



CONSULTATION PAPER NO. 107

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**PROPOSED CHANGES TO THE ANTI MONEY LAUNDERING, COUNTER-
TERRORIST FINANCING AND SANCTIONS MODULE**

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Why are we issuing this paper?

1. The DFSA is proposing changes to the Anti-Money Laundering, Counter-Terrorist Financing and Sanctions Module (AML) in order to make sure that the regime remains up-to-date in light of the:
 - (a) 2012 Financial Action Task Force (FATF) Recommendations regarding International Standards on Combatting Money Laundering and the Financing of Terrorism and Proliferation (the 2012 Recommendations);
 - (b) the amendments made to Federal Law No.4 of 2002 (the Federal AML Law) and the Cabinet Resolution No.38 2014 (the Cabinet Resolution); and
 - (c) in response to issues raised by Relevant Persons regarding the operation of the AML Module.
2. There are also consequential changes suggested to the AML provisions in the Regulatory Law 2004 resulting from the updated Federal AML Laws.

Who should read this paper?

3. The proposals in this paper would be of interest to:
 - (a) Authorised Persons, other than a Credit Rating Agency;
 - (b) Designated Non-Financial Business or Professions (DNFBPs);
 - (c) Registered Auditors; and
 - (d) Persons providing compliance services in the DIFC or who wish to provide such services.

How is this paper structured?

4. In this paper, we set out:
 - (a) the background to the proposals (paragraphs 8 – 14);
 - (b) the key proposed changes to the AML Module (paragraphs 15 - 83);
 - (c) Annex 1: List of questions in the Consultation Paper;
 - (d) Appendix 1: Proposed Amendments to the AML Module;
 - (e) Appendix 2: Proposed Amendments to the GLO Module;
 - (f) Appendix 3: Draft Amendments to the Regulatory Law 2004; and
 - (g) Appendix 4: Table for comments.

How to provide comments?

5. All comments should be sent to the email specified below; using the Table included in Appendix 4 (a copy is available on our website). Please use the Consultation Paper number in the subject line. You may, if relevant, identify the organisation you represent in providing your comments. The DFSA reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise at the time of making comments.

Comments to be emailed to: consultation@dfsa.ae

What happens next?

6. The deadline for providing comments on the proposals is 21 August 2016. Once we receive your comments, we shall consider if any further amendments are required to these proposals. We shall then proceed to make the relevant changes to the DFSA's Rulebook. You should not act on these proposals until the relevant changes to the DFSA Rulebook are made. For the potential changes to the Regulatory Law 2004, we may proceed to recommend the proposed Law changes to the President for presentation to the Ruler for his consideration for enactment. We shall issue a notice on our website telling you when this happens.

Terminology in this paper

7. In this paper, defined terms are identified throughout by the capitalisation of the initial letter of a word or of each word in a phrase and are defined in GLO or in the proposed amendments. Unless the context otherwise requires, where capitalisation of the initial letter is not used, the expression has its natural meaning.

Background

8. FATF is the global standard setter in the fight against money laundering and the financing of terrorism. It develops Recommendations which set out the legal, regulatory and operational measures that countries should have in place to protect the financial system from misuse. These Recommendations are revised periodically, most recently in 2012, to ensure that countries respond to current money laundering and terrorist financing threats, as well as other threats to the financial system.
9. FATF monitors the progress of its members in implementing these Recommendations, through a Mutual Evaluation (ME), as well as evaluating how effective their AML measures are. After a ME is carried out, a follow-up process provides a framework to monitor progress made to address any need for improvement.
10. The UAE, including the DIFC, has been the subject of a FATF ME, with the most recent ME Report being published in April 2008. The ME Report identified areas

requiring improvement. The DFSA made changes to its rules, in response to the recommendations in the report, at that time.

11. In 2012, FATF updated and issued a new set of Recommendations, with a particular emphasis on a Risk Based Approach (RBA). In response to the 2012 Recommendations, the DFSA undertook a review of its entire AML framework (the 2013 AML Review) which resulted in the creation of a new AML regime which was enacted in July 2013.
12. In anticipation of the UAE's second FATF ME, the DFSA has carried out a further assessment of the AML regime against the 2012 Recommendations, identifying areas in the Module that need to be changed and updated. These proposed changes are included in this Consultation Paper (CP).
13. In 2014, amendments were made to the Federal AML Law resulting in changes to the UAE's AML framework. The DFSA has carried out an assessment of those changes, identifying areas in the AML Module and Regulatory Law 2004 that need to be updated. These are included in this CP.
14. Lastly, we have also considered and addressed issues raised to us by Authorised Firms regarding the operation of the AML Module. These are included in this CP.

