

General People's Committee
Decree No. (300) of 1375 FDP 2007 AD
on issuing the executive regulation for Law No. (2) of 1373 FDP 2005 AD
on anti-money laundering

The General People's Committee

Upon review of:

- Law No. (1) of 1375 FDP on the work system of People's Congresses and People's Committees and the executive regulation thereof;
- Law No. (1) of 1373 FDP on banks;
- Law No. (2) of 1373 FDP on anti-money laundering;
- The proposal of the Governor of the Central Bank of Libya in his Memorandum of 03/03/1375 FDP attached to the proposed executive regulation for Law No. (2) of 1373 FDP, proposed by the National Anti-Money Laundering Committee;
- The approval of the General People's Committee in its 6th ordinary session of 1375 FDP;

has decreed:

Article (1)

The provisions of the execution regulation of Law No. (2) of 1373 FDP on anti-money laundering shall enter into effect.

Article (2)

This regulation shall enter into effect from its date of issuance. The competent bodies shall implement it, and it shall be published in the Legal Register.

The General People's Committee – Libya

Issued: 06/Rabi' al-Thani

Corresponding to: 23/04/1375 FDP (2007 AD)

**Executive regulation
for Law No. (2) of 1373 FDP (2005 AD)
on anti-money laundering**

**Chapter (1)
Definitions**

Article (1)

In application of the provisions of this regulation, as well as the decrees issued in application of the provisions of Law No. (2) of 1373 FDP on anti-money laundering, the following words and expressions shall have the meanings indicated next to each one of them, unless the context indicates otherwise.

- Law: Law No. (2) of 1373 FDP on anti-money laundering.
- Country: Libya.
- Central Bank: Central Bank of Libya.
- Supervisor: Supervisor of the Central Bank of Libya.
- Committee: National Anti-Money Laundering Committee.
- Main Unit: Main Financial Information Unit in the Central Bank of Libya.
- Subsidiary unit: Subsidiary Financial Information Unit for anti-money laundering in financial institutions.
- Illegal funds: Money obtained from crime, whether directly or indirectly, fixed or movable, or tangible or intangible, including documents establishing the ownership of this money or any right related thereto.
- Asset-freezing, retention and sequestration: Temporary ban imposed by virtue of a command from the competent authority on moving, transferring, disposing of or using the money.
- Confiscation: The permanent removal of ownership by virtue of a ruling issued by the competent court.
- Means: Any means used, or intended to be used in any way in order to commit one of the crimes stipulated in the law.
- Financial institutions: Financial establishments licensed by the Central Bank to perform their activities, including any bank, financing company, financial market, currency exchange, financial or cash broker, as well as others. It shall also include the financial, commercial and economic establishments licensed to perform their activities by entities other than the Central Bank, such as insurance companies, service offices, and others.
- Managing Director: The employee entrusted by the financial institution to manage the administration of the Subsidiary Financial Information Unit.
- Supervisory Authorities: The authorities that are given, by virtue of the laws and regulations, the jurisdiction to grant licenses and permits for financial institutions to perform their activities, as well as the authorities entrusted with regulating and inspecting the same.
- Client: A natural or legal person in whose name a financial institution opens an account, implements an operation for his account, or provides services therefor.
- Beneficiary: Any natural or legal person that has an actual interest in the operation or service stipulated in the preceding clause, even if the transaction has occurred through a different person, whether a guardian, agent or other.

Article (2)

The crime of money laundering shall be considered to have occurred if one of the following types of behaviour is proven:

- a. Ownership, possession, use, exploitation or disposal of illegal funds in any way, or the transfer, conversion, deposit or concealment of the same with the intention of financing the illegal origin of the same.
- b. Financing of the actual illegal funds or concealment of the place, method of disposal or movement thereof, the rights related thereto or the ownership or possession thereof.
- c. Participation in the aforementioned in any way.

Article (3)

The funds shall be considered illegal if obtained from a crime, whether directly or indirectly, including the crimes stipulated in the International Convention against Organized Crime, the protocols annexed thereto, and the International Convention against Corruption and other relevant international conventions to which the country is party. This shall apply whether the property is fixed or movable and tangible or intangible, including the documents that establish ownership of this property or any other right related thereto.

