

Contract No.: 278-C-00-02-00210-00

Contractor Name: Chemonics International, Inc.

USAID Cognizant Technical Office: Office of Economic Opportunities,  
USAID/Jordan

Date of Report: May 24, 2005

Document Title: **Assessment of and Recommendations  
For an Anti-Money Laundering Framework  
for the Jordanian Capital Markets**

Final Report

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Activity Title and Number: Achievement of Market-Friendly Initiatives and  
Results Program (AMIR 2.0 Program)

F/NASD, Anti-Money Laundering Assessment,  
FMD Component,  
Work Plan No. 621.03

***Assessment of and Recommendations  
for an Anti-Money Laundering  
Framework for the Jordanian Capital  
Markets***

***Final Report***

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The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

## **Data Page**

**Name of Component:** Financial Markets Development (FMD)

**Authors:** National Association of Securities Dealers (NASD)

**Practice Area:** Financial Sector Services

**Service Offering:** Capital Market Development

### **List of Key Words Contained in Report:**

- Anti-Money Laundering
- Currency Transaction Reports
- Enforcement
- Financial Intelligence Unit
- Suspicious Activity Reports
- Terrorist Financing

## **Abstract**

USAID/Jordan and the Jordan Securities Commission (JSC) requested the AMIR Program to conduct an assessment of the regulatory framework for combating money laundering and terrorist financing (“anti-money laundering” or “AML”) in Jordan and to provide specific recommendations for the Jordanian capital markets. In response to this request, the AMIR Program asked NASD to assist the JSC in formulating an AML program for the capital markets. The NASD team conducted an assessment of regulatory framework for anti-money laundering in Jordan, and found that much is being done already in the AML area, particularly in the banking sector. Moreover, once Parliament adopts draft legislation, currently under consideration, Jordan will have a statutory regime in line with international AML standards. In this report, NASD sets forth its assessment of Jordan’s AML framework and recommends that the JSC require that licensed companies put in place appropriate AML procedures and training.

## **Table of Contents**

<b>Executive Summary.....</b>	<b>1</b>
<b>Background.....</b>	<b>2</b>
<b>Introduction.....</b>	<b>2</b>
<b>Existing Laws and Regulations.....</b>	<b>3</b>
<b>The Proposed Legislation.....</b>	<b>5</b>
<b>Our Comments on the Legislation and any implementing regulation.....</b>	<b>6</b>
<b>AML and the Capital Markets Area.....</b>	<b>11</b>
<b>Recommendations.....</b>	<b>12</b>
<b>Conclusion.....</b>	<b>18</b>
<b>Appendices.....</b>	<b>19</b>

## Executive Summary

USAID/Jordan and the Jordan Securities Commission (JSC) requested the AMIR Program to assess the regulatory framework for combating money laundering and terrorist financing (“anti-money laundering” or “AML”) in Jordan and to provide specific recommendations for the Jordanian capital markets. The AMIR Program asked NASD, which is responsible for drafting AML rules and monitoring broker/dealer compliance with these rules in the U.S., to assist the JSC in establishing an AML program for the capital markets. The NASD team conducted an assessment of regulatory framework for AML in Jordan. We found that much has been accomplished in the AML area, particularly in the banking sector, and that once Parliament adopts the draft legislation that is currently under consideration, Jordan will have a statutory regime that is in line with international AML standards. Once the AML law is passed, the new “National Committee for Combating Money Laundering,” which will include a JSC Commissioner as a member, will draft detailed implementing regulations. The JSC will be responsible for ensuring that the licensed companies within its jurisdiction adhere to the new law and its regulations. In this regard, we recommend that the JSC AML program have a comprehensive training program for the JSC and ASE staff, as well as Compliance Officers; a regulation to focus on fighting money laundering and terrorist financing (this regulation could be a small modification to the existing draft Licensing Instructions); and an enhanced inspections and enforcement program focusing on detecting and preventing money laundering and terrorist financing.

## **I. Background**

USAID/Jordan and the Jordan Securities Commission (JSC) requested the AMIR Program to conduct an assessment of the regulatory framework for combating money laundering and terrorism financing (“anti-money laundering” or “AML”) in Jordan and to provide specific recommendations for the Jordanian capital markets. In response to this request, the AMIR Program asked NASD, which is responsible for drafting AML rules and monitoring broker/dealer compliance with these rules in the U.S., to assist the JSC in formulating an AML program for the capital markets. For this assignment, NASD assembled a three-person team with extensive experience in AML for securities markets. The NASD team consisted of Alma Angotti, a Regulatory Specialist on AML in NASD’s Enforcement Department, who has 19 years’ experience at NASD, the Financial Crimes Enforcement Network (FinCEN), and the U.S. Securities and Exchange Commission (SEC); Will Harter, a Securities Attorney with over 15 years’ experience at NASD and the SEC, who currently serves as NASD International’s AML Specialist; and Jeanne Balcom, Senior Director in NASD’s International Affairs & Services Department.

The NASD team conducted an assessment of regulatory framework for AML in Jordan. We found that much is being done already in the area of AML, particularly in the banking sector, and that once Parliament adopts draft legislation, currently under consideration, Jordan will have a statutory regime that is in line with international AML standards. Once the AML law is passed, the new “National Committee for Combating Money Laundering,” which includes a JSC Commissioner as a member, will draft detailed implementing regulations. The JSC will be responsible for ensuring that licensed companies under its jurisdiction adhere to the new law and its regulations. In this regard, we recommend that the JSC require that licensed companies put in place procedures and training aimed at fighting money laundering and terrorist financing.

## **II. Introduction**

As part of our assessment, we closely reviewed and analyzed Jordanian laws and regulations, currently in place, that provide a foundation for opposing money laundering and terrorist financing. In this regard, we examined the English translations of the Jordan Penal Code, the Banking Law No. 28 of 2000, the Money Exchange Business Law No. 26 of 1992 and implementing instructions, and the Insurance Regulatory Act No. 33 of 1999. We also reviewed the Central Bank’s current guidelines, entitled “Guidelines No. 10/2001 on combating money laundering operations” (Guidelines). We also examined a draft of “The Law for Combating Money Laundering” (Legislation) that is currently before the Jordan Parliament.