Issues for consideration:

Chapter 2: Overview and Purpose of the Module

Overview of the DFSA's AML regime

15. In order to explain how our AML regime operates, we are proposing to update Chapter 2, Overview and Purpose of the Module, with an explanation of how the Federal AML regime applies, with references to the amended Federal AML Law and the new Cabinet Resolution, as well as an explanation of the DIFC regime and associated DFSA Rules and their applicability.
16. The proposed changes can be found in Appendix 1.

Chapter 3: Interpretation and terminology

References to 'unlawful organisations' in the AML Module

17. The Federal AML Law introduced a new concept of '*unlawful organisations*' expanding their definition of money laundering to include these types of organisations.
18. The DFSA definition of money laundering in AML 3.1.1 does not currently refer to these types of organisations. In order to recognise this new concept, we are proposing to add a reference to unlawful organisations to AML 3.1.1 as well as to the list of definitions found in AML 3.2.1, where it would be defined as:

“an organisation, the establishment or activities of which have been declared to be criminal under Federal AML Legislation”.

Prescribed Low Risk Customers (PLRC)

19. The PLRC concept and definition in AML 3.2.1 was introduced during the DFSA's 2013 AML Review. It meant that a Relevant Person could assign a low risk rating to a customer meeting the PLRC definition meaning without undertaking a full risk based assessment of that customer.
20. However, the Cabinet Resolution sets minimum Customer Due Diligence (CDD) requirements, which allows for Supervisory Authorities (like the DFSA) to impose further requirements provided there are no inconsistencies or contradictions with those requirements. This means that provisions which set a lower threshold than the Cabinet Resolution, for example, the current PLRC categorisation, are no longer considered acceptable.
21. On this basis we intend to remove the PLRC definition from Chapter 3. We will replace this with Guidance in Chapter 6 to explain, firstly, that the assignment of a low risk customer rating should not be automatic and, secondly, what is expected of those Relevant Persons who have previously relied on this categorisation.

Definition of Politically Exposed Person (PEP)

22. The DFSA definition of a PEP in AML 3.2.1 does not currently differentiate between, or prescribe a different approach to dealing with different types of PEPs¹. This approach was agreed during the 2013 AML review, where it was thought that a distinction was not required given the DIFC's position as an international financial centre. At the time it was considered that the definition adopted was broad enough to capture all PEPs including international PEPs².
23. However, on reflection and in light of the 2012 Recommendations³, we are now proposing to amend the current definition in AML 3.2.1 and align it with the definition set by FATF to clarify that a PEP may be 'domestic', 'foreign' or 'international'. Relevant Persons are reminded that in making this change, there is no change to our current regulatory approach to PEPs.

Definition of Federal AML Legislation

24. The current definitions relating to the Federal AML Laws in the AML Module need to be updated to reflect the amended and new Federal AML Laws. We are also

¹ There are three types of PEPs identified in the FATF Recommendations: Domestic, Foreign and International.

² International PEPs are persons who have been entrusted with a prominent function in an international organisation.

³ FATF Recommendation 12: Politically Exposed Persons.

proposing to create a new definition – *Federal AML Legislation* – which will be defined as;

“all UAE Federal Laws and their implementing regulations on combatting money laundering, terrorist financing and unlawful organisations, as well as sanctions compliance, including Federal Law No.4 of 2002, Federal Law No.1 of 2004, Federal Law No.9 of 2014 and Cabinet Resolution No. 38 of 2014”.

Definition of Anti-Money Laundering and Suspicious Cases Unit (AMLSCU)

25. The Federal AML Law refers to a Financial Intelligence Unit (FIU), commonly known as the AMLSCU in the UAE. Throughout the AML Module we currently refer to the AMLSCU. Instead of amending these references, and potentially causing confusion, we propose to amend the definition of AMLSCU to include a reference to FIU.
26. The proposed changes can be found in Appendix 1.