Chapter (2)

Financial Information Unit

Article (4)

The Main Unit shall operate under the supervision of the National Anti-Money Laundering Committee. The organisation, duties and work procedures thereof shall be determined by virtue of a decree issued by the Committee. It shall specifically include the following duties:

1. Receive reports on suspicious transactions from all relevant financial institutions.
2. Receive notifications from any person or entity on cases suspected to involve money laundering operations.
3. Record information sent thereto regarding transactions suspected to involve money laundering in the database stipulated in this regulation.
4. Perform the functions of investigating and examining cases suspected to involve money laundering operations, have recourse therefor to the general supervisory authorities and other legally competent entities, take the appropriate measures in their regard, and transfer the same to the Governor to obtain his approval.
5. Establish a database and supply it with all notifications sent to the Unit, any information it may have concerning money laundering activities and efforts taken to combat the laundering on both the local and international level. This database shall be updated periodically and made available to the judicial authorities and other relevant entities, subject to the controls and guarantees that ensure the preservation of confidentiality of data and information contained therein.
6. Exchange information and data with the supervisory authorities and other competent bodies in the country, and coordinate therewith to serve the purposes of investigation and examination in regards to money laundering activities.
7. Exchange information and reports with its counterparts in other countries and international organisations on cases suspected to involve money laundering operations, and coordinate

therewith on measures to combat the same in accordance with either the stipulations of international conventions to which the country is party or according to rules of reciprocity. This shall be subject to the guarantees related to maintaining the confidentiality of data and information, and their use shall be reserved for the purpose for which they were submitted or requested.

Article (5)

If the public prosecution receives direct notification of cases suspected to include money laundering operations, it shall take the necessary procedures and inform the Main Unit of the information received in this regard.

Article (6)

Every financial institution, whether licensed to perform its activity by the Central Bank or a different entity, shall be responsible for establishing a subsidiary unit under the name “Subsidiary Financial Information Unit for anti-money laundering.” The organisation of subsidiary units and defining of their duties and work procedures shall be determined by virtue of a decision issued by the Governor.

Article (7)

The Subsidiary Financial Information Unit shall be responsible for monitoring and overseeing all operations and deals entered into by the financial institution and their clients that are suspected to contain illegal deals, money laundering operations, or operations related to depositing or transferring money of an unknown source. It shall provide the Main Unit with information and data related to these operations.

Article (8)

Notification of cases suspected to include money laundering operations should be submitted on a form designated by virtue of a decision issued by the Governor. The notice form shall specifically include the following:

1. Statement of the suspected operation, its parties, the circumstances of its discovery, and the stage it has reached.
2. Specification of the amounts in question in the suspected operation.
3. The justifications and reasons that led to suspicion of the operation.
4. Signature of the head of the Subsidiary Unit.

Article (9)

Recording of reports and notices in the database of the Main Unit shall include the following information in particular:

1. Number of notification as well as the date and time of its arrival.
2. Summary of the information stipulated in the preceding article.
3. The measures taken in terms of investigation, examination and disposal.
4. Any judicial decisions or rulings issued in regards to the suspected operation.

Article (10)

The Main Unit, upon receiving a notification of a suspected operation, shall perform the functions of investigating and examining the same. In this regard, it shall undertake the following:

1. Request that the entity issuing the notification complete any information about the suspected operation or about the clients and beneficiaries of this operation that are necessary for the functions of investigation and examination.
2. Review the records and documents of the financial institution in relation to its financial operations, whether local or international, the files, accounts, and banking transactions of clients including the beneficiaries of these operations, and information contained therein pertaining to their personal data and previous correspondences and transactions.
3. Have recourse to public oversight authorities and other legally competent entities, as required for the functions of investigation and examination in regards to the suspected operations.

Article (11)

If the investigation and examination procedures carried out by the Main Unit result in the emergence of evidence of the commission of a money laundering crime or any other related crime, it shall inform the Governor of the information and reports it has collected in order for the latter to take the necessary measures in this regard.

Article (12)

Without prejudice to the Governor's jurisdiction in freezing balances of accounts suspected of being connected to a money laundering crime, in accordance with the text of Article (7/first) of the Law, the Governor may request that the president of the competent prosecution order the retention of accounts, money or means suspected to be related to a money laundering crime for the period stipulated in Article (7/second) of the Law.

Chapter (3)

The National Anti-Money Laundering Committee

Article (13)

The Committee shall be responsible for drafting the general anti-money laundering policy and monitoring implementation in order to achieve the objectives thereof. In particular, the Committee shall undertake the following:

