Appendix 1

The text in this Appendix is new and not underlined and struck through in the usual manner.

The DFSA Rulebook

Anti Money Laundering, Counter-Terrorist Financing and Sanctions Module

(AML)

Contents

The contents of this module are divided into the following chapters, sections and appendices:

1 INTRODUCTION

1.1 Application

1.1.1 (1) This module (AML) applies, subject to (2), to:

(a) every Relevant Person; and

(b) all the activities of a Relevant Person carried on in or from the DIFC,

except to the extent that a provision of AML provides for a narrower application.

(2) In relation to a Relevant Person who meets the definition of a DNFBP in Rule 2.2.1(b) or (c), Chapters 4 to 9 of this module only apply to the extent that such person engages in any cash or cash-equivalent Transaction with a customer equal to or above $15,000, whether the Transaction is executed as a single operation or in several connected operations.

1.1.2 For the purposes of these Rules, a Relevant Person means:

(a) an Authorised Firm other than a Credit Rating Agency;

(b) an Authorised Market Institution;

(c) any person which meets the definition of a DNFBP in Rule 2.2.1; or

(d) an Auditor.

1.2 Overview and purpose of the module

Guidance

The U.A.E. criminal law

1. Pursuant to Article 70(3) of the Regulatory Law 2004 (the "Law"), the DFSA has exclusive jurisdiction for regulation in relation to money laundering in the DIFC. This module sets out the regulatory requirements imposed by the DFSA pursuant to Article 72 of the Law. The U.A.E. criminal law applies in the DIFC and therefore persons in the DIFC must be aware of their obligations in respect of the criminal law as well as these Rules. Relevant U.A.E. criminal laws include Federal Law No. 4 of 2002 regarding the Criminalisation of Money Laundering, Federal Law No. 1 of 2004 regarding Combating Terrorism Offences and the Penal Code of the United Arab Emirates. The Rules of this module should not be relied upon to interpret or determine the application of the criminal laws of the U.A.E.

2. Under Article 3 of the Federal Law No.4 of 2002, a Relevant Person may be criminally liable for the offence of money laundering if such an activity is intentionally committed in its name or for its account. Relevant Persons are also reminded that:

   a. the failure to report suspicions of money laundering;

   b. "tipping off"; and

c. assisting in the commission of money laundering,

may each constitute a criminal offence that is punishable under the laws of the U.A.E.

Financial Action Task Force

3. The Financial Action Task Force is an inter-governmental body whose purpose is the development and promotion of international standards to combat money laundering and terrorist financing.

4. The DFSA has had regard to the FATF Recommendations in making these Rules. A Relevant Person may wish to refer to the FATF Recommendations and interpretive notes to assist it in complying with these Rules. However, in the event that a FATF Recommendation or interpretive note conflicts with a Rule in this module, the relevant Rule takes precedence.

5. A Relevant Person may also wish to refer to the FATF typology reports which may assist in identifying new money laundering threats and which provide information on money laundering and terrorist financing methods. The FATF typology reports cover many relevant topics for Relevant Persons including corruption, new payment methods, money laundering using trusts and Company Service Providers, and vulnerabilities of free trade zones. These typology reports can be found on the FATF website www.fatf-gafi.org.

6. The U.A.E., as a member of the United Nations, is required to comply with sanctions issued and passed by the United Nations Security Council (UNSC). These UNSC obligations apply in the DIFC and their importance is emphasised by specific obligations contained in this module requiring Relevant Persons to establish and maintain effective systems and controls to make appropriate use of UNSC sanctions and resolutions. (See chapter 11)

7. The FATF has issued guidance on a number of specific UNSC sanctions and resolutions regarding the countering of the proliferation of weapons of mass destruction. Such guidance has been issued to assist in implementing the targeted financial sanctions and activity based financial prohibitions. This guidance can be found on FATF website www.fatf-gafi.org.

8. In relation to unilateral sanctions imposed in specific jurisdictions such as the European Union, the U.K.'s HM Treasury and the U.S. Office of Foreign Assets Control, the DFSA expects a Relevant Person to consider and take positive steps to ensure compliance where required or appropriate. Where there may be no legal obligation for a person to comply with sanctions imposed in a non-U.A.E. jurisdiction, the factors that should be considered by Relevant Persons in deciding whether or not to comply with such sanctions include the location and nature of a Relevant Person's customer base and the jurisdictions in which they operate.

