

## REGULATORY INTELLIGENCE

**COUNTRY UPDATE-Oman: AML**

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**Member of the Financial Action Task Force?**

The Sultanate of Oman is a party to the Financial Action Task Force (FATF) through its membership of the Gulf Cooperation Council (GCC). Additionally, it is a member of the Middle East and North African Financial Action Task Force (MENAFATF), a regional representative of the FATF responsible for supervising the implementation of the FATF recommendations within the region. As such, Oman remains dedicated to upholding anti-money laundering (AML) and counter-terrorism financing measures within the region and to decreasing such crimes internationally.

**On the FATF blacklist?** No**Member of Egmont?** Yes (through membership of the MENAFATF)**Legislative background**

Oman has developed and introduced specific legislation to mitigate and regulate AML and counter-terrorism initiatives and to strengthen the pre-existing AML and anti-terrorist financing regime in Oman. All the relevant laws pertaining to these offences are published in the Official Gazette.

*Applicable laws*

- Law of Combatting Money Laundering and Terrorism Financing Royal Decree 30/2016;
- Executive Regulations of the Money Laundering Law Royal Decree 72/2004; and
- Law of Prevention of Money-laundering and Financing of Terrorism Royal Decree 79/2010

(together, AML Laws)

The AML Laws demonstrate Oman's dedication to combatting money laundering and terrorist financing in line with international law. The executive regulations will remain in place as governing law until such time that new regulations are issued by way of Royal Decrees. Additionally, circulars have been issued by the Central Bank of Oman (CBO) and the Financial Services Authority (FSA) (erstwhile Capital Market Authority) being the bodies responsible for overseeing AML and the combatting of terrorist financing (TF) in Oman.

The CBO is the regulatory authority responsible for monitoring and supervising the adherence to the framework established by AML Laws by licensed financial institutions, including banks and money exchange establishments (MEEs). In accordance with the AML Laws, the CBO issues mandatory circulars and supervisory instructions that set specific operational standards for such licensed financial institutions. The CBO's directives emphasise the necessity for banks and MEEs to implement a risk-based approach (RBA) to identify, assess, and mitigate risks, ensuring their internal controls are proportionate to their inherent exposure.

Applicable provisions enforced by CBO circulars mandate rigorous customer due diligence procedures at the onboarding stage, ongoing monitoring, and the application of enhanced due diligence for high-risk relationships, such as those involving politically exposed persons. Further, both banks and MEEs are strictly obligated to immediately report all suspicious transactions to the National Financial Information Centre (NFIC) and maintain comprehensive transaction and customer identification records for a minimum period of 10 years.

The CBO consistently updates its guidance, such as issuing circulars detailing 'good and poor practice', to ensure institutions remain compliant with evolving international standards and are subject to sanctions for non-adherence as provided for under the AML Laws.

Previously, money laundering (ML) and TF offences under Omani law included: the transfer of funds by a natural or juristic person who knows or should know that the funds they are dealing with have been directly or indirectly secured from a money laundering offence; aiding and abetting in money laundering/ terrorist financing; obstructing the investigation into an alleged act of money laundering through refusing to disclose relevant information or failing to disclose it to the competent authorities; and assisting a person to escape legal punishment for their acts.

Additionally, one could be held liable for the offence of money laundering in the instance where they concealed or misrepresented the nature, source, movement or ownership of the related rights and income from an offence if said individual had knowledge or should have had knowledge that the funds were either directly or indirectly obtained from the offence of ML or TF. Liability in this sense could



also amount through an act that constitutes complicity in such an offence. This has since been expanded upon to strengthen AML Laws within the Sultanate.

AML Laws explicitly classified the offence of TF as an offence under ML, broadening the scope of the law. TF, under the erstwhile law, was defined as funds directly or indirectly provided through any means knowing they will be used partially or in full to finance terrorism, terrorist crimes or organisations or an act that constitutes a crime in accordance with the conventions and agreements that Oman is party to in respect of combating terrorism. It does not matter whether the crime was committed in Oman or not.

Furthermore, the AML Laws clarify that crimes of ML and TF will not be considered political crimes, acts connected to political crimes or politically motivated crimes. They further clarify the law by distinguishing that the offence of ML will be separate, thus being prosecuted as such, from its predicate offence. Furthermore, the AML Laws broaden the liability for the offence of ML and TF as any person who initiates, participates, instigates, assists or agrees to commit ML or TF crimes, shall be tried as an original perpetrator. The way in which the AML Laws build on and strengthen the provisions under the erstwhile law, reinstates Oman's steadfast commitment to combatting ML and TF crimes nationally, and honouring their allegiance to international laws and conventions that aim to mitigate such offences.

### **AML enforcement regime**

#### *Financial Investigation Unit (FIU)*

Under the erstwhile law, the FIU was responsible for collecting information connected with suspicious transactions and collating this on a database to cooperate with other international organisations. In cases of suspicious transactions, they could suspend such transactions for up to 48 hours, extendable up to 10 days with the assistance of the Public Prosecution for asset freezing or confiscation purposes. However, the terms of reference and allocations of the FIU have been devolved to the NFIC under the AML Laws (further details on this below).