1. Propose the necessary anti-money laundering systems and procedures.
2. Facilitate the exchange of information between the entities represented therein and coordinate between them.
3. Prepare a draft internal regulation organising the Committee's work. This regulation shall be issued by virtue of a decree from the Central Bank's Board of Directors.
4. Propose necessary amendments to the executive regulation of the Anti-Money Laundering Law.
5. Represent the country in international anti-money laundering forums and conferences.
6. Prepare the suspicious transaction report forms stipulated in Article (9) of the Law, specify the method for sending them to the Main Unit, as well as the information that should be included therein to help the said unit to perform its functions of investigation, examination, and recording in the database.
7. Draft the rules used for verifying the identity and legal status of clients and beneficiaries, whether natural or legal persons, through legal means of verification; determine the mechanism for verifying the compliance of all financial institutions with these rules and coordinate therein with the competent department of the Central Bank.
8. Draft the systems, procedures and rules for maintaining the confidentiality of information contained in the database, including the following:

- Determine the levels of security and confidentiality.
 - Determine the organisational and administrative structure for Financial Information Unit employees that have the competency to manage and use the database, as well as the limits of each employee's competence.
 - Draft systems for receiving documents and information, as well as the procedures for the registration, transfer, and maintenance thereof.
 - Rules for permitting legally licensed oversight authority employees to view the database and use the information contained therein, including the preparation of request and authorisation forms used while viewing the database.
 - Rules for disclosing the data and information contained in the database, and the regulations for the exchange thereof with external entities and international organisations in accordance with the provisions of the law.
9. Draft the rules that must be observed when disclosing the sources of money brought into the country, while observing that these rules include the designation of disclosure forms and information that must be contained therein, in particular the name of the traveller and information, place of habitual residence and passport information thereof, as well as his reason for arrival in the country if not a resident and the value and type of currency in his possession.
 10. Draft programs for qualifying and training employees in the Main Unit, subsidiary units, and supervisory authorities; and have recourse therefor to local and international specialised training centers and entities.
 11. Prepare public awareness programs for citizens on combatting money laundering and on the dangers of financial transfers through unofficial channels.
 12. Prepare the necessary means to enter into bilateral and multilateral agreements with other countries and international organisations for the purposes of international cooperation in the field of combatting money laundering, in accordance with the provisions stipulated in Chapter (7) of this regulation.
 13. Draft the organising rules for making use of experts and specialists in fields related to combatting money laundering, and determine their financial treatment.
 14. Establish the rules and procedures that must be observed in regards to international judicial cooperation with foreign judicial entities and other foreign entities and international organisations in the field of combatting money laundering.
 15. Draft the organising rules and procedures for exchanging information in the field of combatting money laundering with other countries and international organisations, in application of the rules prescribed in the international conventions to which they are party or in implementation of the principle of reciprocity.
 16. Undertake the activities of studies and research in the field of combatting money laundering and analyse the data related thereto in accordance with the methods followed in these activities on the international level; make use of the same in all relevant entities, whether in Libya or abroad.
 17. Any other competencies assigned thereto by the Central Bank's Board of Directors.

Article (14)

The Chairman of the Committee shall be responsible for the following:

1. Manage and supervise the Committee's affairs, and ensure that it is performing its designated duties.
2. Invite the Committee to convene in accordance with the rules specified by the internal regulation organising its work.

3. Prepare tables of the functions of Committee meetings and present them thereto in order for the Committee to take the necessary decisions in their regard.
4. Prepare a semi-annual report, to be submitted to the Central Bank's Board of Directors. The report shall contain a presentation of the activity of the Committee, Main Unit and subsidiary units, as well as developments in the field of combatting money laundering on the domestic and international scale.
5. Conduct communications and arrangements related to the Committee's work in international forums and exchange information with the competent bodies in other countries and international organisations in application of the provisions of international agreements.
6. Propose entry into international cooperation agreements or memoranda of understanding with other countries and international organisations in fields related to combatting money laundering.
7. Issue decisions related to organising the Main Unit, appointing its president and determining its president, while ensuring that the Unit's organisational structure allows it to carry out its duties, especially those related to organising procedures of investigation, examination and analysis, managing the database, and exchanging the information contained therein with other entities, both in the country and abroad.
8. Issue publications and instructions related to the implementation of the provisions of the law, the executive regulation thereof, and the decrees issued pursuant thereto; and take the necessary measures to circulate them amongst the relevant authorities.

Article (15)

The Customs Authority shall be the competent authority for receiving the disclosure stipulated in Article (13.9) of this regulation at all ports of entry. The forms must be stamped by the person responsible for receiving the same and a stamped copy thereof must be provided to the traveller. The disclosure shall be recorded in the Authority's database, and the Authority shall send a copy of this information to the Main Unit upon request.

Chapter (4) Financial Institutions

Article (16)

Each financial institution shall draft the systems necessary for the application of the provisions of the Anti-Money Laundering Law and the executive regulation thereof, as well as the decrees, publications and instructions issued pursuant thereto. This shall be consistent with the nature of the institution's work.

