



A presentation on

नेपाल चार्टर्ड एकाउन्टेन्ट्स संस्था
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NEPAL
(Established under the Nepal Chartered Accountants Act, 1997)

AML/CFT Obligations for the Accounting Sector

30 January 2025



*Kiran Kumar Khatri,
CA/ACCA*



-



Contents of Today's Presentation

Refreshing the understanding of ML/TF and their Impact

Overview of ML/TF Offence and Predicate Offence

Overview of the AML CFT Standards, Legislation and Practices

Overview of Mutual Evaluation Outcomes (2023 MER)

AML CFT Mechanism and the Accounting Sector

AML CFT Obligations for the Accounting Sector

AML CFT Obligations Vs Current Ethical Standards

Way Forward –Institutionalizing the Compliance Mechanism



Meaning of Money Laundering

- *'...the process by which criminals attempt to conceal the true origin and ownership of the proceeds of their criminal activity, allowing them to maintain control over the proceeds and, ultimately, providing a legitimate cover for the sources of income'*

Stages of Money Laundering

Use of Criminal Proceeds in any of the three stages:

Placement – Concealment of origin of criminal proceeds

Layering – disguising of illegal cash through complex transactions

Integration – Illegally obtained funds are moved back into the legitimate economy and is now 'clean'





Money Laundering Offences

Transferring or transforming	Transferring or transforming property obtained through criminal offence
Concealing or disguising	Concealing or disguising of nature, source, ownership, movement of criminal property
Acquiring, possessing or using	Acquiring, possessing or using of criminal property
Helping	Helping, conspiring, advising, collaborating in conduct of above

Ref: Sec 3 of ALPA

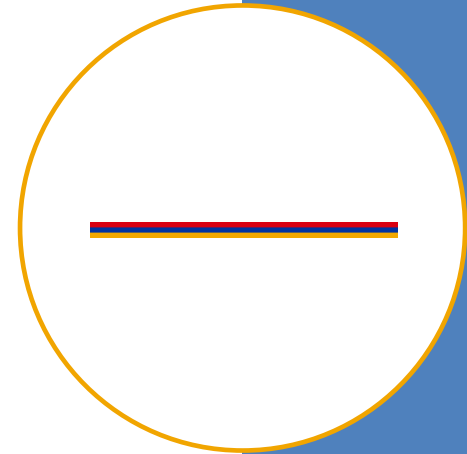


Financing Terrorist and Terrorist Activities

Funding of Terrorist Activities, Terrorist or Terrorist Groups

Note:

- Terrorism is not always an expensive business – small amounts of money can pay for a lot of human suffering
- The source of funding can either be criminal or legitimate





Predicate Offence

Examples:

- Organized Crimes
- Terrorism
- Human Trafficking
- Sexual Abuse
- Drugs Smuggling
- Smuggling
- Theft
- Corruption
- Deceit
- Hundi
- Tempering
- Counterfeiting of Currency
- Environment related
- Tax Evasion
- Market Manipulation and Insider Trading
- Banking, Insurance and Cooperatives related
- Passport and Immigration Related



Common Source and Application of Criminal Proceeds

Sources of Criminal Proceeds

- fraud,
- theft,
- tax evasion,
- bribery,
- corruption,
- arms trafficking,
- drugs,
- smuggling,
- terrorism,
- extortion,
- Forgery

Application of Criminal Proceeds

buying assets such as

- real estate,
- gold,
- cars,
- art,
- personal investment products,
- cash (US dollars are most often used).

What is the extent of the problem?



UNODC*
estimates that
between 2-5%
of global GDP
is laundered
annually

- The scale of money laundering is considered to be significant
- However, no-one truly knows the extent of the problem and this may be a significant under-estimate

*United Nations Office on Drugs and Crime

Consequences of ML/TF

What are the consequences of ML/TF?



- **Economic Development:** It has a damaging effect on foreign direct investment when a country's commercial and financial sectors are thought to be under the control and influence of financial criminals.



- **Reputation:** It can affect yours, the accounting profession, banking and financial services sector. A reputation of integrity is one of the most valuable assets you, your firm and the profession can have. There is also the risk of litigation.



- **Society:** Organised crime can get inside financial institutions, gain control of large sectors of the economy through investment or offer bribes to public officials/government. It can undermine democracy.

