



# MINIMUM GUIDELINES FOR THE ROLE & APPOINTMENT OF COMPLIANCE & REPORTING OFFICERS



Issue No. 30

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- *Role of the Board and Senior Management*
- *Submitting an Application for Approval of a Compliance / Reporting Officer*
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Each regulated entity is required to appoint a fit and proper individual approved by the Financial Services Regulatory Commission as its Compliance Officer ("CO").

Last month's issue of the monthly newsletter provided regulated entities with the first part of the minimum assessment guidelines which are to be used when the Financial Services Regulatory Commission ("FSRC") has to make a determination regarding the approval of appointment of Compliance Officers / Reporting Officers. These minimum guidelines are to be used to assess whether or not an applicant meets the fit and proper criteria in order to act as a Compliance Officer / Reporting Officer on behalf of a regulated entity.

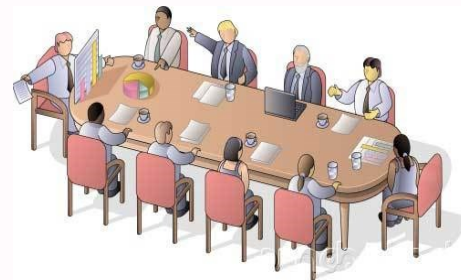
An overview of the regulatory framework was provided, along with the specific sections of the various Regulations which regulated entities ought to pay close attention to. These are Regulations 12 of both the Anti-Money Laundering Regulations ("AMLR") and the Anti-Terrorism (Prevention of Terrorist Financing) Regulations ("ATR") and paragraph 28 of the Financial Services (Implementation of Industry Standards) Regulations ("FSR").

The Duties & Responsibilities of the Compliance Officer ("CO") and the Qualifications, Education and Fit and Proper Requirements were explained in detail in last month's issue. In this month's issue the above captioned topic will be concluded by looking at the following sub-headings:

- Role of the Board and Senior Management; and
- Submitting an Application for Approval of a Compliance/Reporting Officer.

Additionally, an update on FATCA for the attention of Regulated Entities is also provided.

## ROLE OF THE BOARD AND SENIOR MANAGEMENT



The regulated entity's Board and senior management should administer and monitor the ongoing competence and efficiency of the CO and the compliance function, including a reporting system so that employees can report misconduct and compliance failures without fear of reprisal.

The CO's duties, responsibilities and reporting lines should be clearly documented. Senior management and the Board should provide the CO with all appropriate support, including access to all relevant information and shall not engage in any activity that threatens the independence of the CO. The CO shall have unrestricted access to senior management, executive and non-executive directors and auditors of the regulated entity. The CO should report directly to the Board on matters such as:

- ⇒ An assessment of the key compliance risks the regulated entity faces and the steps being taken to address them;
- ⇒ An assessment of how the various parts of the regulated entity (e.g., division of units, product areas, subsidiaries) are performing against compliance standards and goals;
- ⇒ Any compliance issues involving senior management and the status of any associated investigations or other actions being taken;
- ⇒ Material compliance violation or concerns involving any other person, division or unit of the regulated entity and the status of any associated investigations or other actions being taken; and
- ⇒ Any enforcement of other actions being taken by the FSRC or other Authority.

## **SUBMITTING AN APPLICATION FOR APPROVAL OF A COMPLIANCE OFFICER/REPORTING OFFICER**



It is currently recommended that the regulated entity should apply for approval using the prescribed application form that will be published on the websites of the FSRC Branch Offices in the island of St. Kitts and the island of Nevis. Along with the prescribed application form and processing fee, the regulated entity

should submit on behalf of the proposed CO, the following:

- A resume or curriculum vitae;
  - i) outlining the relevant qualifications and experience of the proposed CO;
  - ii) including the names, addresses and telephone numbers of previous employers;
- A police certificate or sworn affidavit (where a certificate is not issued) as to the non-criminal record of the applicant for the past five (5) years;
- Two original letters of reference (one of which must be from a financial institution);
- Two notarized copies of identification (one such copy to be of the identification page of the proposed applicant's passport);
- Notarized copies of professional and educational qualifications; and
- An organizational chart showing direct access to the regulated entity's Board and to whom the CO will report.

Where a proposed CO will serve in a dual capacity, this should be made clear and explained. Where the application is submitted by a prospective regulated entity not yet licensed, the FSRC may consider the approval of a CO at the same time.

An approval of a CO for a regulated entity does not constitute approval for that individual to act as CO for another entity. If the CO function is proposed to be outsourced the FSRC will assess the relevant individual in a similar way, but will also ask for a copy of the contract for the CO's services. The FSRC may also require additional information from the regulated entity.

**The Regulated Entity will be required to apply annually for the renewal of the appointment of the CO/RO using the prescribed form. A renewal fee may also be applicable.**

The Financial Services Regulatory Commission is currently in the process of finalizing the minimum guidelines for the role and appointment of Compliance Officers / Reporting Officers. Upon approval, the FSRC, Nevis Branch will circulate this Guidance to all regulated entities. The Branch will also seek to ensure that this information can be easily accessed via our website at [www.nevisfsrc.com](http://www.nevisfsrc.com).

### **FATCA Update:**

Registered FFI's in the Federation of St. Kitts and Nevis would have recently received correspondence from the Ministry of Finance, St. Kitts updating them on FATCA Implementation and preparations. We will highlight a number of key issues that were communicated. Regulated entities are advised that the Government of St. Kitts and Nevis has satisfied the requirements specified by the US Government including the negotiation of a Model 1B IGA in principle. We are still awaiting the official signing of the agreement by both parties.

The necessary legislation to be enacted to bring into force the IGA will be finalized once the US has concluded their internal procedures in readiness for signing of the IGA. Accordingly, the Government of St. Kitts and Nevis continues to engage the relevant US officials to ensure that inappropriate penalties are not imposed on our FFI's as a result of this delay.

Regulated entities are further advised that the Competent Authority for FATCA purposes for the Federation of St. Kitts and Nevis will be the Financial Secretary, with responsibilities delegated to the Comptroller of Inland Revenue. Further, the process for acquiring the necessary software solution to facilitate FATCA reporting is at an advanced stage. Such software will allow the confidential transmission of electronic accounting data in the format specified by the IRS. FFI's will be notified when such software will be ready for testing and when it ultimately goes live .

Additionally, the Government of St. Kitts and Nevis will be arranging a FATCA Reporting and Awareness Workshop that will expose attendees to advanced and specific reporting requirements and obligations. Regulated entities will be notified of the details of the event at a later date.