Article (17)

Each financial institution shall draft a system for verifying the identity of clients and beneficiaries, whether natural or legal persons. This system shall contain the regulations stipulated in Article (29) of this regulation, in addition to other regulations considered necessary in this field in a way that is consistent with the nature of the institution's work. The institution shall send one copy of the system drafted in this regard to the competent oversight authority, and another to the Main Unit.

Article (18)

Without prejudice to the provisions of Article (7) of this regulation, each financial institution shall notify the Main Unit of operations suspected to include money laundering on the approved form in accordance with the provisions of this regulation. It shall draft the rules and procedures to be

followed in order to fulfil the notification duty and shall contain the criteria for suspicion that are consistent with the nature of the institution's work.

The institution shall review these rules, procedures and criteria and update them periodically to be in line with developments in the field of anti-money laundering plans and policies on both the local and international level.

Article (19)

Each financial institution shall be obliged to apply the principle of "know your customer" and may not perform any transaction of unknown origin, with fake or imaginary names or with confidential numbers, whether the same is related to opening, linking deposits, accepting transferred funds, or interacting therewith in any way.

Article (20)

Each financial institution shall maintain records and documents to record its local and international financial operations. They shall contain sufficient information to verify these operations and the clients and beneficiaries party thereto. The institution shall keep these records and documents for a period of no less than five years from the date of closing an account or completing the operation, depending on the circumstances.

Article (21)

Each financial institution shall appoint a Managing Director for managing the subsidiary unit. In the selection of the director, it shall be observed that he possesses the adequate educational qualifications and practical expertise.

Article (22)

Each financial institution shall be responsible for determining the competencies of the Managing Director. These competencies shall include receiving information on suspicious operations made available by the institution's internal systems or sent thereto by employees or another entity, examining this information and taking the necessary measures to submit notices thereon in accordance with the provisions of this regulation and subject to the systems and rules issued by the Governor in this regard.

Article (23)

Each financial institution shall equip the Managing Director with the capabilities and means that enable him to exercise his competencies, as well as those that ensure the preservation of confidentiality of information sent thereto and the measures undertaken thereby. In this regard, he shall have access to view the records and information needed to perform his duties, review the systems and procedures drafted by the institution to combat money laundering and extent of adherence to implementing them, and propose the necessary measures to fill, update and develop any shortcomings found therein in order to ensure the efficiency and adequacy thereof.

Article (24)

The Managing Director shall prepare a report at least once every three months on his activity, the suspicious operations he uncovered and reported and the procedures he took in their regard. The report shall contain his evaluation of the anti-money laundering systems and procedures in the institution and any recommendations he may have in this regard.

Article (25)

The Managing Director shall adhere provide the Main Unit with the information requested thereby and enable it to view the records and documents in order for it to perform the functions of investigation, or to feed its database.

Article (26)

Each financial institution shall prepare files for suspected operations that shall contain a copy of notifications of these operations and the information and documents related thereto. These files shall be kept for a period of no less than five years or until a decree or final ruling is issued in regards to the operation, whichever is longer.

Chapter (5) Oversight Authorities

Article (27)

Oversight authorities shall adopt the necessary office and field oversight means in order to verify the compliance of the financial institutions subject to their supervision with the provisions of the law, the executive regulation thereof, and the supervisory regulations issued by virtue thereof. They shall take the prescribed measures with regards to any violation of these provisions in accordance with the relevant rules and regulations, while ensuring that the penalties stipulated in the law do not prejudice the imposition of administrative sanctions stipulated in the laws and regulations related to these financial institutions.

Each oversight authority shall prepare a regular report containing its activity in the field of combatting money laundering and its proposals for developing policies and plans in this regard. A copy thereof shall be sent to the Committee.

Article (28)

Each oversight authority shall draft, in coordination with the Committee, supervisory regulations for financial institutions to be subject to in the field of anti-money laundering policies and plans. These regulations shall contain specification of the rules that these institutions must follow and develop the same to correspond with local and international changes.

Article (29)

Each oversight authority, in coordination with the Committee, shall espouse the means necessary to verify that the financial institutions subject to its oversight have drafted a system for verifying the identity and legal status of clients and beneficiaries, whether natural or legal persons. This shall be through legal means of verification and must observe the following regulations:

1. Verification shall be done upon opening an account or beginning interaction with a client or beneficiary to verify his identity in any way. Identity verification shall also be done when processing any incidental financial operation whose value exceeds the limit prescribed by the competent supervisory authorities, in coordination with the Committee, for all types of financial institutions in a way that corresponds with the nature of its work.
2. Identity verification shall in all cases include an inquiry into the objects of work of the client or beneficiary.
3. Verification shall be based on legal documents. Copies of these documents shall be kept for a period of five years from the date of closing the account or completing the interaction with the financial institution, depending on the circumstances.

