

DNFBP Compliance Above and Beyond

THE OFFICIAL QUARTERLY NEWSLETTER OF THE COMPLIANCE COMMISSION



A WORD FROM THE INSPECTOR

MR. ANDREW STRACHAN

Greetings to All!

It is our pleasure to distribute this quarterly compliance Newsletter to our Registrants. This newsletter provides the Commission with the opportunity to keep Designated Non-Financial Businesses and Professions (DNFBPs) informed about what is taking place with regard to anti-money laundering, countering terrorism and proliferation financing (AML/CFT/CPF) standards and obligations domestically and globally.

The Commission remains committed in the continued fight against money laundering, countering terrorist financing and proliferation.

We are extremely pleased that on 13th August, 2021, the Commission went live with an electronic registration portal that allows registrants to register and update beneficial owners, partners, directors, compliance officer, and money laundering reporting officers as soon as a change occurs. This makes reporting any changes easy and allows the Commission to track registration information more efficiently. Through the dashboard, registrants will be able to select

an approved agent to conduct a risk-based examination using their online registration form once notified by the CC. Agents will be notified via their dashboard that they have been selected to conduct and submit examinations. Examinations will commence in November 2021. I encourage you to visit [our website](#) for resources, news/releases, trainings, and other events.

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DOMESTIC AML NEWS

On Wednesday, 16th June 2021, the FIU released a public notice regarding the use of fraudulent documents by someone that communicated to local Financial Institutions,

The FIU advised Law Firms and Real Estate Brokers and Land Developers to exercise caution in the customer onboarding process strictly via e-mail to assist with real estate purchases. View the notice [here](#).

The FIU also participated in the CC quarterly training on 16th July, 2021 and presented on Real Estate Fraud. The presentation can be found [here](#).

The Functions and Importance of the MLRO

DNFBPs engaged in prescribed financial services under section 4 of the FTRA 2018 are required by law, specifically, sections 19-24 of the Financial Transaction Reporting Act, 2018 ("FTRA 2018"), to have internal procedures in place, such as identifying and appointing a Money Laundering Reporting Officer (MLRO). The MLRO is required to be registered with, and act as a point of contact, with the Financial Intelligence Unit ("FIU"), and to handle reports of money laundering suspicions by their staff.

MLROs, along with the CO, also serve as the point of contact with the Commission; they receive notices if a random or special examination will occur and, along with senior management, meet with the Commission to discuss the results of the examination.

There is a statutory obligation on all staff to report suspicions or reasonable grounds for suspicion of ML/TF/PF to the MLRO in accordance with internal procedures. Once the DNFBP knows, suspects, or has reasonable grounds to suspect that a transaction or proposed transaction involves proceeds of criminal conduct, is related to an offence, or is an attempt to avoid the enforcement of any provision under the Proceeds of Crime Act, 2018, the DNFBP shall as soon as practicable after forming that suspicion, report the transaction or proposed transaction to the Financial Intelligence Unit via the MLRO.

The MLRO should exercise independence, and have timely access to all relevant information when determining whether the information or other matter contained in the initial report he/she has received, give rise to a knowledge or suspicion that a person or entity is engaged in ML/TF/PF. This determination may include a review of customer verification and related due diligence information, records of other transaction patterns and volumes concerning the person/entity and the length of the business relationship. As soon as practicable after forming the suspicion, the MLRO must disclose this information to FIU through the FIU's e-filing portal caseKonnnect®.

Because of the significance of this role, the appointed MLRO should have a sound understanding of what constitutes ML/TF/PF, the inherent risks, and vulnerabilities of his/her DNFBP; have a sound knowledge of AML/CFT/CPF laws, rules and regulations in The Bahamas and international laws which may affect the operations of the organization and engage in AML/CFT/CPF training at least once annually. In-depth training concerning all aspects of the AML legislation and internal policies will be required for the MLRO. The MLRO's duties, background, and experience will be assessed during the on-site examination of the firm by the Commission.

The size and nature of the firm should be a determining factor in selecting the individual to hold the position. Larger firms may choose to appoint, as appropriate to the circumstances, a senior member of their compliance department. The MLRO may also serve as the CO, depending upon the size & nature of prescribed financial services that the firm is engaged in. In small firms, it may be appropriate to designate the sole practitioner or one of the partners. Changes to the MLRO post must be immediately communicated to the FIU and the Commission via the online registration portal.

For further information on the role of the MLRO and other obligations, please see respective Codes of Practice [here](#).

An effective system to combat money laundering and terrorist financing

"The purpose of implementing anti-money laundering and counter-terrorist financing (AML/CFT) measures is to stop criminals and terrorists from abusing the financial system. Through effective implementation of these measures, countries can help trace and stop the financial flows linked to serious crime and terrorism, and make society safer."

Source: FATF, *"An effective system to combat money laundering and terrorist financing"* View article [here](#).



Global AML News

REVISIONS TO RECOMMENDATION 24

The Financial Action Task Force (FATF) announced that they are considering potentially amending Recommendation 24 on the transparency and beneficial ownership (BO) of legal persons.

FATF welcomed input from large and small companies and other legal persons, financial institutions, designated non-financial businesses and professions (DNFBPs), and non-profit organizations on risk-based approach for foreign legal persons; whether there should be a multipronged approach to collecting BO information and what core elements should be included in this approach; who should have access to beneficial ownership information and protective measures to prevent misuse, access to and maintaining adequate, accurate, and up-to-date information; and controls on, and declaration of, Bearer Shares and Nominee arrangements.

