

Ministerial Order No. (1) of 2004

With Respect to Directives Relating to the Prevention and Prohibition of Money Laundering at the Bahrain Stock Exchange

The Governor of the Bahrain Monetary Agency:

Having examined Legislative Decree No. 23 of 1973 with respect to the Establishment of the Bahrain Monetary Agency, as amended;

Decree No. 4 of 1987 with respect to the Establishment and Organization of the Bahrain Stock Exchange as amended by Legislative Decree No. 21 of 2002;

Decree Law No. 4 of 2001 with respect to the Prevention and Prohibition of the Laundering of Money;

The Commercial Companies Law promulgated by Decree Law No. 21 of 2001;

Ministerial Order No. 13 of 1988 issuing the Internal Regulations of the Bahrain Stock Exchange, as amended;

Ministerial Order No. 4 of 1992 specifying the Prospectus Requirements for Joint Stock Companies Securities' Issues;

Ministerial Order No. 1 for 1998 with respect to Disclosure of Certain Information Relating to the Trading of Securities Listed on the Bahrain Stock Exchange;

Ministerial Order No. 7 of 2001 with respect to Obligations Governing Institutions Concerning the Prohibition and Combating of Money Laundering;

Ministerial Order No. 18 of 2002 Specifying the Powers of the Enforcement Unit in Implementing the Provisions of the Decree Law Promulgated with Respect to the Prevention and Prohibition of the Laundering of Money; and

Ministerial Order No. 23 of 2002 with respect to Procedures of Money Laundering Prevention and Prohibition;

And upon co-ordination with the Enforcement Unit;

Hereby Orders:

Article (1)

In the application of the provisions of this Order and without prejudice to the definitions provided for in the Prevention and Prohibition of the Money Laundering Law, the following words and expressions shall have the meanings specified against each, unless the context requires otherwise.

- Kingdom : Means the Kingdom of Bahrain.
- BMA : Means the Bahrain Monetary Agency.
- BSE : Means the Bahrain Stock Exchange.
- Director : Means the Director of the Bahrain Stock Exchange.
- Relevant Person : Means any natural person or corporate entity who is subject to the provisions of Article (2) of this Order.
- Client : Means any natural person or corporate entity dealing or wishing to deal in securities with a relevant person.
- Security/Securities : Means securities listed and traded on the BSE in accordance with the provisions of Decree Law No. 4 of 1987 with respect to the Establishment and Organization of the Bahrain Stock Exchange and its Implementing Regulations.

- Dealing in Securities : Means the deposit, purchase and sale of securities, whether directly or through brokers, and the transfer of and evidencing of their ownership.
- Suspicious or Extraordinary Transactions : Means any transactions which have direct or indirect relevance to the Acts provided for under Article (2-1) of the Prevention and Prohibition of the Money Laundering Law, or which by its nature contradicts with the commercial or personal activities of the Dealer, and which the BMA may consider suspicious or extraordinary as determined from its extraordinary size, its recurrence, its nature, the surrounding circumstances and conditions, its extraordinary type which does not carry any clear economic or legal objective, or if the activity of the persons involved in the transaction or transactions is not consistent with their normal course of business, or if the domicile of such persons is located in countries which do not apply sufficient measurements for the Prevention and Prohibition of Money Laundering.
- Registration Office : Means any competent office undertaking the registration and transfer of ownership of securities in accordance with the Bahrain Stock Exchange's Establishment and Organisation Law and its Implementing Regulations.

Article (2)

The provisions of this Order shall apply to the BSE, issuers of securities, brokerage firms and offices, registration offices, issue underwriters, establishments accredited with receiving money relating to the subscription of securities, custodians of securities, banks accredited for

clearance of transactions carried out at the BSE, dealers in securities, and all other entities concerned with dealing in securities.

Persons referred to in the preceding paragraph shall set out the necessary controls, procedures and internal regulations as required for the detection, combating and reporting of suspicious and extraordinary transactions.