4. Identity verification information for the client or beneficiary shall be periodically updated and the verification shall be renewed upon the emergence of a complaint in regards to either of them during any of the stages of interaction therewith.
5. When verifying the identity of a client or beneficiary that is a legal person, it must be observed that the following information is collected: information verifying the nature, legal entity, name, country of citizenship, legal representative, representation document, financial composition, activities and names and addresses of partners and shareholders in the capital thereof. The documents establishing this information shall be attached.
6. An agent, whether a lawyer, accountant, financial broker or the equivalent thereof shall not be permitted to invoke preservation of the confidentiality of the profession when asked to provide identity and legal status verification information about clients or beneficiaries.
7. The financial institution, upon suspicion concerning the validity of the verification information and documents submitted thereto, shall investigate the validity thereof through all methods, including contacting the authorities competent to record this information or issue the documents, such as the commercial registry, real estate registration department, and others.
8. Any other regulations required by the special nature of each financial institution's activities.

Article (30)

Each oversight authority shall appoint a part-time representative to be responsible for communicating with the Main Unit. The representative shall be qualified and have experience in anti-money laundering affairs. The oversight authority shall inform said unit of its representative's name, the information required for communication and interaction therewith, and the representative's replacement upon his absence. The substitute representative shall meet the same conditions required of the original representative.

Article (31)

The supervisory authorities shall take all necessary procedures and adopt all necessary means to exchange information and coordinate with the Main Unit in regards to combatting money laundering, including establishing a database for the information it possesses in this regard.

Article (32)

The supervisory authorities shall be responsible for assisting the Main Unit with the investigation and examination performed thereby in regards to notifications and notices received thereby about operations suspected to include money laundering.

Article (33)

If any oversight authority, while undertaking its legally prescribed competencies, comes across suspected money laundering, it must immediately proceed with notifying the Main Unit so that the latter may undertake investigation and examination procedures, and take any other procedures resulting therefrom. It must be observed that this notification fulfils the information stipulated in this regulation.

Chapter (6) Training and Qualification in the Anti-Money Laundering Field

Article (34)

Financial institutions, supervisory authorities and the Main Unit shall draft programs to implement training and qualification plans for their employees to ensure that they are prepared to undertake duties related to combatting money laundering, keeping up with international development and establishing the rules of sound professional work in this field.

Article (35)

Local and foreign specialised institutes shall be used to implement preparation, qualification and training programs in the field of combatting money laundering. Local and international expertise in this regard shall be used within the framework of the general policy for qualification and training established by the Committee.

Chapter (7)

International Cooperation in the Anti-Money Laundering Field

Article (36)

Libyan judicial authorities shall cooperate with judicial authorities in other countries in the field of combatting money laundering through all of the means stipulated in Article (15) of the law in accordance with the rules prescribed in bilateral and multilateral conventions to which the country is a party, or in implementation of the principle of reciprocity.

Article (37)

The database in the Main Unit shall be provided a statement on the international, bilateral and multilateral agreements to which the country in a party that are related to international cooperation in combatting crime in general, and combatting money laundering in particular. This statement shall contain a summary of the main provisions of these agreements, including the authority designated by each exchange agreement for the purpose of facilitating international cooperation.

Article (38)

The Committee must take the necessary measures to request that an order be issued by the competent authority in any other country to track the money resulting from a money laundering crime or the means used therein, or to freeze or retain the same if this money or these means are connected to an incident that falls within the framework of Libyan jurisdiction.

Article (39)

The Committee shall work on establishing the necessary means to enter into international cooperation agreements or memoranda of understanding with its counterpart entities in other countries and international organisations, in order to facilitate cooperation therewith in the field of combatting money laundering, and exchanging information and expertise in this regard.

Article (40)

The Committee shall work on establishing the necessary means to enter into international agreements on the disposal of funds that are to be confiscated by virtue of a ruling by judicial bodies, whether Libyan or foreign, in money laundering crimes. These means shall include rules for distributing the collected funds amongst the parties of the agreement in cases in which confiscation is the result of coordination and cooperation between the parties of the agreement.

Article (41)

Upon the implementation of rules related to the exchange of information, pursuant to the provisions of international agreements to which the country is party, or in application of the principle of reciprocity, the requesting entity shall undertake to ensure the proper use of this information, limit it to the purpose for which it was requested and refrain from disclosing it to a third party, except with the prior approval of the entity providing the same.