

Circular No.: PMEX/MKT, BD&CSS/2020/04

January 31, 2020

**Solicitation of Public Comments on Draft Amendments in the Securities and Exchange
Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism)
Regulations, 2018**

It is hereby informed that the Securities and Exchange Commission of Pakistan (SECP) has proposed certain amendments in the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 vide S. R. O. 56(I)/2020 dated January 28, 2020 (copy enclosed).

The objective behind these proposed amendments is to further strengthen SECP's AML/CFT regime in line with the Financial Action Task Force (FATF) Recommendations and international best practices and to address regulated sector's feedback on the implementation of AML/CFT framework. In order to ensure that the AML/CFT regime is effective and is proportionate the following key amendments have been proposed:

1. Requirement to align internal risk assessment with National Risk Assessment (NRA);
2. Annexure I has been made flexible;
3. Minimum information required at the time of account opening;
4. Identification and verification of Beneficial Ownership;
5. Use of technological systems;
6. Explanation of Close Associates and Family Members of Politically Exposed Persons (PEPs).

The proposed amendments are placed at SECP's website with the following link for eliciting public opinion thereon:

<https://www.secp.gov.pk/document/s-r-o-56i-2020-amendments-in-aml-regulations-2018/?wpdmdl=38233>

All concerned are requested to submit their comments/ feedback, if any, on the draft amendments to the SECP latest by **February 27, 2020** at Securities and Exchange Commission of Pakistan, NICL Building, 63 Jinnah Avenue, Islamabad or email at: aml.dept@secp.gov.pk.

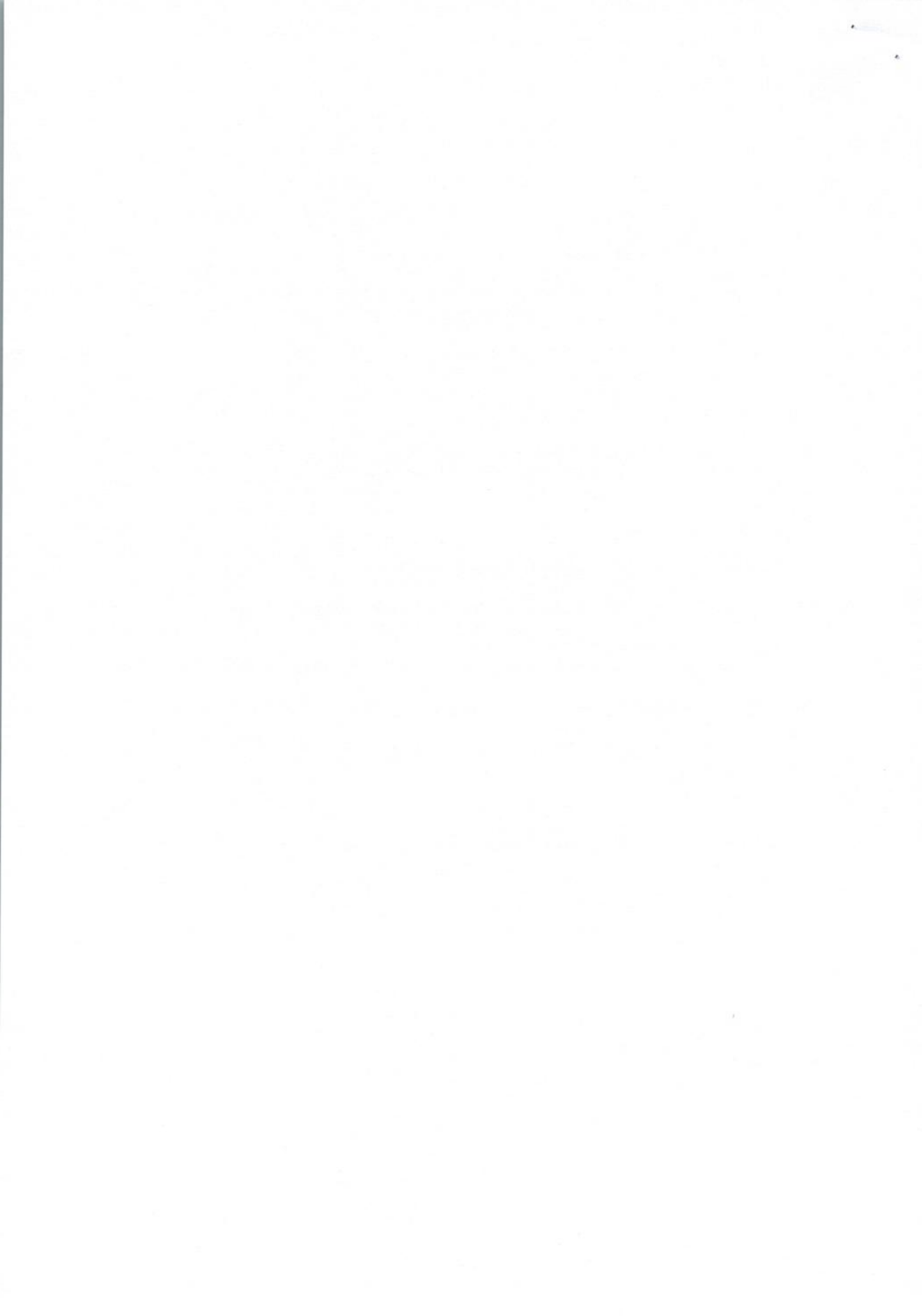
For further information and assistance, please feel free to contact our Customer Support Services by phone on 021-111-PMEX (7639) or by email at support@pmex.com.pk.