International standards



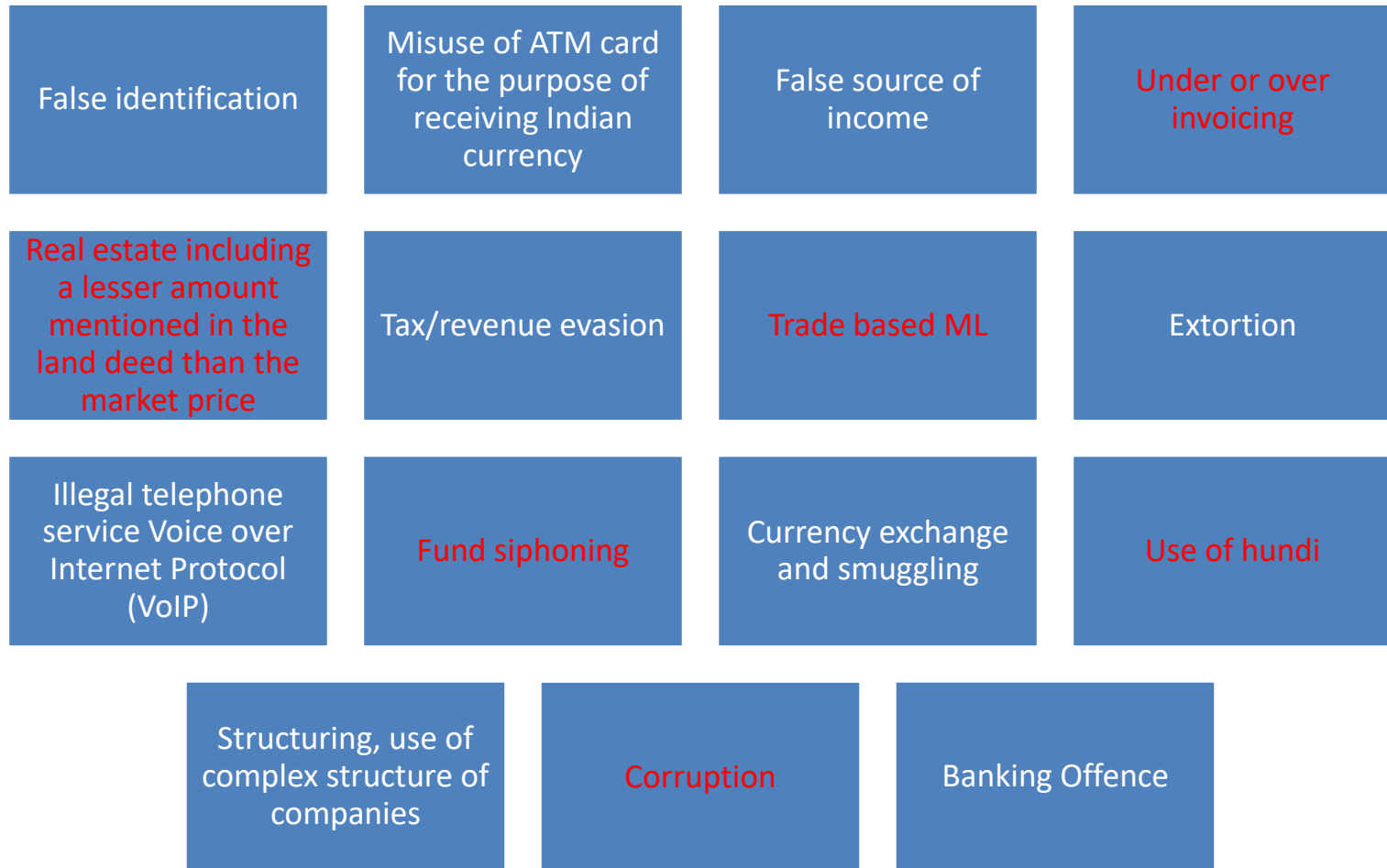
- International Financial Action Task Force (FATF)



- Asia Pacific Group on Money Laundering (APG)



Common ways of Money Laundering In Nepal





AML CFT Regime

Legislations

Asset (Money) Laundering Prevention Act, 2008 (updated 2024)

Asset (Money) Laundering Prevention Rules, 2024

FATF Recommendations stands as Standards to AML/CFT Regulation

STR/SAR Guidelines Issued by FIU

Sector wise Guidelines on Anti-money Laundering and Countering Financing of Terrorism



Institutions with Roles to Combat AML CFT



Sector-wise Regulator and Reporting Entities



Financial Intelligence Unit



Department of Money Laundering Investigations



Other Investigating Bodies and Law Enforcement Agencies



AML CFT Related Other Government Bodies



Regulators and Reporting Entities (Financial Sector)

Reporting Entities	Regulators
Bank and Financial Institutions	Nepal Rastra Bank
Money Remitters	
Money Changers	
Security Companies	SEBON
Insurance Companies	Insurance Authority
Cooperatives	Department of Cooperatives
Approved Retirement Fund	Inland Revenue Department
Non-Bank Financial Institutions (EPF, CIT, SSF)	Nepal Rastra Bank



Regulators and Reporting Entities (DNFBPs Sector)

Reporting Entities	Regulators
Real Estate Businesses/Agents	Department of Land Management and Archive
Trust and Company Service Providers	Company Registrar's Office
Casinos or Internet Casino Business	Ministry of Culture, Tourism and Civil Aviation
Dealers in precious stones and metals	Inland Revenue Department
Auditors and Accountants	The Institute of Chartered Accountants of Nepal
Notary Public	Notary Public Council
Law Practitioners	Nepal Bar Council



Key Findings of MER 2022 – Relevant to today's topic

FIs STR reporting needs improvement and there is no reporting from DNFBPs.