Issues for consideration

- Q1: Do you agree with our proposal to remove the categorisation of PLRC in accordance with Federal AML Law requirements? If not, why and what alternatives would you suggest?
- Q2: Do you agree that we should amend the definition of AMLSCU to include a reference to the FIU? If not, why?

Chapter 4: Applying a Risk Based Approach

Risk Based Approach (RBA)

27. AML 4.1.1(a) sets out a Relevant Person’s responsibilities in terms of assessing and addressing its AML risks under the AML Module in the context of a RBA. However, we have become aware that the wording and subsequent implementation of this Rule could be clarified by adopting the applicable FATF language.⁴
28. Proportionality is meant to be applied in relation to the Relevant Person’s exposure to money laundering risks, according to FATF. FATF Recommendation 1 requires a review of all the risks, threats and vulnerabilities to the business. However, it is the measures to mitigate any risks that are intended to be proportionate under AML 4.1.1(a) not the review of the risks. We propose to amend AML 4.1.1(a) and add further Guidance to AML Section 4.1 to explain that the proportionality is applied to the mitigation of the risk exposure of the Relevant Person.

⁴ FATF Recommendation 1: Assessing risks and applying a risk based approach.

29. The proposed changes can be found in Appendix 1.

Chapter 6: Customer Risk Assessment

Shell Banks

30. While the AML Module requires a Relevant Person not to enter into a banking relationship with a Shell Bank or a bank that permits its accounts to be used by a Shell Bank (in relation to correspondent banking) found in AML 9.2.2, the Cabinet Resolution goes further than that by, restricting a Relevant Person dealing in any way with a Shell Bank.

31. On this basis, we propose to move this requirement to Chapter 6 and include a new Rule, AML 6.1.3, and Guidance regarding the prohibition found in the Cabinet Resolution on dealing with Shell Banks. We are also proposing to add Shell Bank to the definitions in AML 3.2.1 and define it as:

“a bank that has no physical presence in the country in which it is incorporated or licenced and which is not affiliated with a regulated financial group that is subject to effective consolidated supervision”.

This proposed definition is in accordance with the FATF definition.

Anonymous accounts

32. AML 9.5.1(a) currently prohibits a Relevant Person from opening an anonymous account in a fictitious name. The Cabinet Resolution goes further than this prohibition, giving examples of not opening accounts in the UAE using pseudonyms, fictitious names, or numbered accounts without the accountholder's name. To reflect this, we propose to add Guidance on anonymous accounts and move this Rule to Chapter 6 where we believe it is better suited.

33. The proposed changes can be found in Appendix 1.

Issues for consideration

Q3: Do you believe the additional Guidance in relation to anonymous accounts is useful? If not, why?

Chapter 7: Customer Due Diligence

Requirements to undertake CDD

34. AML 7.3(1)(1) lists the measures that must be carried out by a Relevant Person when undertaking CDD. However, we have become aware that some Relevant Persons do

not fully appreciate what actions are required to understand a customer's source of funds and wealth, as required by AML 7.3(1)(1)(b) & (c).

35. Both of these measures are essential parts of the CDD process and must be established in order for a Relevant Person to adequately assess their AML risk exposure. We propose to include further Guidance in AML 7.3, with examples, on what measures should be taken in order to understand a client's source of wealth and source of funds.

CDD and identification of legal persons

36. Article 4 of the Cabinet Resolution requires a Relevant Person to collect specific information relating to customers who are legal persons, namely the names and addresses of partners and shareholders who each hold 5% or more of the capital of the legal person.
37. In light of these additional information requirements, we propose to add Guidance in Chapter 7 noting the threshold adopted under the Cabinet Resolution and the need for Relevant Persons to collect this information if a customer is a legal person.
38. To note, this will not change the current DFSA approach to the identification of beneficial owners set out in AML 6.1.1(3)(a), where Relevant Persons are required to identify any beneficial owners when carrying out a customer risk assessment. There is no ownership threshold set for this requirement, and in determining whether an individual is a beneficial owner, Relevant Persons must have regard to the size of an individual's legal or beneficial ownership in a transaction and the extent to which they exercise control over that transaction, as well as considering whether their ownership poses a money laundering risk.

