



**SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
SPECIALIZED COMPANIES DIVISION
(MODARABA WING)**

No. SC/M/CIRCULAR/AML/2009/379

Islamabad, September 9, 2009

Circular No. 29/2009

Anti-Money Laundering Measures - Customer Due Diligence (CDD)/Know Your Customer (KYC)

Circular No. 5 of 2003 dated February 21, 2003 and Regulation No. 4 Part IV of the Prudential Regulations for Modarabas regarding the above noted subject are referred. In exercise of the powers conferred under section 11 of the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 read with rule 3(2)(e) of the Modaraba Companies and Modaraba Rules, 1981 the following additional conditions to safeguard Modarabas against involvement in money laundering activities, terrorist financing and other illegal trades and for conducting the business by Modarabas are hereby imposed, which shall also be deemed to be part of the conditions of the certificate already granted for authorization to float the Modaraba:

1. The Modarabas shall put into place, a comprehensive Customer Due Diligence/Know Your Customer policy (CDD/KYC) duly approved by the Board of Directors of their respective Management Companies. CDD/KYC policy of the Modarabas shall *inter alia* include a description of the types of customers that are likely to pose a higher than average risk to the Modaraba and guidelines for conducting enhanced CDD depending upon the customers' background, country of origin, public or high profile position, nature of business etc.
2. **Minimum Requirements for Account Opening & Identification Documents**
 - a) While establishing an account for a new customer, the Modaraba should know the customer by understanding the customer's objectives and financial position through documenting this knowledge. The first step in meeting these objectives besides obtaining 'Title of Account', 'Contact Details', 'Specimen Signature(s)' of authorized signatories and 'Source of Income', *preferably face-to-face interaction*, it is necessary to obtain certain identification documents as discussed below:

i) Personal Accounts

The Modaraba is responsible for obtaining photocopies (after reviewing the original) of acceptable identification documents from the customer entering into relationship. At least one piece of identification is required and this must bear a photograph.

The following information/documents should be obtained from individual or joint account holders:

- *Attested photocopy of CNIC or Passport*
- *Service Card or any other evidence of service (for salaried persons)*

- Copy of NTN / Assessment Order (If available)
- Power of Attorney (Where applicable)

In case of an illiterate person, a passport-size photograph of the new account holder, and his right and left hand thumb impression on the specimen signature card, should also be obtained in addition to the above documents.

ii) Corporate Accounts

The following documents are required for opening such accounts:

- Memorandum and Articles of Association
- Certificate of Incorporation
- Certificate of Commencement of Business (in case of Public Limited Company)
- List of Directors (Form 29 – latest)
- Resolution of Board of Directors for opening the account and specifying the person(s) authorized to operate the account
- Attested photocopies of CNICs of all the directors of the company
- Latest Financials of the Company (Audited)

iii) Sole Proprietor/Partnership/Joint Venture (JV)

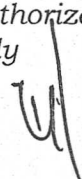
The following documents are required for opening such accounts:

- Attested photocopy(ies) of CNIC of the individual(s) involved in the Partnership or JV
- Certified copy of the Partnership Deed or the Joint Venture Agreement duly signed by all the parties to the Deed / Agreement (in case of Partnership/Joint Venture Accounts)
- Attested photocopy of the Registration Certificate of the firm. If the firm is unregistered, this fact is to be mentioned clearly in the Account Opening Form (AOF)
- Authority letter in favor of the person authorized to operate the account
- Latest Financials of the firm

iv) Clubs, Societies and Associations

The following documents are required for opening such accounts:

- Certified copies of:
 - Certificate of Registration (if registered)
 - Bye Laws
- Resolution of the governing body of the customer for opening the account and authorizing persons for operating the account and attested copies of CNIC of the authorized operators of the account
- An undertaking signed by all the authorized persons on behalf of the institution that in the event of any change in the persons authorized to operate the account, the Modaraba will be informed immediately
- Latest Financials of the Club/Society or Association



v) Agents' Accounts

The following documents are required for opening all such accounts, in which the agent is operating the account on behalf of the principal:

- *Certified copies of:*
 - *Power of Attorney*
 - *CNIC of the agent and the principal*

vi) Trust Accounts

The following documents are required for opening such accounts:

- *Certified copies of:*
 - *Certificate of Registration*
 - *Instrument of Trust / Trust Deed*
 - *CNIC of the Trustees*
- *Legal Opinion of the Lawyer*
- *Copy of the latest Financials*

vii) Executors and Administrators

The following documents are required for opening such accounts:

- *Certified copies of:*
 - *Letter of Appointment of Executor / Administrator*
 - *CNIC of the Executor / Administrator*

- b) For all customers, the Modaraba should determine whether the customer is acting on behalf of another person, and should then take reasonable steps to obtain sufficient identification data (such as a copy of the CNIC, or other relevant documents/information) to verify the identity of the beneficiary.
- c) For customers that are legal persons, or for legal arrangements, the Modarabas are required to take reasonable measures to (i) understand the ownership and control structure of the customer and, (ii) determine that the natural persons who ultimately own or control the customer. This includes those persons who exercise ultimate effective control over a legal person or arrangement.
- d) Government accounts should not be opened in the personal names of the government official(s). Any such account, which is to be operated by an officer of the Federal/ Provincial/Local Government in his/her official capacity, shall be opened only on production of a special resolution/authority from the concerned administrative department.

