



Guidelines for Independent Internal AML/CFT Audit



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INTRODUCTION

One of the areas assessed by the FSRC - Nevis Branch during an onsite inspection is whether or not a regulated entity has performed an independent internal audit (“audit”) to test and validate activities to mitigate against money laundering/financing of terrorism risks. This is done to determine if the regulated entity adequately reviews internal control procedures to ensure compliance with AML/CFT Laws and Regulations.

The guidelines outlined herein are provided to assist regulated entities in developing and implementing an audit of their AML/CFT programme, as required under regulation 3(8) of the Anti-Money Laundering Regulations, 2011 (AMLR) and the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 (ATR). The aforementioned section stipulates that *for the purposes of this regulation, a reference to maintaining “internal controls and communications procedures for the purposes of forestalling and preventing money laundering,” means internal control measures that include but are not limited to:*

- a) *appointment of a compliance officer pursuant to regulation 12;*
- b) *developing independent internal audit programmes to test and validate activities associated with the mitigation of money laundering risks, including processes for:*
 - i) *identification of trends in criminal activity and other areas of vulnerability;*
 - ii) *monitoring of transactions and reporting of suspicious activities to competent authorities;*
 - iii) *maintaining ongoing staff training programme;*
 - iv) *implementing adequate screening procedures to ensure high standards when hiring employees;*
 - v) *development of an independent audit function to test internal systems;*
- c) *application of the type and extent of measures to be taken having regard to the risk of money laundering and terrorist financing and the size of the business.*

Regulation 3(8) is silent as to the frequency and procedures for performing an independent internal audit. However, this month’s newsletter will provide an overview of matters to be considered, inter alia, when conducting such an audit. These guidelines are provided for information only, and are provided for the sole purpose of assisting regulated entities in improving their operations.

WHAT IS AN AUDIT

The audit is a systematic check of the regulated entity’s AML/CFT programme by an independent and suitably qualified person who will assess the regulated entity’s internal processes to ascertain whether:

- ⇒ they are adequate and effective;
- ⇒ they meet the minimum requirements; and
- ⇒ any changes are required.



WHAT WILL THE AUDIT COMPRISE OF

The audit will provide regulated entities with an independent assessment of their AML/CFT programmes. It is an opportunity for regulated entities to obtain detailed information on how well different components of their AML/CFT programme are designed and functioning.

The audit will provide information to supervisors, managers, directors on the following areas, inter alia:

- ◇ the adequacy of AML/CFT risk management;
- ◇ the adequacy of CDD policies, procedures and processes;
- ◇ staff adherence to AML/CFT policies and procedures;
- ◇ the adequacy of training, including its comprehensiveness, accuracy of materials, training schedule and attendance tracking;
- ◇ the policies and procedures which are in place for the recognition and reporting of suspicious transactions.

WHO CAN AUDIT?

The person performing the audit must be appropriately qualified to conduct the audit. The individual must have the relevant skills and experience to conduct the audit, such as knowledge of AML/CFT Laws and Regulations.

The individual conducting the audit must be independent which means that he/she must not be involved in the establishment, implementation or maintenance of the regulated entity’s AML/CFT programme.

The person appointed to undertake the audit may be a member of the regulated entity's staff provided he/she is adequately separated from the functions of the AML/CFT programme and must not appear to be involved in anyway with the development and maintenance of the AML/CFT programme. Similarly, the regulated entity may choose to appoint an external firm/individual to undertake the audit, but the same separation must apply.

FACTORS TO CONSIDER

Before choosing an auditor regulated entities should think and plan ahead. Matters to consider and discuss include:

- the outcome;
- the estimated cost;
- an estimate of time required to complete the audit; and
- how the findings should be reported to the regulated entity.

THE OUTCOME

The report should be in written form and should express the auditor's view on:

- ◆ whether the regulated entity's AML/CFT programme comply with relevant legislation;
- ◆ whether the regulated entity's AML/CFT programme is functioning in practice as required and intended.

The auditor may also make recommendations for rectifying non-compliance or deficiencies and identify areas for improvement.

OTHER MATTERS TO CONSIDER

The auditor will inform the regulated entity of what is required. This is likely to include documents needed by the auditor to gain an understanding of the regulated entity's business and access to:

- documents relating to the development of the regulated entity's risk assessment programme;
- access to staff members and/or senior management;
- documents, procedures for identifying and reporting suspicious transactions/activities;
- documents, procedures outlining the training taken/to be taken by staff of the regulated entity;
- files to examine customer identification procedures and KYC and CDD documents; and
- files to examine KYE procedures; and
- disclosures of all known instances of non-compliance.



WHAT TO EXPECT FROM THE AUDIT REPORT

In general, an audit report includes:

- ⇒ the period covered by the audit;
- ⇒ the scope and sample size of the audit;
- ⇒ a title that includes the words "Independent AML/CFT Audit";
- ⇒ key findings, including:

- * whether the regulated entity's AML/CFT programme meets the requirements of AML/CFT Laws and Regulations; and
 - * an indication of where there are deficiencies.
- ⇒ a description of methods used to determine the adequacy and effectiveness of the regulated entity's AML/CFT programme;
- ⇒ a recommended course of action to rectify non-compliance/deficiencies. Areas that are of highest priorities should be addressed first;
- ⇒ the date, name and signature of the auditor.

WHAT SHOULD YOU DO WITH THE AUDIT REPORT?

The audit report should be addressed to the regulated entity's senior management so they can decide what (if any) next steps are required. Regulated entities must address deficiencies identified in the audit report in a timely manner. For record keeping, the regulated entity may set timelines for each change and identify the person who is primarily responsible for implementing the necessary changes.

A regulated entity must provide the audit report to the Branch when requested to do so. Even in the absence of an audit report, the regulated entity must still be prepared to provide the following information to the Examiners during an onsite examination:

- whether there are procedures in place for such an audit;
- when the last audit was undertaken;
- if any deficiencies were highlighted; and
- whether the regulated entities have made changes to remedy any deficiencies which were identified.

TIMING

The frequency and timing of the regulated entity's audit cycle should be determined by senior management and should be completed every 2 years at a minimum. This is based largely on the nature, scale and complexity of the operations of the regulated entity. The regulated entity's supervisory framework may dictate that an audit be performed "out of cycle."

It is important for regulated entities to have an AML/CFT Programme in place to mitigate against ML/TF risks, however merely having such programme is not sufficient. The AML/CFT Programme must be continuously monitored and evaluated. Regulated entities must audit their AML/CFT Programme to ensure its effectiveness and to examine emerging risk factors.

Sources

Anti-Money Laundering, 2011
Anti-Terrorism (Prevention of Terrorism Financing) Regulations, 2011
Guidelines for Audits of Risk Assessment and AML/CFT Programme
 – FMA, New Zealand

Study Guide for the CAMS Certification Examination, Fifth Edition