Best regards,



Syed Mumtaz Ali
Chief Regulatory Officer

Encl.: As stated above.



Government of Pakistan
Securities and Exchange Commission of Pakistan

NOTIFICATION

Islamabad, the 28th January, 2020

S. R. O. 56(I)/2020.-The draft amendments to Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018, proposed to be made by Securities and Exchange Commission of Pakistan in exercise of powers conferred under section 40 read with clause (w) of sub-section (4) of section 20, of the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997), are hereby published for information of all the persons likely to be affected thereby and notice is hereby given that comments or suggestions, if any, received within thirty days from the date of publication of this notification as required under sub-section (2) of section 40 may be considered, namely:-

DRAFT AMENDMENTS

In the aforesaid Regulations,--

- (1) in regulation 2, in sub-regulation (1),-
 - (a) in clause (e), in sub-clause (ii), for the expression “/” wherever appearing the word “or” shall be substituted;
- (2) in chapter II, for the heading, “PROCESS FOR RISK ASSESSMENT AND CUSTOMER DUE DILIGENCE” the heading “PROCESS FOR RISK ASSESSMENT, CUSTOMER DUE DILIGENCE AND APPLYING A RISK BASED APPROACH” shall be substituted;
- (3) in regulation 3, in sub-regulation (2), in clause (c), after the expression “up-to-date” the expression “on an annual basis, or in case of any major event, or in light of latest National Risk Assessment (NRA) beside other instructions issued from time to time” shall be added;
- (4) in regulation 4, in clause (a), for the expression “identified in the risk assessment of ML/TF or notified to it by the Commission” at the end, the expression “country latest NRA of ML/TF or identified in the internal risk assessment of the regulated person or as notified to it by the Commission” shall be substituted;

