



ICMA Pakistan

Monthly Technical Updates

on Accounting, Taxation & Laws

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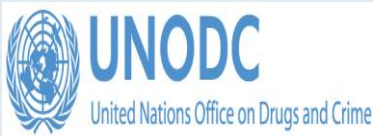
I am delighted to present the Monthly Technical Updates by TSPD for the month of January, 2021. This issue covers a variety of topics related to Taxation, Stock Market, Corporate Sector and especially the Anti Money Laundering (AML)/ Countering the Financing of Terrorism (CFT) requirements which are to be complied by the Cost and Management Accountants (CMAs). I believe that members will find it informative and helpful in discharging their professional assignments/ responsibilities. Moreover, Members are requested to frequently visit the website of the Institute to keep themselves abreast with the latest developments in the AML/ CFT regime.



I also want to request all members to share their valuable suggestions for further improvement in the Monthly Technical Update and identify topics of technical interest, which the Committee may consider for arranging seminars, workshops and training programs beneficial for the practicing members in terms of their capacity building and value addition.

Please do share your comments on tspd@icmap.com.pk.

Ghulam Mustafa Qazi, FCMA
Chairman TSPD Committee



Outreach Session for AML/CFT Reporting Entities in Islamabad in collaboration with UNODC

In continuation of series of Outreach Sessions at Karachi, Lahore, Peshawar and Quetta, the United Nations Office on Drugs and Crime (UNODC) organized an outreach session in Islamabad, in collaboration with the Institute of Cost & Management Accountants of Pakistan (ICMA Pakistan) to build awareness on the risks and controls against money laundering and terrorist financing. In the planning and delivery of the outreach session, UNODC has worked closely with key governmental institutions of Pakistan that are central to the framework of AML and CFT of the country including Financial Monitoring Unit (FMU), Ministry of Foreign Affairs (MoFA), National Counter Terrorism Authority (NACTA), SECP and ICMA Pakistan.

The outreach session was aimed at providing expert information of the legal framework, institutional activities and international standards on AML/CFT with special emphasis on counter measures for Targeted Financial Sanctions (TFC), Proliferation Financing (PF) and Beneficial Ownership (BO) among other topics. Worthy members of Reporting Firms were invited to the event.

Mr. Aamir Ijaz Khan, Secretary AML Supervisory Board joined the sessions as Presenter on the "Supervisory Structure and Updates along with sectoral risk analysis and sanctions regime".



**UNODC Outreach Session
at Serena Hotel, Islamabad**

Committee Activities

34th Meeting of TSPD Committee

34th meeting of TSPD Committee was held physically and through ZOOM. Worthy Committee members participated in the meeting and had thread bare discussions on different matters especially those concerned with the CMAs. Members reviewed the previous activities and guided the way forward to the directorate on certain matters.



National Updates

Taxation

1. AMENDMENT IN SALES TAX RULES, 2006 – SUBSTITUTION OF EXPRESSIONS

Federal Board of Revenue (FBR) vide their S.R.O. 01(I)/2021 dated January 5, 2021 made further amendment in the Sales Tax Rules, 2006, as under:-

- the expression "B03085-Petroleum Levy" in form STR-7 under part "Headwise Payable" is substituted with the expression "CO3901-Petroleum Levy"
- the expression "B-03085," in Form STR-11, in PART-H, under the heading "HEAD OF ACCOUNT," is substituted with the expression "CO3901".

For further details, please visit the following link:-

<https://download1.fbr.gov.pk/SROs/202115151424520SRO01-2021.pdf>

2. CHIEF COMMISSIONER INLAND REVENUE OMBUDSPERSON

FBR has re-defined the office of the Chief Commissioner as Inland Revenue Ombudsperson for redressal of the taxpayers grievances and to ensure transparency.

FBR notified that the office of the Chief Commissioner-IR, Regional Tax Office, Islamabad may be taken as "the first point of contact" for the resolution of problems and complaints of the taxpayers relating to Regional Tax Office, Islamabad and they should feel free to approach Regional Tax Office, Islamabad on Tuesday and Thursday of each week for the purpose.

FBR further informed that the office of the Chief Commissioner-IR, Regional Tax Office, Islamabad is fully committed to accord top priority to redress the grievances of the valuable taxpayers.

3. CONSTITUTION OF COMMITTEES BY FBR

FBR vide their notifications dated January 8, 2021 constituted following committees:-

- Committee for Timely Designing/Finalization of Income Tax Returns Form

- Consultative Committee for Capital Markets Tax Reforms

Committee for timely designing/finalization of income tax return forms for individuals, AOPs and companies for tax year 2021 is as under:-

- Ch. Muhammad Tarique , Member (IR-Policy) Chairman
- Mr. Mansoor Azam Sultan, Chief Information Officer Member
- Mr. Muhammad Nasser Janjua, Chief (IR-Analysis) Member
- Dr. Najeebullah, Chief (ITP) Member
- Ms. Kiran Zahra SS(BDT-IT) Member

The committee may co-opt suitable members from the private sector and shall endeavor to simplify the income tax returns. The committee shall be guided by international best practices on the subject and keep in view that the return forms so designed, require least possible interventions on year to year basis. The committee shall submit its first-cut drafts at the latest by February 15, 2021.

Consultative Committee on Capital Markets Tax Reforms consists of following:-

- Member Inland Revenue Policy, FBR Chairperson
- Mr. Shauzab Ali, Member Commissioner Securities Market Division
- Mr. Farrukh H. Khan, Member Chief Executive Officer, PSX
- Mr. Ahmed Ali Mitha Member Chief Financial Officer, PSX
- Chief (Income Tax Policy), FBR Secretary

The Committee shall act as a forum till budget making exercise for the year 2021-22, to review tax policies and suggest specific short-term and medium to long term measures for the development of debt and equity market, commodity futures, mutual funds, REITs, corporate and insurance sector, amongst others. Broadly it will review and recommend all measures that impinge upon the capital markets and its stakeholders.

For further details, please visit the following links:-

[https://download1.fbr.gov.pk/Docs/20211816159303822021-01-08\(2\).pdf](https://download1.fbr.gov.pk/Docs/20211816159303822021-01-08(2).pdf)

<https://download1.fbr.gov.pk/Docs/20211816129304consultativecommitteeoncapitalmarketstaxreforms.pdf>

4. FORFEITURE OF PROPERTY RULES

FBR vide their S.R.O. 05(I)/2021 made further amendments in the Customs Rules, 2001 by inserting a new Chapter regarding "Forfeiture of Property Rules".

Through this SRO, the FBR has authorised its customs officials to freeze and forfeit assets to the federal government including both movable and immovable properties suspected of having been acquired through proceeds of smuggling.

According to the new rules, it shall not be lawful for any person to hold assets acquired through proceeds of smuggling either directly in his own name or indirectly in the name of any relative or associate. Where a person is found to hold any assets in contravention of the provisions of the Customs Act, 1969, such assets shall be liable to be forfeited to the federal government in accordance with the provisions of the Customs Act.

The property, so forfeited, shall be disposed of by the administrator or any other Customs officer authorised by Collector after completion of legal formalities in following manner:-

- the movable property shall be disposed of through public auction and shall be governed by Chapter V (Auction), of the Customs Rules, 2001, and
- the disposal of immovable property shall be governed by Chapter XI (Recovery of Arrears), Part III and Part IV, of the Customs Rules, 2001.

During the investigation or trial of an offence of smuggling, the Collector or an officer authorised in this behalf under Section 163 of the Customs Act, 1969, shall trace and identify assets for the purpose of forfeiture by the special judge, regarding which suspicion arises of having been acquired by any person through proceeds of smuggling and holds them either directly in his name or indirectly in the name of his relatives or associates.

This may include inquiry, investigation in respect of any premises, place, property, conveyance, documents, and books of accounts.

The rules said that whenever an Officer of Customs has reasons to believe that within the limits of his jurisdiction any person, either in his own name or on behalf of any relative or associate holds any assets, which are reasonably suspected of having been acquired through proceeds of smuggling, the officer of customs after obtaining approval from Collector may freeze such assets for 15 days and before the expiry of 15 days the freezing order shall be submitted to the Court of the Special Judge Customs with the grounds on which such freezing was carried out and further continuation of the freezing or forfeiture shall so be decided by the Court.

For further details, please visit the following link:-

<https://download1.fbr.gov.pk/SROs/2021171312643919sro-05-2021.pdf>

5. TRANSSHIPMENT OF IMPORTED CARGO FROM GATEWAY PORT TO FOREIGN PORT

FBR vide their S.R.O. 03(I)/2021 made further amendments in the Customs Rules, 2001, which were previously published vide Notification No. S.R.O 685(1)/2020 dated August 5, 2020.

