



AML/CFT ISSUES GUIDE FOR POLICIES & PROCEDURES MANUALS

2 December 2020 (Revised)

Dear Financial Services Market Participant,

In an effort to assist practitioners in compiling their AML/CFT Policies & Procedures Manuals, the Financial Services Commission (the “Commission”) has issued the following guidance on issues that the Commission would normally expect to see included in a service provider’s policies and procedures manual.

A service provider is responsible for ensuring that its policies and procedures manual is comprehensive and appropriate and encompasses provisions that demonstrate the processes to be undertaken to forestall these risk of money laundering and terrorist financing. Please note that the list below should not be considered exhaustive and it is not necessary for a service provider to cover the matters in the same order as presented in this guidance. A service provider’s AML/CFT Policies & Procedures Manual should be designed and tailored for its particular circumstances.

For the full description of your AML/CFT obligations, please refer to the Commission’s website for the applicable legislation: Proceeds of Crime Act, Anti-Money Laundering and Terrorist Financing Regulations, R.R.A. P98-1, Anti-Money Laundering and Terrorist Financing (Amendment) Regulations, 2018 and Anti-Money Laundering and Terrorist Financing Code, R.R.A. P98-5 and associated Guidelines.

Policies, Procedures, Systems and Controls

This section communicates the policies, procedures, systems and controls that staff are expected to adhere to ensure that the service provider complies with its regulatory obligations under the relevant legislation. The policies & procedures manual must be reviewed annually to ensure it complies with the AML/CFT legislation. Where deficiencies are identified, the Board is to ensure that the necessary actions as is required are done to remedy the deficiencies.

- (a) State what policies, procedures, systems and controls are in place.
- (b) Explain the risk assessment process.
- (c) Determine the risk management rating of high, medium or low and include a rationale for the rating.
- (d) State the policy on outsourcing.
- (e) Comment on the AML/CFT audit of the policies, procedures, systems and controls – how often will it be conducted.
- (f) State the responsibilities of money laundering reporting officer.
- (g) State the responsibilities of money laundering compliance officer.

Know Your Customer, Customer Acceptance and Customer Due Diligence Procedures

A service provider must conduct customer due diligence on its customer, third party and beneficial owner to make sure that they are who they claim to be. Customer due diligence should include obtaining the identification and verification on every customer, third party and beneficial owner and the purpose and intended nature of the business relationship.

- (a) Explain the incorporation process.
- (b) Set out the customer due diligence measures to be applied by the service provider.
- (c) Indicate when customer due diligence will be obtained.
- (d) Comment on obtaining the nature of business and measures carried out to verify the nature of business.
- (e) Detail the identification information and verification of identity documents to be obtained for individuals.
- (f) Detail the identification information verification of documents to be obtained for legal entities (other than foundations)
- (g) Detail the verification of directors and beneficial owners of the legal entity.
- (h) Detail the identification information and verification of identity documents to be obtained for trusts and trustees.
- (i) Detail the identification information and verification of identity documents to be obtained for foundations.
- (j) Detail the verification of persons concerned with the foundation.

Enhanced Due Diligence

Service providers are required to conduct enhanced due diligence for high risk customers, business relationships or transactions.

- (a) Comment on the circumstances where enhanced due diligence would be carried out.
- (b) Describe the enhanced due diligence measures to be applied to establish source of wealth (in addition to source of funds).

Politically Exposed Persons

Individuals holding prominent public functions may misuse their power and influence for personal gain, or that of their family members and close associates. A service provider is required to have appropriate risk management systems and procedures in place to identify politically exposed persons and how to manage those risks.

- (a) Definition of a politically exposed person.
- (b) Comment on the policy regarding PEPs, their family members and close associates.
- (c) Explain the process for identifying and approving PEPs.

Countries that do not comply with FATF / International standards and are subject to sanctions

Special attention should be given to a business relationship and transaction with persons connected to countries that do not apply, or insufficiently apply the FATF Recommendations, or are the subjects of the United Nations or European Union countermeasures.

- (a) Explain how does the service provider determine whether a prospective or existing customer is from a country or connected with a country that is sanctioned and/or appears on the FATF's list of high-risk and other monitored jurisdictions with AML/CFT deficiencies.
- (b) Comment on the steps the service provider will take if the prospective customer or existing customer is from a country or is connected with a country that appears on the list of sanctioned countries, FATF's list etc.

Intermediaries and introducers

If the service provider relies on an intermediary or an introducer to apply customer due diligence measures, checks should be undertaken by the service provider to ensure that the intermediaries or introducers are foreign regulated persons, and has procedures in place to undertake customer due diligence measures.

- (a) Describe how the service provider would satisfy itself that the intermediary or introducer is a regulated person or foreign regulated person.
- (b) Where the service provider relies on the intermediary or introducer, comment on the risk involved and the measures in place to manage the risk.
- (c) Comment on having a written assurance between the service provider and the third party to carry out customer due diligence requirements.

Monitoring Customer Activity

Once a business relationship is established, the service provider is required to undertake ongoing monitoring of the business relationship to ensure that it is consistent with nature of business, when the business relationship was established.

- (a) Describe how will the service provider comply with the ongoing monitoring requirements.
- (b) Explain the ongoing monitoring process for high, medium and low risk customers.
- (c) Outline the policies, procedures, systems and controls that are in place regarding complex and unusual transactions.
- (d) Comment on type of ongoing monitoring the service provider would conduct to ensure that existing customers do not subsequently appear on the FATF's list of high-risk and other monitored jurisdictions with AML/CT deficiencies and on sanctioned country lists.

Reporting Suspicious Activity and Transactions

It is a requirement of each service provider to have policies and procedures in place that will guide and assist staff to monitor, detect and respond appropriately to the reporting of any suspicious activity and transactions.

- (a) Definition of suspicious activity and transactions.
- (b) Include a list of examples of "red flags" that the service provider provides its staff to alert them of any suspicious activity and transactions.
- (c) Outline the reporting procedures.
- (d) Comment on the internal reporting procedures.
- (e) Evaluation of suspicious activity reports by the MLRO.
- (f) Reports to Reporting Authority (Financial Intelligence Unit)

Employee Training and Awareness

In order for employees to understand and be able to apply the procedures, systems and controls that a service provider has put in place to prevent and detect money laundering and terrorist financing, it is necessary that the service provider provides the appropriate AML/CFT training.

- (a) Include a staff training plan which should include the type and frequency of training as well as a succession plan (key personnel and new staff) and indicate who will provide the training.
- (b) Comment on the records to be kept concerning training material.

Record Keeping

A service provider is required to keep its records for a period of 5 years from the date on which the occasional transaction is completed or the business relationship ends. The service provider is also required to periodically review the accessibility of, and condition of those records

- (a) Include the different types of records to be kept and their time frame.

- (b) Indicate how will the records be kept e.g. electronically or hardcopy. If electronically, state how will often will the records be backed up.
- (c) Outline how often will the reviews of record keeping procedures will be done.

Approval of manual by Board/Senior Management

Please be reminded that the list above should not be considered exhaustive and it is not necessary for a service provider to cover the matters in the same order as presented in this guidance. Failure to have a robust policies & procedures manual can lead to enforcement action, which can lead to the imposition of penalties.

*Amended as approved by the Board
Anguilla Financial Services Commission
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