Understanding of ML/TF risks is in its very early stages DNFBP AML/CFT supervision has not commenced.

Challenges associated with Beneficial Ownership (BO) and Politically Exposed Persons (PEPs) re CDD

DNFBPs implementation of preventive measures is negligible.

In Nepal corruption, tax evasion and human trafficking are the highest ML threats

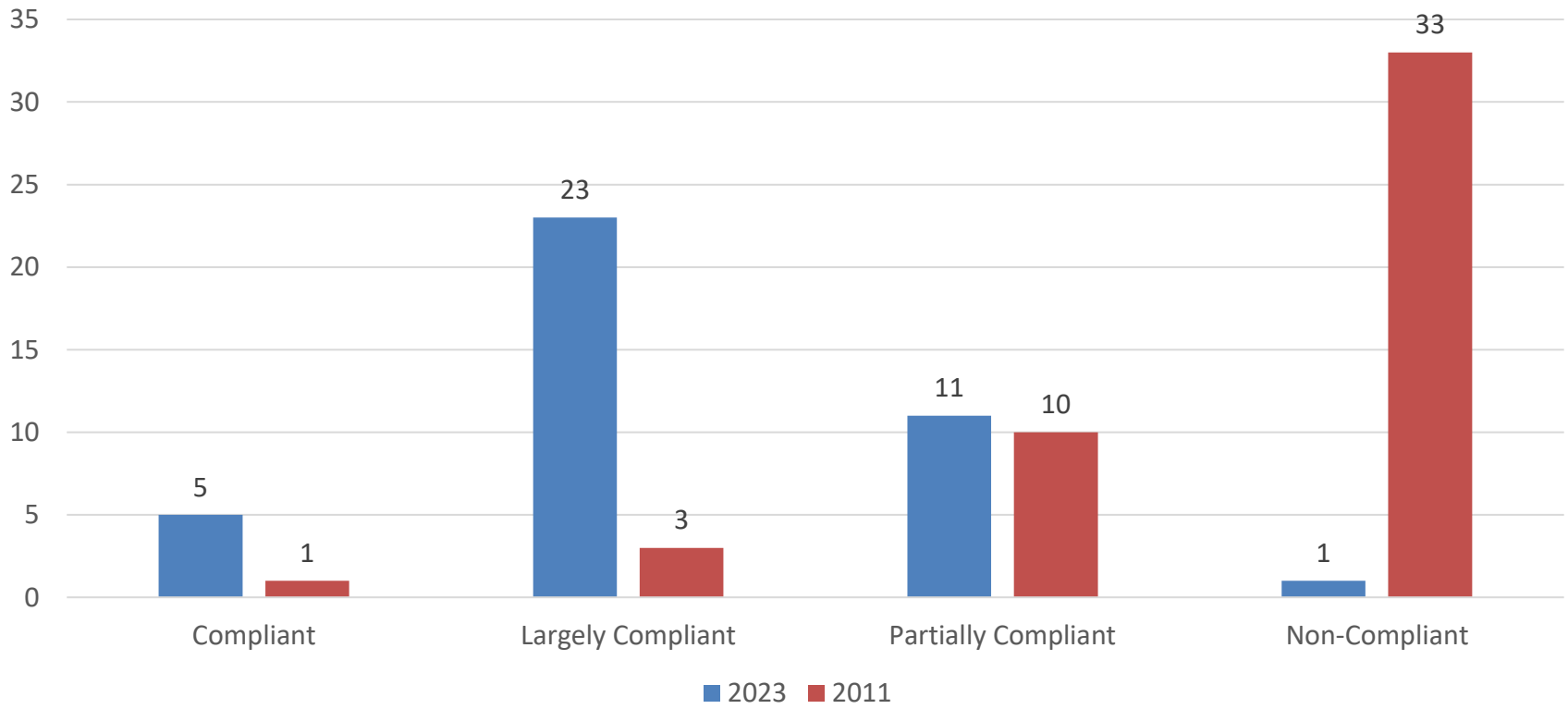
ML risk has nexus to Predicate offences such as narcotics trafficking, gold and cash smuggling, and environmental crime

Key vulnerable sectors include banking, cooperatives, dealers in precious metals and stones (DPMS), casinos, and remittance providers.

For CAs and RAs, Professional codes of conduct restrict the extent to which they can engage in financial transactions for clients.