- For rule 510A, the following shall be substituted:-

"510A. Transshipment of imported cargo from gateway port to a foreign port.- The following procedure is prescribed for the movement of the International Transshipment (IT) cargo other than LCL cargo through any sea port in Pakistan, which shall be distinctly manifested as such in the IOM or carrier declaration uploaded electronically in the Customs Computerized System by the shipping line (VOCCs/NVOCCs) having valid shipping agent licences. Such manifest shall necessarily include the following information, namely:- (a) port of loading; (b) via port (name of the transshipment port of Pakistan); (c) port of destination (final port of discharge at foreign destination); (d) (e) bill of lading (B/L) No.; name of foreign exporter; name of foreign importer; (g) weight; (h) seal No.; and (i) container No.;"

- In rule 510B,- (i) for clauses (a) and (b), the following shall be substituted:-

"(a) the TO after unloading shall store IT containers at a place earmarked for them in the notified premises of a seaport. Further, a complete trail of IT containers including the time, location where they are placed and subsequent movements shall be electronically reported and updated in the Customs Computerized System by the Terminal Operator (TO) so that the location of the said containers is traceable at any given point in time;

(b) the TO shall deploy enough manpower to verify the shipper seals against the manifested seals and in case, a container is found without seal or with a different seal or any broken seal, such container shall be re-sealed and immediately resealed with the Customs seal in the presence of the custodian and same shall be recorded. The new seal number will be entered into the system before stacking of the container;" (ii) in clause (c), after the word "thereon", the expression ", be penalized accordingly" shall be inserted; (iii) clause (e) shall be omitted; (iv) clause (h) shall be omitted;

- For rule 510D, the following shall be substituted, namely:-

"510D. Delay in clearance of transshipment goods.- (1) The IT goods shall not be subject to payment of import or export duties and taxes provided the activities are in conformity with these rules. (2) If the goods stored for transshipment are not transshipped within thirty days of their arrival, a notice shall be sent to the shipping line or its agent on the address given in the shipping documents for transshipment of goods from the port. An extension of up to thirty days may be granted for the storage of such goods once a written request mentioning the reasons for delay in removal of goods is submitted to the concerned Assistant Collector of Customs and such a request is approved by him. (3) If goods still remain on the port after sixty days of their arrival, the shipping line shall be responsible to remove them immediately unless the delay is attributed to the port authorities. The goods shall only be allowed for auction or destruction by approval of the concerned Collector of Customs who shall only allow it in extraordinary conditions where the shipping line shows its complete inability to ship them out. The said reasons shall be recorded in writing." (4) In case of any hazardous material left at the port, the concerned shipping line shall be have the responsibility to take the cargo back to the port of origin."; and

- For rule 510E, the following shall be substituted:-

"510E. Execution of bond by shipping line.- Shipping lines engaged in

the business of international transshipment of containers and bulk cargo shall execute an indemnity bond for ensuring to follow Customs rules and regulations."

For further details, please visit the following link:-
<https://download1.fbr.gov.pk/SROs/202117131122138sro-03-2021.pdf>

6. AMENDMENT TO CUSTOMS RULES, 2001 - BANK GUARANTEE ENCASHABLE FOR BREACH OF RULES

FBR vide their S.R.O. 04(I)/2021 made further amendments in its Customs Rules, 2001 which was previously published vide Notification No. S.R.O. 1302(1)/2020, dated December 2, 2020.

FBR has replaced the word "Bank" with the word "Security" in the Rule 554, sub-rule 6(d). Now the point d is to be read as:

"(d) Security guarantee equivalent to US dollars 1,000,000/- encashable for breach of rules."

For further details, please visit the following link:-
<https://download1.fbr.gov.pk/SROs/202117131215409sro-04-2021.pdf>

7. AMENDMENT IN CUSTOMS RULES, 2001 – ADDITION OF PROVISO IN RULE 300 "GRANT OF DTRE APPROVAL"

FBR vide their S.R.O. 06(I)/2021 made further amendments in its Customs Rules, 2001 which was previously published vide Notification No. S.R.O. 1299(1)/2020, dated December 1, 2020.

FBR has added the following new proviso after sub-clause 8 of Rule 300 of the above said Rules, as under:-

"Provided that notwithstanding the above provision, the Risk Management System of WeBOC may select DTRE application, on the basis of applicant's profile, for automatic processing and approval against securities specified in this sub-chapter.

Such DTRE applications shall be subject to post approval verification by the respective Collectorate."

For further details, please visit the following link:-
<https://download1.fbr.gov.pk/SROs/2021171313110920sro-06-2021.pdf>

8. IMPORT AND EXPORT OF E-COMMERCE RULES

FBR vide their S.R.O. 14(I)/2021 made further amendments in the Customs Rules, 2001 by inserting a new Chapter "Import and Export of E-Commerce Rules".

According to the rules, the new procedure shall apply for assessment and clearance of imported or exported goods of Business-to-Consumer (B2C) transactions through authorised dealers via designated customs stations.

However, these shall not apply to the following goods:-

- goods requiring testing of samples;
- animals;
- perishable goods;
- food stuff including beverages;
- medicines of any sort;
- alcoholic drinks;
- restricted items subject to fulfillment of import and export regulations under the relevant law;
- prohibition under sections 15 and 16 of the Customs Act, 1969 (IV

of 1969) along with allied law; and

- import and export goods which are intended for clearance from customs
- station or airport other than at which arrived.

The Rules also explain in detail, the responsibilities of registered courier and e-commerce exporters and importers. According to the new Rules, following details shall be provided by the registered courier and e-commerce importer in relation to shipment:-

- consignor name;
- name and address of e-commerce importer;
- exact description;
- declaration of correct value;
- quantity;
- packages;
- weight;
- origin;
- payment details and
- CNIC (by e-commerce importer).

Following details shall be provided by the registered courier and e-commerce exporter in relation to shipment:-

- name and NTN of e-commerce exporter;
- consignee name and address of consumer;
- payment details of consumer;
- registered account, exact description; rebate details; weight; and quantity.

The Rules also state that the Registered courier shall be responsible along with the e-commerce importer or exporter, as the case may be, for making any declaration in the transaction of any business relating to the customs, knowing or having reasons to believe that such declaration is false in any particulars manner, and as such shall be dealt with under the relevant provisions of the Customs Act, 1969 (W of 1969).

For further details, please visit the following link:-
<https://download1.fbr.gov.pk/SROs/20211111211228460SRO14-2021.pdf>

9. INSERTION OF RULE 34B IN RESPECT OF TAXPAYERS PROFILE IN INCOME TAX RULES, 2002

FBR vide their S.R.O. 13(I)/2021 made further amendments in the Income Tax Rules, 2002 by inserting a new Rule "Taxpayer's profile" after rule 34A, as under:-

"34B. Taxpayer's profile.-

- (1) This rule shall apply for the purposes of section 114A of the Income Tax Ordinance, 2001, which provides for the furnishing of a taxpayer's profile.
- (2) A taxpayer's profile shall be filed electronically on the prescribed format and manner as provided on IRIS Web Portal.
- (3) The taxpayer's profile shall be verified in the manner specified on IRIS Web Portal."

For further details, please visit the following link:-
<https://download1.fbr.gov.pk/SROs/20211111613510256SRO13of2021.pdf>

10. EXEMPTION OF WHT ON IMPORT OF 3,000 MT OF WHEAT

FBR vide their S.R.O. 99(I)/2021 dated January 26, 2021 made further amendment in the Second Schedule of the Income Tax Ordinance, 2001 by inserting following new clause in Part IV, after clause (12H):-

"(12I) The provisions of section 148 shall, in pursuance of the Cabinet Decision in case No. 34/02/2021, dated the 12th January, 2021, not apply on import of three hundred thousand metric tons of wheat through tendering process by the Trading Corporation of Pakistan."

Through this clause, the FBR has exempted withholding tax on the import of 300,000 Metric Tons of wheat. The provision of the section 148 of the Income Tax Ordinance 2001, in pursuance of Cabinet decision, would not apply on the import of 300,000 Metric Tons of wheat through tendering process by the Trading Corporation of Pakistan (TCP).

For further details, please visit the following link:-

[https://download1.fbr.gov.pk/SROs/20211261714659918SRO99\(I\)O F2021.pdf](https://download1.fbr.gov.pk/SROs/20211261714659918SRO99(I)O F2021.pdf)

11. AMENDMENT IN S.R.O 1190(I)/2019

FBR vide their S.R.O. 98(I)/2021 dated January 26, 2021 made following further amendments in its S.R.O. 1190(I)/2019, dated October 02, 2019:-

- Sales tax registered manufacturing companies of cold rolled, GI or coated coils / sheets which are listed on Pakistan Stock Exchange included in the Table – 1.
- In Table-2, in column (1), against S. No. 3, in column (2), for the expression "December 2020", the expression "June, 2021" shall be substituted.

