



Mercantile Exchange Nepal Limited

— Where the Nation Trades —

AN ISO 9001:2015 CERTIFIED EXCHANGE

**MEX**

**MEX ANTI-MONEY LAUNDERING POLICY**

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## **MEX ANTI-MONEY LAUNDERING POLICY**

**(Issued and Effective according to Clause 24.2 of MEX Bye-Laws)**

### **1. Introduction**

Money laundering is a process whereby the origin of funds generated by illegal means is concealed (drug trafficking, gun smuggling, corruption, etc.). In the process of money laundering, identity of illegally possessed money is changed so that it appears to have originated from a legitimate source. It involves transactions intended to disguise the true source of funds; disguise the ultimate disposition of the funds; eliminate any audit trail and make it appear as though the funds came through legitimate sources and evade taxes and inserting it into economic circulation. The source may include terrorism organized crime, fraud, drug trafficking, human trafficking etc. The money earned from the above source is called the dirty money. In other words, dirty money is made to look clean by the criminals attempt to hide and disguise the true origin and ownership of the fund.

Money laundering erodes the integrity of a nation's financial system by reducing tax revenues through underground economies, restricting fair competition with legitimate businesses, and disrupting economic development. Ultimately, laundered money flows into global financial systems where it could undermine national economies and currencies. Thus, money laundering is not only a law enforcement problem, but poses a serious national and international security threat as well. It has been recognized as a major social problem and crime by the governments around the world.

### **2. The process**

It can basically involve three different steps that can occur simultaneously. They are:

**Placement:** The process of placing through deposits or other means, unlawful cash proceeds into traditional financial institutions.

**Layering:** The process of separating the proceeds of criminal activity from their origin through the use of layers of complex financial transaction, such as converting cash into traveler's cheque, money orders, wire transfers, Letter of Credit, stocks, bonds, or purchasing valuable assets, such as art or jewelry.

**Integration:** The process of using an apparently legitimate transaction to disguise the illicit proceeds, allowing the laundered funds to be dispersed back to the criminal. Different types of financial transactions, such as sham loans or false import/export invoices, can be used.

### **3. Anti-Money Laundering Policy Statement**

The Exchange will conduct its business in conformity with high ethical standards and will adhere to all Nepal's laws and regulations pertaining to financial institutions. While it is accepted that the Exchange may not always be able to determine whether a transaction originates from, or is part of, any unlawful activity, the Exchange will conduct its business in compliance with the following general principles:

1. Will take reasonable steps to determine the true identity of all members and customers, and ultimate beneficial owners (UBO) of the Exchange's products and services.
2. Will not knowingly accept funds from, or do any type of business with any individual/company whose money the Exchange believes, is derived from any unlawful activity.
3. Will not ignore indications that a customer's money originated from unlawful activities or other money laundering activities, and will take appropriate actions consistent with all applicable laws.
4. Will avoid providing support or assistance to customers seeking to deceive MEX laws enforcement authorities through the provision of false, altered, incomplete or missing information.
5. Will report all identified instances of suspicious activity to the relevant authorities as provided under all applicable laws.
6. Will cooperate fully with laws enforcement and regulatory authorities in executing their duties under all applicable laws.

### **4. Requirement under Anti-Money Laundering Code of Conduct**

#### **Members and Customers Identification:**

i. Any individual, business firms, institutions can be associated with the business of the exchange. However any institution interested in any type of membership or brokership has to be duly approved from the concern department of Nepal government.

ii. Exchange shall maintain clear identity of a person while establishing any kind of business relationship with the person as a clearing entity, market maker or customer. Any transaction and dealings by any individual/company/professional in the exchange shall be required to submit the following documents:

- a. In case of individual, his name, family title, copy of government issued ID, including other necessary documents as evidence of current and permanent residential address and qualification, profession or business.
- b. In case of company or firm, copy of the document certifying in corporation, MOA & AOA, List of directors and Shareholders, establishment or the registration of the institution, documents that presenting name, family title, address, profession, business of board of directors and executive directors or proprietor of firm or partners of

partnership firm.

- c. In case of business relation or transactions to be established or made on behalf of someone else, documents relating to principle's identity, address including power of attorney clarifying his business.
- d. In case of transaction made through negotiable instruments, name, family title and address of the issuer and payee of or from such instruments shall be provided.
- e. Other documents as prescribed by MEX from time to time.

**iii. Customer Due Diligence (CDD):** It is more than simple Member/Customer identification. It is identifying the Member/Customer before or during establishment of relationship and verifying Member's/Customer's identity from independent sources and conducting ongoing due diligence and scrutiny of the relationship and transactions and keep records up to date.

- MEX shall conduct CDD when there is a doubt veracity or adequacy of previously obtained Member/Customer identification data or when there is some suspicion.
- MEX shall also determine whether the Member/Customer is acting on behalf of another person and shall take reasonable step to obtain identification data to verify the identity of that another person.