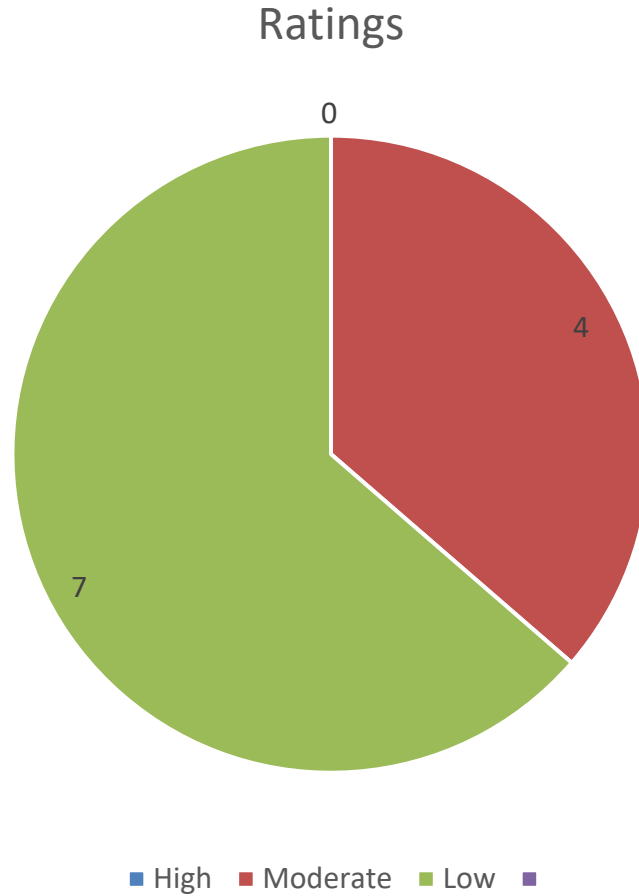
MER's Technical Compliance Ratings

Comparative Status of Compliance with 40 Recommendations
between 2022 and 2011





MER's Effectiveness Ratings





Why is Accounting sector subjected to AML CFT Compliance ?

To disassociate with criminal activities and any activities connected with proceeds of crime – Acting in the Public Interest

To fulfil the responsibility placed to Accountants – to Report on Suspicious Activities and Transactions

Why does this matter to accountants?



Accountants are a highly respected group of professionals within the regulated sector who together act as **gatekeepers** of the economy

A courier may help a drug manufacturer in trafficking or a hacker can be employed by a company to access the restricted content of a competitor's IT systems, accountants are in a position to provide access to the financial system itself



Accounting Services subjected to AML/CFT Compliance

देहायको अवस्थामा लेखापरीक्षक वा लेखाव्यवसायी सूचक संस्था हुने ।

(४) आफ्नो ग्राहक वा पक्षको तर्फबाट देहायको कार्य गर्दा, सोको तयारी गर्दा वा सोमा संलग्न हुँदाका बखतको नोटरी पब्लिक, **लेखापरीक्षक, लेखा व्यवसायी** वा त्यस्तै प्रकृतिको कार्य गर्ने अन्य व्यवसायी :-

- (क) घरजग्गा खरीद बिक्री,
- (ख) ग्राहकको रकम, धितोपत्र वा अन्य सम्पत्तिको व्यवस्थापन,
- (ग) बैङ्क, बचत तथा धितोपत्र सम्बन्धी कार्यको व्यवस्थापन,
- (घ) कानूनी व्यक्तिको संस्थापना गर्दा वा सञ्चालन गर्दाका बखत गरिएको योगदान तथा लगानीको व्यवस्थापन,
- (ङ) कानूनी व्यक्ति वा कानूनी प्रबन्धको सृजना, संस्थापना, दर्ता, लेखा, राजश्व, वित्तीय वा व्यावसायिक राय परामर्श वा सञ्चालन, व्यवस्थापन, वा
- (ड१) दफा ७ध को प्रयोजनको लागि लेखापरीक्षण वा
- (च) कुनै व्यावसायिक संस्थाको खरीद वा बिक्री ।

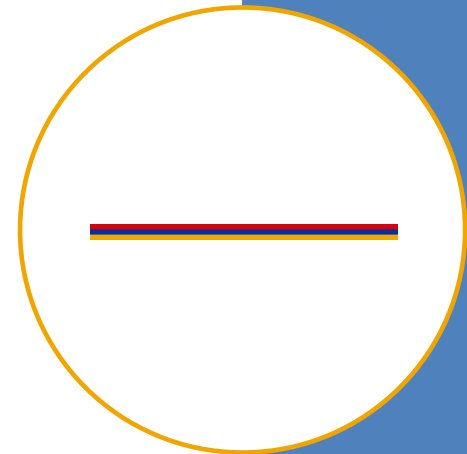
Ref: Sec 2 (Dha) (4) of ALPA



Vulnerabilities of Accounting Services

As per Req. 22 and 23 of FATF Guidance for Accounting Sector

- a) Financial and tax advice
- b) Company and trust formation
- c) Buying or selling of property
- d) Performing financial transactions
- e) Gaining introductions to financial institutions
- f) Accounting and Book-Keeping Services