In addition, we participated in informative discussions with many representatives of the Jordanian financial markets. See Appendix I for a list of the persons whom we interviewed for our AML assessment.

We conclude that there are several laws and regulations in Jordan already in place to help businesses detect and prevent money laundering and terrorist financing. Significantly, the draft Legislation will broaden the AML requirements to cover **all** companies registered by the Companies Controller, and not just financial services firms under the jurisdiction of the Central Bank and the JSC. This key approach helps assure that illegal money cannot enter the system (in the form of money laundering) -- or that what starts out as legal money cannot leave the system for unlawful purposes (in the form of terrorist financing) -- through a weak link. Moreover, the legislation will establish a central Financial Intelligence Unit (FIU) to which all companies will be required to report suspicious activities. The FIU can serve as a central repository for AML information and reports for both law enforcement and regulators and can monitor significant trends for all registered firms.

In the international context, we understand that Jordan has endorsed United Nations conventions on drug trafficking, money laundering, and terrorist financing. Also on the international front, we learned that the JSC is a member of the recently formed Middle East and North Africa (MENA) chapter of the Financial Action Task Force (FATF) and will assume the position of Vice Chairman of MENA/FATF next year. The FATF has been instrumental in developing recommendations for countries to develop a comprehensive framework for combating money laundering and terrorist financing, and the fact that Jordan will be assuming a leadership in its Middle East chapter is significant.

In this report, we make a few comments and recommendations as to the draft Legislation and outline a number of areas that will require further detail in the implementing regulations. We also set forth recommendations for a three-part program to strengthen the pivotal role that the JSC can play to fight money laundering and terrorist financing in the capital markets.

### **III. Existing Laws and Regulations**

Jordan's Penal Code currently addresses terrorism and terrorist financing. Article (147)(1) of the Penal Code expressly defines terrorism.<sup>1</sup> Then Article (147)(2) of the Penal Code states that terrorist financing is a crime.<sup>2</sup> In addition, the Penal Code, Article (30)(1), provides for forfeiture of any property acquired as a result of a felony or intentional misdemeanor or that was used to assist in committing such felony.

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<sup>1</sup> This Article provides, in pertinent part:

Terrorism means the use or the threat to use violence, whatever the motives or purposes were, individually or collectively in order to disturb the public order...

<sup>2</sup> The Penal Code specifically states:

It shall be a terrorism crime [where] any action connected (related) to any banking transaction and in particular depositing funds with or transferring such funds by any bank in the kingdom or financial firm that practice banking activities to any body if those funds [were] suspicious and related to a terrorist activity.

## Assessment of and Recommendations for an Anti-Money Laundering Framework for the Jordanian Capital Markets

The Banking Law contains significant measures that can be used to attack money laundering. Article (93) states that if a bank learns that the execution of a banking transaction or the receipt or payment of funds is related to, or could be related to, a crime or illegitimate act, the bank must notify the Central Bank.<sup>3</sup> When the Central Bank receives this notification, it must issue an order to the bank that it refrain from executing the transaction, or receiving or paying the funds, for a maximum period of thirty days. Then the Central Bank must notify any official or judicial authority of the matter. Article (88) of the Banking Law provides penalties that the Central Bank may assess for any violations of the Banking Law or regulations.

The Insurance Regulatory Act also criminalizes money laundering. It specifically defines the term,<sup>4</sup> and establishes severe criminal penalties for the commission of money laundering.

In the bank and money exchange company area, the Central Bank now has a unit that specializes in investigating suspicious activities relating to money laundering and terrorist financing, and making official or judicial referrals. The Central Bank has also issued AML Guidelines in accordance with the Banking Law and the Money Exchange Business Law. The Guidelines expressly apply to both banks and money exchange bureaus operating in Jordan and to branches of those businesses operating abroad. The Guidelines also effectively outline the important procedures that banks and money exchange bureaus must follow to fight money laundering and terrorist financing.

These AML Guidelines provide a definition of money laundering and also require that banks and money exchange bureaus:

- Verify the identities of customers.
- Establish internal AML procedures, including adopting internal controls, appointing a liaison officer to coordinate with the Central Bank, and conducting continuous training programs for employees.
- Develop integrated data systems for keeping records pertaining to unusual banking operations and those exceeding 10,000 dinars.
- Use a guidebook (an appendix to the Guidelines) to help bankers identify potential money laundering or terrorist financing circumstances.

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<sup>3</sup> The Banking Law also provides a banking confidentiality or secrecy provision. See Articles (72) and (73). But in the event of apparent criminal conduct, Articles (74) and (93) of the Banking Law expressly override bank secrecy.

<sup>4</sup> The Act provides that:

Money laundering in insurance activities means the transfer of any money resulting from an illegal act, replacing, using or investing of such, in any means to make it legal money without specifying the true origin or ownership, or in the case of giving false information about that.



Again, however, we emphasize that the Guidelines apply only to banks (and securities firms owned by banks) and money exchanges under supervision by the Central Bank. At this juncture, independent brokerage firms and unlicensed firms that have Jordanian customers but who are executing overseas securities, foreign exchange, and precious metal transactions do not fall under the Guidelines.

