



# FINANCIAL INTELLIGENCE UNIT

## AMLCFT Policy and Procedure -Manual Guidance Notes No. 1 of 2017

**These guidance notes are not intended to replace any entities' independent 'standard operating procedures' policies or AMLCFT compliance manuals. Each entity is responsible for formulating, designing, implementing and maintaining its own compliance regime that best suits its nature, complexity, size and assessed risk. It must be used in conjunction with AMLCFT Act 2009 (as amended) and all subsidiary legislation made under the Act.**

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## GUIDANCE NOTES

### Minimum standards: AMLCFT Policies and Procedures Manual

#### CHECKLIST

##### 1. Structure

###### **Table of contents and Sub-Headings**

- A properly structured AMLCFT Policies and Procedures Manual or similar document would facilitate easy examination by the Supervisory Authority (SA), Financial Intelligence Unit (FIU) and/or other relevant authorities to identify that there are theoretical measures in place for all the key and core AML/CFT obligations. This can be accomplished by including a table of contents which would indicate from a mere preview of the content page, that all the relevant obligations are included in the manual/document.
- Policies and procedures relating to the obligations under the AMLCFT Act 2009 (as amended) should be addressed under separate sub-headings or sections. For example, provisions on Sections 15-identification and verification of customers; 16-Record keeping; 18-Reporting of suspicious activities; 19-Appointment of Compliance Officer and related functions, should be dealt with separately.
- The inclusion of a definition and/or glossary section would also be a useful tool in assisting readers/examiners of the document to understand the use of key or technical terms in the document.
- The commencement date from which the manual takes effect should also be stated, including to whom it is intended to assist (e.g targeted for all employees of the Reporting Entity).

##### 2. **Management/Reporting Entity's Responsibility**

###### **Policy must provide that the Management of the Reporting Entity is always responsible for the overall AMLCFT Regime**

- Ensure that the manual indicates that the Management/Board has overall responsibility for the compliance regime of the reporting entity. While the Compliance Officer (who may not be the owner) may be responsible for ensuring compliance with relevant provisions, the onus is on the owner of the entity (who takes the overall responsibility) to establish and maintain policies, procedures, systems and controls. Where the entity has a Board or a Committee of Management, the policies, procedures, systems and controls, must be approved, reviewed and monitored by the Board or Management.

##### 3. **Risk Assessment and Risk Management**

- The AML/CFT compliance manual should indicate that the entity systematically reviews, conducts risk assessments, and devises measures to mitigate possible risks identified; that this is done taking into account the nature of the business and customer profiles; that risk profiles of customers are also kept and maintained.

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## 4. Key and Core AMLCFT Obligations

**The following obligations must be covered:**

- (a) Identification and verification of all types of customers;
- (b) Record keeping and record maintenance systems;
- (c) The reporting of suspicious and threshold transactions and terrorist property reports;
- (d) The AML/CFT Compliance function under Section 19 (which relates to the expectations and functions of the compliance Officer).

## 5. Customer identification and verification procedure

**In addition to stated policies, there must be clear step-by-step procedures for all categories of customers.**

- Under identification and verification or ‘know your customer’ requirement-details of all types of customers must be included, for example if the customer is a natural person (human being); legal person (business/company/association/other similar bodies) or a legal arrangement (express trusts)<sup>1</sup>.
- The reporting entity should provide in its manual, the identification procedures for conducting transactions with, beneficial owners, politically exposed persons, introduced persons or businesses and third party intermediaries.
- The independent verification methods to be employed by the reporting entity must be clearly outlined. This is to ensure the entity ascertain that customers are who they claim they are. For example, independent verification documents may be, bank statements or utility bills for proof of address or cross checking of information from National Registration Offices (GECOM).

## 6. Record Keeping, Retention and Retrieval

**The policy and procedure for record keeping must be adequate and in keeping with Section 16 of the AMLCFT Act 2009**

- The procedure should include a list of the necessary records required to be kept in accordance with Section 16(3), such records must be kept in the true name of the account holder and include such information as the customer’s name of customer, date of birth, address, occupation or business name and address and principal activity; the nature and date of transaction, type of currency; identity of account number and negotiable instrument. Such records must be kept/maintained for seven (7yrs).
- A policy statement to indicate that there will be adequate safeguards for confidential information, for example, types of back-up system, such as, fire proof cabinets.

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<sup>1</sup> Express trust refers to a trust clearly created by the Settlor, usually in the form of a document, example, a written Deed of Trust whereby something (property) held by one party (the trustee) for the benefit of another (the beneficiary).