**iv. Fund acceptance/withdrawal:** MEX clearing entity, Market Maker, Customers and all the individual/institution shall abide the following means for the purpose of this conduct:

- a. **Acceptance for application fee:** Application fee will be only accepted in CHEQUE in the name of the institution or Director or Institution in case of institutional entity and/or individual/partner in case of individual or partnership firms.
- b. **Acceptance of bank deposit/add margin:** MEX shall instruct all the associated members and banks not to accept the cash more than the limit permitted by MEX for any transaction of members or customers and only Cheques with customer's own name/DD deposits shall be accepted. When depositing /add margin the customer must follow the same. MEX shall instruct all associated banks only to accept cash up to the limit permitted by MEX or DD or cheque of customer with the same customer code followed by the name of customer. For Cash payment by the customer/member within the prescribed limit of MEX it shall be accepted only if the source of fund is from the UBO.
- c. **Online transfer:** For online transfer, the member/customer should include member/customer code as well as his full name in Description/Narration box and his name should match with the member/customer profile. Member/Customer will not have facility to entertain transactions for third party online transfers.

- d. **Fund updation:** It should reflect in the members and customer platform within 1 working day.
  - e. **Fund withdrawal:** All members, customers are required to withdraw only through the online transfer / DD. MEX concerned authority shall not issue cheque for withdrawal purpose. In case of client not having account at Designated Bank, Only DD by favoring member/customer shall be issued. If DD charge is not submitted with withdrawal form, DD charge shall be deducted from his requested withdrawal amount. Cheque withdrawal shall not be entertained.
  - f. Subject to subsection b of section iv, MEX shall instruct all the associated banks to verify if the member/customer code and name in the cheque are matching before accepting the member's/customer's cheque deposits for add margin.
  - g. Subject to subsection b, c, d, e of section iv, it is mandatory that, the member/customer name and code number should reflect in the beneficiary's bank statement for all the remittances made by the member/customer. This is subject to the inspection from the MEX authority.
- v. Record keeping:**
- a. All members and brokers shall keep separate records regarding customer's identification documents and documents mentioned in clause (a), (b) and (c) of section ii, regarding clause iv and including date and nature of transaction, code, and type of orders, profit/loss and all trading details and these documents can be asked for inspection by MEX at any time.
  - b. MEX authority is liable to record the transaction beyond the limit prescribed by the exchange from time to time at a single or series of transactions by individual or institution.
  - c. Fund transfer: If any limit is to be provided for transfer of fund in the course of trading then record is required to be maintained for such fund transfer.

## 5. Investigation of suspicious transaction:

- a. To investigate and inquire any transactions which seem to be doubtful or transacted with the motive of assets laundering or so laundered or there are reasonable grounds for investigating suspicious transaction.
- b. To inform the MEX authority about the transaction made under section iv clause b within 7 days of event and immediately for the transactions made under section a.
- c. Should there be any information differing in details submitted to the FIU/MEX authority in accordance with subsection a and b discovered afterwards, the concerned person shall immediately inform such details or any information or detail found contrary to the details submitted previously.
- d. Notwithstanding whatever written in subsection a, b, c should there be any suspicion in the transaction of persons having regular business relations or transactions, the concerned person shall inform the MEX authority after the

inquiry is made.

- e. The records of transactions referred in this section shall be maintained secured at least for the period of 5 years from the date of such transactions.

## **6. Purpose of anti money laundering department/authority in MEX:**

1. The functions of this committee shall be:

- a. To obtain details of any transaction under sub-section v of section 4 and section 5 from all the concerned members/customers regularly and maintain records of those details by scrutinizing them.
- b. To make a primary study of members/customers whose records show suspicion of money laundering. Once a primary study of all records available is completed, send the details to the concerned department and/or members/customers, also informing all parties that further investigation and inquiry will be required.
- c. To write to the department with extensive details should there appear to be dubious transactions or doubtful transactions or look dubious or there are reasonable grounds to doubt in the details received pursuant to subsection a or from the inquiry made pursuant to subsection b.
- d. To inspect transactions and records of members/customers, to obtain any information or clarification about such transactions and records and their copies if necessary.
- e. To carry out other functions as prescribed by MEX authority.

2. The committee may provide necessary directives to the concerned members/customers about the method, form, time and other procedure regarding submission of details, statistics, notices and information pursuant to clause a of subsection 1 and it shall be duty of such members/customers to abide by such directives.