Application table

* Some of the provisions in these chapters will apply. Relevant Persons should consider these chapters and determine which provisions apply.

Relevant Person	Applicable Chapters				
Authorised Person	**Chapter 1 - 15**			**Chapter 17**	
Representative Office	**Chapter 1 - 4**		**Chapter 11 - 15**		**Chapter 17**
Real estate developer or agency	**Chapter 1 - 9**			**Chapter 11 - 17**	
Dealer in precious metals or precious stones	**Chapter 1 - 4**	**Chapter 5 – 9* Partially Applicable**	**Chapter 12**	**Chapter 13 – 14* Partially Applicable**	**Chapter 16 - 17**
Dealer in high-value goods	**Chapter 1 - 4**	**Chapter 5 – 9* Partially Applicable**	**Chapter 12**	**Chapter 13 – 14* Partially Applicable**	**Chapter 16 - 17**
Law firm, notary firm, or other independent legal business	**Chapter 1 - 9**			**Chapter 11 - 17**	
Accounting firm, audit firm or insolvency firm	**Chapter 1 - 9**			**Chapter 11 - 17**	
Company service provider	**Chapter 1 - 9**			**Chapter 11 - 17**	
Single Family Office	**Chapter 1 - 9**			**Chapter 11 - 17**	
Auditor	**Chapter 1 - 9**		**Chapter 11 - 15**		**Chapter 17**

2 INTERPRETATION AND TERMINOLOGY

2.1 Interpretation

2.1.1 A reference in this module to "money laundering" in lower case includes a reference to terrorist financing unless the context provides or implies otherwise.

Guidance

1. Where the DFSA uses the term "money laundering" a Relevant Person is required by Rule 2.1.1 to include terrorist financing in all considerations relating to their AML policies, procedures, systems and controls.

2. Every provision of AML and any other module of the Rulebook should be interpreted in the light of its purpose. The purpose of any provision is to be gathered first and foremost from the text of the provision in question and its context among other relevant provisions.

3. Where this section refers to a provision, this means every type of provision, including Rules and Guidance.

4. Where reference is made in AML to another provision of the Rulebook or to another provision of DIFC legislation, it is a reference to that provision as amended from time to time.

5. Unless the contrary intention appears:

   a. words in the Rulebook importing the masculine gender include the feminine gender and words importing the feminine gender include the masculine; and

   b. words in the Rulebook in the singular include the plural and words in the plural include the singular.

6. If a provision in the Rulebook refers to a communication, notice, agreement, or other documents 'in writing' then, unless the contrary intention appears, it means in legible form and capable of being reproduced on paper, irrespective of the medium used. Expressions related to writing must be interpreted accordingly.

7. Any reference to 'dollars' or '$' is a reference to United States Dollars unless the contrary intention appears.

8. A reference in this module to any threshold or value limit expressed in dollars shall include a reference to the equivalent amount expressed in any other currency.

9. References to Articles made throughout the Rulebook are references to Articles in the Regulatory Law 2004 unless otherwise stated.

10. Unless stated otherwise, a day means a calendar day. If an obligation falls on a calendar day which is either a Friday or Saturday or an official State holiday in the DIFC, the obligation must take place on the next calendar day which is a business day.

2.2 Designated non-financial businesses and professions

2.2.1 (1) For the purposes of Article 60(6) of the Law, subject to (2), the DFSA prescribes the following category of person whose business or profession is carried on in or from the DIFC to be a DNFBP:

(a) a real estate developer or agency which carries out Transactions with a customer involving the buying or selling of real property;

(b) a dealer in precious metals or precious stones;

(c) a dealer in high-value goods;

(d) a law firm, notary firm, or other independent legal business;

(e) an accounting firm, audit firm or insolvency firm;

(f) a Company Service Provider; or

(g) a Single Family Office.

(2) A person who is an Authorised Person or an Auditor is not a DNFBP.

Guidance

A person who meets the definition of a DNFBP must register by notification with the DFSA. The registration requirements for DNFBPs are found at chapter 16 of this module.

