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RED FLAG INDICATORS FOR MISUSE LEGAL ARRANGEMENTS AND NPOs SECTOR

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Under FATF's Recommendation 25, countries are required to take appropriate measures to prevent the misuse of legal Arrangements for Money Laundering/Terrorism Financing related activities. Further, Immediate Outcome-5 states that an effective system should be in place with effective measures to prevent legal Arrangements from being used for criminal purposes.

Moreover, FATF's Recommendation 08 require countries to take appropriate measures to prevent Misuse of NPOs Sector for Money Laundering/Terrorism Financing related activities. While Immediate Outcome-10 also states that an effective system should be in place where terrorist, terrorist organizations, terrorist financiers are prevented from abusing the NPOs Sector for raising, moving, and using the funds.

Keeping in view, Pakistan has also taken significant measures and continue to improve these measures to prevent the Legal Arrangements and NPOs sectors for potentially being misused for any TF/ML related activities. In Pakistan, following are the different types of Legal Arrangements and NPOs can be formed:

Legal Arrangements:

- Trusts (Formed and registered with provinces under the prevailing provincial Trust Laws).
- Waqfs (Formed and registered with provinces under the prevailing provincial Waqf Laws).

Non-Profit Organizations (NPOs):

- Non-Profit Organizations (NPOs) (Formed as an association under s 42 of the Companies Act 2017 and licensed by SECP).
- International Non-Profit Organizations (Registered with Ministry of Interior, Pakistan).
- NGOs (Registered at provincial level under the Voluntary Social Welfare Agencies Ordinance 1961, Societies Act of 1860, or Co-operative Societies act 1925).

To identify a suspicion that could be indicative of Money Laundering (ML) or Terrorism Financing (TF), FMU has prepared the red flags indicators that are specially intended as an aid for the reporting entities. These red flags may appear suspicious on their own; however, it may be considered that a single red flag would not be a clear indicator of potential misuse of legal person for ML / TF activity. A combination of these red flags, in addition to analysis of expected overall financial activity, business profile may indicate that the legal person is potentially misused for ML

/ TF activity of the legal arrangement or Non-Profit Organization (NPO) is potentially misused for ML / TF activity.

Customer Behavior:

1. When legal arrangement or NPOs itself or any of its beneficial owner is found associated with a high-risk jurisdiction declared by FATF.
2. The legal arrangement / NPO that is associated with terrorism activities or that has been proscribed or any associated natural person of the legal arrangement / NPO is proscribed or found positive match while screening against UN Security Council Resolutions (UNSCRs).
3. The employee/ director/ signatory/ beneficial owner of the legal Arrangement / NPO found as close associate of a Proscribed individual/entity.
4. The legal arrangement / NPO which is suspected to be using forged, fraudulent or false identity documents for due diligence and record keeping purposes.
5. Media reports the Legal Arrangement / NPO is linked to known terrorist organizations or entities that are engaged, or suspected to be involved, in terrorist activities.
6. The employee/ director/ signatory/ beneficial owner of the legal Arrangement / NPO is unusually concerned with the reporting threshold or AML /CFT policies.
7. The legal arrangement / NPO itself or beneficial owner or associated person is found linked to an adverse news or crime e.g. named in a news report on a crime committed.
8. The legal arrangement /NPO attempt to establish business relationship but fails to provide adequate documents as proof regarding its beneficial ownership details up to the satisfaction level of Financial Institutions and DNFBPs.
9. Unable to establish relationship between the beneficial owner and authorized signatory of the Legal Arrangement / NPO.
10. The complex formation structure that does not commensurate with nature of business activities or where legal arrangement / NPO fails to disclose actual beneficial owner.
11. The legal arrangement / NPO owned by foreign nationals or by group of companies registered at foreign jurisdiction failed to meet the CDD/KYC requirements regarding disclosure of ultimate beneficial ownership.
12. Multiple Legal Arrangements / NPOs registered at same address or having similar contact details without any plausible reason.
13. Multiple types of legal arrangements / NPOs are established with similar name and with same beneficial ownership.

14. The International NPO operating in Pakistan but not registered with the Ministry of Interior, Pakistan.
15. The NGO/ Legal Arrangements collecting donation but not found on NACTA's safe charity list.
16. Use of influential names (government linked / high profile entities) where the link with the high-profile parent entity cannot be directly validated.
17. NPO / Legal Arrangement appears to have few or no staff and limited or no physical presence, as compared to its stated purpose and scale of financial activity.

Transactional Patterns:

1. NPO / Legal Arrangement employee withdraws cash from the account and then deposits it into a personal account of beneficial owner / employee without any plausible reason.
2. Transactions that are not consistent with the usual business profile of the legal arrangements / NPO.
3. Frequent/multiple transaction involving entities with the same beneficial owner, which did not make economic sense.
4. Legal arrangement / NPO deliberately avoid traditional banking service without legitimate reasons.
5. Structured the transactions to avoid reporting threshold requirements.
6. Large or frequent cash-based transactions, which do not commensurate with the stated business activities of the legal arrangement / NPO.
7. Numerous transactions by a legal arrangement / NPO, especially over a short period, such that the amount of each transaction is not substantial but the cumulative total of which is substantial, such transactional pattern do not commensurate with the declared business profile / activities.
8. Co-mingling of NPO / Legal Arrangement and personal funds without any plausible reason.
9. Foreign remittances from/ to counterparties based in high risk jurisdiction.
10. High turnover of funds within a relatively short time without any plausible reason.
11. Unusual large cash withdrawals, particularly after the financial institution refuses to wire NPO/Legal Arrangements funds overseas.
12. NPO / Legal Arrangement uses crowd funding (by arranging events events) and social media to solicit donations, then its online presence vanishes or shuts down.

13. NPO / Legal Arrangement uses unnecessarily complex banking arrangements or financial networks for its operations within or outside of Pakistan.
14. Vague justifications and a lack of related documentation when the financial institution questions NPO / Legal Arrangement request to transfer funds to any individual or entity's account.

Disclaimer:

These red flags are developed for guidance purpose and may appear suspicious on their own; however, it may be considered that a single red flag would not be a clear indicator of potential ML / TF activity. However, a combination of these red flags, in addition to analysis of overall financial activity and client profile may indicate a potential ML / TF activity. While every effort has been made to ensure the accuracy and check all relevant references/ resources, errors and omissions are possible and are expected. Financial Monitoring Unit (FMU), its officers and its stakeholders are not responsible for any mistakes and/or misinterpretation.