This Notification shall be applicable from **January 01, 2021**.

For further details, please visit the following link:-

<https://download1.fbr.gov.pk/SROs/202112616124241SRO98-2021.pdf>

12. EXEMPTION ON THE IMPORT OF CRYOGENIC TANKS (FOR OXYGEN GAS)

FBR vide their S.R.O. 97(I)/2021 dated January 26, 2021 notified exemption on the import of cryogenic tanks (for oxygen gas) (PCT heading 7311.0030), for medical purposes, from whole of the sales tax for a period of three months starting from the December 29, 2020.

The aforesaid exemption shall apply in respect of the letters of credit opened or goods declaration forms filed on or after December 29, 2020.

For further details, please visit the following link:-

<https://download1.fbr.gov.pk/SROs/2021126161011773SRO97-2021.pdf>

13. AMENDMENTS IN SALES TAX RULES, 2006 – INSERTION OF NEW CHAPTER "SUPPLY FROM TAX EXEMPT AREAS"

FBR vide their S.R.O. 96(I)/2021 dated January 26, 2021 made further amendments in the Sales Tax Rules, 2006 by inserting a new Chapter X-A "Supply from Tax Exempt Areas". The provisions of this new Chapter shall apply to the supplies of taxable goods brought from tax-exempt areas into taxable areas.

According to the new Chapter, the person bringing, or causing to bring, taxable goods from tax exempt area shall be required to be registered under the Act or, as the case may be, the Sales Tax Act, 1990 as adopted in Azad Jammu and Kashmir and all the provisions of the Acts ibid shall apply accordingly. The liability of payment of tax or

taxes and furnishing of prescribed documents shall be on the person bringing, or causing to bring, taxable goods from tax exempt area and supplying the same in taxable area in the course and furtherance of taxable activity.

Subject to the applicable provisions of the Act and the rules made thereunder, a registered person shall be entitled to the adjustment of any input tax paid under the Sales Tax Act, 1990 as adopted in Azad Jammu and Kashmir.

Every conveyance carrying taxable goods originating from tax-exempt areas and entering taxable area shall carry the following documents at the time of entering into taxable areas namely:-

- sales tax invoice, in original, as prescribed under section 23 of the Act or as the case may be, under the Sales Tax Act, 1990 as adopted in Azad Jammu and Kashmir:

Provided that where any taxable goods are exempt under the Sales Tax Act, 1990 as adopted in Azad Jammu and Kashmir or any notification issued thereunder, such goods shall be accompanied by a serially number invoice containing all particulars as specified in section 23 of the Act excluding the amount of sales tax and mentioning the legal provision under which exemption is claimed:

Provided further that where the taxable goods are brought in to the taxable area by a manufacturer or importer to be sold at his self-owned, self-managed, self-administered or self-operated distribution, wholesale or retail outlet or outlets, duly declared in his STR-1 Form, such goods shall be accompanied by serially numbered stock advice in the form specified in STR-33 along with copy of STR-1 Form.

- goods declaration in case of imported goods; and
- e-transport advice as specified under rule 69D.

The prescribed documents shall accompany the conveyance up to the destination mentioned in the relevant e-transport advice.

The SRO further elaborates that any taxable goods in respect of which any of the provisions of Act or these rules have been contravened shall be liable to be seized along with the conveyance, if any, in which such goods are laden or have been laden or which has been used for movement, carriage or transportation of such goods.

The adjudicating authority, by passing an order in writing, shall have powers and authority to confiscate taxable goods which are brought in to taxable areas in violation of the Act and these rules. When any goods are confiscated under these rules, such goods shall thereupon vest in the Federal Government.

The adjudicating authority after confiscation shall take and hold possession of the goods confiscated, and every officer of Inland Revenue, if required, shall assist him in taking and holding such possession.

For further details, please visit the following link:-

<https://download1.fbr.gov.pk/SROs/20211261515541195SRO96-2021.pdf>

International Updates

1. IPSASB ISSUES TWO LEASES-RELATED PUBLICATIONS FOR PUBLIC COMMENT

The International Public Sector Accounting Standards Board (IPSASB) vide their notification dated January 15, 2021 released an Exposure Draft (ED) 75 "Leases" and a Request for Information "Concessionary Leases and Other Arrangements Similar to Leases".

The Exposure draft proposes an IFRS 16, Leases aligned model for lease accounting in the public sector. For lessees, as with the IPSASB's previous proposals in ED 64, ED 75 proposes a right-of-use model that will replace the risks and rewards incidental to ownership model in International Public Sector Accounting Standard (IPSAS) 13, Leases. For lessors, ED 75 proposes to substantially carry forward the risks and rewards incidental to ownership model in IPSAS 13 in response to ED 64 comments and practical IFRS 16 implementation experience.

Issued alongside ED 75, the Request for Information will provide the IPSASB with further information on the issues that need to be considered in accounting for concessionary leases and other arrangements similar to leases that are quite common in the public sector. This will then allow the IPSASB to determine the nature and extent of the additional guidance required in phase two of the Leases project.

Both the Exposure Draft and Request for Information may be accessed through the following links:-

<https://www.ipsasb.org/publications/exposure-draft-75-leases>

<https://www.ipsasb.org/publications/request-information-concessionary-leases-and-other-arrangements-similar-leases>

IPSASB has sought public suggestions on the above drafts. Worthy Members are requested to kindly review the draft and forward their valuable comments/ suggestions/ feedback to tspd@icmap.com.pk latest by **May 10, 2021** for onward submission to IPSASB.

2. IESBA UNDERLINES IMPORTANCE OF OBJECTIVITY FOR ENGAGEMENT QUALITY REVIEWERS AND OTHER APPROPRIATE REVIEWERS THROUGH ENHANCED GUIDANCE

The International Ethics Standards Board for Accountants (IESBA) released revisions to the International Code of Ethics for Professional Accountants (including International Independence Standards) addressing the objectivity of an engagement quality reviewer (EQR) and other appropriate reviewers.

This project was merged with the International Auditing and Assurance Standards Board's (IAASB's) development of International Standard on Quality Management (ISQM) 2, Engagement Quality Reviews, which was finalized in December 2020.

The revisions provide guidance that supports ISQM 2 in addressing the eligibility of an individual to serve in an EQR role, focusing on the critical attribute of objectivity.

Among other matters, the guidance:-

- Elaborates on the need to identify, evaluate and address threats to compliance with the fundamental principle of objectivity that might arise in the appointment of an individual as an EQR for a given engagement;
- Explicitly refers to and supports the requirement in ISQM 2 for a firm to establish, as a condition for eligibility, a cooling-off period of two years before an engagement partner can assume the EQR role on the same engagement; and
- Emphasizes that this cooling-off requirement in ISQM 2 serves the dual objective of supporting compliance with the fundamental principle of objectivity and the high quality of engagements.
- The guidance may also apply in situations where, as a safeguard to address identified threats to compliance with the fundamental ethics principles, an individual is appointed as an appropriate reviewer for work performed.

The enhanced guidance will become effective from December 2022.

For further details, please visit the following link:-

<https://download1.fbr.gov.pk/SROs/20211111613510256SRO13of2021.pdf>

3. UK FRC & IESBA JOINTLY ISSUE STAFF GUIDANCE TO HIGHLIGHT THE ETHICAL AND AUDITING IMPLICATIONS ARISING FROM GOVERNMENT-BACKED COVID-19 BUSINESS SUPPORT SCHEMES

The International Ethics Standards Board for Accountants (IESBA) and UK Financial Reporting Council (FRC) jointly released the publication "Ethical and Auditing Implications Arising from Government-Backed COVID-19 Business Support Schemes".

This staff publication highlights ethical and auditing implications arising from government-backed business support programs which have been utilized at unprecedented levels during the COVID-19 pandemic. The guidance sets out important ethical considerations for professional accountants who are called upon to assist their employing organizations or clients in applying for and using COVID-19-related funding or financial support. The document includes guidance for those who prepare related financial information and disclosures, as well as for those who independently audit or provide assurance services regarding such information. The publication was developed by the Staff of UK FRC under the auspices of a Working Group formed by the IESBA and national ethics standard setters (NSS) from Australia, Canada, China, South Africa, the UK and the US.

