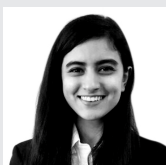


On 15 November 2019, the Central Bank of Myanmar ("CBM") issued Directive 18/2019 on 15 November 2019 on customer due diligence.

AUTHOR



Nainjyot Kaur Gandhi
Legal Associate

Corporate Commercial & M&A Team

Nainjyot Gandhi is a legal advisor and assist clients in the corporate M&A, banking and finance, and TMT sector. She advises international financial institutions, commercial lenders, corporate borrowers and state-owned banks. She also focuses on micro financing and business combinations in Myanmar.

CONTACT



Maxim Kobzev
Senior Counsel
maxim.kobzev@vdb-loi.com

Maxim is counsel with VDB Loi finance team. His practice focuses on cross-border and local project financings, corporate loans, pre-export facilities and restructurings. Maxim advises both borrowers and lenders, commercial banks, corporations and development institutions with particular focus on complex projects in the banking, infrastructure, oil & gas, mining and metals and manufacturing sectors and transactions in the emerging markets.

BANKS ORDERED TO IMPROVE CUSTOMER DUE DILIGENCE

On 15 November 2019, the Central Bank of Myanmar ("CBM") issued Directive 18/2019 on 15 November 2019 on customer due diligence. The directive sets out guidelines for customer due diligence, and mandates that banks develop an effective framework and practices in order to conduct risk assessments and manage money laundering and terrorism financing risks.

Required documents

The directive includes guidance and requirements regarding customer identification. Required customer documentation is described in the lists that are attached as a schedule to the directive.

Ongoing monitoring

Banks should adopt procedures, such as computerized automated systems, to monitor on an ongoing basis customer transactions and the relationship with the customer.

Determination of beneficial owners

If a bank determines that the customer is acting on behalf of one or more beneficial owners, it is required that they should verify the identity of the beneficial owner by using relevant information or data obtained from a reliable source such that the bank is satisfied that it knows the identity of the beneficial owner. The directive defines beneficial owner as

Highlights of this note

- ▶ Required documents
- ▶ Ongoing monitoring
- ▶ Determination of beneficial owners
- ▶ Dealings with other banks
- ▶ Reporting requirements
- ▶ Compliance officer and audit
- ▶ Record keeping

the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

In certain cases, banks are permitted to rely on third party intermediaries to perform customer due diligence, subject to the directive's conditions.

Dealings with other banks

Banks are prohibited from entering into or continuing a correspondent or business relationship with a shell bank in a foreign country.

In addition to performing customer due diligence, the directive mandates that before entering into new cross-border banking relationships, banks should perform a number of verification steps,

including gather sufficient information; evaluate its anti-money laundering and combating the financing of terrorism control measures; evaluate its reputation and quality of supervision, and obtain approval from senior management).

Reporting requirements

the directive provides for certain policies and procedures on wire/electronic transfers, and requires that banks report: (i) cross-border transactions that are in excess of US\$10,000; or (ii) domestic transactions that are in excess of MMK100 million; or (iii) have incomplete information on the originator,, to the Financial Intelligence Unit.

Compliance officer and audit

Compliance officers of banks should have appropriate experience and qualifications. The CBM and Financial

Intelligence Unit must be notified of the details of the appointed compliance officer, as well as of any change in compliance officers. Banks are also mandated to maintain an adequately resourced and independent audit function and establish

screening procedures to ensure appropriate standards when hiring employees and such procedures shall be approved by the Board of Directors or such other management body of the bank.

Record keeping

Among other requirements, banks are further mandated to maintain records: (i) obtained through customer due diligence process, for at least five years, after the transaction or business relationship has ended; and (ii) copies of the reports sent to the Financial Intelligence Unit, for at least five years after the report was sent.

Full text of the directive is available at:

https://www.cbm.gov.mm/sites/default/files/cdd_directive_amendment_eng_13-11-2019_0.pdf

DOWNLOADS



<http://bit.ly/20ko1Ca>



CONTACT

YANGON

Level 10, Unit 01-05, Junction City Office Tower,
Corner of Bogyoke Aung San Road and 27th Street,
Pabedan Township
T +951 9253752~756
F: +951 9253758

NAY PYI TAW

Nilar #2, Business Center, Park Royal Hotel Nay Pyi Taw,
Jade Villa no. 13/14 Hotel Zone,
Dekhina Thiri Township
T: +95 678 106089
F: +95 678 108 092