Simplified CDD (SDD)

39. AML 7.5.1(1) provides examples of measures a Relevant Person may decide not to undertake when allowed to carry out SDD. One of the measures listed, AML 7.5(1)(1)(c), permits a Relevant Person not to verify a beneficial owner.
40. While this requirement gives the Relevant Person the ability to decide whether or not they need to verify a beneficial owner, some Relevant Persons have understood this to mean they do not need to identify a beneficial owner. This is not the case - the identification of a beneficial owner is still required in all cases by AML 6.1.1(5)(a).⁵
41. In order to address this confusion, we propose to include further Guidance in AML Section 7.5 regarding the need to identify a beneficial owner, but allowing a Relevant

⁵ Please note that if a Relevant Person has decided an individual is not a beneficial owner (under AML 3.2.1) this proposed Guidance would not be applicable.

Person to decide not to verify a beneficial owner for customers where money laundering risks are low.

Tax Crimes

42. The 2012 FATF Recommendations make specific mention of tax crimes (related to direct and indirect taxes) in their definition of Designated Categories of Offences commonly referred to as predicate offences. There are also other international developments and agreements being entered into relating to tax in regards to the exchange of tax information programmes such as the Organisation for Economic Co-operation and Development (OECD) Global Forum. These organisations are placing great importance on the fight against tax crimes.
43. The DFSA is committed to protecting the DIFC from being used to facilitate tax crimes and believes that strong AML systems and controls, including robust CDD requirements, are required to mitigate this risk. Currently, there are no references in the AML Module to alert Relevant Persons to the importance of tax crimes. So, we propose to add Guidance in Chapter 6, to remind Relevant Persons to consider and assess the tax crime risk associated with their customers and factor such risks into the overall AML risk assigned to that customer, as well as Chapter 10 on sanctions and international obligations.
44. The proposed changes can be found in Appendix 1.

Issues for consideration

- Q4: Are the examples in further Guidance useful on what measures should be carried out to understand a customer's source of wealth and funds?
- Q5: Do you agree with the proposal to add Guidance regarding the requirement for a Relevant Person to collect additional information relating to customers who are legal persons? If not, why?
- Q6: Has the proposed Guidance cleared up the confusion over SDD adequately? If not, why not?
- Q7: Do you agree with our proposal to add Guidance regarding the need to consider and assess tax crimes when carrying out a risk assessment in Guidance in Chapter 6 and 10? If not, why?

Chapter 8: Reliance and outsourcing

Reliance on a third party for CDD – information requirements

45. AML 8.1.1 allows a Relevant Person to rely on a third party to carry out its CDD provided, among other things, that they obtain the necessary CDD information and

take adequate steps to ensure that certified copies of the documents used to undertake that assessment will be available from that third party on request without delay.

46. There has been some confusion regarding these requirements and what information is required at what time. For clarification, a Relevant Person is not required automatically to obtain the underlying certified documents used by a third party when undertaking CDD. They should only obtain the relevant CDD information, which could be obtained by having the third party send that information in an email, for example. The certified documents used by the third party to undertake its CDD need only be made available by that third party on request.
47. In order to clarify this requirement further, we propose to amend the Guidance in AML 8.1 regarding when and what information a Relevant Person is required to obtain when having outsourced their CDD.

Reliance on a third party for CDD and ensuring they are equivalently regulated

48. AML 8.1.1(3)(c) states that a Relevant Person relying on a third party, specifically a law firm, notary, other independent legal business, accounting firm, audit firm or insolvency practitioner or an equivalent person in another jurisdiction, or a member of the Relevant Person's Group, to carry out its CDD, must ensure the third party is subject to regulation by a Financial Services Regulator or other competent authority in a country with AML regulations which are equivalent to the standards set out in 2012 Recommendations and it is supervised for compliance with such regulations.
49. We are aware that there is little Guidance on what measures we would expect a Relevant Person to take in order to demonstrate that a third party is equivalently regulated. We propose to include Guidance in AML Section 8.1, giving examples of what information Relevant Persons should be looking at and how their findings should be documented.
50. The proposed changes can be found in Appendix 1.

Issues for consideration

- Q8: Do you agree that the further Guidance on what information we would expect a Relevant Person to obtain, and when, if outsourcing CDD has cleared up the confusion? If not, why?
- Q9: Is the further Guidance on measures to demonstrate that a third party is equivalently regulated useful? If not, why?

