

LEGAL PROFESSIONALS

In this document, the terms “Legal Professionals” include law firms, foreign law firms, joint law venture, foreign lawyers as well as individual practitioners such as barristers, attorneys and notaries.

This information sheet is meant to provide an overview of the Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) obligations for legal professionals. These obligations are part of Mauritius’ national framework aimed at combating money laundering, associated criminal activity and terrorism financing.

The following summary of the legislative requirements under the Financial Intelligence Anti-Money Laundering Act 2002 (FIAMLA) applies if as a legal professional, you prepare or carry out transactions for your clients concerning the following activities:

- the buying and selling of real estate;
- managing of client money, securities and other assets;
- managing of clients’ bank, savings or securities account;
- the organising of contributions for the creation, operation or management of legal persons;
- creating, operating or management of legal persons and buying and selling of business entities;
- acting as a director, as a secretary, as a partner or in any other similar position of a legal person;
- providing a registered office, a business address or an accommodation, a correspondence or an administrative address for a legal person; or
- acting, or causing for another person to act, as a nominee shareholder for another person.

INTERNAL CONTROLS

You shall develop and implement policies, controls and procedures that will enable you to effectively manage and mitigate identified risks on the basis of the results of your money laundering/terrorism financing risk assessment.

The following elements shall be included in your internal controls:

- The appointment of a Money Laundering Reporting Officer (MLRO) and compliance officer who must be sufficiently senior within the organization.
- Programs for assessing risk related to money laundering (see section below)
- The development and application of written compliance policies, controls and procedures that manage and mitigate identified risks
- Implementation and documentation of an ongoing compliance training program
- A documented audit of the effectiveness of policies, controls and procedures, training program and risk assessment
- Ensure that your foreign branches and subsidiaries observe AML/CFT measures consistent with FIAMLA.

RISK ASSESSMENT

You shall undertake and document a money laundering and terrorism financing risk assessment, commensurate with the nature and size of your institution, to enable you to identify, assess, monitor, manage and mitigate the risks associated with money laundering and terrorism financing. The risk assessment should be conducted at least every two years.

REPORTING

Suspicious Transactions

You shall report to the Financial Intelligence Unit instances where you have reason to believe that a transaction may be related to money laundering, a criminal activity or terrorism financing, in the prescribed form immediately and, in any event, within 5 days from the day on which you become aware of the transaction.

Reporting under the United Nations (UN) Sanctions Act

You shall disclose any information to the National Sanctions Secretariat and the FIU related to a designated party or listed party under UN Sanctions Act 2019. Additionally, you shall not deal with or make available funds or other assets available to any designated or listed party under this Act.

Registration with Financial Intelligence Unit (FIU)

You shall immediately register with the FIU as soon as your operations begin or within such timeframes determined by the FIU. Information on how to register is available on the website of the FIU (www.fiumauritius.org). In addition, a special helpdesk, for any assistance that you may require, has been set up. The contact details are as follows:

Email: goamlhelpdesk@fiumauritius.org

Telephone: +230 454 1423

ON-GOING MONITORING

You shall establish monitoring programmes in relation to complex, unusual or large or suspicious activities. The results of the monitoring should be documented.

ASCERTAINING IDENTITY AND CUSTOMER DUE DILIGENCE

You shall take reasonable measures to satisfy yourself as to the true identity of any applicant when:

- a) establishing a business relationship with a customer;
- b) carrying out a transaction in an amount equal to or above 500,000 rupees whether conducted as a single transaction or several transactions that appear to be linked;
- c) carrying out a domestic or cross-border wire transfer
- d) doubts exist the veracity or adequacy of previously obtained customer identification information;
- e) there is a suspicion of money laundering or terrorism financing involving the customer or the customer's account.

Customer due diligence measures should include:

- a) The identification of the customer and verification of that customer using reliable, independent source documents data or information
- b) Identifying the beneficial owner (the natural person who owns or controls the legal persons and arrangements)
- c) Understanding and, as appropriate, obtaining information on the purpose and nature of the business relationship
- d) Conducting on-going due diligence on the business relationship and scrutiny of transactions undertaken through the course of that relationship to ensure that the transactions being conducted are consistent with your knowledge of the customer, their business and risk profile, including the source of funds.

THIRD PARTY DETERMINATION

You shall take reasonable measures to determine whether an individual is acting on behalf of another person.

In cases where a third party is involved, you should take reasonable measures to establish the true identity of the third party and the relationship with the individual or entity on whose behalf the transaction is being conducted.

ENHANCED DUE DILIGENCE

You shall apply enhanced due diligence measures to persons and entities that present a higher risk (based on your risk assessment). Enhanced due diligence measures can include, but are not limited to:

- a) Obtaining further information that may assist in establishing the customer's identity
- b) Applying extra measures to verify the documents supplied
- c) Obtaining senior management approval for the new business relationship or transaction
- d) Establishing the person's or entity's source of funds
- e) Carrying out enhanced on-going monitoring of the business relationship.

POLITICALLY EXPOSED PERSONS (PEPs)

You shall have appropriate risk management systems to determine whether your customer and beneficial owner is a politically exposed person (PEP). You shall take the following measures where a customer or beneficial owner is a politically exposed person, a family member or a close associate of a PEP.

For foreign PEPs and high-risk business relationships with a domestic or international organization PEP:

- a) Obtaining senior management approval to transact or establish the relationship
- b) Take adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or transactions .

- c) Conduct on-going monitoring of the relationship.

RECORD KEEPING

You shall ensure that you maintain and keep records of all transactions and customer due diligence measures for a minimum period of 7 years from the date the relevant business or transaction was completed or following the termination of an account or business relationship.

NEW TECHNOLOGIES

You shall take reasonable measures to prevent the use of new technologies for money laundering and terrorism financing purposes by conducting and documenting a money laundering and terrorism financing risk assessment prior to the introduction of a new product, business practice or delivery method. A risk assessment should also be conducted when considering the use of new or developing technologies for both new and pre-existing products.

ADDITIONAL INFORMATION ON HOW TO COMPLY

Additional information on how to comply with these obligations can be found on the websites of the Attorney General's Office and the Financial Intelligence Unit. This includes:

- a) The AML/CFT Guidance on Suspicious Transaction Report (http://www.fiumauritius.org/English/Reporting/Documents/Guidance%20Note_310817.pdf); and
- b) The Guidelines on the Measures for the Prevention of Money Laundering and Countering the Financing of Terrorism for legal professionals on the AGO's website - <http://attorneygeneral.govmu.org/English/Pages/default.aspx> and on the FIU's website - <http://www.fiumauritius.org/English/Pages/default.aspx>