#### **IV. The Proposed Legislation**

The Jordan Parliament now is considering the adoption of a specific AML statute, providing an overall framework to apply to all companies registered by the Companies Controller. The new law would give financial services firms and other registered companies important tools to detect and prevent money laundering and terrorist financing, thus aiding these firms in not being unwitting conduits of criminal proceeds or terrorist financing. Specifically, the Legislation:

- Defines “illegal money” and states the criminal acts that would give rise to money laundering.
- Establishes a Committee to be called the “National Committee for Combating Money Laundering” (or “Committee”). The Committee will be headed by the Central Bank Governor, and will include the Secretary General of the Ministry of Justice, the Secretary General of the Ministry of Interior, the Director General of the Insurance Commission, the Companies Controller, a Commissioner from the JSC (to be named by the JSC Chairman), and the Chief of the FIU. This Committee will also draft any implementing regulations.
- Establishes, in the Central Bank, a “Unit for Combating Money Laundering.” This Unit, or FIU, will report to the Committee. A Prosecutor-General will review suspicious activities, and can issue orders to investigate criminal activity and to prevent the use of funds.
- Requires banks and registered companies to obtain from their clients information that the implementing regulations prescribe, and to provide information to the FIU or to courts.
- Sets forth criminal penalties for both substantive money laundering violations and related failures to comply with AML laws -- failures that might not in themselves constitute money laundering.
- Absolves the banks and registered companies and their boards and employees from legal and civil responsibility that could arise as a result of presenting information in the context of their compliance with the law.
- Provides that Jordanian officials should cooperate in international AML investigations.
- Requires that any information related to money laundering is confidential and that its release is prohibited.

**V. Our Comments on the Legislation and any implementing regulation**

**A. The application and scope of the Legislation**

We believe the Legislation will significantly assist in anti-money laundering efforts in Jordan. We are especially pleased that the law will cover any company that must be registered under the Companies Law with the Companies Controller. Even though the regulations may initially focus on financial services firms, the broad scope of the legislation gives the Government of Jordan the authority to include other firms in the future, *e.g.*, real estate firms, casinos, etc. Most significantly, the law will encompass all firms conducting any type of securities business in Jordan, even the firms that are conducting securities, foreign exchange, and precious metals transactions only outside Jordan.<sup>5</sup> The proposed legislation is a positive first step towards regulation of these unlicensed firms.

We also note that the new law will require limiting or reporting the amount of cash that is allowed to be brought into the kingdom. This is another key component of an AML regime.

As drafted, the Legislation provides that money is considered illegal if it resulted from any of certain specified crimes. We recommend that the Jordanian authorities consider making the list of predicate crimes as comprehensive as possible. We suggest that, at a minimum, terrorist financing, fraud, securities fraud, and corruption be added to the list of predicate crimes specified in the Legislation.

In regard to specifying crimes, we note that the FATF has developed a list of “designated categories of offenses,” which we have attached as Appendix II. The Jordanian authorities may want to review this comprehensive list when deciding which additional predicate crimes they may also want to include in the law, *e.g.*, extortion, counterfeiting, smuggling, and forgery.

We also recommend that the Jordanian authorities consider, as part of its AML legislation, prohibiting its financial institutions from entering into correspondent relationships with shell banks<sup>6</sup> (or foreign financial institutions that permit their accounts

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<sup>5</sup> It is important to note that without proper oversight of these firms, to monitor compliance with any AML laws and regulations in Jordan, there would be a great potential for these firms to be used for laundering money or for channeling funds to terrorists.

<sup>6</sup> Shell banks are banks incorporated in jurisdictions in which they have no physical presence and which are unaffiliated with regulated financial groups.

to be used by shell banks), as shell banks are considered to be of particularly high risk for money laundering. We are aware that shell banks are not permitted in Jordan, and we recommend that dealing by registered companies with overseas shell banks also be prohibited. Many countries worldwide have this prohibition in their AML laws; this prohibition is also a FATF recommendation.

## **B. Considerations concerning implementing regulations**

The proposed new law will greatly strengthen Jordan's capacity to combat money laundering and terrorist financing. We note below some provisions that will have to be detailed in the implementing regulations to ensure a comprehensive AML regime.

### **1. The Financial Intelligence Unit (or FIU)**

As stated above, the Legislation will require the establishment of a central unit, or a Financial Intelligence Unit (or FIU). The National Committee for Combating Money Laundering will need to issue further regulations as to the FIU. We understand that FinCEN will provide assistance, with setting up the FIU, but we have noted below several suggestions on areas that should be specified in the regulations.

#### **a. Currency Transaction Reports**

We believe that any implementing regulation should specify a threshold amount for cash transactions, and provide that any regulated entity must file with the FIU a report as to a transaction of greater than that amount. Under the Central Bank AML Guidelines, according to the English translation we have viewed, there appears to be only a recordkeeping requirement, for currency operations involving more than 10,000 dinars -- and no specific requirement for banks to file reports, unless regulatory authorities make requests for the information. On the other hand, under its draft instructions for the segregation of accounts, the JSC is considering limiting the amount of cash that securities firms can accept to 20,000 dinars, per transaction.

We think that if brokerage firms or other financial institutions are limited to absolute maximum currency thresholds in which they could deal, such limits could hinder economic and business growth. Alternatively, there is a large benefit to requiring reporting of large transactions, as we describe below.

The purpose of currency transaction reports would be to prevent financial institutions from being used as intermediaries for transfers or deposits of money derived from criminal activities. Generally, these activities generate large amounts of currency, often in small bills, and the cash may be exchanged for larger denominations or converted to other monetary instruments. Thus, currency transaction reporting requirements would provide the authorities with a paper trail of the activities of any persons or entities engaged in money laundering -- whether related to drug trafficking, terrorism, or other crimes.

We believe it is important for the implementing regulations to also require all registered companies to advise the FIU as to each deposit, withdrawal, exchange of currency, or other payment or transfer involving a transaction in currency of more than the threshold amount. By requiring and then scrutinizing reports of large currency transactions, the FIU will be able to effectively monitor a paper trail of currency transactions, in order to help prevent money laundering and terrorist financing. This information will also be a great resource for law enforcement and other regulators. The FIU can compile all of the data, and perform both strategic and tactical analysis of the data.

To ensure that criminals cannot easily circumvent the regulations, the regulations should stipulate that a company must treat multiple transactions made in one day as a single transaction if it knows that the transactions have been executed by, or on behalf of, the same person **and** they result in either currency received or disbursed by the financial entity totaling more than the specified amount.

#### **b. Suspicious Activity Reports**

On a separate note, the implementing regulations should require all registered companies to file suspicious activity reports with the FIU. We believe that every registered company should file a report of any suspicious transaction of an established currency value, involving the possible violation of any law or regulation. It bears emphasis that this would be a report distinct from the currency transaction report; accordingly, an entity could file a currency transaction report and a suspicious activity report in regard to the same transaction.