Chapter 10: Sanctions and other international obligations

Application of Chapter 10 to all Relevant Persons

51. Chapter 10 is not currently applicable to DNFBPs who are dealers in precious metals/stones or dealers in any saleable item of a price equal to or greater than \$15,000 (“dealers”).
52. The Federal AML Laws do not allow for any ‘carve-outs’ for any types of business, requiring all businesses to comply with the provisions in this Law. Additionally, FATF does not allow for any types of businesses to be excluded from the remit of their recommendations.
53. On this basis, we propose to apply Chapter 10 to all Relevant Persons, including these dealers. We will include further Guidance to explain what is required of dealers in complying with these sanctions requirements. We do not anticipate that compliance with these requirements will be particularly onerous.

Relevant United Nations resolutions and sanctions

54. AML 10.2.1(1) sets down an obligation for Relevant Persons to establish and maintain effective systems and controls to obtain and make appropriate use of relevant resolutions and sanctions issued by the United Nations Security Council (UNSC).
55. We are aware from feedback that this provision may not be sufficiently clear. A Relevant Person, in establishing and maintaining systems and controls, still has an ongoing obligation to make use of those relevant resolutions and sanctions and to notify the DFSA, under AML 10.2.1(2), when it becomes aware of any of the matters set out in AML 10.2.1(2)(a), (b) and (c).
56. Therefore, we propose to amend AML 10.2(1)(1) and to include Guidance to make it clearer that there is a requirement for a Relevant Person, on an ongoing basis, to have systems and controls to both keep itself informed of relevant resolutions and sanctions issued by the UNSC and to take measures to comply with those relevant resolutions or sanctions.
57. The proposed changes can be found in Appendix 1.

Issues for consideration

Q10: Does the proposed Rule amendment and Guidance serve to clarify the requirements under AML 10.2(1)(1) regarding the requirement to make appropriate use of relevant resolutions or sanctions issued by the UNSC? If not, why?

Chapter 11: Money Laundering Reporting Officer

Application of Chapter 11 to all Relevant Persons

58. Chapter 11 and the requirement to appoint a Money Laundering Reporting Officer are not applicable to DNFBPs who are dealers. As we have previously explained, the Federal AML Laws and FATF do not allow for any carve-outs from AML rules.
59. On this basis, we propose to apply Chapter 11 to all Relevant Persons, including dealers. We will include further Guidance to explain what is required of dealers in complying with these sanctions requirements.

Money Laundering Reporting Officer residency requirements for Registered Auditors

60. AML 11.2.1(2) requires a Relevant Person to appoint a Money Laundering Reporting Officer who is a resident of the UAE. However, in the case of Registered Auditors (unlike all other Relevant Persons), they and their representatives are not required to be residents of the UAE.
61. Given that we allow Registered Auditors to provide services into the DIFC from another jurisdiction, it does not seem reasonable to require them to have a specific function based in the UAE. We propose to remove the requirement that a Registered Auditor must appoint a Money Laundering Reporting Officer who is a resident of the UAE.
62. The proposed changes can be found in Appendix 1.

Issues for consideration

Q11: Do you agree with the proposal to remove the requirement for a Registered Auditor to appoint a Money Laundering Reporting Officer who is a resident of the UAE? If not, why?

Chapter 12: AML training and awareness

AML training

63. Article 8(4) of the Cabinet Resolution requires a Relevant Person to prepare and establish plans for the training and qualification of employees in all aspects relating to money laundering in coordination with the AMLSCU.
64. We propose to alert Relevant Persons to this obligation in Guidance in Chapter 12. Please note that the requirement set down in the Cabinet Resolution does not impact on DFSA AML training requirements, this is an additional separate Federal Law obligation.
65. The proposed changes can be found in Appendix 1.

Chapter 13: Suspicious Activity Reports (SARs)

Application of Chapter 13 to all Relevant Persons

66. Parts of Chapter 13 have been disapplied to DNFBPs who are dealers, namely the requirements related to making a SAR (AML 13.3.4) and tipping off (AML 13.4).
67. As we have previously explained, the Federal AML Laws and FATF do not allow for any carve-outs from AML rules. On this basis, we propose to amend and apply Chapter 13 to all Relevant Persons, including these dealers. We will include further Guidance to explain what is required of dealers in complying with these requirements.