2.3 Glossary for AML

2.3.1 In this module:

(a) "beneficial owner" means a natural person:

(i) who ultimately:

(A) owns, whether legally or beneficially, a customer or customer's assets; or

(B) controls, directly or indirectly, a customer account;

(ii) on whose behalf or for whose benefit a Transaction is ultimately being conducted;

(iii) who owns, or exercises ultimate effective control over, a legal person or arrangement; or

(iv) on whose instructions the signatories of an account, or any intermediaries instructing such signatories, are for the time being accustomed to act;

(b) "customer" has the meaning in in Rule 4.2.1(2);

(c) "legal person" means any entity other than a natural person that can establish a customer relationship with a Relevant Person or otherwise own property. This can include companies, bodies corporate, trusts, foundations, anstalt, partnerships, or associations and other relevantly similar entities;

(d) "natural person" means an individual; and

(e) "person" means a natural or legal person.

Guidance

1. A Relevant Person should note that the above defined terms and others elsewhere in this module are AML-specific defined terms which have not had the initial letter of each word capitalised in the usual manner in order to make this module easier to read.

2. A Relevant Person should note also that some of the defined terms and abbreviations in this module may also be found in the DFSA's Glossary module (GLO). Where a defined term in this module does not appear in Rule 2.3.2, a Relevant Person should look in GLO to find the meaning.

2.3.2 The terms and abbreviations listed in the table below have the following meanings:

AML	Means either "anti-money laundering" or this Anti Money Laundering, Counter-Terrorist Financing and Sanctions module depending on the context.
AMLSCU	Means the Anti-Money Laundering Suspicious Cases Unit of the U.A.E. Central Bank.
Auditor	Means a partnership or company that is registered by the DFSA to provide audit services to: (a) an Authorised Person; (b) a Domestic Fund; or (c) a Public Listed Company.
Authorised Person	Means an Authorised Firm or an Authorised Market Institution.
Company Service Provider	Means a person in Rule 2.2.1(1)(f) which by way of business, provides any of the following services to a customer: (i) acting as a formation agent of legal persons; (ii) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons; (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; or (iv) acting as (or arranging for another person to act as) a nominee shareholder for another person.
CTF	Means counter terrorist financing.
Customer Due Diligence (CDD)	Means Standard Customer Due Diligence and, where appropriate using the Risk Based Approach, adjusting Standard Customer Due Diligence using enhanced or simplified measures.

Designated Non-Financial Business or Profession (DNFBP)	Has the meaning in Rule 2.2.1.
DIFC entity	Means a legal person other than a Branch which is incorporated or registered in the DIFC.
Employee	Means an individual: (a) who is employed or appointed by a person in connection with that person's business, whether under a contract of service or for services or otherwise; or (b) whose services, under an arrangement between that person and a third party, are placed at the disposal and under the control of that person.
Enhanced Customer Due Diligence	Has the meaning in Rule 7.1.1.
FATF	Means the Financial Action Task Force.
FATF Recommendations	Means the publication entitled the "International Standards on Combatting Money Laundering and the Financing of Terrorism and Proliferation" as published and amended from time to time by FATF.
Federal Law No. 1 of 2004	Means Federal Law No. 1 of 2004 regarding Combating Terrorism Offences.
Federal Law No. 4 of 2002	Means Federal Law No. 4 of 2002 regarding the Criminalisation of Money Laundering.
Financial Institution	A regulated or unregulated entity, whose activities are primarily financial in nature.
Financial Services Regulator	Means a regulator of financial services activities established in a jurisdiction other than the DIFC.

Governing Body	Means: (1) The board of directors, partners, committee of management or other governing body of an Undertaking. (2) In CIR, in relation to a Fund, a person or a body of persons who together form the directing mind of the Fund including but not limited to: (a) its Fund Manager, a member of its main or supervisory board, a General Partner; or (b) any other person or body of persons exercising equivalent powers and functions in relation to directing the operation of the Fund.
Group	Means a Group of entities which includes an entity (the 'first entity') and: (a) any parent of the first entity; and (b) any subsidiaries (direct or indirect) of the parent or parents in (a) or the first entity; or (c) for a legal person which is not a body corporate, refers to that person and any other associated legal persons who are in an equivalent relationship.
High-value goods	Means any saleable item of a price equal to or greater than $15,000.
Law	Means the Regulatory Law 2004.
Member	A Person admitted as a member of an Authorised Market Institution in accordance with its Business Rules.
Money Laundering Reporting Officer (MLRO)	Means the person appointed by a Relevant Person pursuant to Rule 15.2.1.
Politically Exposed Person (PEP)	Means an natural person (and includes a family member or close associate) who is or has been entrusted with a prominent public function, domestically or in a foreign country or territory, for example a head of state or of government, senior politician, senior government, judicial or military official, ambassador, senior executive of a state owned co-operation, an important political party official but not middle ranking or more junior individuals in these categories.
Regulated exchange	Means an exchange regulated by a Financial Services Regulator.
Relevant Person	Has the meaning in Rule 1.1.2.