- (5) in regulation 5, in clause (b), after the words "mitigate the risks" the expression "and ML/TF threats emanating from new technologies including digital financial products and virtual assets" shall be inserted.
- (6) in regulation 6,-
- (a) in sub-regulation (2), for the words "and" the expression ", when there is suspicious of MF/TF and," shall be substituted;
- (b) for sub-regulation (3),-
- (i) in clause (a), for words "or beneficial owner" the words "whether natural or legal person or legal arrangement" shall be substituted;
- (ii) after clause (a), amended as aforesaid, the following new clause shall be inserted, namely:-
- "(aa)" identifying the beneficial owner and taking reasonable measures to verify the identity of beneficial owner on the basis of relevant data or information obtained from a reliable source, such that the regulated person is satisfied that it knows who the beneficial owner is;"
- (iii) in clause (c),-
- (A) after the expression "including," the words "where necessary" shall be added; and
- (B) for the expression "/" the word "and" shall be substituted;
- (c) for sub-regulation (4), the following shall be substituted:
- "(4) Regulated person shall identify every customer for establishing business relationship and may obtain such range of data, information and documents from different types of customers as provided in Annexure-1.";
- (d) after sub-regulation (4), substituted as aforesaid, the following new sub-regulations shall be inserted, namely:

“(4a) For identity and due diligence purposes, at the minimum following information shall also be obtained, verified and recorded on KYC/CDD form or account opening form and relevant Information Technology (IT) systems:

- (a) Full name as per identity document;
- (b) Identity document number or where the customer is not a natural person, the registration/ incorporation number or business registration number (as applicable);
- (c) Existing residential address, registered or business address (as necessary), contact telephone number(s) and e-mail (as applicable);
- (d) Date of birth, incorporation or registration (as applicable);
- (e) Nationality or place of birth, incorporation or registration (as applicable);
- (f) Nature of business, geographies involved and expected type of counter-parties (as applicable);
- (g) Purpose of account;
- (h) Type of account;
- (i) Source of earnings;
- (j) Expected monthly turnover (amount and No. of transactions); and
- (k) Normal or expected modes of transactions.

(4b) For customers that are legal persons or legal arrangements, the following information shall also be obtained, verified and recorded on KYC/CDD form or account opening form and relevant Information Technology (IT) systems:

- (a) name, legal form and proof of existence;
- (b) the powers that regulate and bind the legal person or arrangement, as well as the names of the relevant persons having a senior management position in the legal person or arrangement; and
- (c) the address of the registered office and, if different, a principal place of business.”;

(e) in sub-regulation (8) after the word “high” the expression “, moderate” shall be inserted; and

(f) after sub-regulation (13) the following new sub-regulation shall be inserted, namely:-

“(14)” Regulated person are encouraged to make use of technological solutions required for effective screening of designated and proscribed persons, ongoing monitoring of transaction and reporting of suspicious transactions, and upgrade their system and procedures in accordance with the changing profile of various risks.”;

(7) in regulation 7,-

(a) in sub-regulation (1),-

- (i) after the words “legal person” appearing at the beginning, the words “or a legal arrangement” shall be inserted;
- (ii) after clause (a) the following new clause shall be inserted namely:-

“(aa) Identify and verify its identity”; and

- (iii) in clause (c), after the word “legal person” appearing at the end, the words “through other means” shall be inserted;

(b) in sub-regulation (2),

- (i) for the words “for the following purposes” at the end the expression the expression “to identify and take reasonable measures to verify the identity of beneficial owner through the following information,-” shall be substituted;
- (ii) in clause (a) the words “identify and verify” shall be omitted;
- (iii) in clause (b) the words “identify and verify” shall be omitted; and

(8) in regulation 9,-

- (a) in sub-regulation (3), after the word “high risk” the words “in the country’s latest NRA or in the regulated person’s internal risk assessment” shall be inserted;

(9) in regulation 10,-

- (i) in sub -regulation (1) after the words “regulated person shall” the words “in addition to satisfying CDD requirements,” shall be inserted; and

- (ii) after sub-section (4), the following new explanations shall be inserted, namely:-

“Explanation I:- For the purposes of this regulation the expression “close associates” means any natural person who is known to hold,-

- (i) joint ownership or control of a legal instrument with a politically exposed person; or
- (ii) any other close business or personal relationship with a politically exposed person; or
- (iii) ownership or control of a legal instrument or a person which is set up for the benefit of a politically exposed person.