The Guidance document can be accessed through the following link:-

<https://www.ethicsboard.org/publications/ethical-and-auditing-implications-arising-government-backed-covid-19-business-support-schemes>

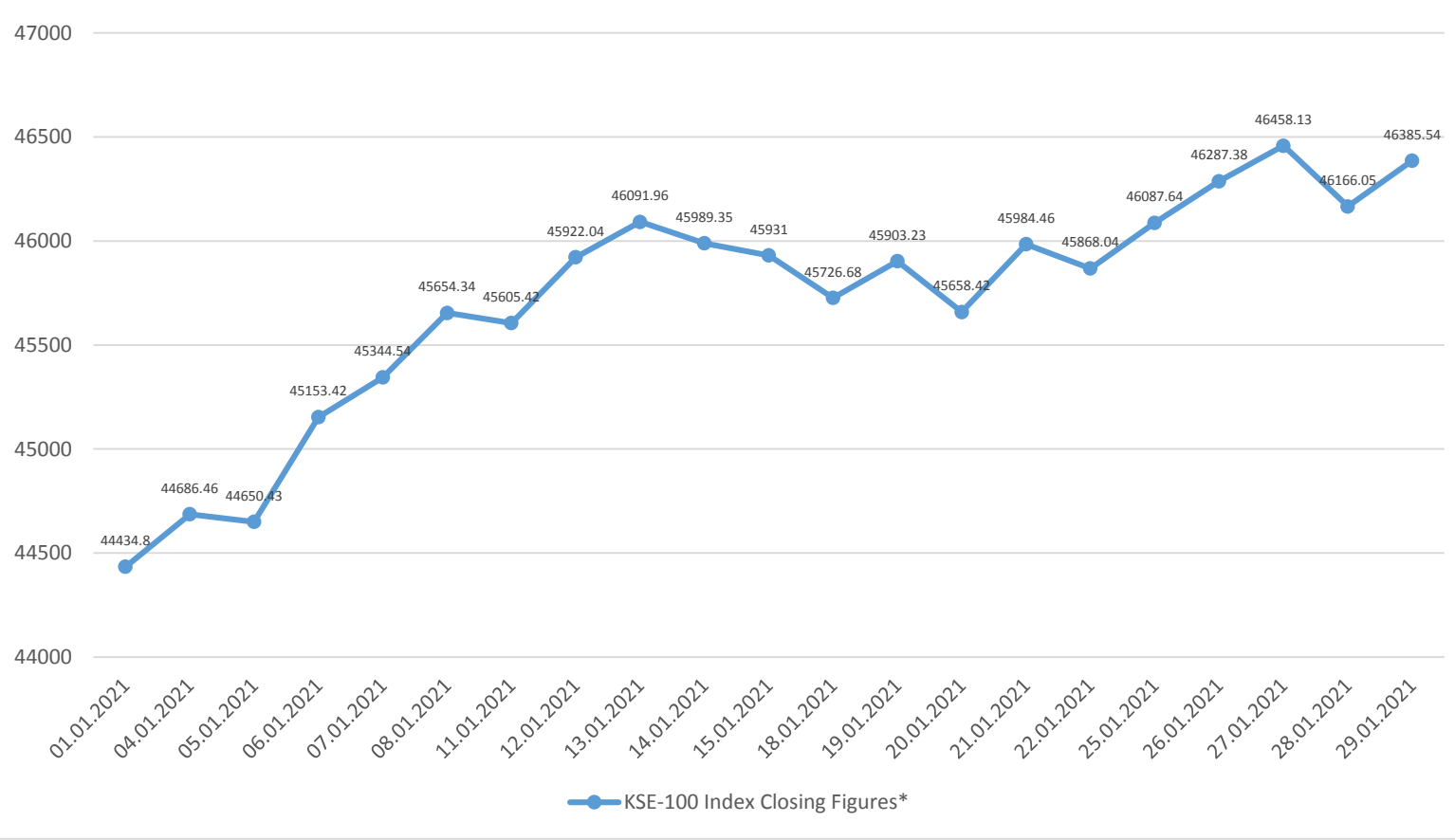
Pakistan Stock Market

Pakistan Stock Market – KSE-100 Index Fluctuations during January, 2021

Date	KSE-100 Index Closing Figures*	Date	KSE-100 Index Closing Figures*	Date	KSE-100 Index Closing Figures*
01.01.2021	44434.80	12.01.2021	45922.04	21.01.2021	45984.46
04.01.2021	44686.46	13.01.2021	46091.96	22.01.2021	45868.04
05.01.2021	44650.43	14.01.2021	45989.35	25.01.2021	46087.64
06.01.2021	45153.42	15.01.2021	45931.00	26.01.2021	46287.38
07.01.2021	45344.54	18.01.2021	45726.68	27.01.2021	46458.13
08.01.2021	45654.34	19.01.2021	45903.23	28.01.2021	46166.05
11.01.2021	45605.42	20.01.2021	45658.42	29.01.2021	46385.54

*As published in Daily Dawn

KSE-100 Index Closing Figures*

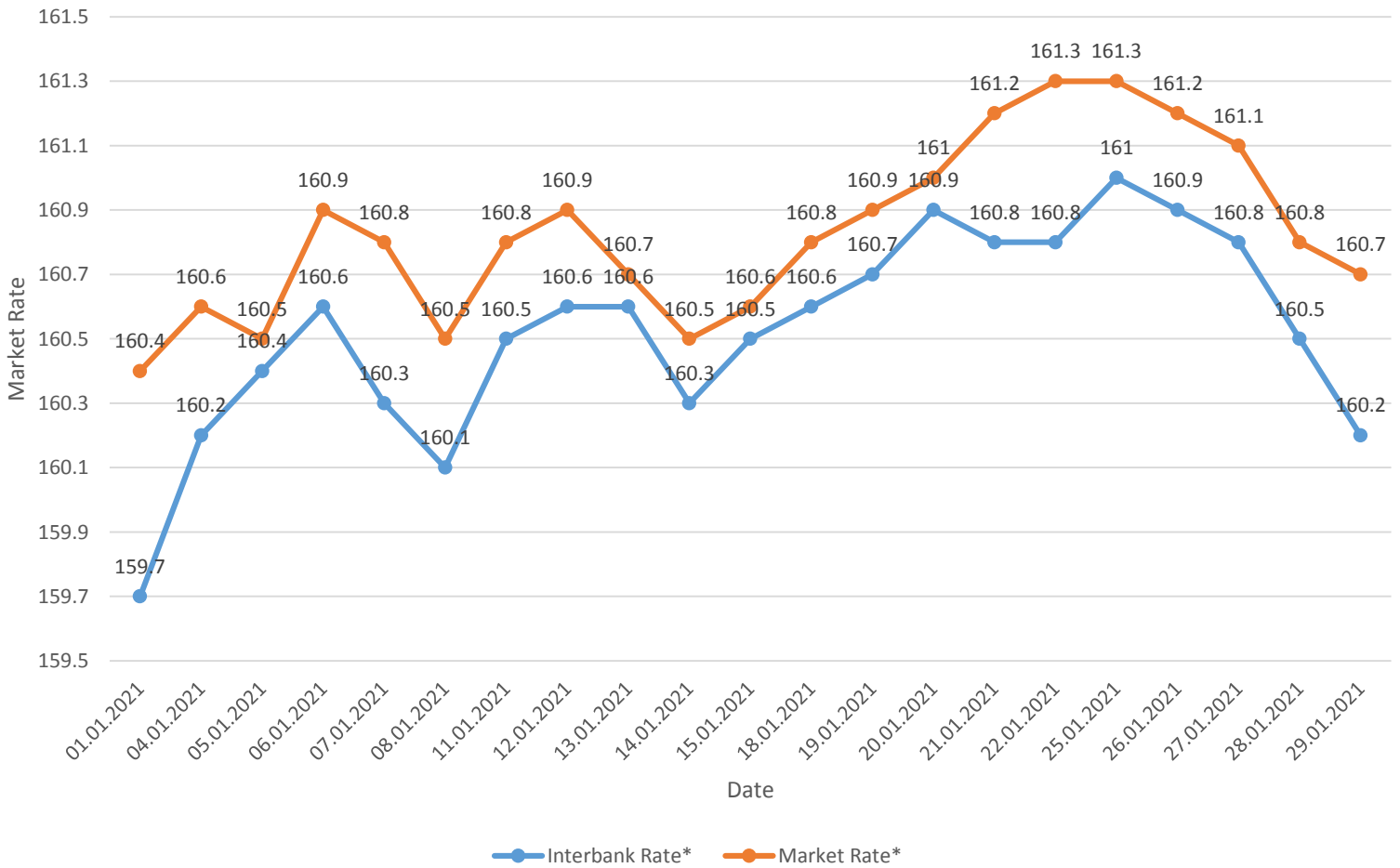


Rupee-Dollar Parity

Date	Interbank Rate*	Market Rate*	Date	Interbank Rate*	Market Rate*	Date	Interbank Rate*	Market Rate*
01.01.2021	159.7	160.4	12.01.2021	160.6	160.9	21.01.2021	160.8	161.2
04.01.2021	160.2	160.6	13.01.2021	160.6	160.7	22.01.2021	160.8	161.3
05.01.2021	160.4	160.5	14.01.2021	160.3	160.5	25.01.2021	161.0	161.3
06.01.2021	160.6	160.9	15.01.2021	160.5	160.6	26.01.2021	160.9	161.2
07.01.2021	160.3	160.8	18.01.2021	160.6	160.8	27.01.2021	160.8	161.1
08.01.2021	160.1	160.5	19.01.2021	160.7	160.9	28.01.2021	160.5	160.8
11.01.2021	160.5	160.8	20.01.2021	160.9	161.0	29.01.2021	160.2	160.7

