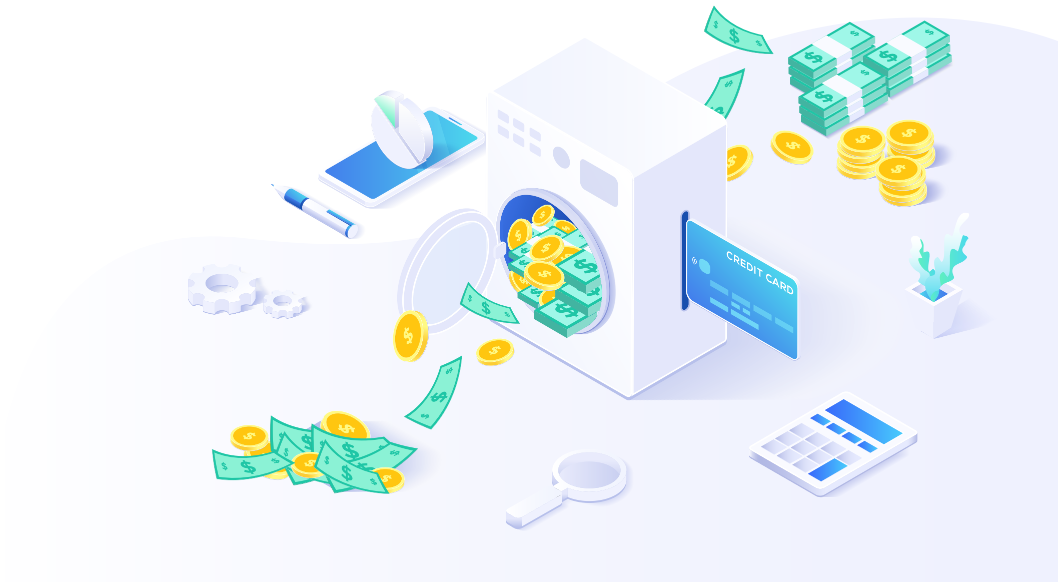
MONEY LAUNDERING, TERRORISM FINANCING & PROLIFERATION FINANCING

NBFIRA
Non-Bank Financial Institutions Regulatory Authority



Money Laundering (ML) is the process by which criminals disguise the original ownership and control of the proceeds of criminal conduct by making such proceeds appear to have derived from a legitimate source. ML offence is criminalized by section 47 of the Proceeds and Instruments of Crime (2014).

What is Proliferation Financing?

Proliferation Financing (PF) is defined under the Financial Intelligence Act (2019) (FI Act) as the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of any arms of war or NBC weapons development, export, trans-shipment, brokering, transport, transfer, stock piling or use of any arms of war or NBC weapons.

Proliferation PF is a financial crime that should be taken seriously by state and non-state actors including financial institutions and it is prohibited.

What is terrorism financing?

Terrorism Financing (TF) is the provision of funds to support terrorism activities. Section 3 of the Counterterrorism Act (2014) prohibits and criminalizes terrorism. Terrorism financing is criminalized under Section 5 of the same Act read together with the Counter Terrorism (Amendment) Act (2018). TF may involve funds raised from legal sources such as personal donations, profits from businesses and charitable organisations, it may also involve funds raised from criminal sources.

NB: TF tends to generally conceal the destination of the funds (despite whether source is legal or illegal) whilst ML conceals the source of funds.

Regulated entities are obliged to implement and maintain compliance programmes for money laundering control, counter terrorism & proliferation financing.

Conducting Institutional Risk Assessment for Anti-Money Laundering / Combating Terrorism & Proliferation (AML/CFT&P) Purposes

The Financial Intelligence Act and Regulations of 2019 (FI Act and Regulations) introduced an array of new obligations for the specified parties among them being to conduct risk assessment on:

(i) Business relationships and transactions;
(ii) Pre-existing products, practices, technologies, and delivery mechanisms;
(iii) New products, practices, technologies and delivery mechanisms prior to their launch; and
(iv) Life insurance services.

An Internal Risk Assessment (IRA) is conducted as part of an entity risk management system for the purposes of understanding the entity's money laundering, terrorism and proliferation financing risks to implement proportionate controls. Specified Parties as defined by the FI Act include all Non-Ban Financial Institutions (NBFIs) as regulated by NBFIRA.

