Frequently Asked Questions (FAQs)
on
Sectoral Risk Assessment of Legal Person and Legal Arrangements (LPLA)

SECP

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

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SECP is pleased to publish this new version of SECP's Frequently Asked Questions (FAQs) on AML/CFT aiming to facilitate understanding of SECP's regulated financial services industry and investors to comprehend and implement their obligations under the AML/CFT regime and to meet evolving regulatory expectations for anti-money laundering and sanctions compliance. This batch is specially focused on Sectoral Risk Assessment of Legal Person and Legal Arrangements (LPLA) 2021.

The information included in these FAQs will assist Financial Institutions, DNFBPs, their supervisors and LEAs on a range of topics, such as KYC, CDD, risk assessments and how to comply with AML/ CFT standards issued by SECP in light of Financial Action Task Force (FATF) Recommendations.

Note: The following questions and answers have been prepared for illustrative purposes only.

1- What is a sectoral risk assessment?

The Sectoral Risk Assessment is a comprehensive process to help a country identify, assess, and understand the risks that arise from vulnerabilities of a particular sector that may facilitate money laundering or terrorist financing. The sectoral inherent vulnerability assessment consisted of an assessment of inherent ML/TF vulnerabilities of Legal Person and Legal Arrangements as a whole sector.

2- What is the purpose of a LPLA risk assessment?

The purpose of the latest LPLA risk assessment is to update Pakistan's assessment of the inherent risks associated with legal persons and legal arrangements in light of new mitigations and will guide the implementation of the framework at the entity level.

3- Has Pakistan previously assessed inherent risks of LPLA and what was its impact?

Yes, an initial assessment of risks relating to LPLA was undertaken in the chapter 07 of the National Risk Assessment (NRA) 2019. The results of NRA 2019 supported a comprehensive self-assessment of Pakistan's compliance with the FATF standards, including in relation to Recommendations 24 and 25 and Immediate Outcomes 5. As a result of this self-assessment, Pakistan identified gaps in its framework and identified measures to mitigate these risks, including through legislative and regulatory changes and new administrative measures.

4- Who should take help/assistance/benefit from the outcomes of LPLA Risk Assessment? –

The form, scope and nature of ML/TF risk assessments should ultimately meet the needs of its users – whether these are policy makers, supervisors, operational agencies, financial institutions, DNFBPs, etc. The number and diversity of users of an assessment varies according to the purpose for which it is carried out; however, users of this risk assessments might include:

- Policy makers and other authorities, for example, in order to formulate the national AML/CFT policies, make reasonable decisions on the legal and regulatory framework and the allocation of resources to competent authorities.
- Operational agencies, including law enforcement, other investigative authorities, financial intelligence units (FIUs), relevant border agencies, etc.
- Regulators, supervisors and self-regulatory bodies (SRBs).
- Financial institutions, and designated non-financial businesses and professions (DNFBPs), for which the national-level ML/TF risk assessment is a critical source contributing to their own ML/TF risk assessments and risk-based obligations.
- Non-profit organisations (NPOs).
- AML/CFT assessors and assessment bodies more broadly, along with other international stakeholders.
- Corporate entities, LLPs, Cooperative Societies, Trust and Waqfs and their registries;
- The general public, as well as academia, specified individuals, etc.

5- Why is this assessment important and what areas are covered in it?

Identifying, assessing, and understanding ML/TF risks is an essential part of the implementation and development of a national anti-money laundering / countering the financing of terrorism (AML/CFT) regime, which includes laws, regulations, enforcement and other measures to mitigate ML/TF risks. It assists in the prioritization and efficient allocation of resources by authorities and private sector. The results of a national risk assessment, whatever its scope, can also provide useful information to financial institutions and designated non-financial businesses and professions (DNFBPs) to support the conduct of their own risk assessments. Once ML/TF risks are properly understood, country authorities may apply AML/CFT measures in a way that ensures they are commensurate with those risks – i.e. the risk-based approach (RBA)

6- How can a LEAs take benefit from the findings of LPLA risk assessment?

