the year, also report shall include all information stipulated in Clause (2) of the Article (5) from this Order, within no more than, in all cases, three months from the financial year end, or three months from the fiscal year end.

## **Article (7)**

### **Internal Reporting Procedures**



- a- Each Registered Person shall appoint whom he feels appropriate person from his employees, to act as a compliance officer to control that person's compliance with the requirements of this Order. Such employee shall have the independence and power to review all the information of the clients and other relative data.
- b- The commitments of the compliance officer annually :
  - 1- Ascertaining the suitability of the internal controls, regulations and procedures applicable at the Registered Person for the fulfillment of the requirements and provisions of this Order.
  - 2- Ascertaining that the employees of the Registered Person have received the appropriate training to perform the tasks assigned to them as per the provisions of this Order.
  - 3- Controlling the level of compliance of the aforementioned employees in relation to the application of the internal controls, regulations and procedures related to combating money laundering and terrorism finance.
  - 4- Controlling the level of commitment of the Registered Person in relation to the development of systems and procedures that ensure updating the records, and the extent to which such procedures are applied on a regular basis.
  - 5- Each Registered Person shall develop the disciplinary regulations and procedures that ensure the commitment of that Registered Person's employees to implementing the provisions of this Order.
  - 6- In case the registered person has a new product(s) / technologies then the same rules of client's identity would be applicable as outlined in article (5) of this order, and a risk assessment to their Money laundering/ terrorism financing is to be performed.
  - 7- Verify the adequacy and sufficiency of customer due diligence systems and procedures, and the reliability and reasonability of Customer Due diligence information collected to establish any business relationship or separate process (es).
- c- The compliance officer must report to the competent body and the auditor any breach found while examining compliance with clause (B) above.

#### **Article (8)**

##### **The Competent Unit at the Ministry**

Anti-Money Laundering Department in Companies Control Directorate, is the Competent Unit at the Ministry, that designated for receiving the reports of the compliance officer on suspicious or extraordinary deal and any other reports, statistics, information related to this order.

The competent unit is also responsible for supervision and inspection of registered persons in all matters related to anti- money laundering and terrorism financing

#### **Article (9)**

##### **Reporting Extraordinary or Suspicious Deals**

- a- The compliance officer shall be responsible for reporting the Competent Unit at the Ministry about suspicious or extraordinary deals, immediately within no later than the first working day from the time of becoming aware of such deals.

- b- The compliance officer shall prepare a report, as per the form acceptable by the ministry, regarding the suspicious or extraordinary deal(s) based on the clients' information, data and records. The report shall include a full description of the deal and the type, value, currency, date and parties thereof, as well as the reasons that led to considering the deal extraordinary or suspicious, and all the data and information that might be required by the Competent Unit at the Ministry, and delivered the report electronically.
- c- In case the compliance officer is informed of the existence of doubts in relation to a suspicious or extraordinary deal, they shall verify the same by referring to the client's data, records and information. If it turns out that the deal is ordinary and unsuspecting, the compliance officer shall record the reasons supporting this fact. In such case, it is not required to prepare the report referred to in the preceding Clause.
- d- The compliance officer shall, if it appears to them at a later stage that the identity-related investigations are inaccurate to report to the Competent Unit at the Ministry and take all necessary actions to abide by the requirements of identifying the identity.
- e- A record dedicated for extraordinary or suspicious deals shall be kept, such records shall include adequate details, including the type of the deal, the reporting date, the information of the client and the amount of the process, which enable the formation of a clear image and adequate details on such deals and the procedures taken in relation thereto.
- f- The reports referred to in Clause (b) of this Article shall be submitted electronically with identity information related, to the Competent Body and maintained for a term of not less than five years.
- g- Registered Persons shall be prohibited from informing the client of the submission of a suspicion report or any relative information to the Competent Unit at the Ministry.

#### **Article (10)**

The Competent Unit at the Ministry has the right to reject the appointment of any person as a compliance officer, in addition, it has the right to suspend compliance officer Name from the registry and ask for appointment another person, in case his failure to meet his obligations stipulated in this Order.

#### **Article (11)**

No Registered Person or any of its employees shall be civilly or criminally held liable for the performance of their obligations stipulated in this Order.

#### **Article (12)**

##### **Penalties**

Any person breaches the provisions of this Order shall be subject to the penalties stipulated in Article (3/6) of Law no. (4) of 2001 concerning the Prohibition of and Combating Money Laundering and Terrorism Finance.

#### **Article (13)**

Order no. (26) of 2011 Concerning the Obligations related to the Procedures of the Prohibition of and Combating Money Laundering and Terrorism Finance in the Business of the Persons Registered in the Commercial Register in the Kingdom of Bahrain shall be deemed null and void.

**Article (14)**

This Order shall be implemented by the Undersecretary of Commerce Affairs, and shall be effective as of the date of its issue and shall be published in the Official Gazette.

**Minister of Industry, Commerce & Truism  
Zayed R. Alzayani**

**Issued on: 20 September 2017**

**Corresponding : 29 Dhu AL Hijja 1438**

**Amended on: 27 December 2018**

**Corresponding : 20 Rabia Al Akher 1440**