FATF Recommendations Applicable to the Accounting Sector

- Recommendation 22: Customer Due Diligence
- Recommendation 23- Report suspicious transactions
- FATF Recommendation 28 : Monitoring and Ensuring compliance with AML CFT Legislation

*“Countries are strongly encouraged to extend the reporting requirement to the rest of the professional activities of accountants, including auditing.”**

*“Professional Accountants mean Professional Accountants in Public Practice” ***

*Ref: *Ref 23a, page 20 of FATF Recommendation 2012 updated 2024, Ref: **R. 8 of FATF Guidance to the Accounting*



IFAC on Money Laundering

“Serving the public interest by fighting corruption, including money laundering, is central to the accountancy profession’s activities.”

March 2004

Anti-Money Laundering
2nd Edition

 **International Federation
of Accountants**

Ref : IFAC Website



Obligations of Accountants under AML CFT Legislation





Obligations vary depending upon the nature of service provided

Type of Firms of Accountants	Related Obligations
Firms Providing Specified Services	Risk Management
	Client Due Diligence
	Suspicious Transactions
Firms Providing only Statutory Audit Services	Suspicious Transactions

Ref: Sec 2 (Dha) (4) of ALPA



AML CFT Risk to a Professional Accountant

Risk means “risks of being used as assistance to AML CFT crimes and non-compliance to AML CFT Legislation”