The LEAs can understand the scale and impact of identified risks in the sectoral assessment of LPLA which will assist in determining the appropriate level and nature of measures applied while investigating a particular sector and related threats originating from it. Moreover, it will also provide them a better understanding about identifying beneficial ownership and control of LP/LAs which may be used by launderers and financiers;

7- How can a Supervisors/Regulators take benefit from the findings of LPLA risk assessment?

The FATF methodology requires that the Supervisors/Regulators should take steps to promote effective supervision or monitoring such that they are able to demonstrate that risk-based measures apply to their regulated sector. The findings of this sectoral risk assessment of LPLA provide a useful foundation upon which the Supervisors/Regulators can effectively implement their risk-based AML/ATF frameworks. The SECP uses a risk-based supervisory framework in undertaking its AML/CFT mandate.

8- How can a Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs) take benefit from the findings of LPLA risk assessment?

Financial institutions and DNFBPs are expected to (i) understand the nature and level of the money laundering and terrorist financing risks which they face and (ii) apply AML/CTF policies and procedures to mitigate and monitor these risks. The results of a national risk assessment, whatever its scope, can also provide useful information to financial institutions and designated non-financial businesses and professions (DNFBPs) to support the conduct of their own risk assessments. Once ML/TF risks are properly understood, FIs and DNFBPs may apply AML/CFT measures in a way that ensures they are commensurate with those risks – i.e,. the risk-based approach (RBA).

9- How the risks emanating from foreign trust are covered in the updated LPLA Risk Assessment?

The LPLA risk assessment provide the following factors in this regard:

- Entities possessing following inherent characteristics are more likely to be abused for ML/TF purposes
  - having foreign companies/entities/trusts (whether registered in Pakistan or not) as member/ shareholder/investor/partner/trustee;
  - Trust sponsored from abroad;
  - those waqf properties who are recipient of any foreign charity or donor agencies.
  - having foreign bank accounts;
- Moreover, the use of foreign trusts might convey risks of unlawful practices owing to criminals making the most of the differing treatment of these legal arrangements by tax authorities and of the potential lack of coordination between them.

10- What are the Factors to consider high-vulnerable LP/LA?

The following characteristics pertains to high-risk LP/LAs:

Type of LP/LA	Vulnerability characteristics of high-risk LP/LA
Private companies	- Multi-layered (having more than two layers) ownership or control structures; - Having foreign companies/ entities/trusts(whether registered in Pakistan or not) as member/shareholder; - Referred in financial intelligence received from FMU or LEAs; - Having Proscribed/designated persons as members, partners, directors or officers; - Inactive companies; - Having PEPs as members, partners, directors or officers; - Operating or registered in areas witnessing terrorist activities; - Large sized Companies having higher paid up capital, turnover, etc.; - Involved in deposit taking from the public, multi-level marketing, Ponzi schemes or other fraudulent or unauthorized business activities;
Public companies	Companies involved in insider trading and market manipulation.
Foreign companies	- International operations in countries rated as high risk; - Having shareholders or directors from high risk and monitored jurisdictions.
Domestic LLPs	- Partners with foreign nationality - Partners who are politically exposed persons; - Multiple layers of ownership.
Foreign LLPs	- International operations in countries rated as high risk; - Having partners from high-risk and monitored jurisdictions.
Cooperatives	- Societies having high working capital; - Higher number of members; - Geographical position of the society is in border areas; - Business of the society is in multiple districts; - Members are from multiple districts.
Trusts	- The trusts operating in border areas or in merged districts; - Trusts with off-land (foreign countries, inter-provincial) bank accounts; - trusts having multiple bank accounts; - If foreigner is trust member; - Trust sponsored from abroad; - Trusts having multiple layers of ownerships or the funding not directly provided by the Trust Author(s) or is routed through multiple channels; - The details of beneficiaries of the Trusts are not up to date or their documentation is incomplete. - The Trust not functioning as per their mandate or found violative of their purpose; - The Trust reports not timely complied/submitted.
Waqfs	- Geographical location of waqf property; - Shrines, especially those shrines where number of Zaeerin / visitors is greater as well as Cash Boxes are installed; - private waqf properties especially shrines and Masajid who are recipient of any foreign charity or donor agencies.