



Guidelines on Anti-Money Laundering & Combating the Financing of Terrorism

Launch of AML/CFT & Repo Guidelines
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Agenda

- Role & function of the Commission
- AML-CFT in the Securities Sector
- Legislative framework
- History & Purpose of the Guidelines
- Key Features of the Guidelines
- Future Developments

Role & Functions of the TTSEC

- One of the functions of the Commission is to create and promote such conditions in the securities market as may seem to it necessary, advisable or appropriate to ensure the orderly growth and development of the capital market
 - ***Section 5(e) Securities Industry Act, 1995.***
- To this end, the Commission is empowered by statute to “*formulate principles for the guidance of the securities industry*”
 - ***Section 6(b) ibid***

AML-CFT in the Securities Sector

- FATF notes that many of the characteristics of the securities industry make it attractive to those seeking to launder illicit funds.
- This includes, amongst other things, the complexity of products, electronic and cross-border transactions.

AML-CFT in the Securities Sector

- US General Accounting Office notes that *“the securities industry would more likely be used in the later stages of money laundering to obscure the origin of illegal proceeds rather than in the initial stage when the cash is first placed into the financial system.”*

Legislative Framework

- Proceeds of Crime Act, Chap. 11:27
- Anti-Terrorism Act, Chap. 12:07
- Financial Intelligence Unit of T&T Act, 2009
- Financial Obligations Regulations, 2010
- Financial Intelligence Unit of T&T Regulations, 2011

History of the Guidelines

- Initially sent out for comment in 2009
- Major legislative updates in 2010-11
- Review and update completed in 2011
- Circulated for comment in 2011 and comments received
- Approved by Board of Commissioners in November 2011

Purpose of the Guidelines

- Provide market actors with the information needed to implement compliance programmes and meet the requirements of the AML-CFT regulatory regime.
- Assist market actors in detecting suspicious activity.
- To promote AML-CFT best practice within the securities industry.

Key features of the Guidelines- Compliance Officers

- Each market actor must have an **approved Compliance Officer**:
 - Responsible for the administration of the Compliance program
 - Point of contact for all AML/CFT matters with the TTSEC and FIU
 - Ensure record keeping requirements are met.
 - Determine whether a SAR should be filed

Compliance Programs

- Outline the policies, procedures and controls which the market actor has implemented to address:-
 - Customer identification procedures
 - Handling of suspicious activity reports
 - Monitoring of activities
 - Record keeping
 - Independent testing and auditing

Compliance Programs

- No “off-the-shelf” programs
- Must be approved by FIU
- FIU will consult with the Supervisory Authority, i.e. The Commission
- Must show that the program is tailored to the needs and risk profile of the organisation

Risk-Based Approach

- A risk-based approach is one by which market actors identify criteria to measure potential money laundering risks.
- Identification of the money laundering risks of specific customers and/or transactions will allow institutions to implement **proportionate measures** and controls to mitigate these risks.

Risk-Based Approach

- Risks may only become evident after transactions are completed.
- Ongoing monitoring of customer's transactions is a fundamental component of a risk based approach.

Risk Matrix

| | Severity of Consequences | | |
|-------------|--------------------------|----------|--------|
| Possibility | Mild | Moderate | Severe |
| Likely | Yellow | Red | Red |
| Possible | Green | Yellow | Red |
| Unlikely | Green | Green | Yellow |

| |
|---|
| Intolerable Immediate Action Required |
| Tolerable Take action to mitigate as much as possible |
| Acceptable Monitor and take action if possible |

Factors to Consider

- Size
- Location
- Type of transactions
- Complexity of transactions
- Business associates (size/location etc)
- Third party reliance

Customer Due Diligence & Know Your Customer

- CDD must be performed in relation to
 - New retail customers
 - New institutional customers
 - All existing customers (Retroactive Due Diligence)
- The Commission recommends that RDD be completed within 18 months from the issuance of the guidelines.

Enhanced Due Diligence

- Enhanced Due Diligence is a requirement for institutions to identify customers who may pose a high risk of money laundering and to conduct further research on these customers to better assess the risks they pose.
- These clients include PEPs and customers who carry out certain types of transactions or have particular ties to known terrorist entities.