Risk Management



Follow Risk Based Approach - Identify, assess, understand and mitigate risks



Conduct Risk Assessments – Firm wide and Client Wise, Grade Risks



Apply Risk Mitigating Measures



Assessing AML Risk in a Firm

Clients

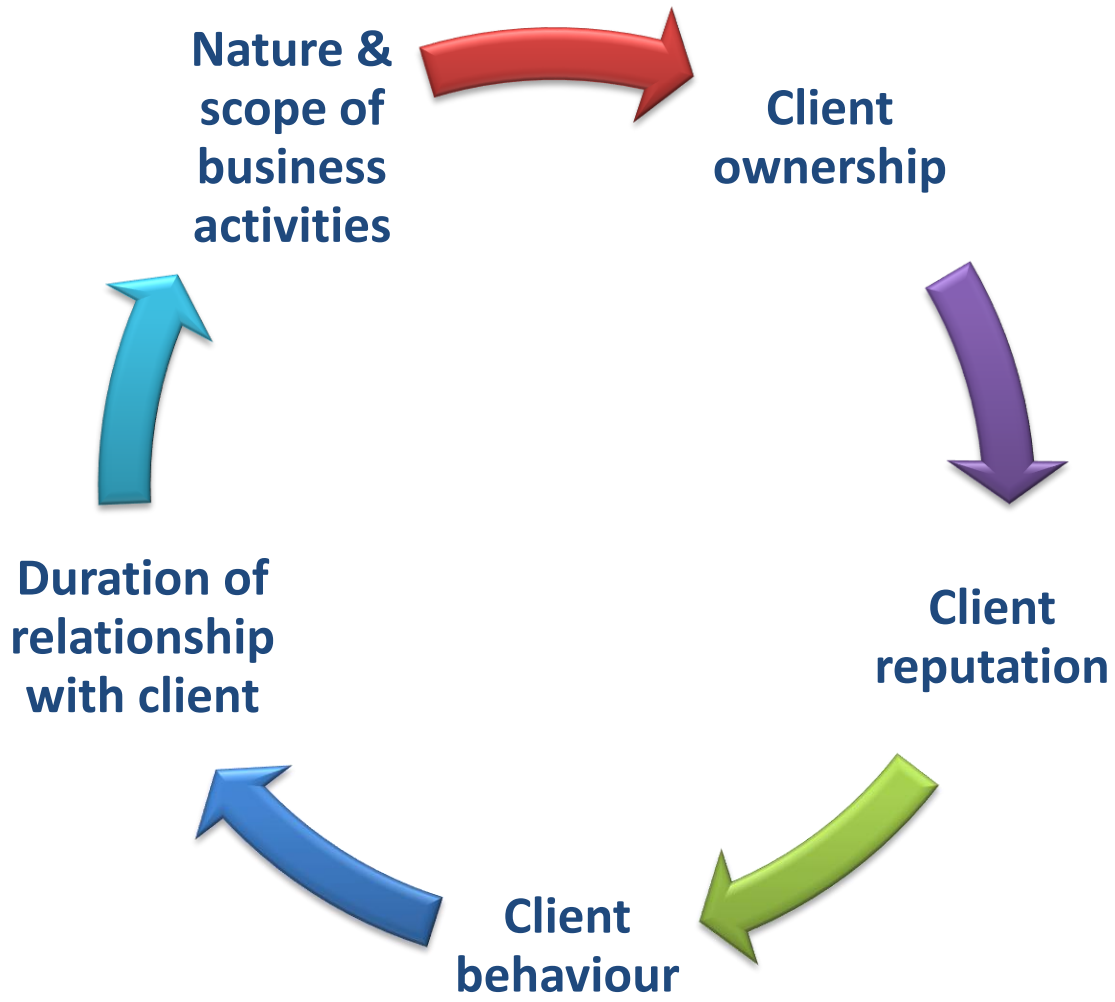
Countries

Services and transactions

How services are delivered



Clients





Triggers of AML CFT Risks in a Client

Whether firm's client base includes industries or sectors vulnerable to AML CFT

Whether Firm's clients include PEPs

Whether Clients have complex business structures

If the clients are cash intensive business

Clients who pay unusually high level of fees for services than warranted



Triggers of AML Risks in a client Contd.


Sudden activity from previously dormant client

Indicators that client doesn't wish to obtain government approvals where required

Frequent or unexplained changes of advisors and members of management

Clients reluctant to provide all relevant information

Countries

- 
- A grayscale world map showing the outlines of all countries. The map is centered on the Atlantic Ocean, with North America on the left, Europe and Africa in the center, and Asia and Australia on the right. A semi-transparent gray box is overlaid on the map, containing a bulleted list of questions.
- Where is the client based?
 - Where does the client trade?

Services and transactions

- Audit and assurance
- Setting up companies and trusts
- Handling clients money
- Payroll Outsourcing
- Tax Consultancy
- Agency for buying and selling of property
- Managing investments





How services are delivered

Not meeting the client

Dealing with the client
through a third party



Risk Mitigating Measures

Put in place a strong compliance framework that includes:

- Awareness and Leadership
- Policies and Procedures
- Staff Training on AML Risks and Mitigating Measures
- Reporting Mechanism and Internal Controls
- Enhanced CDD for higher risk clients
- Evaluation of whether AML CFT risks have increased
- Reviewing client relationship from time to time
- Report if you have a suspicion
- Record Keeping

Client Due Diligence



CLIENT DUE DILIGENCE AS PART OF
EVALUATION OF CLIENT
ACCEPTANCE AND CONTINUANCE



IDENTIFY THE CLIENT AND VERIFY
THEIR IDENTITY



IDENTIFY THE BENEFICIAL OWNER



Measures for Identifying Client

Meet the Client in Person and Obtain the recognized identity related documents with photo – for natural person

Registration, Licensing and PAN Certificate – for legal person

Particulars of BoD, Key Management Personal, Account Operators, Power of Attorney

Identify of Beneficial owner who hold more than 15 percent shares, ownership, control

Not required to identify Beneficial Owners for Entities Listed in Stock Exchange

Relevant Details about the type and nature of business, and purpose of business relationship

All above details should be verified with original documents and from reliable and independent sources

Ref: Sec 7 (Ka) of ALPA

High risk clients





Enhanced Due Diligence

For Higher Risk Client(A.7Nga) including PEPs

Measures:

- Senior Management Approval for such business relationship
- Adequate procedures to verify the source of funds : internal, external and declarations
- Continuous or Ongoing Monitoring to identify unusual transactions and to update the CDD
- Verify purpose, rational of unusual business and transaction
- Verify the purpose of business relationship

Ref:Rule 8 of AM CFT Rules



Time for CDD

During Establishment of Business Relationship

In each business dealing with the High-Risk Client and PEPS

When there is suspicion that there is investment in criminal activity

When there is unusual transaction potential to money laundering

(G.7, A.7 Ja)



Not to continue Business Relationship

- If the client cannot or doesn't provide the requested particulars and documents required for CDD, the REs shouldn't enter into or continue Business Relationship with such client.



Ref: Sec 7 ana of ALPA

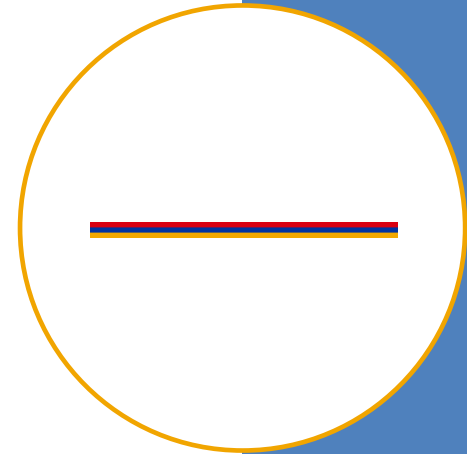


Report Suspicious Transactions

Report of SAR/STR must be made where there are reasonable grounds to suspect ML/TF activity

Notes:

- *Suspicious activities or transactions are those where proceeds from crime is owned, possessed, used or transferred*