*forex.pk

Rupee-Dollar Parity during January, 2021



AML/ CFT Frequently Asked Questions (FAQs)

AML Supervisory Board

ICMA Pakistan published Frequently Asked Questions (FAQs) on Anti-Money Laundering (AML) and Counter Financing of Terrorism (CFT) to provide guidance and assistance to the CMAs in understating and implementing their statutory obligations under the “Anti-Money Laundering and Combating Financing of Terrorism Regulations for Cost and Management Accountants Reporting Firms (CMAs)” issued by ICMA Pakistan and legal/ regulatory framework in force in Pakistan in addition to the international legislation on AML and CFT.

These FAQs are aimed to facilitate CMA Firms to easily grasp and execute their obligations and to comply with the regulatory expectations for Anti – Money Laundering and Sanctions Compliance. The FAQs have been prepared for illustrative purposes only and should not be considered as a substitute of AML/ CFT Regulations.

SECTION I – GENERAL QUESTIONS

1. What is the applicability Criteria of members for the purpose of AML / CFT Compliance requirements?

The Institute’s AML Regulations deals with the responsibilities of the Institute’s Members in Practice that in the ordinary course of business are engaged in the rendering of “Accountant” and “Trust and Company Service Provider” services, as specified. Such Members in Practice have to comply with specific customer due diligence, record keeping and other AML / CFT Requirements as per the AML Regulations.

2. What is meant by “Accountant” for the purpose of AML Regulations?

“Accountant” means sole practitioners, partners or employed professionals within professional firms when they prepare for or carry out transactions for their client concerning:-

- the buying and selling of real estate;
- buying and selling of business entities;
- the managing of client money, securities or other assets;
- the opening or management of bank, savings or securities accounts;
- the organisation of contributions necessary for the creation, operation or management of companies; or
- creation, operation or management of legal persons or arrangements

Explanation: The term “Accountants” is not meant to refer to ‘internal’ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML/CFT measures.

3. What is a Trust or Company Service Provider under the AML Regulations?

A trust or company service provider is any person whose business is to provide any of the following services:-

- Forming companies or other body corporates;
- Acting or arranging for another person to act;
 - (i) as a director or secretary of a company
 - (ii) as a partner of a partnership; or
 - (iii) in a similar capacity in relation to other legal persons;
- Providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or legal arrangement; and;
- acting, or arranging for another person to act, as a trustee of an express trust or similar legal arrangement.

4. Please give some examples of Services that can be categorized as ‘Accountant’ or ‘Trust and Company Service Provider’ (collectively called Specified Services).

Some of the common examples of Services that can be categorized as ‘Accountant’ or ‘Trust and Company Service Provider’ (collectively called Specified Services) are as under:-

Managing client funds, accounts, securities, or other assets

- The practicing firm is engaged in managing payments to or from its clients’ accounts as a specified service; and, with the exception of payments for professional fees, any instance where the practicing firm receives or holds client funds and controls the payment of those funds will also be specified service.
- The key determining factor is whether the practicing firm has control over the flow of funds (if it has the control then the activity is specified service).
- Taking a payroll situation, for example, if practicing firm is preparing the vouchers or uploading the payments in the system that are then actioned by the client, in such a case the practicing firm is not controlling the funds, rather client is. However, if practicing firm is authorizing salary payments from the client’s account directly into client staff’s personal accounts, then this is a specified service.
- The practicing firm has the authority to make payments on behalf of its client’s business directly from client’s bank accounts.

- The practicing firm makes investments on behalf of a client in securities and/or other assets using funds from the client's bank accounts which practicing firm has the authority to transfer.
- The practicing firm manages the sale and / or purchase of trust assets for the client using funds from the client's bank accounts which practicing firm has the authority to transfer.
- The practicing firm disburses the funds generated from a company's winding up / liquidation to a creditor in line with the relevant administration requirements.

Acting as a formation agent for legal persons or legal arrangements

- This activity refers to forming a legal person (such as a company) or legal arrangement on behalf of a client; for example, registering a company with the SECP.
- The activity does not include instances where the practicing firm simply provides advice about formation of a legal person that is acted on by either the client themselves or a third party. In the case of forming a company, if client asks a lawyer to get the company registered in accordance with the practicing firm's advice, the specified service would be undertaken by the lawyer and they would have to apply their AML / CFT compliance program to that activity/ service.
- Example of that kind of activity would be the Incorporation / Registration of a company with the SECP on behalf of a client.
- Example of that kind of activity would be the Incorporation of an entity (partnership/ firm/ society/ company etc.) on behalf of a client.

Acting, or arranging for another person to act as a director or secretary of the Company or a partner in a partnership firm

- This activity refers to the scenario where the Practicing firm / member is acting as a Director of a company or a Partner in a partnership concerns. This also includes where the firm has arranged any other person to act in this capacity.
- This activity will be classified as a specified service only if the practicing firm has the authority to act or arrange a person as a director of the company or a partner in a partnership concern.
- Where the firm has only assisted the company / partnership in appointment of director / partner by sharing the database of the individuals and the firm has no authority with regards to the selection process of the candidate, that service will not be classified under the Specified Services.

Providing an office or address for a company or legal arrangement

- A practicing firm which, in the ordinary course of business, provides a registered office or a business address, a correspondence address, or an administrative address for a company, or a partnership, or for any other legal persons or arrangement, is a specified service.

5. What is meant be "arranging" for someone to act?

Arranging for someone to act in a particular capacity has a narrow meaning. An example would be if the Reporting Firm has provided a client with a company director, selecting the director without further reference back to the client and completing some or all of the formalities to appoint the director. It does not include the normal process of headhunting or advertising to find a suitable candidate for a position that a recruitment agency would carry out.

6. What does in the 'ordinary course of business' mean?

Whether an activity is in the ordinary course of business is ultimately a question of judgment and depends on the nature of the entity's business. There is no bright – line test to determine the answer, and that is because all businesses are different. However, some relevant factors to take into consideration would be whether the activity:-

- Is normal or otherwise unremarkable
- Is frequent & regular (meaning predictable, consistent)
- Involves significant amounts of money
- Is a source of income
- Involves significant resources
- Involves a service offered to customers

7. Is book keeping services, provided to the clients, falls under the purview of the AML/ CFT specified Services?

If the firm is only providing book keeping services, it does not fall under the AML/ CFT specified Services.

8. Is due diligence services provided by the firm to the client in the sale / purchase of a business entity falls under the specified services?

The services provided by an Accountant in the buying or selling of business entities would include financial due diligence. This would be one of the main reasons why a customer / client would engage the services of an accountant in the first place. To exclude this service, it would undermine the intent of including accountants under AML / CFT.

9. What is meant by High Net Worth Individual in the context of Reporting firms providing services to clients?

In practice, if the reporting firm is onboarding a new customer / client and the services to be provided to the client involve managing significant assets or funds (above a certain threshold identified by the reporting firm in its AML / CFT policy), the reporting firm would need more information and verification of the source of funds and/or wealth, and thus would fall under the requirements of Enhanced Customer Due Diligence as per International Practice. The reporting firm would also require Senior Management approval before onboarding of such clients.

10. Is being a joint signing authority with the client on their bank account falls under the ambit of the AML/ CFT specified Services?

The key determining factor is whether you have control over the flow of funds – if you do have control, it will fall under the ambit of the AML/ CFT specified Services.

11. Whether filing of Forms on behalf of the Company for its Incorporation classified in the reporting activity?

Filing of Statutory forms for the Incorporation of the Company or Body Corporate is mentioned in the definition of the “Trust or Company Service Provider” and, therefore, classified as a Reporting Activity.

12. Whether filing of Statutory forms / Annual Returns (Form A / B / 29 / 45) on behalf of the Company in accordance with the Companies Act, 2017 classified in the reporting activity?