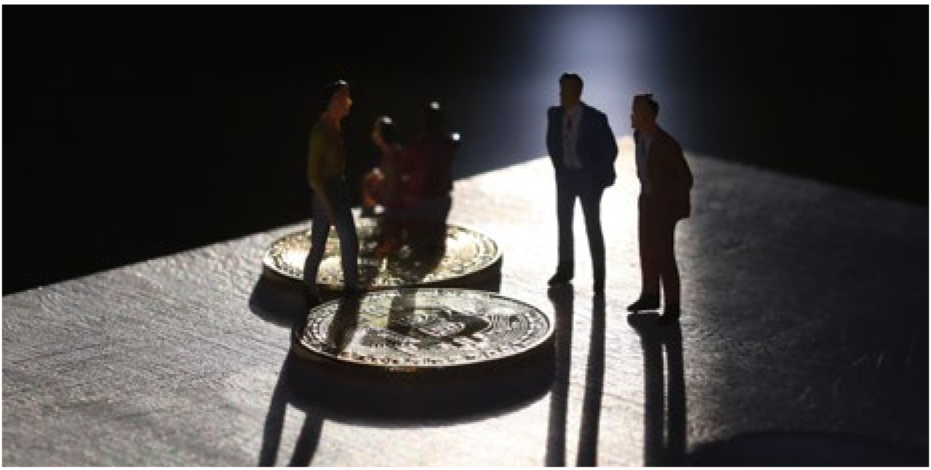
Money Laundering /Terrorist Financing/ Proliferation Financing (ML/TF/PF) Risk Rating categories.

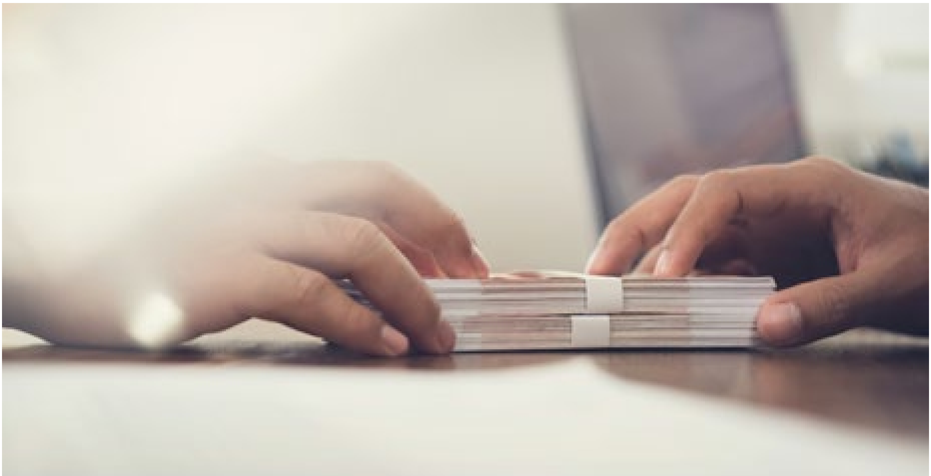
Prohibited: An NBFI will not tolerate any dealings of any kind given the risk. This could include transactions with countries subject to economic sanctions or designated as state sponsors of terrorism, such as those on the United Nations or Office of Foreign Assets Control lists.

High-risk: The risks here are significant but are not necessarily prohibited. To mitigate the heightened risk presented, financial institution should apply more stringent controls to reduce the ML/TF/PF risks such as conducting enhanced due diligence and more rigorous trans-action monitoring. Countries that maintain a reputation for corruption or drug trafficking are generally considered high-risk. High-risk customers may include prominent and influential persons or certain types of money services businesses or cash-intensive businesses. High risk products and services may include correspondent banking and private banking.

Medium Risk: Medium risks merit additional scrutiny, but do not rise to the level of high-risk. For example, a retail business that accepts low to moderate levels of cash but is not considered cash intensive.

Low Risk: This represents the baseline risk of money laundering. Typically, low risk indicates normal, expected activity.





Risk Factors to Consider when conducting Institutional Risk Assessment

To understand the ML/TF/PF risk profile, an Institutional Risk Assessment (IRA) should consider the risk factors of customer type; business nature, size, geographical spread and products/services and their distributions channels.

