

## **Directive on**

# **Duty of Compliance with the Regulations on Anti-Money Laundering in Correspondent Relationships and the Identification of Shell Banks**

### **Purpose**

In order to combat money-laundering and prevent financing of terrorism and in the effective implementation of article 32 of By-Law No. 181434/T 43182K of 5 December 2009 issued by the Ministers member of the Work Group for the Adoption of By-Laws of the Anti-Money Laundering Act and further amendments, and considering the necessity of adopting preventive measures in establishing and maintaining purchasing relations between Iranian financial institutions with foreign banks and financial institutions, this Directive on "Duty of Compliance with the Regulations on Anti-Money laundering in Correspondent relationships and the Identification of Shell Banks" is hereby notified.

### **Definitions**

Article 1- The terms and phrases used in this Directive have the following definitions:

- 1-1- Central Bank: Central Bank of the Islamic Republic of Iran;
- 1-2- Act: Anti-Money-Laundering Act (enacted by the Islamic Consultative Assembly on 22 January 2008);
- 1-3- By-Law: Executive By-Law of the Anti-Money-Laundering Act No. 181434/T 43182K of 5 December 2009 issued by the Ministers member of the Work Group for the Adoption of By-Laws of the Anti-Money Laundering Act and further amendments;
- 1-4- Financial institutions: Iranian banks and their branches in Iran and abroad and free zones and branches of foreign banks based in Iran (mainland and free zones);
- 1-5- Correspondent Relationships: refers to the provision of banking services by one bank (the correspondent bank) to another bank (requesting bank);
- 1-6- Shell Bank: A shell bank is a bank that does not have a physical presence (in the sense of the presence of management and main organization) in the territory in which it has been incorporated and has received a license, and is not affiliated with any financial services group under effective and uniform supervision. The management and main organization of these banks exist in another jurisdiction (States and regions). A shell bank usually does not

have any organization in the State in which it has been incorporated, except for a registered representative, which merely provides an address for the legal affairs of that bank within that jurisdiction (State and region);

1-7- Reputation Risk: potential loss due to loss of reputation for reasons such as an unfavorable financial situation, a decrease in credit ranking or loss of public trust.

Article 2- A financial institution intending to establish correspondent relations with a foreign bank must gather enough information about the bank in question on a risk-based approach. The following are information that should be gathered and evaluated:

- Information about the ownership and management of the foreign bank (including ownership and management structure, shareholders, managers, etc.);
- Main areas of activity;
- Location of establishment;
- The internal directives and procedures of the bank for combating money-laundering (especially the procedures for identification of customers) and the unit responsible for combating money-laundering in that bank;
- The purpose of opening such account (if the financial institution is the correspondent bank);
- The identity of any third party that will be utilizing the services of the correspondent bank (in case the financial institution is the correspondent bank);
- The situation of monitoring and banking regulations of the State which the foreign bank is incorporated in;
- The situation of reputation risk and full compliance with anti-money-laundering regulations by the foreign bank.

Note 1: If a financial institution has established correspondent relationships with a foreign bank prior to the notification of this Directive, it must apply the provisions of this article to those banks as well.

Note 2: The Central Bank shall take the necessary measures to prepare and notify a detailed questionnaire in this regard. In establishing correspondent relationships, the financial institution shall complete the said questionnaire and send it to the Central Bank for evaluation.

Article 3- In establishing correspondent relationships with a foreign bank, the financial institution shall take precautions in providing services that may lead to the maintenance or money order related to money-laundering or the financing of terrorism.

Article 4- Financial institutions, intending to establish correspondent relationships with foreign banks must ascertain the following:

- 1- The State in which the foreign bank is established has appropriate laws and regulations concerning money laundering and has sufficiently implemented them.
- 2- The bank party to the correspondent relationship acts in accordance with the said regulations and does not have a reputation for violating such regulations and is not subject to article 32 of the By-Law.

Note: Establishment of any correspondent relationship with shell banks is prohibited. If a financial institution has correspondent relationships with a shell bank or the conditions in this article are not met, the financial institution must sever the relationship with that bank as soon as possible and bring the issue to the attention of the Central Bank.

Article 5- The Central Bank shall create a database of the names of shell banks and high-risk countries and regions in terms of money-laundering. All financial institutions must refer for this database prior to establishing correspondent relationships. Reference to this database does not absolve the financial institution's responsibility in conducting the necessary evaluations and detailed identification of the foreign bank.

Article 6- The Central Bank shall issue a list of high-risk regions in terms of money-laundering and regions in which it is possible to incorporate shell banks and the necessary monitoring measures. A financial institution must ensure that the foreign bank is not located in these regions prior to establishing correspondent relationships with it. If the foreign bank is situated in one of these regions, the financial institution must inform the Central Bank of the issue and take the necessary precautions and diligence in conducting financial transactions with that bank.

Note: The world's regions are generally divided into three main groups:

- 1- High risk regions: a financial institution must take extra precautions in establishing correspondent relationships in these regions.
- 2- Medium risk regions: a financial institution must take sufficient precautions in establishing correspondent relationships in these regions.
- 3- Low risk regions: a financial institution must take normal precautions in establishing correspondent relationships in these regions.

This Directive has been approved in the eighth session of the High Council on Anti--Money Laundering on 9 February 2011 in six articles and four notes and is effective from the date of notification.