Suspicious activity reports would provide important intelligence to law enforcement authorities to help them investigate and prosecute crimes and terrorist financing. The reports would allow law enforcement to “follow the money” through the various components of the Jordanian financial system. The reports could also provide law enforcement and regulatory authorities important statistical information to identify money laundering trends and money laundering methodologies, which can in turn help financial institutions identify and manage the risks in their businesses. To the extent that the government receives information about certain individuals who should not have access to the capital markets, the FIU would be an ideal disseminator of such information to financial institutions.

The Committee should establish guidelines specifying the kinds of transactions a regulated entity should report as “suspicious” under the regulations. For example, a suspicious transaction might be one that the financial institution has reason to believe:

- Has no apparent business or lawful purpose;

## Assessment of and Recommendations for an Anti-Money Laundering Framework for the Jordanian Capital Markets

- Apparently involves funds derived from illegal activity, or is part of a pattern of such transactions;
- Is designed to evade any AML laws or requirements; or
- Involves the use of the financial institution to facilitate criminal activity.

The Central Bank AML Guidebook, for example, provides good practical instances of suspicious activities. Most relevant might be:

- Large cash deposits that do not seem logical, executed by a customer who ordinarily conducts activities through checks or other methods.
- A large increase in the number of cash deposits by a person without an obvious reason.
- Changing large quantities of banknotes for smaller denominations without any clear reason.
- Making unusually large deposits by using an ATM to avoid contact with bank employees, especially when the deposits are not compatible with the business or normal income of the person concerned.

See also Appendix III for Red Flags signaling possible suspicious activity in the securities markets.

Any implementing regulations should designate a time requirement for the filing of the suspicious activity report, such as thirty days from the time of the suspicious activity. Moreover, we recommend that in a situation involving an apparent violation that requires immediate attention by the FIU, such as apparent terrorist financing or an ongoing money laundering scheme, the regulated entity should be required to immediately notify by telephone an appropriate law enforcement authority. Then the entity would still be required to file the timely suspicious activity report.

### **c. Format for Submission of Reports**

The implementing regulations or FIU guidelines should provide the appropriate format for the submission of reports to it. The FIU should create standard forms for registered companies to use to report large currency transactions and suspicious activities.

### **d. Civil and Criminal Penalties**

The implementing regulations should specify civil and criminal penalties for a failure to properly file a required currency transaction report or a suspicious activity report or for the filing of a false or fraudulent report. We, of course, note that the draft Legislation already provides for punitive action for money laundering and for violating other stipulations; perhaps, such penalties can be expanded to penalties for failing to file currency transaction reports or suspicious activity reports.

**e. Protection from Liability for Submissions to the FIU**

The draft Legislation provides protection from civil liability for the filing of information; the implementing regulations should make clear that this protection applies to those who file a report of suspicious activity. Likewise, consistent with the Legislation's extension of confidentiality of any information related to money laundering or terrorist financing, the Committee should similarly mandate in any implementing regulation that the filing of any suspicious activity reports is absolutely confidential.

**f. Access to FIU database**

The FIU would collect, analyze, and maintain the reports and information filed with it by financial institutions as to large currency transactions and suspicious activities. We recommend that the Unit make those reports and information available to the criminal authorities and all financial regulators, including the JSC, all of whom will have a role in investigating and preventing money laundering and terrorist financing. The implementing regulations to the AML law would have to specify the extent to which the FIU would make reports available and how it would accomplish this.

**2. Domestic and international cooperation in AML efforts**

On a semi-annual basis, the FIU should identify strategic money laundering and terrorist financing trends and patterns, and identify compliance issues. The FIU would then prepare semi-annual reports identifying such trends and patterns, and provide all financial regulators -- including the JSC -- with access to the reports. And we also suggest that the regulators pass these reports on to the public, including financial institutions themselves, so that they could gain an understanding of trends and patterns.

As we pointed out above, a crucial part of the draft Legislation also extends to Jordan's cooperation in international AML investigations. It will be important for implementing regulations to describe exactly how Jordan will share investigative data and other information with -- both in providing to and receiving this information from -- other FIUs in cooperating nations.

In this regard, since 1995, a number of FIUs have been working together in an informal international organization known as the Egmont Group. The goal of the Egmont Group is to provide a forum for FIUs to improve support to their respective national AML programs.<sup>7</sup> We understand that the Jordanian authorities are interested

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<sup>7</sup> The Egmont Group states that this support "includes expanding and systematizing the exchange of financial intelligence information, improving expertise and capabilities of personnel of such organizations, and fostering better communication among FIUs through application of technology."

in having its FIU apply to be a member of the Egmont Group. Thus, Jordan can be part of a global network of international cooperation.

Overall, we strongly feel that there is a need for a comprehensive and consistent anti-money laundering framework for the entire country. And Jordan is absolutely heading in this direction, with the proposed Legislation and implementing regulations.

## **VI. AML and the Capital Markets Area**

An effective anti-money laundering structure must include capital markets. Otherwise, if only banks are regulated, a person interested in conducting illicit activities would simply avoid banks. On the money laundering side, a criminal customer could deposit monies from illegal activities into his securities account, buy securities, sell securities, and then withdraw his sales proceeds; thus, he would have “laundered” his dirty money into clean money, without regulatory interference. Likewise, on the terrorist financing side, a customer could deposit legitimate monies, again buy and sell securities, and then withdraw his sales proceeds, and then give or direct the money to terrorist organizations, again without regulatory interference.

Brokerage firms can also be used for the layering stages of money laundering. Funds could be wired into a securities account from a jurisdiction with weak money laundering controls, and then wired out again in an attempt to obfuscate the illegal nature of the funds. The more institutions through which funds flow, the more difficult it is for law enforcement to trace back those funds to the original criminal activity. Criminals can also use securities firms to facilitate crimes like insider trading, securities fraud, and market manipulation. Movement of the proceeds of these crimes out of the securities firms would in fact cause the money to be “laundered.” Under the current Central Bank regulatory framework, however, a criminal customer would have greater difficulty in carrying out any of these tasks with a bank account.