#### *National Committee for Combating Money Laundering and Terrorist Financing*

This committee was established under the supervision of the executive of the Central Bank of Oman. The committee consists of various representatives from government ministries, i.e., the Ministry of Economy, the Ministry of Commerce, Industry, and Investment Promotion, the Ministry of Housing and Urban Planning and the Ministry of Social Development. Its responsibilities primarily include the inauguration and advancement of national strategy to mitigate issues of money laundering and terrorist financing and, in turn, the implementation of such strategies. Additionally, they must: determine national risk levels; distinguish countries with high risk factors in respect of ML and TF and the necessary response when dealing with such countries; administer provisions of the UN security council; and educate people about the risks of ML and TF.

#### *National Financial Information Center*

More significantly, the AML Laws establish the NFIC. This is affiliated with the Inspector General of Police and enjoys juristic personality alongside financial and administrative autonomy. Its operational framework, issued in accordance with the Inspector General's decision, takes precedence over pre-existing systems (the FIU). Responsibilities of the centre include analysing information regarding suspected ML and TF crimes and related suspicious activities. Additionally, it provides guidelines for reporting suspicious transactions.

In the instance where any crime provided for by the AML Laws is suspected, the Center is empowered to temporarily suspend implementation of the suspicious transaction for up to 72 hours to conduct its analysis procedures. The Center may request the Public Prosecution to extend the suspension period for not more than 10 days, if necessary procedures are likely to reveal contravention of the law. If suspicion ceases to exist, then the transaction suspension is cancelled by the Public Prosecution.

The Center has jurisdiction to obtain any information or documents it deems necessary from any entities obligated to report under the AML Laws. Both governmental and non-governmental entities are mandated to cooperate within the timeframe specified by the Center. Failure to cooperate results in the centre notifying the regulatory body, which then determines the necessary response. The Center also prepares an annual report describing its activities in respect of AML and TF including an evaluation of all encountered information and any observed trends.

The competent regulatory entities, as described above, are responsible for ensuring that both financial and non-financial institutions are supervised and comply with the AML Laws.

### **Procedural requirements**

Financial and non-financial institutions are responsible for carrying out complete due diligence (DD) of all customers and beneficial owners prior to the start of every transaction to ensure that the transaction does not contravene any AML Laws. All transactions must be examined and reviewed, with documents relating to this examination being drafted and all records of the transaction being continually updated for administrative purposes.

Special attention must be paid to transactions that do not happen face to face and DD must be completed cautiously when establishing a new correspondence relationship. Records of all transactions, whether national or international, alongside their relevant DD reports must be kept for 10 years from the expiry of the concerned business relationship and this information must be readily available upon request by competent authorities.



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This due diligence must be carried out alongside a strong risk management system. This system is in place to determine and flag up risks of ML and TF associated with transactions. If significant risks are found, either approval must be obtained from the competent authorities, or the source of the concerned funds must be examined to rule out ML or TF before resuming work with the concerned individual.

Special measures must be adopted when dealing with transactions from countries where AML Laws are not very strong. Moreover, accounts must not be opened anonymously or in false names or using confidential numbers or codes, and continuous monitoring and risk assessments must be undertaken. Where an institution has a branch abroad, it must ensure that the branch also complies with anti-money laundering and terrorist financing measures.

Financial institutions that conduct wire remittance operations must also ensure that the remittance includes the relevant identification details as specified in the regulations. This exception does not apply to remittances resulting from credit and debit card transactions (where the card number is linked to the remittance) or remittances between financial institutions where both the source and beneficiary are financial institutions operating on their own accounts.

The regulations stipulate criteria for the electronic data systems of financial institutions, requiring them to monitor remittances and deposits into accounts. Specifically, the system must be capable of monitoring significant deposits made regularly from countries associated with the drug trade, as well as electronically received remittances that are sent abroad without passing through the client's account.

Financial and non-financial institutions are responsible for establishing and implementing programmes and initiatives to educate their staff as to the risks of ML and TF upon recruitment and routinely throughout the course of their employment. This is to be monitored against an auditing system to ensure compliance.

More so, financial institutions should develop mechanisms for exchanging relevant information among themselves and members of other financial groups to decrease the risk of ML and TF. Both financial and non-financial institutions are responsible for appointing a disciplinary officer who must notify the Royal Oman Police, the Central Bank of Oman and the Financial Services Authority (FSA) confidentially if they suspect an offence of ML. This must be reported in administrative, civil and penal terms. The obligation to report does not apply to agents or brokers of customers unless they participated on the transaction on behalf of the customers.

Lawyers, notaries, accountants and other similar professionals are also exempt from this obligation if the suspicious information relating to the concerned customer was attained in relation to evaluating or defending the legal position of the concerned customer or representing them before a court- before, during or after judicial proceedings.

The FSA has also launched the Strix System to support a risk-based approach for identifying money laundering and financing of terrorism (ML/FT) risks among companies licensed by the Authority. This system enables the assessment and classification of each company according to a risk measurement indicator, in line with internationally recognised standards and legislative requirements related to combating ML/FT practices in the Sultanate.

