

## **Concept Paper for the Members of All Pakistan Gems Merchants & Jewelers Association** **(APGMJA)**

As you are aware, the Anti-Money Laundering (AML) Act 2010 along with international standards especially the Financial Action Task Force (FATF) Recommendations requires jewelers and dealers in precious metals & precious stones, being part of Designated Non-Financial Businesses and Professions (DNFBPs), to adopt prescribed measures for combating money laundering and financing of terrorism.

In this context, as advised by the Financial Monitoring Unit (FMU), APGMJA draws your attention and creates awareness on the obligations under the AML Act 2010, international standards on Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT), Pakistan's global obligations on AML/CFT, Pakistan's legislation on AML/CFT and the role of Financial Monitoring Unit of Pakistan.

### **Pakistan's AML Legislation**

Pakistan introduced first standalone Anti-Money Laundering law in September 2007 through promulgation of Anti-Money Laundering Ordinance 2007 (AMLO) followed by Anti-Money Laundering Ordinance 2009 and Anti-Money Laundering Act 2010. The AML law criminalizes money laundering and provides a wide range of predicate offences. Furthermore, the AML Act 2010 creates obligations on reporting entities including the Designated Non-Financial Businesses and Professions (DNFBPs) to file Suspicious Transaction Report (STR) and Currency Transaction Report (CTR) to Financial Monitoring Unit. This Act further prescribes for Customer Due Diligence (CDD), Record Keeping, Confidentiality of information and other ancillary provisions. Moreover, the AML Regulations 2015, prescribe detailed procedure and forms in respect of reporting of STR and CTR to FMU along with provisions incidental thereto.

### **Financial Monitoring Unit (FMU)**

Under the above stated AML law, Pakistan established an independent and administrative financial intelligence unit known as Financial Monitoring Unit (FMU) mandated inter alia to receive and analyze the STRs and CTRs reported through the reporting entities including DNFBPs and further disseminate to the investigatory and supervisory authorities, disclosures of financial information concerning suspected proceeds of crime and alleged money laundering offence and the financing of any activities or transactions related to financing of terrorism.

Detailed information can be obtained through FMU's website at <http://www.fmu.gov.pk/>

### **FATF and Asia Pacific Group on Money Laundering**

FATF is the global standard-setting and policy-making, inter-governmental body established in 1989 by the Ministers of G-7 countries. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating

money laundering, financing of terrorism and other related threats to the integrity of the international financial system. Currently, there are 37 members of the FATF, which comprises of 35 member jurisdictions/countries and 2 regional organizations, representing most major financial centres in all parts of the globe. There are also 31 international and regional organizations which comprises of 9 Associate Members and 22 Observer Organizations of the FATF and participate in its work. The Associate Members are FATF-Style Regional Bodies (FSRBs), as designated by the FATF, that participate in its work. FATF has developed a series of Recommendations and Guidance that are recognized as the international standard for combating of money laundering and the financing of terrorism and proliferation of weapons of mass destruction.

Pakistan is a member of Asia Pacific Group (APG) on Money Laundering, which is an FSRB, consisting of 41 active member jurisdictions. APG has five primary functions which include mutual evaluations, technical assistance & trainings, typologies research, global engagement and private sector engagement. APG is focused on ensuring that its members effectively implement the International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation issued by the FATF.

APG also assesses the compliance by its members with the international AML/CFT standards through a mutual evaluation (peer review) programme.

The FATF recommendations are equally applicable to the Financial as well as Non-Financial Sector including the DNFBPs that include real estate agents, jewelers, dealers in precious metals and precious stones, lawyers, notaries and other legal professionals, accountants, trust and company service providers etc.

Further information about FATF can be obtained at: <http://www.fatf-gafi.org/>

Further information about APG can be obtained at: <http://www.apgml.org/>

### **Pakistan's National Risk Assessment on ML & TF**

In accordance with the FATF Recommendations, the National Risk Assessment (NRA) is required to be carried out by each country, and this is central to the FATF's analysis of the effectiveness of AML/CFT infrastructures.

NRA assists government departments, agencies, regulators and competent authorities to fulfil their mandate with respect to measures to combat ML/TF, as provided for in the legislation. It is a government-wide activity undertaken with the objective to identify, understand and assess the ML and TF risks faced by the country and allocate available resources to control, mitigate, and eliminate risks.

In Pakistan, the FMU is the central agency responsible to carry out the NRA in coordination and consultation with all the stakeholders. FMU initiated the Pakistan NRA in 2015 as per World Bank

methodology. Based on the NRA, Pakistan's ML/TF risk profile is mainly impacted by following risk factors:

- Corruption
- Drug trafficking
- Smuggling, including human smuggling
- Tax evasion

Further, being a DNFBP, Dealers in Precious Metals and Precious Stones have been evaluated and considered as to their vulnerability towards ML & TF risks. The NRA has categorized "Dealers in Precious Metals and Precious Stones" as 'Medium-High' mainly on the basis of following factors:

- High monetary value helps move large value with significantly smaller quantity of precious metals and stones compared with cash;
- Most of the trade of precious metals and stones is conducted on cash basis;
- Customer profile is not inquired into or maintained by the dealers. Anonymous cash;
- Anonymous cash payments are also possible for sale and purchase

Furthermore, the NRA Report has identified certain challenges and recommended in certain areas of concern including but not limited to the following:

- AML/CFT awareness of dealers of precious stones and metals is fundamentally required; and
- An oversight mechanism for dealers of precious metals and stones, and their effective monitoring for compliance of AML/CFT requirements is required.

In this respect, APMJA is in close liaison with FMU to provide technical assistance in order our fraternity to be fully compliant with international standards on AML & CFT.

### **FATF Standards related to Dealers in Precious Metals and Precious Stones**

The FATF recommendations include requirements for "dealers in precious metals and dealers in precious stones", as these professions fall under the category of DNFBPs. Following FATF recommendations are applicable to DNFBPs:

- Recommendation 22 (DNFBPs: Customer Due Diligence) and its Interpretive Notes read with Recommendations 10 (Customer due diligence), 11 (Record keeping), 12 (Politically exposed persons), 15 (New technologies) and 17 (Reliance on third parties).
- Recommendation 23 (DNFBPs: Other measures) and its Interpretive Notes read with Recommendations 18 (Internal controls and foreign branches and subsidiaries), 19 (Higher risk countries), 20 (Reporting of suspicious transactions) and 21 (Tipping-off and confidentiality).

- Recommendation 24 (Transparency and Beneficial Ownership of Legal Persons) and its Interpretive Notes read with Recommendations 10 (Customer due diligence) and 22 (DNFBPs: Customer Due Diligence).
- Recommendation 25 (Transparency and Beneficial Ownership of Legal Arrangements) and its Interpretive Notes read with Recommendations 37 (Mutual Legal Assistance) and 40 (Other Forms of International Cooperation).
- Recommendation 28 (Regulation and supervision of DNFBPs) and its Interpretive Notes.

### **Obligations on APMJA**

The APMJA is considered as a Self-Regulatory Body (SRB) under the FATF Recommendations, having certain obligations under these recommendations especially pertaining to ensuring that the members comply with their obligations to combat money laundering and terrorist financing.

Moreover, these recommendations obligate the SRBs to (a) take the necessary measures to prevent criminals or their associates from being professionally accredited, or holding or being the beneficial owner of a significant or controlling interest or holding a management function, e.g. through evaluating persons on the basis of a “fit and proper” test; and (b) have effective, proportionate, and dissuasive sanctions in line with Recommendation 35 available to deal with failure to comply with AML/CFT requirements.