Simplified Customer Due Diligence	Has the meaning in Rule 8.1.1.
Single Family Office	Has the meaning given to that term in the DIFC Single Family Office Regulations.
Standard Customer Due Diligence	Has the meaning in Rule 6.1.1.
Suspicious Activity Report (SAR)	Means a report in the prescribed format regarding suspicious activity (including a suspicious Transaction) made to the AMLSCU pursuant to Rule 13.3.1(c).
Transaction	Means any Transaction undertaken by a Relevant Person for or on behalf of a customer in the course of carrying on a business in or from the DIFC.

3 RESPONSIBILITY FOR COMPLIANCE WITH THIS MODULE

Guidance

Compliance by a Relevant Person with its obligations under this module is the ultimate responsibility of the Governing Body and senior management of such person. The DFSA will expect the Governing Body and senior management of a Relevant Person to establish a robust and effective AML/CTF and sanctions compliance culture for the business.

3.1 AML/CTF responsibility

3.1.1 (1) Responsibility for a Relevant Person's compliance with this module lies with:

(a) for a DIFC entity, every member of the Relevant Person's Governing Body;

(b) for a Branch, every member of the Relevant Person's senior management in the DIFC; and

(c) for an Auditor, every member of the Relevant Person's senior management in the U.A.E.

(2) A person with responsibility under (1) must:

(a) assume responsibility for the Relevant Person's compliance with this module;

(b) adopting the Risk Based Approach, establish and maintain effective policies, procedures, systems and controls to prevent opportunities for money laundering in relation to the Relevant Person and its activities;

(c) ensure that its systems and controls in (b) include the provision to the Relevant Person's Governing Body or, where relevant, its senior management, of regular management information on the operation and effectiveness of its AML systems and controls necessary to identify, measure, manage and control the Relevant Person's money laundering risks;

(d) ensure that its AML policies, procedures, systems and controls enable the Relevant Person to comply with these Rules, Federal Law No.4 of 2002, Federal Law No.1 of 2004 and any other relevant Federal laws;

(e) carry out regular risk assessments of the adequacy of the Relevant Person's AML systems and controls to ensure that they continue to enable it to identify, assess, monitor and manage money laundering risk adequately, and are comprehensive and proportionate to the nature, scale and complexity of its activities;

(f) ensure that an appropriate person is appointed as MLRO and given responsibility for the implementation and day-to-day oversight of the policies, procedures, systems and controls in (b); and

(g) take reasonable steps to ensure that the Relevant Person's Employees are adequately trained and comply with the relevant requirements of its AML policies, procedures, systems and controls.

(3) In carrying out its responsibilities under this chapter and elsewhere in this module a person in (1) must exercise due skill, care and diligence.

(4) Nothing in this Rule precludes the DFSA from taking enforcement action against either or both of the following persons in respect of a breach of any Rule in this module:

(a) the Relevant Person; or

(b) any one or more of the persons in (1).

Guidance

In Rule 3.1.1(2) the regularity of risk assessments will depend on the nature, size and complexity of the Relevant Person's business.

4 APPLYING A RISK BASED APPROACH

Guidance

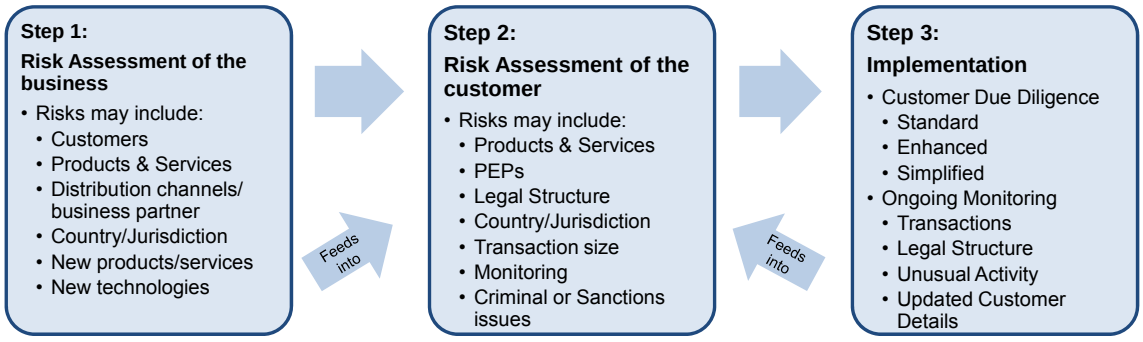
1. The DFSA expects every Relevant Person to adopt an approach to AML which is proportionate to the risks to which the person is exposed to as a result of the nature of its business, customers, products, services and any other matters which are relevant in the context of money laundering. This is call the "risk based approach" ("RBA") and is illustrated in figure 1 below. The RBA, should be a key part of the Relevant Person's money laundering compliance culture and should cascade down from the Governing Body and/or senior management to the rest of the organisation. Embedding the RBA within its business allows a Relevant Person to make decisions and allocate money laundering resources in the most efficient and effective way.