Accordingly, the JSC must make sure that the AML law and any corresponding regulations are implemented for the capital markets and that securities firms have the proper procedures and training in place to serve as the first line of defense against money laundering. To achieve these objectives, the JSC will need to put in place a program aimed at the prevention and detection of money laundering and terrorist financing through the securities firms.

We reviewed the JSC’s draft Financial Services Licensing and Registration Instructions of 2004 (Instructions), which are in the process of being finalized. Particularly in regard to customer identification and verification, these Instructions already provide a good start in confronting money laundering and terrorist financing.

The securities firms are even now involved in the vital areas of customer identification and verification. Jordan’s requirement that each natural person have a national identification number is instrumental, and we understand that the Jordan Securities Depository Center (SDC) also verifies the customer identification information when the customer opens an SDC account. We further understand that in

the current draft Instructions on segregation of accounts, the JSC is considering limiting cash that securities firms can accept to 20,000 dinars. However, as we have noted above, in our recommendation on currency transaction reporting, there might not be a need for an absolute limitation. The firms would only need to have appropriate risk-based procedures for customer identification and verification and for ascertaining whether transactions are suspicious.

## **VII. Recommendations**

In the context of the above, we recommend that the JSC AML program have the following three components:

- A comprehensive training program for the JSC and ASE staff, and Compliance Officers.
- A regulation to focus on fighting money laundering and terrorist financing (this could be as simple as making a small modification to the existing draft Licensing Instructions).
- An enhanced inspections and enforcement program focusing on detecting and preventing money laundering and terrorist financing.

**Recommendation 1: We recommend that the JSC offer a training program on AML compliance for the JSC and ASE market surveillance, inspections, and enforcement staffs and that this program be extended to cover Compliance Officers once they are in place at the firms.**

Rationale: It is critical that all personnel in the capital markets regulatory area understand their extremely important roles in efforts to combat terrorist financing and money laundering. We recognize that there are already controls in Jordan in the banking area. We certainly do not want to see potential criminals take advantage of any weaknesses on the capital markets side, as we have emphasized above. Therefore, it is essential for the JSC to conduct AML compliance training.

Training will help regulatory officials to better understand how the securities markets may be used for money laundering. The training should be as specific and practical as possible. The JSC should emphasize the importance of the duties and responsibilities of all of its personnel in efforts to prevent money laundering and terrorist financing. The training should focus on money laundering techniques that have been used worldwide. We suggest that the training include case studies, hypothetical scenarios, and discussions of recent AML cases. The training should also discuss the differences between the concepts of money laundering (permitting illegal or dirty money to enter and become integrated into the financial system) and terrorist financing (permitting clean or legal money to leave the financial system to finance terrorists). See Appendix IV for a sample outline for a possible two-day AML training course.



As a related matter, training should also occur at the licensed firm level, once the Licensing Instructions are finalized and firms have appointed their Compliance Officers (who should also be AML Officers). At this point, the JSC also should establish a training program for the Compliance Officer at each licensed firm, once the AML rules are in place. This training should be tailored to the specific rules and focus on the development of sound AML procedures.

In addition, the FIU, or the Committee, or a consortium of regulatory entities -- including the JSC -- should consider an initiative to create public awareness on the importance of combating money laundering and terrorist financing and the government's efforts in this regard.

**Recommendation 2: The JSC rule should create a rule or modify its existing Licensing Instructions to require all of its licensed firms to establish AML procedures, as part of their overall compliance procedures, aimed at detecting and preventing money laundering and terrorist financing.**

Rationale: We believe the JSC should adopt a specific provision in its regulations to provide the minimum standards required for each firm's AML compliance procedures. The JSC could include such a regulation as a separate article on AML procedures in its draft Licensing Instructions (or other Instruction or Decision) or in an article, which includes minimum content standards for all compliance procedures. It bears emphasis that this regulatory provision for AML would not be a significant departure from what is already in place and could be part of the already existing requirement for the firms to develop a set of compliance procedures.

The firm's required AML procedures would be designed to achieve and monitor all requirements of the draft law, and any regulations promulgated by the Committee, the JSC, or any other regulator in regard to anti-money laundering. The regulation should require that a firm, at a minimum:

**1. Establish and implement procedures and internal controls.**

A firm's procedures and controls must be sufficient to detect and prevent money laundering and terrorist financing and to detect and cause the reporting of suspicious activities or large currency transactions, as will be required under the new Legislation or implementing regulations.

**2. Include risk-based procedures for identifying and verifying customers, so as to include riskier customers.**

We recommend that a firm's procedures focus on identification and risk-based verification requirements, with more information verification obtained from those customers deemed to be of higher risk. We recognize that a broker at a securities firm can safely, without concern, open an account for someone he knows well, such as a family member or a close personal or business associate. But where the broker does not know the client, a firm must have customer identification and verification procedures to help the firm form a reasonable belief as to the true identity of the customer.

In regard to a firm's procedures, the JSC's Licensing Instructions will already include significant baseline customer identification and verification requirements. Article (71) of the draft Licensing Instructions requires a firm, in connection with the opening of a customer account, to obtain sufficient information/documents to ensure the client's identity, financial solvency, contractual capacity, and reputation. In addition, Article (72) refers to the requirement that securities firms verify the identity of clients' signatures, after verifying their identities and contractual capacity. Attached as Appendix V are the account opening procedures for securities firms in Jordan, as we understand them. For each account, the procedures essentially -- and appropriately -- require the firm to go through a two-part process: first, to obtain the identity of the customer and, second, to verify that that is the true identity of the customer.<sup>8</sup>

We believe that the identification and verification requirements are sufficient, where the customers and their accounts do not present any apparent risks. The JSC should also explicitly require firms to obtain addresses for their customers, if it has not done so already.<sup>9</sup> Specifically, we recommend that securities firms be required to obtain the residence and business addresses of an individual customer, and, for a non-Jordanian, his permanent residential address in his home country. For any legal entity, whether based in Jordan or outside of Jordan, we recommend that the firm be required to obtain and verify the address of the headquarters of the entity as well as of the specific branch office opening the account.