Article (3)

No local or foreign company shall be listed on the BSE, unless their documents of incorporation are complete and satisfy all legal requirements applicable in the Kingdom, or in their countries of incorporation, as the case may be.

Article (4)

No security shall be offered for public subscription in the Kingdom unless the issuing company is duly incorporated under the laws of the Kingdom, or the laws of its country of incorporation, as the case may be, satisfying all terms and conditions governing the public offering of securities in the Kingdom, and abiding by the conditions and requirements stipulated under the Commercial Companies Law and the Disclosure Standards in force in the Kingdom.

No security issued to the bearer shall be offered, listed, traded or deposited on the BSE.

Article (5)

Companies accredited with receiving money relating to public subscription in securities shall take all necessary measures to ensure the legality of the sources of the money used in the payment of the value of the subscribed security, in accordance with the provisions of the Prevention and Prohibition of Money Laundering and its Implementing Regulations.

Article (6)

On opening any security account in the name of a client in the Clearing, Settlement and Central Depository System, including accounts relating

to investment portfolios and funds, the security custodian accounts, or any other account opened on behalf of a third party, the relevant account opening application shall be accompanied by copies of documents showing the following particulars:

1. Identification particulars, if the client is a natural person:
 - a. Full name
 - b. Full address
 - c. Nationality
 - d. Occupation
 - e. Full details of the Personal Identity Card or Passport
 - f. CPR Number (for citizens and residents)

2. Identification particulars, if the client is a corporate entity:
 - a. Name
 - b. Legal Status
 - c. Number and place of registration
 - d. Objectives
 - e. Address of the main office and the branch, if any
 - f. Particulars of the company's owners and its main shareholders
 - g. Names of the members of the Board of Directors
 - h. The legal representative of the corporate entity and his identification particulars
 - i. Authorised signatories
 - j. Memorandum and Articles of Association

On opening the account, all particulars relating to the identity of the client must be recorded and their correctness verified, and the client shall provide copies of the above-mentioned documents forthwith upon any amendment being effected on such entries.

Article (7)

No account shall be opened if the client does not satisfy all the required particulars, or if he fails to prove the correctness of any of the particulars referred to in Article (6) hereof.

A security shall not be accepted in the Central Depository System unless its authenticity is approved by the concerned shares registrar and the client shall provide the Central Depository System with any amendment or change which may occur in such particulars.

Article (8)

Brokerage companies and offices, shares custodians and shares registrars shall:

1. Verify all information provided by the client about himself and the instructions issued by him with respect to transactions carried out on the BSE and shall enter such information into the records and books approved by the BSE, whether such transactions were concluded in a single transaction or in several transactions, provided that such information shall include the particulars provided for in Article (6) hereof.
2. Ensure the correctness of particulars relating to any investing company, including the particulars of the owners of the company and its main shareholders.
3. Certify the genuineness of the signatures of applicants for opening accounts in favour of clients from outside the Kingdom by one of the corresponding banks, chambers of commerce, lawyers offices, or any other concerned party accredited by the BMA for the purpose of verifying the identity of the applicant.
4. Take the necessary precautions and exercise due care when dealing with investors from countries not maintaining a co-operation arrangement with the Kingdom, or which do not have integrated laws or procedures in place for the prevention or prohibition of money laundering.
5. Develop an inspection and internal auditing system for the records of companies and their entire operations in light of the applicable regulations for the prevention and prohibition of money laundering.
6. Undertake not to report or leak any information to any of its clients on any action taken or to be taken with respect to the prevention

and prohibition of money laundering, under the provisions of the Prevention and Prohibition of the Money Laundering Law and its Implementing Regulations.

Article (9)

Brokerage companies and offices may receive cash amounts in Bahraini Dinars for transactions with a value not exceeding Five Hundred Bahraini Dinars, save for transactions carried out frequently by the same client.

If the value of a transaction is paid for by cheque by a third party other than the purchaser, the identity of such third party shall be verified.