Politically Exposed Persons

- The term "politically exposed persons" ("PEPs") applies to persons who perform important public functions for a state.
- Some examples include:-
 - Heads of State or of Government;
 - senior politicians;
 - senior government, judicial or military officials;
 - senior executives of state owned corporations;
 - important political party officials;
 - their immediate family and **closely related persons and entities** that they may own or be affiliated with

Checking PEP Status

- C6 Database - www.c6-intelligence.com
- World-Check - WWW.WORLD-CHECK.COM
- OFAC List – “Specially Designated Nationals”
- FATF Revised 40 Recommendations extends the recommendation to domestic PEPs and persons entrusted with prominent functions by international organisations.
- Discretion/Subjectivity

High Risk Transactions

- Trust/Nominee Accounts
 - Obtain evidence of the trust eg. Deed of Trust
 - Verify identity of trustees
 - Determine purpose of trust
- Correspondent Banking
 - No shell banks
- Cross-Border Wire Transfers
- Non Face-to-face customers
 - Accepting notarised copies

Know Your Employee

- ‘Rogue employees’ pose a serious AML/CFT risk.
- Association of Certified Fraud Examiners, 2010 Report to the Nations found:-
 - typical organization loses 5% of its annual revenue to fraud
 - Small organizations are disproportionately victimized by occupational fraud. These organizations are typically lacking in anti-fraud controls compared to their larger counterparts, which makes them particularly vulnerable to fraud.

Employee Screening

- Again, the screening process should be risk based.
- Code of ethics ought to be established and enforced.
- Compliance Officer is tasked with ensuring that AML/CFT policies and procedures are being followed.
- Also, suspicious indicators in relation to employees should be noted.

Record Keeping

- Six year minimum document retention policy – electronic & hard copy.
- Requests to extend the six year period can be made by TTSEC or FIU.
- Records to be retained include:-
 - Information obtained through CDD (identity)
 - Amount/ type/ currency
 - Originator and receiver re: Wire Transfers

Suspicious Activity Reports/ Suspicious Transactions Reports

- Filed with the FIU
- Template available at <http://www.fiu.gov.tt/>
- Responsibility of the Compliance Officer
- Once SAR is filed, market actors should continue to monitor activity and file follow up reports if necessary.
- Market actors should be wary of tipping off.

SUSPICIOUS TRANSACTIONS / SUSPICIOUS ACTIVITY REPORT

Made in accordance with the Provisions of Section 55(3) of the Proceeds of Crime Act, Ch. 11:27 (as amended)

For official use only

ALWAYS COMPLETE ENTIRE REPORT

Your reference No.

Instructions: Reports on suspicious Financial Transaction/Activity shall be made to the Financial Intelligence Unit as soon as possible, but in any event, within fourteen (14) days of the date on which the financial institution or listed business knew or had reasonable grounds to suspect that the funds used for a transaction were the proceeds of a specified offence. [S.55(3B)]

Notice to staff It is an offence to fail to report a suspicious transaction or activity for which the penalty is (a) on summary conviction, five hundred thousand dollars and imprisonment for a term of two years (b) on conviction on indictment, a fine of three million dollars and imprisonment for a term of seven years. [S.57(3)]

1. Check appropriate box:
a. Initial Report b. Corrected Report c. Supplemental Report

PART I

REPORTING FINANCIAL INSTITUTION OR RELEVANT BUSINESS ACTIVITY INFORMATION

2. Name of Financial Institution or Person or Company engaged in a relevant business activity
3. Address of Financial Institution or Person or Company engaged in a relevant business activity
4. Address of Branch Office(s) where activity occurred.....
5. Asset Size of Financial Institution or Person or Company engaged in a relevant business activity: \$.....
6. If Institution or relevant business activity closed, date closed / /
DD MM YY
7. Account Number(s) affected (if any)
8. Have any of the Institution's or relevant business accounts related to this matter been closed?
(a) () Yes if yes identify /
..... /
(b) () No

PART II

SUSPECT INFORMATION

9. Last Name or Name of Entity: 10. First Name: 11. Middle Initial:
12. Address:
13. Date of Birth / /
DD MM YY
14. Home No.
- 14 a. Cell No.
15. Work No
(a) Co. Reg. No.
(b) VAT Reg. No.
(c) B.I.R. No.
16. Occupation:

Downloaded from
<http://www.fiu.gov.tt/resources.php?mid=6#fiu>

Auditing

- **External Audit** - a suitably qualified professional to conduct independent testing of the market actor's compliance program
 - Must be done annually
 - External auditor is responsible for sending their report to the Commission
- **Internal Audit** -
 - frequency will be risk based
 - Includes an internal review, identifies weaknesses, recommending corrective action
 - Should address all concerns raised by the External Auditor

Education & Training

Ongoing training for new and existing employees should address:-

- The company's controls, policies and procedures with respect to AML-CFT;
- The nature and process of money laundering and terrorist financing;
- The underlying legal obligations and liabilities for AML-CFT non-compliance by employees and employers under the relevant AML-CFT laws and regulations; and
- The procedures for reporting suspicious activities.

Future Developments

- Compliance Examinations
 - Including both off-site and on-site examinations
- Application for the approval of Compliance Officers
- Continuous revisions based on global developments and market feedback
- Further guidance

Questions?