As a related matter, even once the firm has performed adequate identification and verification, the procedures should require a broker to ask additional questions, such as the source of the funds to be invested, and details about the customer's business and investment strategy. Much of this information is already required by the JSC for

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<sup>8</sup> In addition, no nominee accounts are permitted in Jordan; even if the customer attempts to act through a subcustodian, the broker cannot trade for him unless he identifies the beneficial owner.

<sup>9</sup> In regard to addresses, the draft of the JSC Licensing Instructions that we reviewed did not expressly state that the licensed firm must obtain addresses for either individuals or entities, although, perhaps this is implicit in the requirement to obtain the customer's identity.

## Assessment of and Recommendations for an Anti-Money Laundering Framework for the Jordanian Capital Markets

suitability purposes.<sup>10</sup> A firm can only identify suspicious activity after establishing a thorough basis for knowing what should be normal or typical activity for each customer. The procedures should also recommend heightened scrutiny if the customer refuses to identify or fails to indicate any legitimate source for his funds and other assets.

For higher-risk customers, the firm should have procedures for performing enhanced due diligence. A firm must be able, to a reasonable and practicable extent, to ensure that it knows its customer and understands the source of any funds being invested, for both suitability purposes and AML purposes. The procedures must be based on the securities professional's assessment of the relevant risks, including those presented by the various types of accounts that it maintains, the various methods of opening accounts, the various types of identifying information available, and the firm's size, location, and customer base.

For example, the firm's procedures should reflect that it will exercise increased due diligence, where it is attempting to identify and verify a customer, and the customer is riskier, in that he:

- Presents any unusual or suspicious identification or business documents;
- Submits false, misleading, or substantially incorrect information, whether at the time he opens the account or at any time during the duration of the account; or
- Has difficulty describing the nature of his own business or background or lacks general knowledge of any business that he has included in any account opening information.

In addition, the firm's procedures should address any specific risks associated with non-face-to-face business relationships or transactions. The procedures, of course, should focus on both the time of the opening of the account (the identification and verification stages) and the execution of transactions during the life of the account.

Likewise, the firm's procedures should address what the firm will do in the event that a customer presents other risks, in that he (or a person publicly associated with him) has a questionable background or is the subject of news reports indicating possible criminal, civil, or regulatory violations. The firm's procedures must also focus on responding to situations in which the Company cannot form a reasonable belief that it knows the true identity of a customer.

The procedures should also focus on the fact that there are greater risks where a customer is not from Jordan and particularly if he resides in a country generally acknowledged as having inadequate anti-money laundering standards, or where the customer's funds originate in any of these countries. Likewise, a firm should exercise

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<sup>10</sup> Article (71) of the Draft Instructions also requires firms to obtain information on the client's financial status, tax status, investment objectives, risk tolerance, and time horizon for potential investments for suitability purposes.

a higher degree of due diligence where a customer's activities may present a high risk for crime and corruption, or where the customer is engaged in types of business activities or sectors known to be susceptible to money laundering, such as businesses that generate a great deal of cash.

International standards also require companies to have appropriate risk management systems to determine whether customers are "politically exposed persons." Specifically, the FATF's Sixth Recommendation defines these persons as persons who are or have been entrusted with prominent public functions in a foreign country, such as heads of state or government; senior politicians; senior government, judicial, or military officials; senior executives of state-owned corporations; or important political party officials. The FATF recommends that with these politically exposed persons, firms should have procedures that include a requirement for a securities professional to obtain senior management approval for establishing business relationships with such customers, to take reasonable measures to establish the source of wealth and source of funds, and to conduct enhanced ongoing monitoring of the business relationship with the politically exposed persons.

In any of the above scenarios in which a customer or his account (or the source of his funds) presents risks, the firm should have precautionary procedures. The procedures should describe:

- When the firm should not open the account or allow trading to continue.
- The terms under which a customer may conduct transactions while the firm is attempting to verify identity.
- When the firm should close an account after efforts to verify identity prove futile.
- When the firm should file a suspicious activity report.

Finally, in regard to an ongoing customer relationship, a firm generally should be entitled to rely on the identification and verification steps that it has already taken, unless it develops new doubts as to the veracity of the information. For instance, there could be a material change in the way that the customer's account is used that is not consistent with the customer's business profile.

### **3. Require the existing Compliance Officer to assume AML responsibilities**

Already, the draft Licensing and Registration Instructions will require each licensed Company to designate a Compliance Officer to administer its overall compliance program designed to reasonably achieve compliance with the applicable laws, regulations, instructions, decisions, and policies that apply to the firm. We recommend that the JSC require that the Compliance Officer also assume the responsibility for implementing and monitoring AML procedures.

**4. Provide ongoing AML training for appropriate firm personnel**

The JSC should require each licensed firm to provide training that would, at a minimum, cover employees who have client contact or who are compliance personnel. Regular annual training would also include how to identify and follow up on unusual or suspicious activities. In addition, the firm would inform employees about major changes in anti-money laundering laws and regulations or any new techniques. Moreover, the firm would provide all new employees with guidelines on AML procedures.

**5. Provide for adequate record-keeping**

Under the draft Licensing and Registration Instructions, each Company must maintain for five years all books, records, or documents that it produces in the course of practicing its activities, and, for the first three years, maintain them in a readily accessible form and location. We understand that the JSC is in the process of detailing the books and records requirements for licensed firms. We recommend that the books and records related to AML would include all identifying and verifying information that a firm obtained as to a customer, and a description of the resolution of each substantive discrepancy discovered when the firm was verifying the identifying information that it obtained. These records should also include the documentation of any investigation related to possible suspicious activity and the filing of SARs.