Customer Type

It is important that NBFIs understand whoever they establish relationships with. A customer refers to any natural legal person including individuals, companies, and societies. Customers with a background of criminal activity and those occupying prominent and influential positions in private and public sectors would be considered high risk. Shell banks and sanctioned persons would be prohibited.

The risk rating increases for a customer with complex ownership structures or partnerships that hide or prove difficult to establish their beneficial ownership. The same goes for a customers with backgrounds or relationships with countries with weak AML/CFT laws or strict corporate secrecy laws.

Business Nature, Size, and Geographical Spread

A customer's financial magnitude, location, and sector to which they operate, or work may escalate money laundering, financing or terror and proliferation risks. Large companies may have large, complex, and high volumes of transactions which may be used to hide illegitimate transactions. Large organisations are also prone to difficulties in implementing AML/CFT controls effectively, therefore their risk may increase. Equally, small organisations may fail to implement AML/CFT controls due to poor governance and human resource capacity. In the same way location or origins of the customer such as politically unstable jurisdictions, borderline towns. Certain business sectors may also be considered as high risk, this is particularly the case for cash intensive sectors, casinos, bureau de change, money remitters, vehicle dealers, import/export companies and dealers in high value items such as precious gems and metals.

Products and Services and their Distribution Channels

Without due controls, existing and new products may be vulnerable to ML/TF/PF. For example, financial products with high transactional value and high transactional frequency and which can be easily cashed out in large amounts are prone to be abused by criminals. Also, products and services such as internet banking with options for cross border transactions may be high risk. After conducting an IRA, NBFIs should be able to understand their ML/TF/PF risks.

Non-Bank Financial Institutions' Obligations in Terms of the Financial Intelligence Act

The Financial Intelligence (Act (FI Act) and Regulations (FI Regulations) were enacted for the primary purpose of combating the money laundering, financing of terrorism and proliferation as well as other related activities. The FI Act and Regulations were enacted in 2019 for alignment with international standards.

The amendments widened obligations for specified party, introduced stringent penalties for non-compliance, and broadened certain definitions such as suspicious transaction and prominent & infl¬uential persons among other changes. Specified Parties as defined by the FI Act include all Non-Bank Financial Institutions (NBFIs) as regulated by NBFIRA.

Obligations Imposed on Specified Parties/ NBFIs by the FI Act

Governance – NBFIs should designate an adequate AML/CFT&P compliance function and AML officer(s) (AMLCO) proportionate to the size and risk level of an entity. To enable the successful oversight of the AML function, the AMLCO must have sufficient independence from the business lines to prevent confl¬icts of interest and unbiased advice and counsel. Audits should be conducted to evaluate the effectiveness of the function, including where external auditors are used.

AML/CFT&P Risk Management System & Controls – NBFIs should conduct institutional risk assessment, understand their risk, and determine the level of controls to be implemented which should include AML/ CFT&P policies, systems, internal procedures, and rules.

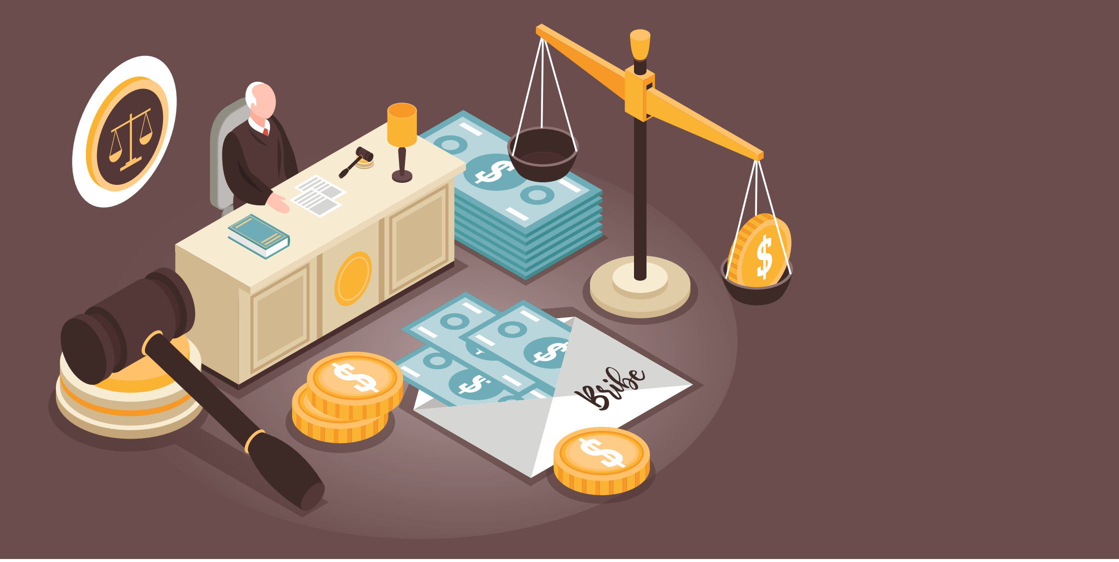
Training – NBFIs should train their staff members on AML/CFT&P at least once a year. The training content should emphasize obligations under the FI Act, Regulations, other relevant legislation, sector/entity-specific risks, and international standards.