Explanation II:- for the purposes of this regulations the expression “family member” includes a spouse, and lineal ascendants and descendants of a politically exposed person.”;

- (10) in regulation 11,-

- (a) in sub-regulation (1), after the words “analysis of risk” the words “in the country’s latest NRA or in the regulated person’s internal risk assessment or are notified as such by the Commission” shall be inserted; and
- (b) in sub-regulation (3), in the proviso after the words “CDD measures” the expression “should commensurate with the lower risk factors, but” shall be inserted;

- (11) in regulation 13, for sub-regulation (1), the following shall be substituted, namely:-

“(1) Regulated person shall conduct ongoing due diligence on the business relationship including scrutinizing transactions undertaken throughout the course of that relationship to ensure that the transactions are consistent with the regulated persons knowledge of the customer, its business and risk profile and where appropriate, the sources of funds”;

(12) in regulation 14,-

a) in sub-regulation (7), after the words "required by law" the expression "and the employees and directors of a regulated person shall give an undertaking to abide by the requirements of these Regulations as part of regulated person's Code of Ethics" shall be inserted;

b) in sub-regulation (5), for the expression "including attempted transactions" the expression "including all attempted or rejected transactions or account opening requests pertaining to proscribed/designated entities and individual and their associates" shall be substituted.

(13) in chapter III, the title "Miscellaneous" shall be substituted with "Compliance Program Systems And Training Obligations".

(14) in regulation 18, in clause (a) for the words "to another equivalent executive position" the words "chief executive officer" shall be substituted;

(15) in regulation 20, in clause (b) after the words "employees" appearing for the first time, the words "on joining the regulated person and" shall be inserted;

(16) in regulation 22, after sub-regulation (1), in clause (3) for the full stop at the end a colon shall be substituted and thereafter the following new proviso shall be inserted namely:-

" Provided that repeal of the repealed instrument shall not-

(a) revive anything not in force at the time at which the repeal take effect; or

(b) affect the previous operation of the repealed instruments or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said repealed instruments; or

(d) affect any penalty imposed, forfeiture made or punishment incurred in respect of any offence or violations committed against or under the repealed instrument; or

- (e) affect any inspection, investigation, prosecution, legal proceeding or remedy in respect of any obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such inspection, investigation, prosecution, legal proceedings or remedy may be made, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if these regulations has not been notified.”;

(17) in Annex –I,-

- (a) For the title the following shall be substituted namely:

“Information/Documents that may be Obtained”

- (b) in S.No.1, in column 3,-

- (i) in the para (i), for the expression “Computerized National Identity Card (CNIC)” the expression “Computerized/Smart National Identity Card (CNIC/SNIC)” shall be substituted;

- (ii) after para (ii) a new para (iia) shall be added namely:-

“(iia) Form B/Juvenile Card issued by NADRA to children under age of 18 years.”

- (iii) after requirement (v), a new para (vi) shall be inserted, namely:-

“(vi) Valid proof of registration (POR) card issued by NADRA.”

- (c) in S.No.2, paras (iii) and (iv) shall be omitted;

- (d) in S.No.3, para (iii) shall be omitted;

- (e) in S.No.4,-

- (i) para (d) shall be omitted;

- (ii) for para (e), the following shall be substituted, namely:-

“(e) “Certified copy of Latest ‘Form-A/Form-B’; and

(iii) para (f) shall be omitted; and

(f) in the Note at the end of table,-

(i) in para (i) after the expression "NADRA verisys" the expression "or biometric verification" shall be inserted;

(ii) in para (v) for the word "shall" the word "may" be substituted; and

(iii) in para (vii) the expression " and Form 29" shall be omitted.

[SY/SECP/8/2013]



(Bilal Rasul)

Secretary to the Commission

