



Record-Keeping Procedures



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What is Record Keeping?

Record Keeping is the capture and retention of documents received during the business relationship or a one-off transaction.

Why Keep Records?

Keeping records enable:

- regulated entities to meet their legislative obligations based on the *Financial Services Regulatory Commission Act, Cap 21:10 (FSRCA)*; *Anti-Money Laundering Regulations, 2011 (AMLR)*, *Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 (ATR)* and the *Financial Services (Implementation of Industry Standards) Regulations, 2011 (FSIISR)*;
- regulated entities to manage AML/CFT risks; and
- regulators, auditors, financial investigation officers and other law enforcement agencies to reconstruct the audit trail of suspected criminal proceeds.



Who should keep Records?

Record-keeping obligations apply to all regulated entities, who have a range of record-keeping requirements pursuant to legislation.

Contents of Records

All regulated entities should keep records comprising, inter alia, of the following:

- ♦ client identification procedures;
- ♦ notarized copies of government issued identification documents;
- ♦ original letters of references;
- ♦ details of the client's contact details;
- ♦ any documentation used for the verification of subjects, such as directors, shareholders, ultimate beneficial owners, clients, etc.;
- ♦ information on the ownership structure of entities;
- ♦ information on the purpose and nature of the relationship;
- ♦ any requests or statements relating to the activities of the entity;
- ♦ any evidence of risk assessment and risk profiling;
- ♦ any evidence of enhanced due diligence procedures;
- ♦ all transaction records (relating to size, volume and frequency of activities);
- ♦ all email or written correspondences;
- ♦ information regarding on-going monitoring;
- ♦ documentation on the source of funds/wealth;
- ♦ all information relating to AML/CFT programmes and audits;
- ♦ internal/external suspicious activity reports;
- ♦ details on the register of enquiries/complaints; and
- ♦ information on training (including date, time, frequency and topics covered).



Forms of Records (P124, FSIISR)

Regulated entities shall keep all records in readily retrievable form and be able to access records without undue delay. A retrievable form should consist of:

- ⇒ an original hard copy;
- ⇒ microfilm; or
- ⇒ electronic or computerised data.



Records held by third parties are not in readily retrievable form unless the regulated entity is reasonably satisfied that the third party is itself a regulated business which is able and willing to keep such records and disclose them to the regulated entity when required to do so.



What is the Minimum Retention Period? (R8, AMLR)

In order to facilitate the investigation of any audit trail concerning the transactions/activities of their customers, regulated entities shall keep all records for a minimum period of five years commencing with the date on which the business relationship ended or the one-off transaction is completed.

When Does the Minimum Retention Period change?

For reasons communicated to the regulated entity, the Commission may grant to the regulated entity a period of more than five years for the keeping of records. Additionally, where the FIU is investigating a suspicious customer or a suspicious transaction, it shall request a regulated entity to keep records until further notice, notwithstanding that the prescribed period for retention has lapsed. Even in the absence of such a request, where a regulated entity knows that an investigation is proceeding in respect to its customer, it shall not, without prior approval of the FIU, destroy any relevant records even though the prescribed period may have lapsed.

Where the FIU requires sight of records which according to the regulated entity's vigilance systems would ordinarily have been destroyed, the regulated entity is nonetheless required to conduct a search for those records and provide as much detail to the FIU as possible.

Money Services Businesses (P203, FSIISR)

For record-keeping procedures, Money Services Businesses shall observe the following rules:

- Establish and maintain systems of internal control and record keeping;
- Maintain accounting and other relevant records of all transactions for at least five years;
- Keep records of all ongoing business relationships;
- Prepare annual audited financial statements in accordance with the *Financial Services Regulatory Commission Act, Cap 21.10*.

Fiduciaries (P178, FSIISR)

A fiduciary should to the extent relevant to the services being provided maintain on its files,

- ◆ evidence of opening of bank and investment accounts;
- ◆ copies of the statements of those accounts;
- ◆ copies of minutes of meetings of shareholders;
- ◆ copies of minutes of meetings of directors;
- ◆ copies of minutes of meetings of committees;
- ◆ copies of registers of directors and officers; and
- ◆ copies of registers of mortgages, charges and encumbrances.



FATF Recommendations (Rec. 11)

The record keeping requirement under the FATF standards requires that all documents obtained through CDD measures (e.g. copies of official identification documents like passports, identity cards, driving licenses or similar documents), account files and business correspondence, including the results of any analysis undertaken), be kept for at least five years after the business relationship is ended, or after the date of the occasional transaction. Records are required to be maintained for at least five years, to enable regulated entities to comply quickly with information requests from competent authorities. Such records must be sufficient to permit reconstruction of individual transactions, so as to provide, if necessary, evidence for prosecution of criminal activity.

Further information regarding this month's topic can be obtained from the cited sources below....

Important Notice!

*All regulated entities are reminded that their registered agent licences expire on **December 31, 2017**. Therefore in order to conduct business at the start of 2018 licences **must** be renewed. The completed application forms along with all supporting documents and the prescribed fees must be submitted to avoid delays.*

Sources

- ◆ [Financial Services Regulatory Commission Act, Cap 21.10](#)
- ◆ [Anti-Money Laundering Regulations, 2011 \(Reg. 8\)](#)
- ◆ [Anti-Terrorism \(Prevention of Terrorist Financing\) Regulations, 2011](#)
- ◆ [Financial Services \(Implementation of Industry Standards\) Regulations, 2011](#)
- ◆ [The FATF Recommendations, \(Rec. 11\)](#)