3. Verification

To further document the Modaraba's due diligence on the customer, permanent residence and/or business information for all the customers must be obtained and verified. Preferred means of corroboration of residence and CNIC are the following:

- Visit to residence
- Residential address appearing on any document issued by a government agency

- Copy of entry from a widely published telephone directory evidencing both customer address and phone number
- Copy of utility bill
- Sending a registered "letter of thanks" at the given address. It should be noted that if the "letter of thanks" is returned undelivered, then place "CAUTION" on the account and inquire for the discrepancy
- Copies of CNIC shall be verified by utilizing the on-line facility of NADRA. In case the Modarabas do not have the on-line facility, then CNIC shall be verified from the Regional Office of NADRA

4. **High Risk Customers**

All prospective customers must be screened based upon the blacklisted entities' list provided by the Office of Foreign Assets Control (OFAC), British Government agencies, State Bank of Pakistan, Financial Action Task Force (FATF), and others. The relationship should be established and/or maintained with the approval of senior management after conducting enhanced due diligence where:

- a) The business relationship or transaction reveals the following;
 - i. *anonymous relationships where beneficial owner is not identifiable;*
 - ii. *known beneficiaries of corruption or illegal activities and high net worth customers with no clearly identifiable source of income;*
 - iii. *shell/domiciliary companies and the customers with links to offshore tax heavens;*
 - iv. *accounts form list of Non-Cooperative Countries issued by FATF that do not comply with the recommendations of FATF against anti-money laundering;*
 - v. *non-resident customers;*
 - vi. *non-legal persons or arrangements including non-government organizations (NGOs)/non-profit organizations (NPOs) and trusts/charities;*
 - vii. *customers dealing in high-value items.*
- b) There is reason to believe that the customer has been refused by another financial institution.
- c) The persons are politically exposed (including foreigners) or customers holding public or high profile positions. For these persons, enhanced due diligence should include the following:
 - i. *Relationship should be maintained with the approval of senior management when an existing customer becomes holder of any public office or high profile position;*
 - ii. *Appropriate risk management system shall be put in place to determine whether a potential customer, existing customer or the beneficial owner, is a politically exposed person, holder of public office or the holder of high profile position. The source of wealth/fund of such customers, shall be monitored on a regular basis.*

5. **Low Risk Customers**

Where there are low risks and information on the identification of the customer and the beneficial owner is publicly available, or where adequate checks and

controls exist, the Modarabas may apply simplified or reduced CDD/KYC measures but not less than the minimum required in this circular. The following cases may be considered for application of simplified or reduced CDD/KYC:

- a) *Financial institutions provided they are subject to requirements to combat money laundering and terrorist financing consistent with the FATF recommendations and are supervised for compliance with those requirements.*
- b) *Public listed companies that are subject to regulatory disclosure requirements, Government administrations/entities.*

6. **Periodic Customer Review Process – Periodic KYC Updation Exercise**

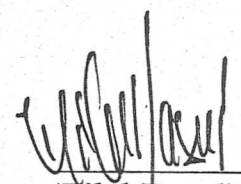
The purpose of the periodic review is to determine whether significant changes have occurred in the relationship, including any changes in the customer, material changes in customer holdings, or other material expansions of activity or product type, on a periodic basis. If major changes have occurred in the relationship, the change should be recorded/updated in the KYC form with the Modaraba.

7. **Documents/Record Retention Period**

The Modaraba shall maintain, all necessary records on transactions and on customer identification (e.g. documents referring to the legal status or the activity of our counterparts, banks or corporations), credit files and business correspondence, for at least ten years, as prescribed by the Companies Ordinance 1984, after the relationship is terminated.

In case the Modarabas are not able to satisfactorily complete required CDD/KYC measures, the account should not be opened, business relationship should not be established and no business transactions should be carried out. Similarly, relationship with existing customers should be terminated and reporting of suspicious transactions be considered if CDD/KYC is found unsatisfactory.

The above mentioned instructions are the minimum guidelines and the Modarabas are advised to follow the same or any other additional measures if deemed appropriate.



(Bilal Rasul)

Registrar (Modarabas)

Distribution:

1. Chief Executives of all Modaraba Companies.
2. Modaraba Association of Pakistan.
3. Central Depository Company of Pakistan Limited.
4. Managing Directors of all Stock Exchanges.
5. Director (IS & T), SECP.
6. Office Copy.