The public consultation has now closed, but FATF will discuss the proposed revisions at its October 2021 meetings. It will be interesting to see what changes (if any) to Recommendation 24 will be made or considered by FATF. Further information on this can be found [here](#).

GUIDANCE ON PROLIFERATION FINANCING

FATF recently released a guidance on proliferation financing risk assessment and mitigation. Recommendation 1 and its Interpretive Note were revised to require countries to identify, assess, understand and mitigate proliferation financing risks. These measures will likely positively contribute to a country's ability to combat entities from raising, storing, moving and using funds in proliferation financing and in the funding of Weapons of Mass Destruction. This Guidance is critical as it strengthens the Countering Proliferation Financing Regime.

DNFBPs may be misused in proliferation financing by using front companies, shell companies, joint ventures and complex, opaque ownership structures for the purpose of violating measures imposed in relevant UNSCRs. Additionally, designated persons and entities may use dealers in precious metals and precious stones to transport gold and diamonds to obtain foreign exchanges to finance transactions.

The guidance can be found on the Commission's website under [News/Releases – Latest News](#).

PANDORA PAPERS

On the 21st October, 2021, FATF's president issued a public statement on pandora papers.

FATF highlighted that it has "long warned of the dangers associated with anonymous shell companies and legal arrangements".

FATF reiterated that all lawyers, real estate agents and brokers [and DNFBPs] must identify and verify beneficial ownership information. FATF's public statement can be found [here](#).

The pandora papers is a leak of almost 12 million documents that reveals hidden wealth, tax avoidance and in some cases money laundering. It is to date the largest leak exposing secret wealth and dealings of world leaders, politicians and billionaires. BBC News has issued a simple guide which can be found [here](#).

Our Mission Statement

The Commission's mission is to ensure that DNFBPs supervised by The Compliance Commission meet best international standards and practices, consistent with the provisions of Bahamian AML/CFT/CPF legislation, aimed at maintaining the Bahamas' reputation as a leading International business center.

Frequently Asked Questions

(1) When should a registrant be registered with the Compliance Commission?

Registration is mandatory and is required by all financial institutions within the definition of section 32(2) of the Financial Transactions Reporting Act, 2018 (FTRA, 2018). Only businesses and sole proprietors providing the prescribed financial services pursuant to section 4 paragraphs (a), (b), (c), (e), (f), (g) (iv), (h), (i), (j), and (k) of the FTRA, 2018 are required to register with the Compliance Commission. This includes real estate brokers, land developers, dealers in precious metals, precious stones and pawn shops, lawyers, accountants and designated government agencies.

(2) How to register?

To register, Registrants must log on to the Commission's website, click on "Register" at the top or bottom of the homepage or under the Registration Tab then clicking on the 'Online Registration' Tab to register as either a Sole Proprietor or Company.

(3) Are firms who previously registered with a manual form required to register on the Commissions Electronic Registration Portal?

Yes. The Commission has discontinued the use of manual forms. All firms and new firms must now register using the Commission's Electronic Registration Portal.

(4) How often should DNFBPs update their registration forms?

DNFBPs should update their registration forms immediately, on a continuous and on-going basis and in accordance with the FTRA 2018. The Commission requires a confirmation that the registration form is updated once per year.

(5) How will a registrant know they have been selected for an examination?

The Commission will issue a Notice to those Registrants who are selected for examination with the examination date prior to registrants selecting an approved agent (accountant). Registrants must be notified by the CC prior to selecting an approved agent.

(6) Can a registrant select an accountant to conduct the on-site examination or will one be appointed by the Commission?

Registrants must select an approved agent/accountant to conduct a risk-based examination via their online registration form once the Registrant is notified by the Commission. Log into the Registrant dashboard at the top of the Commissions website—<https://ccb.finance.gov.bs/>, click on Edit registration form and select the agent.

The Registrant may select the licensed accountant of its choice, however, the examining accountant must be independent of the firm and the firm should satisfy itself that the examiner has a current and valid Letter of Appointment. Note that some examinations will be conducted by the Commission's staff.

(7) Can any accountant conduct on-site examinations on behalf of the Commission?

All Accountants who wish to conduct Anti-Money Laundering/Combating the Financing of Terrorism and Proliferation Financing (AML/CFT/CPF) on-site examinations on behalf of the Commission are required to participate in AML/CFT/CPF training each year. An AML/CFT/CPF on-site examination annual training that qualifies includes a training conducted and hosted by the Commission and/or an event hosted by another agency during which the Commission facilitated an AML/CFT Session.

(8) What is the Internal Compliance Effectiveness Review Requirement?

This is a review to assess the effectiveness of the Registrant's compliance program, inclusive of reviewing the risk assessment, policies and procedures and compliance training program and ensuring it covers the current legal requirements, guidelines and all obligations applicable to the DNFBPs sector. DNFBPs must conduct an Internal Compliance Effectiveness Review at minimum once every two (2) years. For further information on the internal compliance review obligations, please see the Codes of Practice under the "Regulatory and Legal Framework" tab or [click here](#).

FOR MORE INFORMATION CONTACT US AT:

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