Once the company is formed, the filing of Statutory Forms / Annual Returns is a regulatory requirement under the provisions of the Companies Act, 2017, therefore, does not fall under the Reporting Activity.

13. Are outsourcing of trainees to finance departments fall under definition of "Accountants"?

It depends on the terms and conditions of the engagement with the client. If the outsourced trainees are only deputed for book keeping where there is no authority involved, the service will not be covered under the definition of “Accountants”.

14. As an auditor, if the firm is only certifying receipt of subscription money of its client in case of right issue, does it come under the category of reporting firm?

The certificate of receipt of Subscription money of the client does not fall under the purview of the Accountant or Trust and Company Service Provider definition.

15. All firms are required to submit Form A irrespective of the fact that they are practicing or reporting firms?

All Practicing firms of ICMA Pakistan are required to submit Form ‘A’ by July 31st every year.

16. When we will report suspicious activity of client? At the end of year or at the time of identification of suspicious activity?

The reporting firms are required to file the suspicious transaction report promptly to the Financial Monitoring Unit (FMU) whenever any suspicious activity of the client is identified.

17. If a firm incorporates a company via nominee director, will be the firm bear status of Reporting firm?

This activity will fall under the definition of Trust and Company Service Provider and therefore, the firm will be classified as a Reporting Firm.

18. Whether reporting firm perform risk assessment, client screening, enhance due diligence and monitoring on all client services or it is limited to those services covered as Accountant and Trust and Company Service Provider?

When the firm is classified as a reporting firm, it will be required to perform Risk Assessment and Due Diligence on all the clients under its portfolio.

19. Does statutory audit fall under AML/ CFT specified Services?

No, the Statutory Audits does not fall under definition of the ‘Accountant’ or ‘Trust and Company Service Provider’.

20. Is there any financial limit or benchmark above which the Forms become applicable?

The applicability is based on Services provided by the firms. Hence, there is no financial limit / threshold / benchmark for the firms to be classified as a Reporting firm.

21. Will the gratuitous services (for which no consideration is paid) provided as accountant or trust service provider be classified under reporting firm?

The firm will also be classified as a Reporting firm if the services of ‘Accountant’ or ‘Trust and Company Service Provider’ are provided without any consideration or professional fee.

22. Where firm is providing support services like mailing address for receiving notices and bank statements in client’s name, is that firm a reporting firm?

Provision of address for the purpose of correspondence falls under the ambit of ‘Trust and Company Service Provider’ and, therefore, the firm will be classified as a Reporting firm.

23. Will providing Internal Audit Services falls under Accountant or Trust and Company Service Provider definition?

Provision of Internal Audit Services does not fall under the ambit of ‘Accountant’ or ‘Trust and Company Provider’ definition.

24. Is Tax Representative considered as Trust?

Provision of services related to Tax Advisory does not fall under the ambit of ‘Trust & Company Service Provider’ definitions.

25. How about Corporate Secretariat services like making of agendas for meeting, calling of meetings, preparing minutes, and like.

Provision of Secretariat services does not fall under the ambit of ‘Accountant’ or ‘Trust & Company Service Provider’.

26. Is there any helpline or direct number that can be shared for queries of AML focal points?

Yes, for Resolution of Queries related to AML Regulations compliance, the ICMA Pakistan has developed a dedicated Email Address: aml.supervisor@icmap.com.pk

27. What are Politically Exposed Persons (PEPs)?

“Politically exposed persons” or “PEPs” – means any person entrusted with a prominent public function by the State of Pakistan, a foreign country or an international organization and includes Heads of state or government, and members and senior officials of legislature, judiciary, executive, military and regulatory authorities, and senior executives of corporations, departments or bodies that are owned or controlled by the state.

28. At what level / grade / designation officers should be considered as PEP?

Reporting Firm shall implement appropriate internal risk management systems, policies, procedures and controls to determine if any customer or a beneficial owner is a PEP. However, the reporting firm should consider the nature of the prominent public function held by the PEP (e.g. level of seniority, access to or control of public funds and the nature of the position).

29. Is there a time limit to declassify a customer as PEP who is no longer a PEP?

The entity should consider the level of influence that the individual could still exercise and whether the individual’s previous and current function are linked in any way.

30. "Based on the law and Regulations, it is my understanding that the definition of ‘accountant’ so far as it refers to ‘prepare for or carry out transactions for their clients’ relates to ‘preparation and being part of actual execution process and documents for a transaction’ in the first part and ‘execution of actual transaction for and on behalf of the client’ on the other part. The decision-making process of the client behind their decision making to carry out the instant transaction, of course, cannot be taken to be included in this ambit. For example, if a client engages a person for services in respect of general advice about valuations in a market where the client operates or valuation of a particular entity, or for legal position in respect of certain legal provisions like applicability of a particular tax or so on, these do not fall within the above definition of Accountant.

The wording of the definition is "preparation for OR carry out transactions for" so it does not require the accountant to be part of the actual execution of the process - indeed, attempted but non-completed transactions are captured under FATF preventive measures obligations. If the account is preparing for a transaction that does not get processed to completion, this requires the same due diligence as once that was completed, and is indeed covered under the activity definitions. However, "advice" as such is not covered (either general advice about market valuations or legal advice) as a relevant transaction. The types of transactions covered include (i) buying and selling of real estate, (ii) managing client money, securities or other assets, (iii) management of bank, savings or securities accounts, (iv) organization of contributions for the creation, operation or management of companies, (v) creating, operating or management of legal persons or arrangements, and buying and selling of business entities. So if the accountant prepares paperwork for the purchase of a company that does not go through, that is covered. But advice on the valuation of a company would not be covered.

31. If a person is being nominated by the Government as a Director in a company does the person bear status of Trust or Company Service Provider?

It's not clear to me under what circumstance this would happen, but technically there is no exemption for government appointed Directors. If this is a government appointed position where acting as the Director is the person's employment, then I don't think that they would qualify. However, if the individual was appointed in their capacity as an accountant to take over the Director job and is being paid for this as a service rendered to a client (that client may be the government in this case), then I think that it would.

32. A Member in practice fall under the definition of “Trust and Company Service Provider”, when he is acting as a director of a company, as a ‘service provider’ to client or holding the company as a Trust, whether a member in practice will fall under the definition, solely because he is designated as the director of a Private Limited Company, in which he genuinely hold shares. (For clarification in query: Such a director would not be involved in routine operations and would hence be a non-executive director of a Private Limited Company).

It is correct that the member would only count as a Trust and Service provider if he/she is acting as the director of a company as a service provider (if he/she is being paid for the service of acting as a Director or if they are doing so as part of their paid employment). If the member is not being paid to act as a Director and it is doing so based on their own interests then no, they would not be captured as a TCSP.

33. If a Member is Authorized by the promoters of the company to present them before SECP to submit application/ documents for grant of license u/s 42 of the Companies Act, 2017, to make amendments in the documents and to collect license on their behalf, will he fall under the definition of “Trust and Company Service Provider. It is to be noted that, incorporation of Company is a separate process and it is possible that Company was already incorporated (it’s the renewal of license case) or it will be incorporated afterwards.

I think this depends on whether or not the Member is presenting themselves as the ongoing contact for the company. From the description it seems that the activities described would qualify as "providing a registered office, business address or accommodation, correspondence or administrative address for a company, partnership or any other legal person or arrangement."

34. If a partner of any CA firm is a trustee in his personal capacity in a trust, will that fall under the definition as provided under (xix) (d) of the Definitions para AML/ CFT Regulations of ICMA Pakistan. Since, as a firm no service is being provided to ‘act’ as a trustee? To clarify he/ she is not ‘acting for another person’ and doing so in his personal capacity.

Similar to the question about acting as a Director in personal capacity, the act of serving as a trustee is only covered in the event that the accountant is being paid to perform that role by a client. Whether or not it is part of a firm-provided service is not relevant though, it is whether it is a service provided to a paying client.

35. If a partner is a director in a company in which he himself has a stake (meaning he is a substantial shareholder, and it is his personal business), again he is not acting as a director on behalf of another person but is a director since he himself is a stakeholder. Will that fall under the definition as provided under (xix) (b) of the Definitions para under the AML/ CFT Regulations of ICMA Pakistan?

It is only covered if it is a service being offered to a client, and for which the accountant is being paid for by the client. As there is no client in this scenario, it would not be covered.

36. If a practicing member of ICMA Pakistan is also a director of a limited company, does he need to report activities of that limited company as Suspicious Transactions under the ambit of the AML/ CFT Regulations of ICMA Pakistan?

If an accountant needs to report on the activities of a company for which it is acting as a director as part of its service to the client. In this case the company would be the client of the member/accounting firm and if the accountant identifies transactions that might be suspicious then yes they would have to be reported to the FMU.