Due Diligence – NBFIs should maintain strong processes for identification and verification (CIV) of their customers/business partners/ beneficial owners, beneficiaries & their representatives, and their employees at least every 2 years depending on their risk profile. CIV should include proof of addresses, sources of income and wealth should be in place. Processes and/or systems should be in place to screen business relationships for prominent & in¬fluential persons, sanctioned persons, high risk persons, businesses & countries.

Transactions & Monitoring – There should be ongoing due diligence to monitor and understand business relationships and guard against dealings with sanctioned persons/ countries, suspicious or uncharacteristic transactions and activities.

Reporting – NBFIs must maintain reporting line for all Cash Transactions (CTR) and Wire Transfers (WTR) equal or above P10, 000, as well as Suspicious Activities (SAR) and sanctioned persons/countries with the Financial Intelligence Agency (FIA). CTR and WTR should be done no later than 2 working days, while SAR and feedback on sanctioned persons/ countries should be reported no later than 5 working days.

Record Keeping – Entities should develop strong and accessible record keeping systems and processes to retain records for at least 20 years after a transaction, and 20years after end of business relationship.



IMPLEMENTING UN SECURITY COUNCIL (UNSC) SANCTIONS RESOLUTIONS

Sanctions are enforcement options that do not involve the use of armed force.

The United Nations Security Council can take action to maintain or restore international peace and security under Chapter VII of the United Nations Charter.

The Security Council applies sanctions to support peaceful transitions, deter non-constitutional changes, constrain terrorism, protect human rights and promote non-proliferation.

Sanctions measures imposed by the UNSC include:

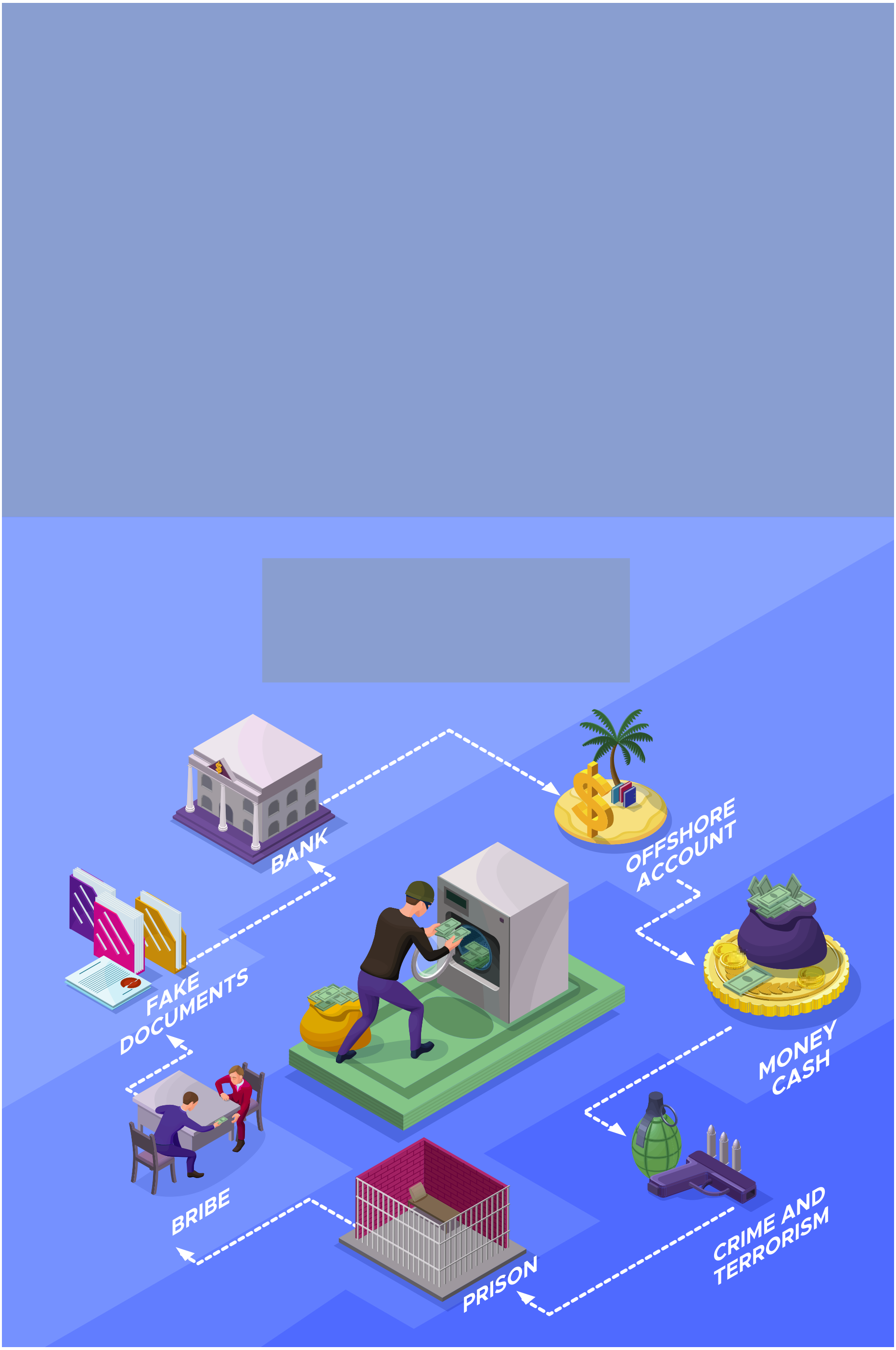
- Property freeze;
- Travel ban;
- Arms embargo.

OBLIGATIONS OF NBFIs

I. Freezing/Unfreezing of property of listed individuals, entities or structured groups without delay
II. Scrutinizing client databases for any existence of dealings with listed/sanctioned persons
III. Submission of the UNSC Return to FIA within 8 hours by inserting the UN reference number, the name of the supervisory authority that cascaded the update, the date the update was cascaded, the measure or resolution concerned i.e concerning freezing of property held by nationally listed persons, freezing of property held by UN designated persons or unfreezing of property following a delisting etc,
IV. Indication of the action conducted (confirm client database search)
V. Specification of the search results (is it a positive, near match or no match)
VI. Submit the completed UNSC Return to FIA form to FIA at **amlcft@cifa.org.bw**
VII. Complete the NBFIRA Acknowledgment form and indicating the date of submitting to FIA. Submit the acknowledgment to NBFIRA at **nbfiraamlcft@nbfira.org.bw**
VIII. All the above should be done in no later than 8 hours as per regulation 10 of the counter-terrorism regulations.

NBFIRA AML/CFT Department is a specialist unit with a role to ensure NBFIRA meets its objective of deterring financial crime by preventing non-bank financial institutions from being under-mined by criminals.

The Department coordinates the NBFIRA's efforts, standardizes control measures and gives guidance to the regulated entities.


BANK
OFFSHORE ACCOUNT
FAKE DOCUMENTS
MONEY CASH
BRIBE
CRIME AND TERRORISM
PRISON

NBFIRA Ethics Hotline

Have you observed or suspect fraudulent or unethical activities within the NBFI sector or the ***Regulatory Authority***? Be part of the solution and make an anonymous report to:

Call on the Toll-Free Number: 16133
Email to: nbfira@tipoffs.com
Website: www.tipoffs.com
Postal address: P.O. Box 448, Gaborone

NBFIRA CONTACT DETAILS

For more information, contact us on:

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NBFIRA

"NBFIRA… Working Towards Financial Stability"

NBFIRA
Non-Bank Financial Institutions Regulatory Authority