Article (10)

Any person whose ownership alone or his ownership together with that of his minor children, or any other accounts under his disposal, or the ownership of any of his associate or affiliate companies amounts to 5% or more of any listed security of a joint stock company, shall notify the BSE forthwith, which shall in turn notify the BMA of this fact and the BMA may declare the name of the person who owns such stake.

It shall be prohibited to execute any purchase order issued by any client whose ownership alone or his ownership together with that of his minor children, or the accounts standing under his disposal amounts to 5% or more of any listed security, and who wishes to carry out any transaction whether for his own account or any account standing under his disposal in a number of securities representing 1% or more of such issue, unless the BMA's prior written consent is obtained.

Article (11)

It shall be prohibited to execute any order issued by a client whose ownership amounts to 5% or more in any listed security, and who wishes to own a stake of 10% or more of the company's shares, save upon ensuring that he has obtained written approval from the BMA to this effect.

Article (12)

1. Every concerned person shall designate one of his employees, upon obtaining the approval of the BMA as to the satisfaction of such person, who shall be responsible for reporting Money Laundering crimes.

This designated employee shall have a sound acquaintance with the national legislations and other regulations and directives relating to Money Laundering, including recommendations issued by the Financial Action Task Force (FATF).

2. The designated employee shall undertake the following functions:
 - a. Ensure the adequacy of the internal controls, procedures and regulations applicable with the Relevant Person to satisfy the requirements and provisions of this Order.
 - b. Verify that the employees of the Relevant Person have received appropriate training to enable them to perform the duties entrusted to them, according to the provisions of this Order.
 - c. Monitor the degree of compliance by the employees referred to in the immediately preceding item as to procedures relating to the Prevention of Money Laundering.
 - d. Monitor the degree of compliance of the Relevant Person with respect to laying down the regulations and procedures necessary for updating the records, and the extent to which such regulations and procedures are regularly applied.
 - e. Report any suspicious and extraordinary transactions to both the BMA and the Enforcement Unit within a maximum period of twenty-four hours from the time he becomes aware of the situation.

3. The designated employee shall not, before obtaining the prior approval of the BMA and the Enforcement Unit, make any contact with the concerned person, or any other person regarding a certain money laundering case, and he shall at all times follow the instructions issued to him by the BMA or the Enforcement Unit.

Article (13)

1. The Employee shall prepare a report, according to the form approved by the BSE, on suspicious or extraordinary transactions based on the information, particulars and records of the Clients.

The report shall contain a complete description of the transaction, its type, value and date of execution, and names of parties involved in it, as well as the reasons that caused such transaction to be deemed suspicious or extraordinary, and any other information and particulars as the BMA and the Enforcement Unit may request.

2. If the employee reports any doubts he may have on the occurrence of a suspicious or extraordinary transaction, he shall ascertain his doubts using the records, particulars and information relating to the clients. However, if it is established to the employee that the transaction in question is ordinary and not suspicious, he shall state the supporting reasons and in this case there shall be no need to prepare the report required under the preceding paragraph.
3. If it appears to the employee thereafter that the investigations on the client's identity were not adequate, he shall convey this fact to the BMA and take the necessary measures as required to comply with the identification requirements.
4. A special record shall be maintained for suspicious and extraordinary transactions, so that it may be used for the purpose of preparing any annual and periodic reports relating to these transactions and their follow-up, and for identifying all transactions carried out by a particular client during a certain period of time.

Such records shall contain sufficient details, such as the type of transaction, date of its reporting and the involved clients' particulars, in order to give a clear picture of these transactions and the measurements taken in respect thereof.

5. The Report referred to in Paragraph (2) of this Article shall be delivered in strict confidentiality by hand, or sent by fax or electronic mail to the Enforcement Unit at the BMA.

Article (14)

Every employee in the BSE who is aware or believes, or has reason to believe that a client is involved in a money laundering offence or related crimes, shall immediately report the incidence to his superior, provided that the reporting of such incidence shall be in writing, in accordance with the form approved by the BSE. Reported cases shall be entered in an ad-hoc register to be maintained by the BSE.