SECTION II – ANTI MONEY LAUNDERING (AML) REGIME

37. Who will be designated as the AML Contact Person by the Practicing firms?

The Practicing Firm is to designate Senior Management Personnel as the AML contact person. The contact details of the designated person are to be shared with the ICMA Pakistan for all AML related correspondence.

38. What is meant by “Senior Management”?

Senior Management includes:

- A sole proprietor of the Firm
- Individual holding the position of Chief Executive Officer / Managing Partner, Chief Operating Officer in a Firm
- A partner or an employee of the firm with sufficient knowledge of the firm’s money laundering and terrorist financing risk exposure, and of sufficient authority, to take decisions affecting its risk.

39. How to do risk assessment?

Reporting Firms are required to assess the money laundering and financing of terrorism risk that they may reasonably expect to face in the course of their business. In making this assessment, the reporting firms is required to consider:

- Nature, size and complexity of its business;
- Products and services it offers;
- Methods by which it delivers products and services to its customers;
- Types of customers it deals with;
- Countries it deals with;
- Institutions it deals with;
- Any guidance material produced by ICMA Pakistan;
- Any other factors that are set out in AML/CFT regulations.

Reporting entities also need to consider whether any of their products involve new or developing technologies that may favor customer anonymity. Further, the ‘National Risk Assessment Report, 2019 (NRA)’ will help the firms in accessing this risk. To obtain the NRA, please contact at aml.supervisor@icmap.com.pk.

40. What is National Risk Assessment (NRA)?

The National Risk Assessment (NRA) is a government-wide activity undertaken to develop risk-based anti-money laundering and countering the financing of terrorism (AML / CFT) actions and facilitate allocation of available resources to control, mitigate, and eliminate risks.

41. In a Sole Proprietor’s case, who is to be the Compliance Officer?

Sole Proprietor must designate an employee to be the Compliance Officer. However, if there are no employees, then the Sole Proprietor may either appoint a Compliance Officer or may act as the Compliance Officer himself. The Compliance Officer can carry out other duties not related to AML / CFT compliance. It does not have to be a standalone position.

SECTION III – CUSTOMER DUE DILIGENCE (CDD)

42. What is meant by “Customer Due Diligence” under AML Regulations?

“Customer Due Diligence” or CDD – means:-

- Identifying the customer and verifying the customer’s identity on the basis of documents, data or information obtained from customer and/or from reliable and independent sources;
- Identifying, where there is a beneficial owner who is not the customer, and taking adequate measures, to verify his identity so that the reporting firm is satisfied that it knows who the beneficial owner is, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement;
- Understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship; and
- Monitoring of business relationships on ongoing basis to ensure that it is being conducted in consistent with the reporting firm’s knowledge of the customer, their business and risk profile, including, where necessary, the source of funds and, updating records and data / information

to take prompt action when there is material departure from usual and expected activity through regular matching with information already available with the reporting firm.

43. Who to conduct Customer Due Diligence on?

CDD to be conducted on the following (if applicable):

- The customer; and
- Any beneficial owner of a customer; and
- Any person acting on behalf of a customer.

For further details, see Section 8-24 of the AML/CFT Regulations.

44. Does the Reporting Firm need to do CDD on all clients?

It is mandatory for the Reporting Firm to conduct CDD for existing and new clients / customers to which the services of Accountant or Trust and Service Company Services are being provided. However, for other services such as audit, it is not mandatory but the Firms are encouraged to conduct CDDs.

45. What is the requirement to apply CDD measures to existing customers?

Reporting firms are required to apply CDD requirements to existing customers on the basis of materiality and risk, and to conduct due diligence on such existing relationships at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained.

Reporting Firms should also conduct CDD on existing customer when there is a significant change in client's profile.

46. What is Risk Based Approach for Customer Due Diligence?

All the CDD measures would be applied, however the extent of the measures would depend on risk of ML / TF.

47. How often should the ongoing monitoring of client relationship be carried out?

Reporting Firm's policy and procedures should specify how often ongoing monitoring is to be conducted. A clear cycle should be indicated for each risk category or type of customer / client, for example at least once a year for high risk cases, at least once every two years for medium risk cases and every three years for low risk cases, or where a review is triggered by a defined event.

48. When can Simplified Due Diligence measures be applied?

Simplified due diligence is the lowest level of due diligence that can be conducted on a client / customer. This is appropriate where there is low risk of products/services or customer becoming involved in money laundering or terrorist financing.

49. What are the SDD measures?

SDD measures may include but shall not be limited to:-

- Verifying the identity of the customer and the beneficial owner after the establishment of the business relationship;
- Reducing the degree of on-going monitoring and scrutinizing transactions;
- Not collecting specific information or carrying out specific measures to understand the purpose and intended nature of the business relationship but inferring the purpose and nature from the type of transactions or business relationship established.

50. When Enhanced Due Diligence measures are applied?

Enhanced due diligence measures are applied in situations that are flagged and assessed as high risk where there is an increased likelihood of money laundering or terrorist financing presented either by customers, service/ product; and/or jurisdiction.

51. Can Customer Due Diligence be outsourced?

You can authorize another person or business to act as your agent to carry out CDD, or to get the necessary information from clients. However, you are still legally responsible for ensuring that the CDD meets the required regulatory compliance.

Please refer to section 24 of ICMA Pakistan AML/CFT Regulations for details regarding reliance on Third Party.

SECTION IV – SUSPICIOUS TRANSACTION REPORT (STR) / CURRENCY TRANSACTION REPORT (CTR) FILING

52. Can STR only be generated for a customer with whom business relation has been established?

It is normal practice for a Firm to turn away business that they suspect might be criminal in intent or origin. Where an applicant or a customer is reluctant / refused to provide adequate documentation (including the identity of any beneficial owners or controllers), consideration should be given to filing a STR.

53. Should STR only be generated for transactions that have been executed?

No. STR should be generated where an attempted transaction gives rise to knowledge or suspicion of Money Laundering / Terrorist Financing.

54. What is the procedure to file STR / CTR?

The Financial Monitoring Unit (FMU) has developed an online portal for the filing and submission of STR / CTR. The portal is called goAML (<https://goamlweb.fmu.gov.pk/PRD/Home>).

The reporting firm will be required to register themselves on the portal for the purpose of filing the STR/ CTR.

55. Is there a requirement to file STR with the Institute?

As per the AML Regulations and the AML Act, the reporting firms are only required to file STR with FMU through goAML portal. No STR is required to be filed with the Institute.

56. What is meant by ‘tipping off’?

Disclosing the fact that a STR or related information has been filed with the FMU is called Tipping Off. It is considered as an offense and is strictly prohibited under the AML Legislation.

57. What is CTR?

CTR stands for Currency Transaction Report which has to be filed with the FMU. It is a threshold based report of cash transaction involving payment, receipt, or transfer of an amount by customers of a reporting firm.

SECTION V – TARGETED FINANCIAL SANCTIONS

58. Who should be included in the screening of sanctions list?

Sanctions list screening should be performed for the customer, beneficial owner of the customer and person(s) acting on behalf of a customer.

59. What happens if a customer’s name appears on sanctions list?

If a customer’s name is matched with a name on a sanctions list, further checks will be needed to determine whether it is a true match. In case of a true match or suspicion of a proscribed / designated person, following actions have to be taken immediately by the firm:-

- Freeze without delay the customer’s funds and assets or block the transaction (if it is an existing customer);
- not provide any services, property or funds to the person in question in accordance with the respective SRO; and
- reject the transaction or attempted transaction or the onboarding of the customer, if the relationship has not commenced
- Lodge a STR with the FMU and notify ICMA Pakistan in the manner as may be directed by ICMA Pakistan from time to time
- Implement any other obligation under the AML Act 2010, United Nations (Security Council) Act 1948 and Anti-Terrorism Act 1997 and any regulations made there under.
- Notify the National Counter Terrorism Authority, in case that person is designated under the Anti- Terrorism Act, 1997.

SECTION VI – ULTIMATE BENEFICIAL OWNERSHIP

60. What is meant by Ultimate Beneficial Owner?

“Beneficial owner” means the natural person who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted and includes legal heir(s) and the person who exercise ultimate effective control over a person.

61. How would you differentiate between direct or indirect ownership or control?

Direct owner refers to individuals and entities who directly own shares in any legal entity. For example, if you own 25% of the shares in a particular entity, you become a direct owner. A direct owner need not necessarily be an individual (natural person) and can also be another entity as in the case where the parent company is a direct owner in its subsidiary. A person can be an indirect owner, if a company or any other business entity in which he has shares, owns another company. For example, if Company ‘B’ is owned to the extent of 25% by Company ‘A’, and Company ‘A’ is owned to the extent of 50% by a natural person, then the said Person is an indirect owner of Company ‘B’ through Company ‘A’, to the extent of 12.5% ownership in Company ‘B’ i.e. 50% of 25%.