SARs and notification

68. Under AML 13.3.1(a), when a Money Laundering Reporting Officer receives notification that a person is engaged in or attempting money laundering they must without delay investigate and document the circumstances.
69. Some Relevant Persons have interpreted this to mean that a formal investigation is required. However, given that the AMLSCU is the UAE body that investigates any suspected money laundering attempts, we propose to remove the term 'investigate' in AML 13.3.1(a) and replace it with 'make inquiry'. This change would limit a Money Laundering Reporting Officer to only making inquiries regarding the circumstances notified to them under AML 10.2.1.

Freezing of Assets

70. The 2012 Recommendations⁶ require each member country to have a targeted regime to comply with sanctions as well as an ability to freeze, without delay, the funds or other assets of designated persons.
71. There are currently no specific provisions regarding freezing of funds or assets in the AML Module. We believe it is important for Firms to be aware of the DFSA's processes in relation to this activity and propose to include Guidance in Chapter 13.
72. The proposed changes can be found in Appendix 1.

Chapter 14: General Obligations

Retaining records:

73. AML 14.4.1 requires a Relevant Person, where relevant, to maintain the records listed in sub-sections (a) to (f) for at least six years. We believe that it is always relevant to retain these types of records and so we propose to remove 'where relevant' from this provision.

⁶ FATF Recommendation 6: Targeted Financial Sanctions related to terrorism and terrorist financing.

AML reports

74. Article 8(3) of the Cabinet Resolution requires a Relevant Person to prepare semi-annual reports on their compliance with the Federal AML Law and Cabinet Resolution requirements and submit these to the AMLSCU. We propose to remind Relevant Persons of this obligation in Guidance in AML 14.5. Please note that the reporting requirements in the Cabinet Resolution do not change the DFSA AML return requirements set out in AML 14.5, which are in addition to the Federal Law reporting obligations.
75. The proposed changes can be found in Appendix 1.

Chapter 15: DNFBP Registration and Supervision

Application of the AML Module to DNFBPs

76. We have become aware that Relevant Persons carrying out certain legal and accounting activities in the DIFC are unsure whether their activities are captured under the current DNFBP definition in AML 3.2.1, specifically under paragraphs (d) and (e) of that definition. Relevant Persons include:
- (a) law firms not registered in the UAE but established in the DIFC providing advice on non-DIFC and non-UAE legislation. Due to the nature of these activities the law firm does not require approval or licensing by the Dubai Legal Affairs Department (DLAD) and, therefore, it has been argued by some that they are not DNFBPs and therefore the AML regime should not apply;
 - (b) firms who have set up in the DIFC not providing the usual accounting services such as auditing, but providing a more specialised forensic accounting and investigative service. It has been argued by some that they are not an accounting firm under the DNFBP definition in AML 3.2.1 and that the AML regime should not apply; and
 - (c) firms who are providing tax advisory or planning services. It has been argued that they because they are not called an accounting or law firm that they should not be classified as such under the DNFBP regime and that the AML regime should not apply.
77. The DFSA takes a substance over form approach in determining whether a person is carrying on a business or profession in the DIFC that falls within the definition of a DNFBP. That is, the DFSA will look at what business or profession is in fact being carried out and its main characteristics. Therefore, irrespective of how the person describes its business, we believe that the above business activities come under our DNFBP regime (and therefore the AML regime) for the following reasons:
- (a) the services on offer use similar, if not the same, legal and accountancy principles as other DIFC legal and accounting firms regulated under our DNFBP

regime. We see no reason why these businesses should not be treated the same;

- (b) a law firm, regardless if it is licenced or approved by the DLAD, calling itself a law firm and if providing legal services, is a law firm in the DIFC and should be regulated for AML purposes; and
- (c) in respect of tax advisors, other jurisdictions include them in their DNFBP regime. For example, they are included under the European Union's Money Laundering Directives, and in the Qatari AML regime. FATF also includes tax evasion as an offence (see the section on Tax Crimes below for further information), and we believe it follows that tax advisors should be regulated in the DIFC for AML and related purposes.

78. On this basis, we propose to add further Guidance to Chapter 2, Overview and Purpose of the Module, to clarify the activities that come under the DNFBP regime.

DNFBP registration details

79. The DFSA requires a DNFBP following registration to notify it of changes to relevant details including name, legal status, address, or its MLRO. We are now proposing to add an additional limb to this list, and require a DNFBP to notify the DFSA of any changes to "ownership details", including the shareholder's name and % holding.