Article (15)

The Director, whenever he becomes aware or believes, or has reason to believe that a client is involved in a money laundering offence, shall stop the execution of the suspicious transaction, and temporarily withhold any security deposited with the Central Depository System and any fund which may have relevance to the money laundering offence with the Settlement Bank, pending instructions to be given with respect to the securities and funds temporarily withheld from the BMA, the Enforcement Unit, the Public Prosecutor, or the Competent Court.

Article (16)

Every Relevant Person shall maintain the information and documents relating to the identity of their clients and representatives, and the beneficiaries of the transaction, in addition to accounting and other records containing the details of transactions, including type, date of execution and value of transaction, and the identity particulars of the client. Any changes which might occur to the status of a client shall be regularly updated, and the relevant persons shall have the necessary system and the procedures in place that enables them to update such records.

The particulars and documents shall be sufficient enough to identify the transaction – whether being a single transaction or a group of transactions – from the primary documents to the completed stage of the transaction.

The abovementioned records and documents shall, together with all correspondence relating to the transaction be kept for a period of five years, commencing from the date of execution of the transaction. All such records and their supporting documents shall be stored in an easily retrievable manner.

Article (17)

The BSE must carry out direct and indirect regular audits on the Trading, Settlement, Clearing and Central Depository System and the Shareholders Register maintained with the Central Depository System and the Registration Office, to ascertain the correctness of the entry of particulars and information pertaining to clients, and their accounts and transactions executed in their favour, so as to ensure compliance with the BSE Law and Regulations issued in implementation thereof, and the provisions of this Order.

When required to deliver the original copy of a record concerning any transaction, or a document pertaining thereto before the expiry of the prescribed period, the relevant persons shall observe the following:

- a) They shall maintain a complete copy of the delivered record or documents until the end of the period prescribed for maintaining the original records or documents.
- b) They shall maintain a record of the delivered documents.

Article (18)

An audit of companies and offices, security custodians and the shareholders' register shall be carried out according to control and inspection procedures approved by the BMA, in order to ascertain the correctness of the entries of particulars and information relating to clients in the records of these entities, and to ensure their compliance with the decisions and orders issued to them from the clients, in accordance with the BSE Law and its Implementing Regulations.

Article (19)

Every Relevant Person shall devise and implement regular training programmes for its concerned employees, and in particular in the following areas:

1. Laws and regulations relating to the Prevention and Prohibition of Money Laundering.
2. Policies and regulations pertaining to the prevention of the use of transactions carried out at the BSE in Money Laundering Operations.
3. Developments taking place in the field of Money Laundering and other suspicious transactions, and methods of detecting such transactions, so as to improve the skills and abilities of employees in identifying such transactions, and their types and methods of countering them.
4. Personal responsibilities of each employee with respect to Money Laundering offences, and other suspicious and extraordinary transactions.

Article (20)

The Relevant Persons shall complete all the particulars, information, documents and records provided for hereunder, within no more than twelve months commencing from the date hereof.

Article (21)

Every Relevant Person shall lay down the necessary disciplinary regulations and procedures as required to ensure compliance of his employees with the provisions of this Order.

Article (22)

A Relevant Person or any of his employees shall not be liable under any civil or criminal proceedings brought against them by reason of carrying out their obligations in compliance with this Order.

Article (23)

Without prejudice to any greater penalty prescribed under the Prevention and Prohibition of the Money Laundering Law or any other Law, a breach of the provisions of Articles (10) and (11) of this Law shall result in the cancellation of the transaction, the subject matter of the breach, and the person in breach shall bear all costs arising in this connection.

Article (24)

The Director of the Capital Markets Supervision (CMS) Directorate at the BMA and the Director of the Bahrain Stock Exchange shall, in his respective capacity, implement this Order which shall come into force as of the date of its publication in the Official Gazette.

Ahmed bin Mohamed Al Khalifa
Governor of the Bahrain Monetary Agency

Issued on the 8th day of Dhul Qa'da 1424
Corresponding to 31st December 2003