Nevis Financial Services
Regulation and Supervision Department

NEWSLETTER

Developing an AML/CFT COMPLIANCE PROGRAMME

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In this Issue

All regulated entities must develop an Anti-Money Laundering and Counter Terrorist Financing (AML/CFT) Compliance Programme which is designed specifically for its business. The following information will assist regulated entities in developing a written AML/CFT Compliance Programme which is to be submitted to the Nevis Financial Services (Regulation and Supervision) Department (NFSD) in accordance with Regulation 12(2) of the Anti-Money Laundering Regulations, No. 46 of 2011 (AMLR).

What is an AML/CFT Compliance Programme?

An AML/CFT programme is a written record of the policies, procedures and internal controls that are in place or will be put in place to manage the risks identified in order to comply with AML/CFT obligations.

⇒ Policies—a set of expectations

⇒ Procedures—day-to-day actions required to be undertaken to meet the expectations

⇒ Controls—tools to ensure the business meets the expectations set by undertaking the required procedures that are in place to manage the risks identified.

How to complete an AML/CFT Compliance Programme

Developing a meaningful AML/CFT Compliance programme is a statutory requirement. In developing an AML/CFT Compliance Programme a regulated entity must consider its size, complexity of business activities, the types of accounts it maintains, its customers and their geographical location and the types of products and services offered.

The written AML/CFT Compliance Programme must bear the seal of approval of senior management officials (directors/partners/owners of business) and the date of approval and must be reviewed and updated regularly, at least once per year.

The Written AML/CFT Compliance Programme

The written AML/CFT Compliance Programme should have four key components: its policies, procedures and internal controls, a designated Compliance Officer; ongoing training and an independent audit function to test the program. A well-structured AML/CFT Compliance Manual includes:

1. Table of Contents

2. ***A Policy Statement*** which should include the purpose of the AML/CFT Compliance Programme and the regulated entity's commitment in addressing Money Laundering and the Financing of Terrorism activities. It should explain the purpose of an AML/CFT Compliance Programme, which is to help the regulated entity's employees detect and prevent money laundering and terrorist financing as well as to ensure that suspicious activities and transactions can be identified and reported thereby protecting the regulated entity from being used for illegal purposes. It should state which regulatory requirements the AML/CFT Compliance Programme are designed to meet e.g. The Proceeds of Crime Act, 2000; the Anti-Terrorism Act 2002; the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011; the AMLR and the FSIISR, etc.

3. Overview of Money Laundering and Financing of Terrorism Crimes

* Explain the crimes of money laundering and terrorist financing. Money laundering is the attempt to conceal or disguise the nature, source, ownership or control of illegally obtained money. Terrorist financing is providing funds directly or indirectly intending or knowing that the funds are to be used to fund terrorist acts or organizations.

* Explain that the relevant laws namely, the Proceeds of Crime Act 2000 ("POCA"); the Financial Intelligence Unit Act 2000 the Anti-Terrorism Act 2002 (ATA); the Financial Services Regulatory Commission Act, 2009; the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011; the AMLR and the FSIISR require regulated entities to file certain specific reports and maintain records on certain transactions to help prevent money laundering and terrorist financing.

4. *Internal Policies, Procedures and Controls that describe Who, What, When and How of the Programme*

The Internal Policies should:

- Indicate in a clear statement the persons to whom the manual applies—i.e. staff, directors and whether persons are required to

sign a form that they understand their obligations and duties as contained therein. *A sample form should be submitted as an Appendix.*