2. In implementing the RBA, a Relevant Person is expected to have in place processes to identify, assess, monitor, manage and mitigate money laundering risks. The general principle is that where there are higher risks of money laundering taking place a Relevant Person should take enhanced measures to manage and mitigate those risks, and that correspondingly when the risks are lower, simplified measures may be permitted. Simplified measures should not be permitted where there is a suspicion of money laundering.

3. The RBA discourages a "tick-box" approach to AML. Instead a Relevant Person should assess relevant money laundering risks and adopt a proportionate response to such risks. The outcome of using the RBA is akin to using a sliding scale, where the type of CDD undertaken on each customer will ultimately depend on the outcome of the risk-based assessment made of such customer pursuant to this Chapter.

4. In complying with Chapter 4 a Relevant Person may have regard to any relevant FATF guidance on the RBA to combating money laundering and terrorist financing.

Figure 1. The Risk Based Approach (RBA) – 3-steps



4.1 Assessing business AML risk

4.1.1 A Relevant Person must:

(a) take appropriate steps to identify and assess money laundering risks its business is exposed to taking into consideration the nature, size and complexity of its activities;

(b) when identifying and assessing the risks in (a), take into account any vulnerabilities relating to:

(i) its type of customers and their activities;

(ii) the countries or geographic areas in which it does business;

(iii) its products, services and activity profiles;

(iv) its distribution channels and business partners;

(v) the complexity and volume of its Transactions;

(vi) the development of new products and new business practices, including new delivery mechanisms, channels and partners; and

(vii) the use of new or developing technologies for both new and pre-existing products,

(c) regularly re-assess the money laundering risks identified and assessed in (a) to which it is exposed; and

(d) take appropriate measures to ensure that any risk identified as part of the assessment in (a) is taken into account in its day to day operations, including in relation to:

(i) the development of new products;

(ii) the taking on of new customers; and

(iii) changes to its business profile.

4.1.2 A Relevant Person must use the information obtained in complying with Rule 4.1.1 to:

(a) develop and maintain its AML policies, procedures, systems and controls;

(b) ensure that its AML policies, procedures, systems and controls adequately mitigate the risks identified as part of the assessment in Rule 4.1.1;

(c) assess the effectiveness of its AML policies, procedures, systems and controls as required by Rule 3.1.1(2); and

(d) assist in allocation and prioritisation of AML resources.

Guidance

1. Unless a Relevant Person understands the money laundering risks to which it is exposed, it cannot take appropriate steps to prevent its business being used for the purposes of money laundering. Money laundering risks vary from business to business depending on the nature of the business, the type of customers a business has and on the nature of the products and services sold.