**6. Consider requiring firms to provide a standardized notice on AML to customers**

We recognize that clients might object to the securities firms obtaining, verifying, and recording information that identifies each person or entity that opens an account. They might feel that the firms are violating their privacy or questioning their integrity. But a requirement that all firms provide to customers information about their customer identification programs would somewhat counter this objection, as customers would understand that they are not unfairly being singled out. In this regard, the JSC may consider requiring that each licensed Company provide a notice to each client about that entity's procedures for attempting to comply with Jordan's AML laws and requirements. We believe that the firms' furnishing of this notice would be an excellent way to educate clients as to the serious measures that the Jordanian government and all financial regulators have adopted and are adopting in their efforts to prevent money laundering and terrorist financing. The notice should also note that all other financial services firms would have the same requirements.

The notice would advise customers that to help Jordan and the international community fight the funding of terrorism and money laundering activities, Jordan has strong laws and regulations to obtain, verify, and record information that identifies each person who opens an account.

## Assessment of and Recommendations for an Anti-Money Laundering Framework for the Jordanian Capital Markets

The JSC could provide a standardized notice for the firms it licenses. See Appendix VI, for sample language.

**Recommendation 3: We recommend that the JSC’s inspection and enforcement programs specifically monitor firms’ compliance with its AML requirements, as well as with the new Jordan AML law.**

Rationale: Any new AML efforts at the JSC will not be effective unless there is a robust and serious inspections programs to monitor the firms’ compliance with AML laws and regulations.

The JSC inspections staff must ascertain, at a minimum, that:

- Each firm indeed has established the required AML procedures, to comply with the AML law, implementing procedures, and JSC rules, and is in fact implementing them.
- The firm’s AML procedures, including its customer identification and verification procedures, are risk-based, depending on the customer.
- The existing firm Compliance Officer is responsible for AML compliance.
- The firm conducts annual AML training.
- The firm specifies appropriate record maintenance procedures in regard to anti-money laundering.

Examinations by the JSC inspections staff could creditably contribute to Jordan’s efforts to help stem money laundering and terrorist financing in the capital markets area. The JSC could thus greatly assist in Jordan’s overall AML steps in the financial markets.

### **VIII. Conclusion**

In the NASD team’s assessment of the regulatory framework for AML in Jordan, we found that there are already in place laws, regulations, and programs aimed at combating money laundering and terrorist financing, particularly in the banking sector. Once Parliament adopts the draft legislation that it is considering, Jordan will have a statutory regime that is in line with international AML standards. The law and implementing regulations will provide an enhanced, comprehensive, and consistent national structure of measures for combating money laundering and terrorist financing. The JSC will be responsible for ensuring that licensed companies under its jurisdiction adhere to the new law and its regulations. In this regard, we recommend that the JSC require that the licensed companies put in place procedures and training aimed at fighting money laundering and terrorist financing. Training and limited enhancements by the JSC of the Licensing Instructions would complement an already strong framework of real, substantive efforts to fight money laundering and terrorist financing in the Jordan and international financial and capital markets.

## **APPENDICES**

- Appendix I: List of persons interviewed for the AML Assessment, May 2-5, 2005
- Appendix II: FATF “Designated Categories of Offenses”
- Appendix III: Red Flags signaling possible suspicious activity in the securities markets
- Appendix IV: Sample outline for a possible two-day AML training course
- Appendix V: Current securities account opening procedures in Jordan
- Appendix VI: Sample language for a notice to customers opening securities accounts

**Appendix I**

**List of persons interviewed for the AML Assessment, May 2-5, 2005**

- Dr. Ahmad H. Mustafa, Deputy Chairman, JSC
- Mr. Mohamed Tash, Commissioner, JSC
- Mr. Bassam J. Asfour, Commissioner, JSC
  
- Ms. Laila Ammari, Director, Capital Market Monitoring Dept.
- Ms. Amal Abu Zayed, Director, Licensing & Inspection Dept.
  
- Mr. Samir Jaradat, Chief Executive Officer, SDC
- Mr. Jalil Tarif, Executive Manager, ASE
  
- Mr. Faris Sharaf, Deputy Governor, Central Bank of Jordan
- Mr. Adnan Al-Lahaseh, Head of Suspicious Transaction Follow up Division, Central Bank of Jordan
  
- Dr. Nimer M. Basbous, Director, Bank Liquidation Dept., Deposit Insurance Corporation
  
- H.E. Dr. Jawad Hadid, CEO & General Manager, Jordan Commercial Bank
- Mr. Andre J. Deek, Manager, Treasury & International Division, Jordan Commercial Bank
- Mr. Yesar Nabulsi, Manager, Banking Operations Dept., Jordan Commercial Bank
  
- Ms. Carmen Al-Taher, Deputy General Manager, ABC Investments
  
- Mr. Wa'el Hamdan, General Manager, Golden Eye
  
- Mr. Steve Wade, Program Director, AMIR Program
- Mr. Khush Choksy, Financial Markets Development (FMD) Team Leader, AMIR Program
- Ms. Asma Abu-Taleb, FMD Business Operations Advisor, AMIR Program
  
- Dr. Jim Barnhart, Director Economics Opportunities Office, USAID
- Mr. Donald Richardson, USAID
  
- Mr. Richard Eason, Economics Counselor, US Embassy/Amman
- Mr. James Flowers, Economic Officer, US Embassy/Amman



## **Appendix II**

### **FATF Designated Categories of Offenses**

Participation in an organized criminal group and racketeering

Terrorism, including terrorist financing

Trafficking in human beings and migrant smuggling

Sexual exploitation, including sexual exploitation of children

Illicit trafficking in narcotic drugs and psychotropic substances

Illicit arms trafficking

Illicit trafficking in stolen and other goods

Corruption and bribery

Fraud

Counterfeiting currency

Counterfeiting and piracy of products

Environmental crime

Murder, grievous bodily injury

Kidnapping, illegal restraint, and hostage-taking

Robbery or theft

Smuggling

Extortion

Forgery

Piracy

Insider trading and market manipulation

### **Appendix III**

#### **Red Flags signaling possible suspicious activity in the securities markets**

When a securities professional at a licensed firm encounters any of the following situations or “red flags,” he or she should investigate further under the direction of the Compliance Officer. This investigation may include gathering additional information internally or from third-party sources, contacting the Regulator, or filing a Suspicious Activity Report to the Financial Intelligence Unit.