- Identify the regulated entity's responsibilities under the relevant laws and regulations—*the offences may be summarised in an Appendix.*
- Identify the types of risk to which the regulated entity is exposed and which activities pose significant/high risks.
- Identify the Customer Due Diligence (CDD) measures. Include the customer identification documentation required, and how verification of customer is to be carried out, e.g. proof of physical address with current utility bill, notarized IDs, original references, etc.
- Identify CDD measures for individuals and companies and Enhanced Due Diligence (EDD) measures for non face-to-face customers, for Political Exposed Persons (PEPs); and when business is obtained through introducers, Professional Service Clients and Intermediaries. Indicate CDD details as stipulated in paragraph 174 of the FSIISR. *Sample identification forms listing the identification data to be collected could be attached as an Appendix.*
- Include the monitoring measures that will be used whether manually or electronically to identify unusual business transactions of the client.
- Include the EDD measures to be adopted in respect of business transactions with persons/clients from countries which do not sufficiently comply with the recommendations of the Financial Action Task Force (FATF).
- Clearly state the internal reporting procedures. The law requires the filing of a suspicious transaction/activity report (STR/SAR) with the Financial Intelligence Unit (FIU) for any transaction or pattern of transactions that is attempted or conducted for ANY amount that you know of suspect or have reasons to suspect:
  a. Involves funds derived from a specified offence or is intended to hide funds derived from a specified offence;
  b. Is structured to avoid recordkeeping or reporting requirements;
  c. Has no business or apparent lawful purpose; or
  d. Facilitates criminal activity
- Indicate When and How a suspicious transaction or activity will be reported to the Compliance Officer. *A sample form for employees to make suspicious report to the Compliance Officer may be attached as an Appendix.*
- Include a notification to all Employees that it is illegal to tell a customer that they are filing a STR/SAR. Tipping-Off should be clearly explained and behaviour that would constitute Tipping-off should be illustrated.
- Include a caution that employees must hold the identity and activities of the Compliance Officer in strict confidence.
- *An appendix illustrating examples of suspicious activities or transactions that are industry specific may also be included.*

5. Designation of a Compliance Officer

- Identify the level of the designated Compliance Officer (CO). Clearly state the reporting line for the CO and the procedures that ought to be followed by staff during the CO's absence.
- State the responsibilities of the Compliance Officer. The Compliance Officer is responsible for the day-to-day compliance with the AML/CFT's Laws and Regulations such as the submission of STRs/SARs to the FIU.
- Include the Compliance Officer's reporting obligations and specifically the following:- the prescribed format of the STR/SAR in accordance with *Appendices G and H* to the FSIISR; the time frame within which the form must be sent to the FIU; and the duty to report Complete, Incomplete and Declined business. *Examples of these forms may be included in the AML/CFT Compliance Manual as Appendices.*
- Include the Compliance Officer's duty:
  * To monitor the FATF's lists of Non-Cooperative Countries and Territories (NCCTs) and High Risk Jurisdictions.
  * To keep a Register of Enquiries made by Law Enforcement Authorities and a register of STRs/SARs submitted to the FIU (Reg 9 of the AMLR and Para 130 of the FSIISR).

6. Record Keeping Provisions

AML/CFT Compliance Manual must state in what form the records of transactions and identification data will be kept and the number of years for which records will be kept (Reg 8 of the AMLR and Paragraphs 117-129 of the FSIISR).

7. Ongoing Employee Training

Include measures to ensure all employees are made aware of the relevant laws governing AML/CFT. Include training provisions for new staff and additional/refresher training for existing staff (Paragraphs 131-134 of the FSIISR).

8. Review of Program

* Regulated entities must periodically assess the risk of criminal conduct and take appropriate steps to design, implement, or modify its compliance program to reduce the risk or criminal conduct identified through this process.
* The AML/CFT Compliance Programme must be reviewed periodically (at least once per year) to ensure its adequacy.
* External Audit—Indicate how often this will be done (should be completed annually).
* Independent Internal Audit — an independent audit means an assessment to determine the appropriateness, completeness and effectiveness of the regulated entity's AML/CFT Compliance Programme conducted by person(s) who are not part of the AML/CFT Compliance Team of the regulated entity.

Source

https://www.fiu.gov.tt/content/Guide to Structuring an AML CFT Compliance Programme.pdf

NEVIS FINANCIAL SERVICES DEPARTMENT