62. How would you differentiate between beneficial ownership and legal ownership?

Ownership is the right to possess, use, sell, donate or give as a gift any asset or property belonging to a person known as the “owner.” An owner can either be a beneficial owner or a legal owner.

A legal owner of an asset may either be a natural person or a legal person that holds the legal title of that asset. On the other hand, a beneficial owner is the person with the right to enjoy or benefit from the asset – this can include the right or entitlement to any income from the property. In majority of the situations, the same person is the legal owner as well as the beneficial owner. A beneficial owner must always be a natural person, as a legal person cannot exert “ultimate” control over an asset or entity. This is due to the fact that legal persons are always controlled, directly or indirectly, by natural persons.

63. How would you differentiate between a legal person and a natural person?

Legal persons are any legal entities which are formed and established through a law, such as public companies, private companies, limited liability partnerships, associations not for profit, etc. registered under the Companies Act, 2017.

Natural persons are individuals, who for the purpose of FATF recommendations, shall be recognized as ultimate beneficial owners if exercising ownership and control rights in companies indirectly through legal persons.

SECTION VII – RECORD KEEPING

64. What is meant by Record in the context of AML Legislation?

Records means information related to client due diligence, enhance due diligence, business relationships, or transactions (domestic or International)

and all information related to STRs and CTRs.

65. For how long, the reporting firm is required to keep the records?

Records related to Customer Due Diligence, business relationships and enhanced due diligence shall be kept for a minimum period of five years. Further, the records related to STRs and CTRs shall be kept for a minimum period of ten years from the date of filing of STR / CTR.

Where transactions, customers or instruments are involved in litigation or where relevant records are required by a court of law or other competent authority, the Reporting firm shall retain such records until such time as the litigation is resolved or until the court of law or competent authority indicates that the records no longer need to be retained.

SECTION VIII – POLITICALLY EXPOSED PERSONS (PEPs)

66. Who are Politically Exposed Persons (PEPs)?

PEP means an individual who is or has been entrusted with a prominent public function either domestically or by a foreign country, or in an international organization and includes but is not limited to:

- For foreign PEPs, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations and political party officials;
- For domestic PEPs, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, political party officials;
- For international organization PEPs, members of senior management or individuals who have been entrusted with equivalent functions.

67. Is there a time limit to declassify a customer as PEP who is no longer a PEP?

The entity should consider the level of influence that the individual could still exercise and whether the individual's previous and current function are linked in any way.

SECTION IX' – INDEPENDENT AUDIT

68. What is meant by Independent Audit in the context of AML / CFT for Reporting Firms?

The Independent Audit obligation is a check of a reporting firm's AML / CFT Programme. It will assess whether the AML / CFT Programme is functioning in practice and that the policies, procedures and controls in place are based on the money laundering and financing terrorism risks identified by the Reporting Firm.

69. What is the Scope of Independent Audit within the reporting firm?

Firms do not have to appoint external auditors to carry out the independent audit. However, the audit should be carried out by a part of the firm which is independent from the AML function being assessed, and the degree of audit required will depend on the size of the firm.

This may be conducted by:

- The audit programme should be adequate and in line with the Reporting Firm's size, context, complexity, internal risk assessment. It may be supported by audit policies and procedures, audit testing scripts and working papers along with the audit reports.
- The audit programme scope should cover all relevant components of the compliance programme (risk assessment; policies and procedures; CDD and record keeping; PEPs, targeted financial sanctions and enhanced measures; suspicious transaction monitoring and reporting; senior management oversight; training; and any outsourcing relationships) on a reasonable timeframe.
- The audit programme should focus on effectiveness of the mitigating controls implemented by the Reporting Firm, rather than a "tick box approach." The policies and procedures should be adequately implemented in practice, and systems including IT and technology systems, should be working as intended and reliance can reasonably be placed upon them.
- The audit program should identify areas where the Reporting Firm did not meet minimum legal or regulatory AML / CFT standards, further, the processes should be in place to monitor the remediation of identified deficiencies, and that deficiencies are being remediated in practice.

Sole Proprietor firms or firms having smaller number of partners / professional staff may use the following guidance;

- A check should have been made of the AML systems and controls by an individual who is not directly involved in the function being audited. This might include that individual checking that there are systems in place for carrying out CDD, record keeping and suspicious transaction reporting.
- The audit should be documented and that any issues requiring remediation are actioned.
- Sole practitioners, who do not employ or manage staff would not be expected to carry out a particularly formal review, but would be expected to be able to demonstrate to the supervision team that they understand the concepts and requirements of AML compliance. The sole practitioner would, in effect, be the compliance officer and the auditor.
- Small firms employing 2 persons would ideally have one person in the compliance officer role, and the other carrying out the audit function.

Legal Privileges Available to Cost and Management Accountants*

Sr.	Description	Legal Statute	Relevant Section / Rule
1	To act as an Auditor	Companies Act, 2017	Section 247(b)
2	Appointment as Special Auditors by FBR for Income Tax Audit	Income Tax Ordinance, 2001	Section 177 (10) Income Tax Ordinance, 2001
3	Appointment as Special Auditors by FBR Sales Tax Audit	Sales Act, 1990	Section 32-A of Sales Act, 1990, & SRO 539(1)/2006 dated 5th June, 2006
4	To perform Audit of Cost Accounts as an Auditor	Companies Act, 2017	Section 250(1)
5	Audit & Certification of Accounts of Non Profit Organizations	Income Tax Rules, 2002	Income Tax Rules, 2002 notified through SRO 774 dated 29th July, 2006
6	Audit of Financial Statements for Agricultural Borrowers	Prudential Regulations for Agriculture Financing 2014	Part C, Regulations R-20
7	Audit of Financial Statements of SMEs	Prudential Regulations for Small and Medium Enterprises Financing 2013	Chapter No. 3, Regulation ME R-4
8	Audit of Financial Statements of Corporate and Commercial Banks	Prudential Regulations for Corporate / Commercial Banking 2011	Part B, Regulations R-3
9	To Act as Legal Representative of Taxpayer	Income Tax Ordinance, 2001 Income Tax Rules, 2002	Sec 223 Income Tax Ordinance, 2001 Rules 84-90 Chp XIV if Income Tax Rules, 2002
10	Delegation of Function by Assets Management Companies	SECP Circular, 2013	No.24/2013 dated December 06, 2013
11	Declaration for Registration of Memorandum	Companies Rules, 1985	Rule 4 (2) (ii)
12	Appointment as Committee Member on Custom matters	Customs Act, 1969	Section 195 C(2)
13	Appointment as Member of Settlement Commission on Custom matters	Customs Act, 1969	Section 196 K(3)
14	Appointment as Accountant Member of the Appellate Tribunal	Anti-Dumping Duties Ordinance, 2015	Rule 65(1)(a), No.2((1)/2015-Pub dated February 26, 2015
15	To Act as Legal representative in Anti-Dumping Tribunal	Anti-Dumping Duties Ordinance, 2015	No.2((1)/2015-Pub dated February 26, 2015
16	To Act as Member of Small Dispute Resolution Committee	Small Dispute Resolution Committees (Constitution and Procedure) Rules, 2015	Section 4(1)(b)
17	To act as an Expert in the Companies Act, 2017	Companies Act, 2017	Section 2(30)
18	To act as Certifier in the memorandum and articles	Companies Act, 2017	Section 17(3)
19	To act as Auditor for making report in case of return as to allotments	Companies Act, 2017	Section 70(b)
20	To act as an Intermediary in terms of Section 455 of the Companies Act, 2017	Intermediaries (Registration) Regulations, 2017	Section 3(i)(b)
21	To act as an Internal Auditor in the listed companies	Code of Corporate Governance	Code of Corporate Governance
22	To carry out the Audit of Separated Accounts	PTA Accounting Separation Guidelines, 2007	Sub-Clause 9(1)
23	To act as an Expert in the Panel of Insolvency Experts	Corporate Rehabilitation Regulations, 2019	Sub-Clause 4(ii)
24	To act as a Provisional Manager and Official Liquidator	Panel of Provisional Managers and Official Liquidators Regulations, 2019	Sub-Clause 4(a)
25	To act as a member of ADRC	Income Tax Ordinance ,2001	Section 134 A

*The above furnished details are compiled to the best of our knowledge, however, Worthy Members are encouraged to provide their inputs and feedback on the above information.

TECHNICAL SUPPORT & PRACTICE DEVELOPMENT COMMITTEE