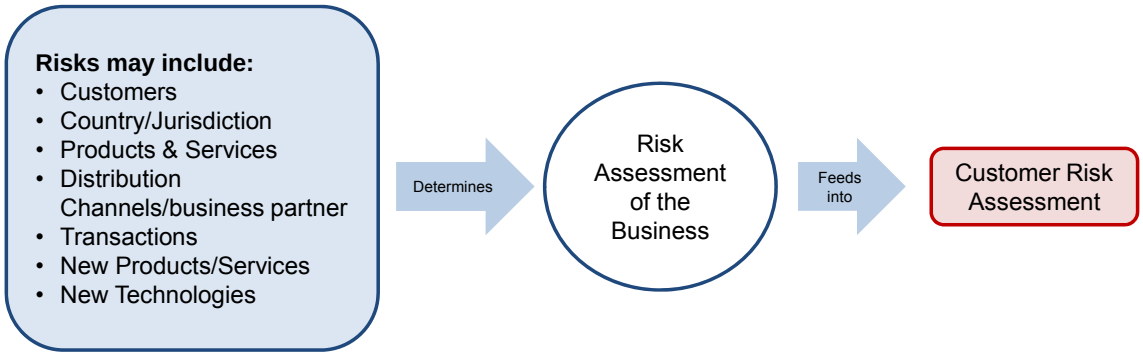
2. Using the RBA, a Relevant Person should assess its own vulnerabilities to money laundering and to take all reasonable steps to eliminate or manage such risks. The results of this assessment will also feed into the Relevant Person's assessment of its customers. For instance, if a Relevant Person reasonably concludes that a particular business line poses a negligible risk of money laundering, it may decide, using the RBA, that all its customers in that business line should be treated as posing a lower risk of money laundering and it may apply Simplified Customer Due Diligence.

3. Figure 2 below illustrates the process by which a Relevant Person should assess business AML risk.

4. In Rule 4.1.1(c), the regularity of assessments will depend on the nature, size and complexity of the Relevant Person's business.

5. In complying with section 4.1, a Relevant Person may have regard to FATF Recommendation 1 and 10 and the associated interpretive notes.

Figure 2. Business risk-based assessment



4.2 Customer AML risks

4.2.1 (1) A Relevant Person must, prior to undertaking Customer Due Diligence as required by Rule 5.1.1, and subject to Rule 4.2.2, undertake a risk based assessment of each of its customers.

(2) In (1) and elsewhere in this module, "customer" means:

(a) a client or prospective client of a Relevant Person;

(b) a Member or prospective Member of, or an applicant for admission to trading on, an Authorised Market Institution; or

(c) a person with whom a Relevant Person is otherwise establishing a business relationship.

(3) When undertaking the assessment required by (1), a Relevant Person must take into consideration:

(a) the nature of the customer;

(b) the nature of the customer business relationship with the Relevant Person;

(c) the customer's country of origin, residence, nationality, place of incorporation or place of business; and

(d) the relevant product, service or Transaction.

(4) Following the assessment required by (1), a Relevant Person must determine the money laundering risk of the customer and assign the customer an appropriate risk rating.

Guidance on the term "customer"

1. The DFSA considers that a person becomes a customer of a Relevant Person at the point where there is a firm intention or commitment by each party to enter into a contractual or business relationship. The point at which a person becomes a customer will vary from business to business. However, the DFSA considers that it would usually occur at or prior to the business relationship being formalised, for example, by the signing of a client agreement or the acceptance of terms of business.

2. The DFSA does not consider that a person would be a customer of a Relevant Person merely because such person receives marketing information from a Relevant Person or where a Relevant Person refers a person who is not a customer to a third party (including a Group member).

3. The DFSA considers that a counterparty would generally be a customer for the purposes of this module and would therefore require a Relevant Person to undertake CDD on such a person using the RBA. However, this would not include suppliers of ordinary business services for consumption by the Relevant Person such as cleaning, catering, stationery, IT, or other similar services.

4. In relation to a Single Family Office, references in this module to customer should be read as including a "Single Family" (as defined under the DIFC Single Family Office Regulations) to whom the Single Family Office provides a service.

5. A Representative Office should not have any customers in relation to its DIFC operations.

4.2.2 A Relevant Person may classify the following persons as having a lower risk of money laundering without the need to undertake a risk based assessment pursuant to Rule 4.2.1(1):

(a) an Authorised Firm;

(b) an Authorised Market Institution;

(c) a DNFBP in Rule 2.2.1(1) (d) and (e);

(d) subject to Rule 10.2.1, a Financial Institution whose entire operations are subject to regulation, including AML, by a Financial Services Regulator or other competent authority in a country with AML regulations which are equivalent to the standards set out in the FATF Recommendations and it is supervised for compliance with such regulations;

(e) a Subsidiary of a Financial Institution referred to in (d), provided that the law that applies to the parent company ensures that the subsidiary also observes the same AML standards as its Parent;

(f) a company whose Securities are listed on a Regulated exchange and which is subject to disclosure obligations equivalent to those set out in the Markets Rules;

(g) a government body or a non-commercial government entity in the U.A.E. or a FATF member country; and

(h) a customer where the business relationship is limited to the provision of one or more of the following products or services:

(i) non-life insurance;

(ii) life insurance products with no investment return or redemption or surrender value;

(iii) a reinsurance contract placed with an insurer which is subject to regulation, including AML, by a Financial Services Regulator or other competent authority in a country with AML regulations which are equivalent to the standards set out in the FATF Recommendations and it is supervised for compliance with such regulations;

(iv) a life insurance contract where the annual premium is no more than $1,000 or where a single premium of no more than $2,500 is paid;

(v) an insurance contract for the purposes of a pension scheme where the contract contains no surrender clause and cannot be used as collateral; or

(vi) a pension, superannuation or similar scheme which provides retirement benefits to employees, where contributions are made by an employer or by way of deduction from an Employee's wages and the scheme rules do not permit the assignment of a member's interest under the scheme.

Guidance on the customer risk assessment

Figure 3. Customer risk-based assessment

1. In assessing the nature of a customer, a Relevant Person should consider such factors as the legal structure of the customer, the customer's business or occupation, the location of the customer's business and the commercial rationale for the customer's business model.

2. In assessing the customer business relationship, a Relevant Person should consider how the customer is introduced to the Relevant Person and how the customer is serviced by the Relevant Person, including for example, whether the Person will be a private banking client, will open a bank account or whether the business relationship will be purely advisory.

3. Pursuant to Rule 4.1.1(d)(ii), a Relevant Person should consider its risk-based assessment of its business when assessing the risk of a new customer.

4. The risk assessment of a customer, which is illustrated in figure 3 above, requires a Relevant Person to allocate an appropriate risk rating to every customer. The DFSA would expect risk ratings to be either descriptive such as "low", "medium" or "high" or a sliding numeric scale such as 1 for the lowest risk to 10 for the highest. Depending on the outcome of the Relevant Person's assessment of its customer's money laundering risk, it should decide to what level of detail the customer identification and verification process will need to be performed.

5. Using the RBA, a Relevant Person could, when assessing two customers with near identical risk profiles, consider that one is high risk and the other low risk. This may occur, for example, where both customers may be from the same high risk country, but one customer may be a customer in relation to a low risk product, such as those in Rule 4.2.2(h), or may be a long-standing customer of a Group company who has been introduced to the Relevant Person.

Guidance on higher risk customers

6. In complying with Rule 4.2.1, the DFSA considers that a Relevant Person should consider the following factors and situations as indicative that a customer may pose a higher risk of money laundering and it should be risk rated accordingly:

   a. the business relationship is conducted in unusual circumstances (e.g. significant unexplained geographic distance between the location of the Relevant Person and the customer);

   b. non U.A.E. resident customers;

   c. legal persons or arrangements that are personal investment vehicles;

   d. companies that have nominee shareholders or directors or shares in bearer form;

   e. businesses that are cash-intensive;

   f. the ownership structure of the legal person appears unusual or excessively complex given the nature of the legal person's business or activities;

   g. countries identified by credible sources, such as mutual evaluation or detailed assessment reports or published follow-up reports, as not having adequate AML systems;

   h. countries subject to sanctions, embargos or similar measures issued by, for example, the United Nations Security Council or identified by credible sources as having significant levels of corruption or other criminal activity;

   i. countries or geographic areas identified by credible sources as providing funding or support for terrorist activities, or that have designated terrorist organisations operating within their country;

   j. a person not meeting the definition of a PEP but whose high-profile or influence poses an elevated risk of corruption;

   k. anonymous Transactions (which may include cash);

   l. private banking clients;

   m. non-face-to-face business relationships or Transactions;

   n. payment received from unknown or un-associated third parties;

   o. discretionary trusts; and

   p. charitable trusts and waqfs.

4.3 Politically exposed persons

4.3.1 A Relevant Person must:

(a) have in place systems and controls to determine whether a customer or beneficial owner is a Politically Exposed Person;

(b) subject to Rule 4.2.2(h), assign a higher risk rating to the customer if the customer, or beneficial owner in relation to such customer, is a Politically Exposed Person; and

(c) in relation to a customer or beneficial owner which is a Politically Exposed Person:

(i) take reasonable measures to establish the Politically Exposed Person's:

(A) source of wealth; and

(B) source of funds,

(ii) ensure that its senior management approve in writing the commencement or continuation of a business relationship with a Politically Exposed Person; and

(iii) conduct enhanced ongoing monitoring of the business relationship.