## **7. Powers of the MEX anti money laundering department/authority**

This authority may exercise the following powers in course of inspection and inquiry of the members/customers

- a. To issue order to any concern members/customers to submit the concerned documents, evidences or other required details remained with such members/customers to the department within a time prescribed.
- b. To conduct search operation of any concerned members/customers or of any other places, to seize, take control of concerned documents, deed, material evidence and other evidences and hand its receipts to the concerned official.
- c. To call and inquire for an explanation or clarification from the concerned person, other staff or concerned person believed to have obtained the information and

- related facts as deemed by the department.
- d. To order the concerned department to suspend membership and to halt the trading of the members/customers. During the course of an investigation and inquiry, after receiving a suspicious complaint, terminate membership in any case where non-compliance is found within this code of conduct.
  - e. In case MEX anti money laundering department get the complaint of any members/customers committing any act against the anti money laundering or non-compliance of the section 4 this department is authorized to ask for the suspected member/customers for the explanation and investigated by the committee and if it is found that on reasonable grounds, members/customers have acted against these section, they have power to give directive to the concerned department in order to seize membership and penalty as well as assess penalties.

## **8. Provision for investigation and inquiry:**

### **i. Complaint:**

- a. Any person who has information that somebody has committed, going to commit or committing any act supposed to be offence under this act, may submit a complaint, application, information or notice to the department in written or oral form.
- b. Department shall register complaint, application, information or notice in written or oral form. Application, information or notice shall then be registered in written form, obtained pursuant to clause a.

### **ii. Investigation and inquiry:**

- a. MEX anti-money laundering department shall conduct necessary investigation and inquiry if it receives information from a complaint pursuant to section 1 or information pursuant to clause c of section 7 or from any other method or source that any offence under this act has been committed.
- b. The department, if it receives information that members/customers have not followed appropriate procedures according to this conduct or are performing against this conduct and there are reasonable grounds that the member/customer involved may abscond or destroy evidences or document, hide or alter or terminate membership, may take control of any documents, the personnel involved in department may also conduct search operation for the purpose of the investigation.
- c. Department shall obtain the counsel of government attorney while conducting such immediate investigation and inquiry pursuant to sub-section a.

### **iii. Appointment of investigation officer:**

- a. The department may appoint or prescribe any officer of the department or



other officer in the exchange as an investigation officer in order to conduct investigation and inquiry of any non-compliance of this conduct.

- b. The department while appointing or enlisting any other staff of other department of the exchange as an investigation officer shall consult the chief of the concerned department.

**iv. Function, duties and power of investigation officer:** The function, duties and power of investigation officer pursuant to subsection iii are as follows:

- a. Can arrange a special visit to the member's/customer's office for the purpose of inspection and inquiry.
- b. Can conduct search or cause to conduct search operation of any office documents, records which can be used as evidence of money laundering.
- c. Can do all the necessary inquiries and actions in order to investigate about the case under prevailing laws of the country.
- d. Can exercise other powers vested to the department.

**v. Order for suspension of membership/trading halt:**

- a. The department or investigation officer may give order to the concerned entity to prevent any trading of the members/customers in case of member/customer and to suspend the membership/brokership and prevent any sale or lease or transfer of membership/brokership in course of investigation and inquiry in case any members/customers found reasonable grounds against this anti money laundering code of conduct.
- b. The department may impose fine to the chief of the concerned entity, who does not take action to halt trading of member/customer, membership suspension to the order pursuant to subsection a.

**vi. Not to violate confidentiality:**

No investigation officer or staff or person involved in the investigation and inquiry shall violate confidentiality of any matter or submitted documents that came to his/her information in the course of investigation and inquiry or in performing his/her duty, unless the prevailing laws require so.

**vii. Reporting to the concerned authority:**

If the exchange finds the process of money laundering with any of its members or customers, the same shall be reported to the concerned government department or agency, since this is a crime under the law of land and any information disclosed to an authority under this clause shall not be actionable for the reason of breach of confidentiality.

**viii. Automatic suspension:**

Any official or staff of any members or any customers shall be deemed to be in automatic suspension for the period s/he in course of his or her investigation.

**ix. Assets deemed to have gained by laundering:**

In case of transaction is found to be unnatural in comparison to his income source or financial condition, he is required to prove his source of earnings and if he fails to prove he shall be deemed to have earned such assets by going against this code of conduct.

**9. Punishment:**

1. Any individual related to the business of the exchange, any members or customers if found acting in any manner against the anti-money laundering code of conduct of the exchange shall be reported to the concerned government authority as per the sub-section vii of section 8. Such act shall be tantamount to the money laundering offense under the law of land.
2. If the exchange finds the reasonable ground to believe that any individual related to the business of the exchange has violated the anti-money laundering policy of the exchange or any one found committing against this code of conduct in the manner detrimental to the best interest of exchange, such action shall lead to the application of punishment in accordance with the degree of offense committed:
  - a. **Suspension of membership/brokership:** Membership/Brokership may be suspended for the time defined by the department in course of the investigation.
  - b. **Termination of membership/brokership:** Membership/Brokership may be terminated by the exchange if any member/customer is found guilty under this code of conduct.
  - c. **Suspension of trading account:** Trading account for the member/customer can be suspended if investigation result suggests money laundering from the side of the member/customer.

All the action and the procedures shall be guided by the Bye-Laws and Rules of the exchange.