Indicators of STR/Red Flags

Unusual Payments received which are inconsistent with sales

Non-existent debt continuously carried as current liability

Continuously in loss position for the sale of goods or property

Use of third-party cheques for payments

Safe custody of client's money or assets without justifications

Shareholders loan not consistent with business activity

Regular return of cheques for insufficient funds

Repeated Cash Transactions just below TTR limit

Other Guidance related to STR Reporting



Detailed Guidance on STR/SAR in STR/SAR Guidelines issued by FIU



Accountants shouldn't conduct investigations into the suspected ML/TF



Should be mindful of the prohibition on 'tipping off'



Additional inquiries within the normal course of business relationship should suffice in addition to the CDD process



Reporting SAR/STR doesn't amount to breach of confidentiality

Other Guidance related to STR Reporting (contd)



Should report SAR/STR to FIU as soon as arisen of suspicion and not to ICAN



Should report through GoAML web login, details in GoAML web reporting guideline issued by FIU



Usually, Persistence of combination of risk factors may give rise to suspicions



What does or does not give rise to a suspicion will depend on the circumstances



SAR/STR can be any amount, has no concern over materiality based upon f/s



Professional Skepticism and Professional Judgement is of utmost importance



Content of the SAR/STR Report

Summary of suspicious activities

Analysis of the issues

Suspected Beneficiary (if any)

Mandatory details (as required by regulators)

Correct identifications

Any other details prescribed (KYC or Registration re Documents)

Detailed Guidance on [STR-SAR-Guidelines-July-2021.pdf](#)



- goAML मा रजिष्ट्रेशन/login गर्ने web ठेगाना*:
<https://goaml.fiu.nrb.org.np/PRD/Home>
- goAML मा रजिष्ट्रेशन गर्ने तरिका सम्बन्धी Video tutorial:
<https://goaml.fiu.nrb.org.np/FIUWeb/GoAml/GetRegister>
- goAML मा 'Message Board' मार्फत रिपोर्टिङ गर्ने तरिका सम्बन्धी Video Tutorial:
<https://goaml.fiu.nrb.org.np/FIUWeb/GoAml/MessageBoard>

[Notice-for-not-accepting-CDs-Letters-and-Emails.pdf \(nrb.org.np\)](#)

Rule 16 of AML CFT Rules 2081

१६. लेखापरीक्षकले शङ्कास्पद कारोबार सम्बन्धी प्रतिवेदन दिनु पर्ने:
लेखापरीक्षकले कुनै कानूनी व्यक्ति वा कानूनी प्रबन्धको प्रचलित कानून बमोजिम बाह्य लेखापरीक्षण गर्दा **ऐन बमोजिमको कसूर** वा **सम्बद्ध कसूर** मानिने कुनै कार्य भएको वा हुन सक्ने सम्भावना रहेको शङ्का लागेमा तत्काल ऐनको दफा ७ध. बमोजिम वित्तीय जानकारी इकाईलाई प्रतिवेदन दिनु पर्नेछ।



Reporting STR in an Audit Vs NOCLAR Requirement and NSA 250

Section 360 of Code of Ethics, “Non-Compliance with Laws and Regulation (NOCLAR)

360.6 A1 A prohibition on alerting the client might arise, for example, pursuant to anti-money laundering legislation

Advise the Management and TCWG to:

R. 360.13 - Disclose the **matter** to an appropriate authority where required by law or regulation or where considered necessary in the public interest.

Further Actions by a Professional Accountant

R. 36021 A1 Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement

R.360.26 The disclosure is permitted pursuant to paragraph R114.1 d

Note : Matter means non-compliance to laws and regulations, material and or which causes substantial harm, except that which is inconsequential, to be judged

Para 29 of NSA 250 is also in line with NOCLAR Requirement and requires the reporting outside the entity

