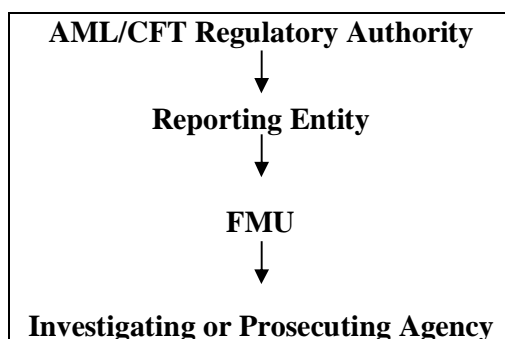


## SALIENT FEATURES

### Anti-Money Laundering (Second Amendment) Act, 2020 (Act VII of 2010):

Following amendments have been made under the Anti Money Laundering Act, 2010 through Anti-Money Laundering (Second Amendment) Act, 2020 (Act VII of 2010) to streamline the existing Law in-line with international standards prescribed by Financial Action Task Force (FATF):

The authorities shall work effectively in following chronological order:



As per above chart, the powers & functions of the authorities have been discussed below:

- AML/CFT means Anti Money Laundering / Countering Financing of Terrorism.
- AML/CFT regulatory authority means the regulator or Self-Regulatory Body (SRB).
- As per Schedule-IV the following Regulators are AML/CFT Regulatory Authorities for the purpose of the said Act:
  - SBP for any reporting entity licensed or regulated under any law entity administered by SBP;
  - SECP for any reporting entity licensed or regulated by SECP under any law administered by SECP, unless that entity is licensed by any other AML/CFT regulatory authority;
  - Federal Board of Revenue for Real Estate Agent, jewelers and for dealers in Precious Metals and Precious Stones Sectors. FBR shall also be an AML/CFT regulatory authority for Accountants that are not the members of ICAP and ICMAP;
    - National Savings (AML and CFT) Supervisory Board for National Savings Schemes.
  - Pakistan Post (AML and CFT) Supervisory Board for Pakistan Post; and

- Any other such regulatory authority as may be notified by the Federal Government notification in the Official Gazette.
- The following SRBs are also AML/CFT Regulatory Authorities for the purpose of the said Act:
  - the Institute of Chartered Accounts of Pakistan established under the Chartered Accountants Ordinance, 1961 (Act X of 1961) for their respective members;
  - the Institute of Cost and Management Accountants of Pakistan (ICMAP) established under the Cost and Management Accountants Act, 1966 (Act XIV of 1966) for their respective members;
  - the Pakistan Bar Council established under the Legal Practitioners and Bar Councils Act, 1973 (Act XXXV of 1973); for lawyers and other independent legal professionals that are enrolled under the Pakistan Bar Council or Provincial Bar Councils; and
  - Any other SRB as may be notified by the Federal Government in the Official Gazette."
- The Regulators and SRBs shall monitor to their respective reporting entity by performing and exercising various powers and functions under newly inserted Section 6A of the Anti-Money Laundering (Second Amendment) Act, 2020.
- The reporting entity means Designated Non-Financial Businesses and Professions (DNFBPs) and financial institutions and any other person as the Federal Government may by notification in the official gazette specify.
- DNFBPs means the following persons:
  - real estate agents, including housing authorities, builders, real estate developers and property dealers; when performing the prescribed activities in the prescribed circumstances and manner.
  - dealers in precious metals and precious stones, including jewelers and gem dealers, when they engage in any cash transaction with a customer equal to or above the applicable designated threshold as specified by the National Executive Committee by notification in the official Gazette;
  - Lawyers, notaries, other legal professionals and accountants when they prepare for or carry out
  - transactions for their client concerning the following activities:-
    - buying and selling of real estate;
    - managing of client money, securities or other assets;

- management of bank, savings or securities accounts;
    - organization of contributions for the creation, operation or management of companies; or
    - creation, operation or management of legal persons or arrangements, and buying and selling of business entities;
  - trust and company service providers, which may include any entity designated under sub-clause (c) of clause (xii) of section 2, when they prepare for or carry out transactions for a client concerning the following activities:
    - acting as a formation agent of legal persons;
    - acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
    - providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
    - acting as (or arranging for another person to act as) a trustee of a trust or performing the equivalent function for another form of legal arrangement;
    - acting as or arranging for another person to act as a nominee shareholder for another person; and
  - such other designated non-financial businesses and professions as may be notified by the Federal Government.
- Impose duties and obligations of reporting entity for mandatory compliance of newly inserted Sections from 7A to 7H of the Act.
  - Every reporting entity shall conduct Customer Due Diligence (CDD) in the following matter:
    - **Section 7A:**
      1. (a) entering into a business relationship.
      - (b) conducting an occasional transaction above the prescribed threshold.