80. We will amend the DNF1 Registration Form where, upon registration, we will ask an applicant DNFBP to disclose its ownership details, including the shareholder's name and % holding. This requirement will include looking through any corporate vehicles to identify the ultimate beneficial owners. Similarly, the DFN 2 Notification of Changes Form will be amended to allow for the notification of changes to a DNFBPs ownership details.

81. Such ownership details are already being obtained for DFSA Registered Auditors and will bring DNFBP registration in line with the Registered Auditor process.

Issues for consideration

Q12: Do you see any views arising from the proposed clarification of what activities come under the DNFBP and therefore the AML regime in the DIFC?

Q13: Do you agree with our proposal to ask DNFBPs to notify the DFSA of any changes in ownership? If not, why?

Transitional provisions

82. Chapter 16 contains existing Transitional Rules. In light of the proposed changes in this CP, there may be a need for further transitional requirements that we would need to include in this Chapter.

Issues for consideration

Q14: Can Relevant Persons identify any transitional requirements that are necessary due to the proposed changes in the CP? If so, what transitional arrangements are necessary?

Timing of the annual AML return

83. This is a reminder to Relevant Persons regarding the changes made to the timing of the DFSA annual AML return, proposed in CP105, issued in February 2016, regarding online applications and submission of data to the DFSA. The relevant Rule changes have now been made by the DFSA Board and will come into effect on 1 August 2016.
84. AML 14.5.1 previously required an AML return to be completed and submitted to the DFSA within four months of a Relevant Person's financial year end. This return will be now due by **30 September each year**, with the information to be included covering the period **1 August – 31 July**. This would allow two months to complete the return.
85. There are transitional arrangements for the change in timing of the AML return:
- (a) all Relevant Persons should continue to submit returns as under the current rules for their 2016 financial year-end; and
 - (b) all Relevant Persons should then submit a return by September 2017 covering the period from 1 August 2016 to 31 July 2017.

Changes to the Glossary (GLO)

86. Recommended changes to the GLO Module are set out in Appendix 2. We are proposing to move these definitions from GLO to the AML Glossary, as these terms are solely used and referenced in the AML Module and do not need to be in GLO.

Proposed changes to the Regulatory Law 2004

87. Potential changes to the Regulatory Law 2004, set out in Appendix 3, will be recommended to HH the President of the DIFC at the appropriate point for presentation to HH the Ruler for his consideration for enactment. Any changes will only come into effect if they are made by HH the Ruler of Dubai.

Annex 1 - List of questions in this Consultation Paper

- Q1: Do you agree with our proposal to remove the categorisation of PLRC in accordance with Federal AML Law requirements? If not, why and what alternatives would you suggest?
- Q2: Do you agree that we should amend the definition of AMLSCU to include a reference to the FIU? If not, why?
- Q3: Do you believe the additional Guidance in relation to anonymous accounts is useful? If not, why?
- Q4: Are the examples in further Guidance useful on what measures should be carried out to understand a customer's source of wealth and funds?
- Q5: Do you agree with the proposal to add Guidance regarding the requirement for a Relevant Person to collect additional information relating to customers who are legal persons? If not, why?
- Q6: Has the proposed Guidance cleared up the confusion over SDD adequately? If not, why not?
- Q7: Do you agree with our proposal to add Guidance regarding the need to consider and assess tax crimes when carrying out a risk assessment in Guidance in Chapter 6 and 10? If not, why?
- Q8: Do you agree that the further Guidance on what information we would expect a Relevant Person to obtain, and when, if outsourcing CDD has cleared up the confusion? If not, why?
- Q9: Is the further Guidance on measures to demonstrate that a third party is equivalently regulated useful? If not, why?
- Q10: Does the proposed Rule amendment and Guidance serve to clarify the requirements under AML 10.2(1)(1) regarding the requirement to make appropriate use of relevant resolutions or sanctions issued by the UNSC? If not, why?
- Q11: Do you agree with the proposal to remove the requirement for a Registered Auditor to appoint a Money Laundering Reporting Officer who is a resident of the UAE? If not, why?
- Q12: Do you see any views arising from the proposed clarification of what activities come under the DNFBP and therefore the AML regime in the DIFC?
- Q13: Do you agree with our proposal to ask DNFBPs to notify the DFSA of any changes in ownership? If not, why?
- Q14: Can Relevant Persons identify any transitional requirements that are necessary due to the proposed changes in the CP? If so, what transitional arrangements are necessary?