Additionally, the National Committee for Combating Money Laundering and Terrorist Financing also issued a decision no. 1/2022, concerning the Procedures for the Implementation of UN Security Council Resolutions issued under Chapter VII of the UN Charter on the Prevention and Suppression of Terrorism and its Financing, and the Prevention, Suppression and Disruption of the Proliferation of Weapons of Mass Destruction and their Financing. This decision covers procedural matters related to the freezing of funds and economic resources, and local listing and delisting procedures.

The decision sets out the obligations of Financial and non-financial institutions, and provides for non-profitable organisation to conduct screening for all customers and beneficial owners regularly and maintaining compliance procedures and internal controls. The decision also provides penalties for non-compliance with the decision issued by the National Committee for Combating Money Laundering and Terrorist Financing.

### **Investigation procedures**

Investigation requests are undertaken in conjunction with the Criminal Procedures Law. If the required procedures are not provided for there, the Public Prosecution may intervene and replace them with alternate procedures set out in the law that have the same effect as the required procedures. Where legal or judicial assistance is needed, the Public Prosecution shall refer the matter to the competent court to determine. In the case of joint investigations, the Public Prosecution can conclude bilateral or multilateral agreements in the name of the Sultanate. Where such agreements are absent, investigation may be conducted on a case-by-case basis.

Furthermore, the Public Prosecution can allow investigation into crimes of ML and TF by way of covert operation or controlled delivery to obtain the necessary evidence relating to such crimes. An individual involved in such operation shall be exempt from being held accountable for the crime of ML and/or TF if he does not exceed the powers allocated to him or influence another to commit such crimes.

### **Penalties**

The penalties for failing to comply with AML Laws are severe in Oman. The AML Laws have worked to tighten the punishments available for breaking such laws to demonstrate Oman's continued dedication to recognising and limiting the effects of ML and TF.



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Such commitment is integral to the legal sphere in Oman owing to its goal of attracting more foreign investment and increasing its international dominance and prestige.

Overall, the penalty for the crime of ML is imprisonment for a term not less than 10 years and not more than 15 and a fine that is not less than OMR 50,000 and not more than equivalent of funds collected or secured. If the individual concerned knew or suspected the funds were proceeds of a crime, they face a minimum term of five years and a maximum of 10 years' imprisonment and a fine ranging from OMR 50,000 to the equivalent of the funds associated with the crime.

Conversely, in the instance where an individual was supposed to know that the funds were proceeds of a crime, the punishment is imprisonment ranging from six months to three years and a fine ranging from OMR 10,000 and not exceeding the equivalent of the funds associated with the crime. Any person involved, whether through assistance, instigation, etc., will be punished as being the original perpetrator.

In the instance where the perpetrator is a juristic person, they will face a fine not less than OMR 100,000 and not more than funds associated with the crime. More so, the court may permanently or temporarily prevent them from exercising business activities and the court's final judgment may be published in publishing media as a means of publicly shaming the guilty individual and deterring others from following their example.

Those in financial and non-financial institutions who breach their duty of care intentionally or with gross negligence face imprisonment for a period of not less than six months and not more than two years and a fine ranging from 10,000 to 50,000. Similarly, members of financial and non-financial institutions who violate their legal obligations intentionally or with gross negligence shall be punished with imprisonment for a period not less than six months and not more than three years and a fine ranging between OMR 10,000 and 20,000.

A person who violates their legal obligations as set out under articles 30 and 56 of RD 30/2016, will face imprisonment for a term up to two years and a fine not more than OMR 10,000. An individual who contravenes article 53 of RD 30/2016 will face a prison sentence up to three years and a fine not exceeding OMR 10,000. If such individual is a juristic person, then the minimum prison term is three years, and the maximum fine is the value of funds associated with the crime.

Penalties will be doubled if the crime is: 1. committed through an organised criminal group; 2. committed by breaching a duty of trust, e.g., taking advantage of power and influence that is granted to one by virtue of his profession; 3. committed repeatedly.

An individual may be exempt from penalty by courts if they report the crime in question to the competent authorities before such authorities and courts are aware of the crime.

Moreover, penalties may be relaxed in instances where an individual reports the crime in question to the competent authorities once they have become aware of the crime, enabling the authorities to: 1. unveil other perpetrators; 2. obtain further evidence; 3. avert other ML and TF related crimes from being committed and; 4. to deprive organised criminal groups of their resources.

Without prejudice to bona fide third parties, the court will confiscate funds that accumulate under the crime in question, proceeds of such crime and the funds generated by them, any revenue and/or benefits obtained from said funds and all instrumentalities. If the court is unable to find the necessary funds, then funds equal to these amounts shall be confiscated by the courts.

This confiscation takes place even if the funds are under the ownership of another person, unless it can be proven this other party obtained the funds in good faith, for an appropriate price and that they were unaware of the illicit nature of the funds. The death or inability to identify the guilty party shall not preclude the issue of judgment for confiscation.

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