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- A policy and procedure to ensure that the physical condition of the records and other information will be kept and stored in a way to maintain their legibility upon retrieval or requests by competent authorities.
- Included in the record keeping requirement is the maintenance of a special register for AML/CFT enquiries.
- A policy to ensure that evidence of compliance and maintenance of AMLCFT records will be available upon request by the FIU or other competent authority

## 7. Submission of Reports and other information

- The manual must indicate that policies and procedures are in place for the submission of the required reports and other information to the FIU. This would indicate that measures are in place to ensure the effective reporting of suspicious transactions, threshold transactions and terrorist property reports to the FIU. The policy must clearly state that the reporting entity complies with the reporting formats, due dates or timelines for submission of reports and other information to the FIU.
- A policy for terrorist property report must include the requirement to check the UN Sanction List or local publications and that the entity undertakes the necessary follow-up actions as stated in the AMLCFT laws and relevant regulations created for those purposes.
- The reporting chain, including the communication procedures for both internal and external reporting should also be clearly stated.
- The manual should provide indicators (red flags) to detect suspicious transactions or activities that may be linked to criminal schemes, including the provisions of Section 18(1)(a) to (c) of the AMLCFT Act. Also include a policy stating that records of any findings relating to transactions apparently linked to criminal activities will be reported to the FIU.
- The policy must address the continuous monitoring of customer relationships to determine suspicious activities when dealing with high risk customers. Policies must be made to ensure that the FIU will be allowed, within a period not less than five days, to make inquiries, give instructions where, based on FIU's assessment, reasonable grounds exist for suspicion that the transaction may be linked to money laundering, terrorist financing or other criminal activities.
- The policies for making employees aware of the need for confidentiality, including the 'no tipping off' obligation relating to suspicious transaction reports and the associated penalties.
- A policy on ensuring general awareness and timely dissemination of AML/CFT initiatives, FATF best practices and amendments to AMLCFT laws. The updated of the AMLCFT manual and communication of same to all employees are critical to the AMLCFT regime.

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## 8. Appointment or Designation of a Compliance Officer

**All the requirements relating to the Compliance Officer must be adequately addressed.**

- Policies on the procedures relating to recruitment, inclusive of screening measures, skills and qualifications. There should be detailed information relating to who the Compliance Officer is accountable to; to whom he/she reports (for example, the board, where it's an entity with more than five employees); the Compliance Officer's must function at management level; has the ability to access all relevant information; and be able to submit necessary reports to competent authorities and the FIU.
- Provision should be made for all the necessary compliance functions under sections 19 of the AMLCFT Act 2009 (as amended). If the reporting entity has a compliance department, a structure may be included in the manual of that department to show the chain of command or line of authority. This is for both internal and external communication procedures.
- Policies necessary for other compliance functions are: updating of recruitment measures to cater for new employees, job descriptions for new positions, inclusive of reference to the AML/CFT Act. Reviewing systems for training conducted or to be undertaken in accordance with a AMLCFT-Training Schedule.
- The manual must indicate the policy for the monitoring and evaluation framework; for example, the reviewing and planning of work on a regular basis and assessment of activities carried out as planned. Also measures to mitigate and deal with problems/issues identified.
- A policy for the monitoring of employees' conduct should also be included. For example, include that there is the availability of appropriate methods of discipline for deviant/delinquent staff which should be discussed at regular meetings with the affected staff. This would demonstrate that the reporting entity provides opportunities for staff to raise concerns/issues and to allow for documentation of actions taken to resolve the issues/problems.

## 9. Employee Screening and Recruitment

- For a large reporting entity (more than five staff), in addition to character screening for Compliance Officer, all other employees of the entity should go through the screening process; the policy procedure document should include the procedure for recruitment for all human resources, police clearance, references, background checks etc.
- Policies which provided for information on the reporting entity's staff integrity's system. For example, a system that shows that new employees are informed or made aware of the AMLCFT policy; new recruits may also be requested to do self-declarations of non-criminal convictions and understanding of AMLCFT employee expectation. Additionally, employees may be asked to sign non-disclosure agreement, which may be a clause included in their contracts of employment.

## 10. Employee Training

- The policy must provide that there be training for all levels of staff (management and lower levels), including refreshers' and ongoing training.
- Records of all training should be kept; training evaluation may also be done to monitoring whether the training is meeting the desired objectives. This may be done via evaluation-questionnaires to acquire feedback from participating employees.

## 11. Independent Audit

- There must be system for 'Testing AMLCFT-Regime' to ensure that the systems and controls are detecting suspicious activities and aiding in the fight against money laundering and terrorist financing.
- Auditing should be done by an independent method. Details or information on who will be conducting such audits and the frequency of such audits should be timely and systematically done and documented.

## 12. AMLCFT Supervision and Examinations

- The manual should provide a policy for the reporting entity's awareness of the on-site or off-site examination processes to be conducted by the Supervisory Authority; its preparedness for the examinations, including maintenance of records of those examinations. Records on findings and recommendations adopted and all other necessary actions/or activities involved in the examination process. It must also show that a register of AML/CFT enquiries, made by the supervisory authority is separately maintained and updated as necessary.
- A policy must also be in place to indicate that the Supervisory Authority has powers to enforce administrative sanctions, the range of sanctions should also be outlined and that the entity is aware of their possible imposition.

## 13. Sanctions/Disciplinary measures

- Clear internal disciplinary procedures for employees who fail to carry out instructions or follow procedure, example tipping off or breach of confidentiality or AML written instructions and legislative sanctions for the reporting entity that fail to comply with the provisions of the Act. Additionally, mention should be made that Money Laundering and Terrorist Financing are criminal offences which inure criminal penalties.
- Indication of all relevant provisions for legislative sanctions for Money Laundering and Terrorist Financing offences should be highlighted and staff made aware that breaches of those provisions may warrant sanctions being imposed as outlined in the AMLCFT Laws.
- The system should also demonstrate that the reporting entity (legal person) which breaches any of the AML/CFT obligations may also face penalties/sanctions.

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## Diagram of Simple Compliance Regime