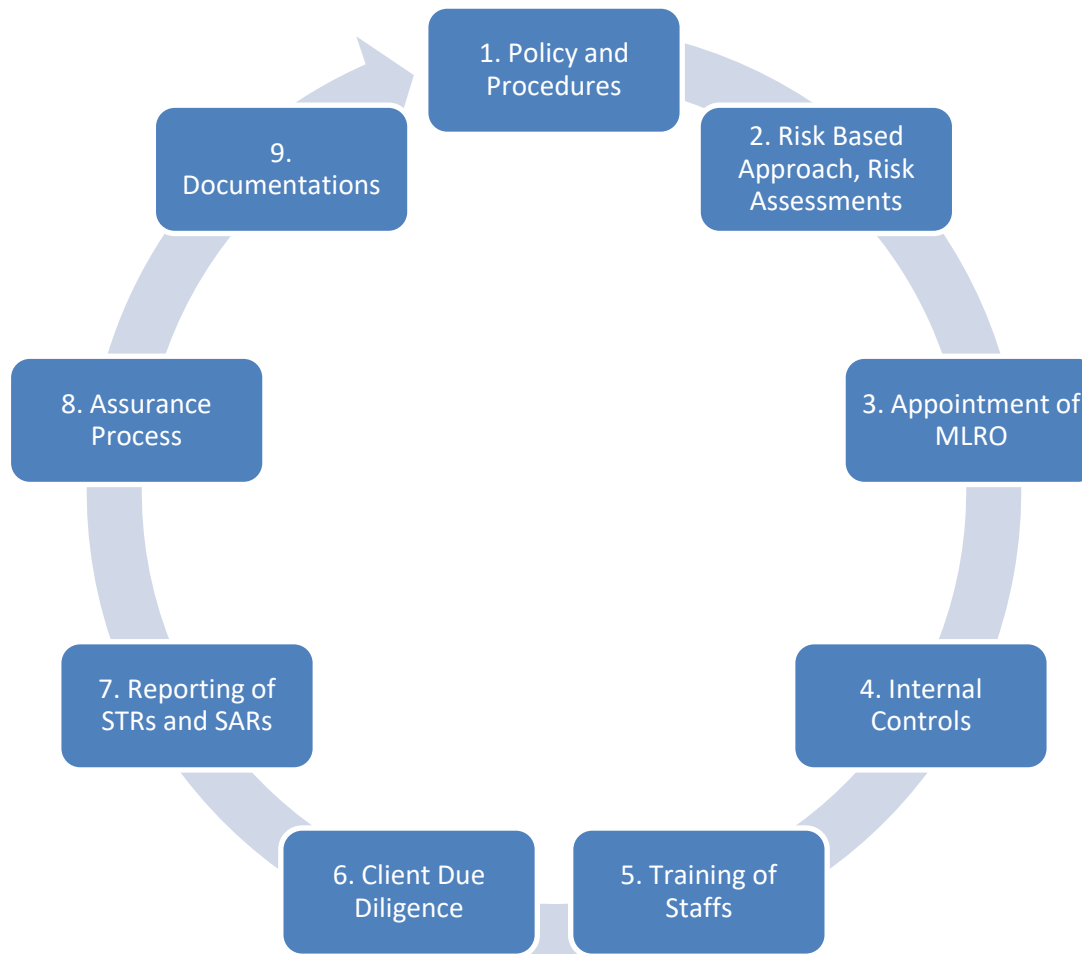


Examples of Laws and Regulation to be considered for Reporting non compliances includes

360.5 A2 Examples of laws and regulations which this section addresses include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety

Summing up the Requirements for Reporting Entities





Role of ICAN

Provided by section 7(Pa) of AML Act:

Periodical Risk Assessment of the Sector

Establish mechanism of monitoring compliance to AML CFT laws and regulation by REs

Have stringent measures for professional accreditation (Police Report ??)

Registration and Licensing terms and conditions to include compliance to AML CFT laws and regulation

Designate sanctions for failure to comply with AML CFT Requirements

Supervision should be performed on risk sensitive basis – including onsite and offsite supervision

Perform special evaluations to ensure firms established mechanism for identification and reporting of SARs is effective

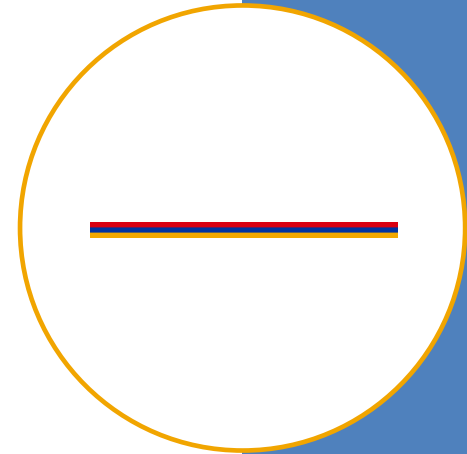
Issue Directives and Guidelines as required

Information Exchange with other Regulatory and Supervisory Bodies



Enforcement of Sanctions

- AML CFT related to complaints against Members/Firms may be subject to disciplinary investigation process
- Disciplinary Investigation Process can also consider sanctions as per ALPA
- Sanctions may range from written warning to cancellation of license to practice, and or
- Financial Penalties range up to 1 lakhs to 1 crores
- Investigations Procedures will be followed as per ICAN Act
- Proportionate sanctions should apply
- FIU also have Powers to reach out to REs when they require information, and charge financial penalty for non compliance (Sec10(7) of ALPA)





Way Forward

Revised AML CFT Guideline will be issued incorporating changes in Legislation

Reporting Mechanism for specified services by Firms is under plan

Firms are required to sign up in the web-based goAML software for being able to report suspicious transactions

Firms need to Improve their Risk Based Compliance System and Processes

Firms need to report STR if there are reasonable grounds

ICAN shall devise the AML CFT specific Monitoring and Supervision Mechanism

ICAN shall carry out sectoral risk assessment for the Accounting Sector



Any Queries ?

THANK YOU