Red flags that signal possible money laundering or terrorist financing include, but are not limited to, the following:

- The customer wishes to engage in transactions that lack business sense or apparent investment strategy, or are inconsistent with the customer's stated business or investment strategy.
- The information provided by the customer that identifies a legitimate source for funds is false, misleading, or substantially incorrect.
- Upon request, the customer refuses to identify or fails to indicate any legitimate source for his or her funds and other assets.
- The customer (or a person publicly associated with the customer) has a questionable background or is the subject of news reports indicating possible criminal, civil, or regulatory violations.
- The customer exhibits a lack of concern regarding risks, commissions, or other transaction costs.
- The customer appears to be acting as an agent for an undisclosed principal, but declines or is reluctant, without legitimate commercial reasons, to provide information or is otherwise evasive regarding that person or entity.
- The customer has difficulty describing the nature of his or her business or lacks general knowledge of his or her industry.
- The customer attempts to make frequent or large deposits of currency, insists on dealing only in cash, or asks for exemptions from the firm's policies relating to the deposit of cash.
- The customer engages in transactions involving cash or cash equivalents that appear to be structured to avoid the government reporting requirements, especially if the cash is in an amount just below reporting or recording thresholds.

**Assessment of and Recommendations for an Anti-Money Laundering Framework for the Jordanian Capital Markets**

- For no apparent reason, the customer has multiple accounts under a single name or multiple names, with a large number of inter-account or third-party transfers.
- The customer is from, or has accounts in, a country identified as a non-cooperative country or territory by the FATF.
- The customer's account has unexplained or sudden extensive wire activity, especially in accounts that had little or no previous activity.
- The customer's account shows numerous cash transactions aggregating to significant sums.
- The customer's account has a large number of wire transfers to unrelated third parties inconsistent with the customer's legitimate business purpose.
- The customer's account has wire transfers that have no apparent business purpose to or from a country identified as a money laundering risk or a bank secrecy haven.
- The customer's account indicates large or frequent wire transfers, immediately withdrawn by check or debit card without any apparent business purpose.
- The customer makes a funds deposit followed by an immediate request that the money be wired out or transferred to a third party, or to another firm, without any apparent business purpose.
- The customer makes a funds deposit for the purpose of purchasing a long-term investment followed shortly thereafter by a request to liquidate the position and transfer of the proceeds out of the account.
- The customer engages in excessive journal entries between unrelated accounts without any apparent business purpose.
- The customer requests that a transaction be processed to avoid the firm's normal documentation requirements.
- The customer's account shows an unexplained high level of account activity with very low levels of securities transactions.
- The customer maintains multiple accounts, or maintains accounts in the names of family members or corporate entities, for no apparent purpose.
- The customer's account has inflows of funds or other assets well beyond the known income or resources of the customer.

**Assessment of and Recommendations for an Anti-Money Laundering Framework for the Jordanian Capital Markets**

- The customer exhibits unusual concern about the firm's compliance with governments AML laws or regulations or firm's AML policies (particularly concerning his or her identity, type of business and assets), or is reluctant or refuses to reveal any information concerning business activities, or furnishes unusual or suspicious identification or business documents.

**Appendix IV**

**Anti-Money Laundering Training Program**

What is Anti-Money Laundering (including Combating Terrorist Financing)?

Money Laundering Overview

Money Laundering Cases: (Representative from Law Enforcement)

Money Laundering in the Financials Services Industry (Riggs Case)

AML in the Brokerage Industry

International Standards in Anti-Money Laundering (FATF 40)

Update on AML Laws and Regulations in Jordan

Components of an Effective AML Program for Firms

- AML Procedures
- Role of the Compliance Officer
- Customer Identification
- Know Your Customer
- Enhanced Due Diligence
- Reporting of SARs and CTRs
- Training

AML Compliance Procedures in Broker/Dealers in Practice: (Representative from a Broker/Dealer)

Designing a Risk-Based Compliance Program: (Representative from a Broker/Dealer)

Financial Intelligence Unit

Suspicious Activity Reports

- What is suspicious activity?
- Money laundering and terrorist financing “red flags”
- Monitoring Account Activity - “Red Flags”
- Filing SARs
- Confidentiality of SARs

Components of an Effective AML Program for Securities Regulators

- Rules
- Inspections
- Enforcement

## **Appendix V**

### **Current Securities Account Opening Procedures in Jordan**

For identification of an individual customer who is a Jordanian citizen, the broker opening the account obtains that person's national identification number. For verification of the identity, the broker actually views the national identification document, including the photograph. The broker can also verify the national identification number through his access to the SDC. Thus, there is a built-in double-check in identification and verification for individual customer accounts for Jordanian citizens.

For an individual foreign (non-Jordanian) customer, the broker opening the account relies on a valid passport for identification. To verify the identity, the broker must actually inspect the passport, and ascertain that the photograph actually matches the person, and that the passport is valid.

For an entity that is based in Jordan, for identification, the broker opening the account obtains that company's registration information with the Controller of Companies. For verification, the broker views the actual documents evidencing the company's registration. The broker also relies on the national identification documents of each of the persons who would be authorized to make investment decisions (to trade) for the entity.

For a foreign firm, for identification, the broker obtains information as to the existence of official registration documents of that entity. For verification, the broker views actual registration documents, such as a prospectus. Any such documents must be translated into Arabic and English and officially stamped by the foreign embassy.

## Appendix VI

### Sample language for a notice to customers opening securities accounts

#### **Important Information About Procedures for Opening a New Account**

To help the Kingdom of Jordan and the international community fight money laundering and the funding of terrorism, the law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. All financial services firms are subject to the same requirements.

*What this means for you: When you open account, we will ask for your name, address, and other information that will allow us to identify you. We will also ask to view your National Identification card. We will also need to verify this information.*