(c) where there is a suspicion of money laundering or terrorist financing; or

(d) where there are doubts about the veracity or adequacy of previously obtained data.

2. Every reporting entity shall:

(a ) identify the customer and verify the customer's identity on the basis of documents, data or information obtained from reliable and independent sources.

(b) identify the beneficial owner and take reasonable measures to verify the beneficial owner's identity on the basis of documents, data or information obtained from reliable sources and be satisfied that it knows who the beneficial owner is;

(c) understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship; and (d) monitor the business relationship on an ongoing basis.

○ **Section 7B:**

**Reliance on third parties. –**

A reporting entity may rely on third party to perform CDD in the prescribed manner.

○ **Section 7C:**

**Record keeping. -**

Every reporting entity shall maintain a record of all transactions for a period of at least five years following the completion of the transaction, and records of account files, business correspondence, documents, of all records obtained through CDD and the results of any analysis undertaken for a period of at least Five years following the termination of the business relationship.

○ **Section 7D:**

**Inability to complete CDD and tipping off.** -(1) Where a reporting entity is unable to complete CDD requirements,

(a) shall not open the account, commence business relations or perform the transaction; or shall terminate the business relationship if any; and

(b) shall consider filing a Suspicious Transaction Report in relation to the customer.

(2) Where a reporting entity forms a suspicion of money laundering or terrorist financing, and reasonably believes that performing the CDD process will tip-off

the customer, the reporting entity shall not pursue the CDD process and shall file a STR.

○ **Section 7E:**

**Anonymous business relationships and transactions. -**

No reporting entity shall enter into a business relationship or conduct any transaction with a customer who is anonymous or provides an obviously fictitious name.

○ **Section 7F:**

**Risk understanding, -**

Every reporting entity shall take appropriate steps to identify, assess and understand the risks to which its business is subjected to, in accordance with this Act and as prescribed.

○ **Section 7G**

**Compliance program. -**

Every reporting entity shall implement compliance management arrangements, including the appointment of a compliance officer at a management level and training programs, having regard to the money laundering and terrorism financing (ML/TF) risks and the size of the business during the course of their activities subject to this Act and as prescribed.

○ **Section 7H.**

**Policies and procedures. -**

Every reporting entity shall implement policies and procedures to ensure their compliance with the provisions on this Act and orders rules or regulations made there under that impose TFS obligations upon reporting entities.

- As per Section 7 of the Anti-Money Laundering Act, 2010, every reporting entity shall report with FMU the suspicious transactions conducted or attempted by, at or through such reporting entity immediately but not later than 07 working days after forming that suspicious.
- Financial Monitoring Unit (FMU) is independent decision-making authority headed by a Director General.
- The FMU shall exercise his Powers & Functions with regrading to receive suspicious transactions reports and report on currency transactions, analyze such transactions, call

for recorded information from any agency or person in Pakistan in relation to transaction in question and after analyzing the same to forward such material and information on confidential basis to the investigating or prosecuting agencies for enquiry or other actions under the Act.

- Investigating or Prosecuting Agency as per clause (xviii) of Section 2 means and includes National Accountability Bureau (NAB), Federal Investigation Agency(FIA), Anti-Narcotics Force(ANF), Directorate General of (Intelligence & Investigation-Custom) Federal Board of Revenue, Directorate General of (Intelligence & Investigation-IR) , Federal Board of Revenue, Provisional Counter Terrorism Departments and Any other law enforcement agency as may be notified by the Federal Government.
- Declares the offences under the Anti Money Laundering (Second Amendment) Act, 2020 are cognizable in nature and non bailable.
- If a person accused is reporting entity than the Investigation Officer or any Authorized Officer is bound to seek the approval from the AML/CFT Regulatory Authority before filing a complaint in writing before the concerned court and further concerned AML/CFT Regulatory Authority shall not withhold its decision for a period exceeding sixty days for seeking decision with regard to approval.