Guidance

1. In Rule 4.3.1(c)(ii), senior management approval may be given by an individual member of the Relevant Person's senior management or by a committee of senior managers appointed to consider higher-risk customers.

2. Individuals who have, or have had, a high political profile, or hold, or have held, public office, can pose a higher money laundering risk to a Relevant Person as their position may make them vulnerable to corruption. This risk also extends to members of their immediate families and to known close associates. PEP status itself does not, of course, incriminate individuals or entities. It does, however, put the customer, or the beneficial owner, into a higher risk category.

3. Generally, a foreign Politically Exposed Person presents a higher risk of money laundering because there is a greater risk that such person, if he was committing money laundering, would attempt to place his money offshore where the customer is less likely to be recognised as a PEP and where it would be more difficult for law enforcement agencies in his home jurisdiction to confiscate or freeze his criminal property.

4. Corruption-related money laundering risk is increased when a person deals with Politically Exposed Persons. Corruption may involve serious crimes and has become the subject of increasing global concern. Corruption offences are predicate crimes under the Federal Law No. 4 of 2002. A Relevant Person should note that customer relationships with family members or close associates of Politically Exposed Persons involve similar risks to those associated with Politically Exposed Persons themselves.

5. The DFSA considers that after leaving office a Politically Exposed Person remains a higher risk for money laundering as long as such person continues to exert political influence or otherwise pose a risk of corruption.

6. In complying with section 4.3, a Relevant Person may have regard to FATF Recommendation 12 and to the associated interpretive notes.

5 CUSTOMER DUE DILIGENCE

Guidance

1. CDD in the context of AML refers to the process of identifying a customer, verifying such identification and monitoring the customer's business and money laundering risk on an on-going basis. CDD should be undertaken following a risk-based assessment of the customer and the proposed business relationship, Transaction or product.

2. A Relevant Person's CDD obligations require it to gather documents, data or other information about a prospective customer. This is in order to identify and verify the identity of the customer, including that of a legal person's beneficial owner. Where the customer is a legal person or arrangement, the Relevant Person should take measures to understand the ownership and control structure of the customer. A Relevant Person should also obtain from the customer information about the purpose and intended nature of the proposed business relationship.

5.1 Requirement to undertake customer due diligence

5.1.1 Having established a customer's risk rating in accordance with Rule 4.2.1(4), a Relevant Person must undertake Standard Customer Due Diligence for the customer, unless:

(a) the customer has a high risk rating, in which case the Relevant Person must also undertake additional measures under Enhanced Customer Due Diligence; or

(b) the customer has a low risk rating, in which case the Relevant Person may undertake Simplified Customer Due Diligence.

5.2 Timing of customer due diligence

5.2.1 A Relevant Person must, subject to Rule 6.6.1(2), undertake Customer Due Diligence:

(a) when it is establishing a business relationship with a customer;

(b) when it suspects money laundering (notwithstanding the Relevant Person would not otherwise be required to undertake Customer Due Diligence); or

(c) when it doubts the veracity or adequacy of documents, data or information obtained for the purposes of Customer Due Diligence.

Guidance

1. For the purposes of Rule 5.2.1(c), examples of situations which might lead a Relevant Person to have doubts about the veracity or adequacy of documents, data or information previously obtained could be where there is a suspicion of money laundering in relation to that customer, where there is a material change in the way that the customer's account is operated, which is not consistent with the customer's business profile, or where it appears to the Relevant Person that a person other than the customer is the real customer.

2. For the avoidance of doubt, in the case of a joint account, an Authorised Firm should undertake CDD measures on all joint account holders as if each of them were individually customers of the Authorised Firm.

5.3 Failure to complete customer due diligence

5.3.1 Where, in relation to any customer, a Relevant Person is unable to conduct or complete Customer Due Diligence in accordance with Rule 5.1.1, it must to the extent relevant:

(a) not carry out a Transaction with or for the customer through a bank account or in cash;

(b) not open an account or otherwise provide a service;

(c) not otherwise establish a business relationship or carry out a Transaction;

(d) subject to Rule 5.3.2, terminate or suspend any existing business relationship with the customer;

(e) subject to Rule 5.3.2, return any monies or assets received from the customer unless directed to act otherwise by the AMLSCU; and

(f) consider whether the inability to conduct or complete Customer Due Diligence necessitates the making of a SAR pursuant to Rule 13.3.1(c).

5.3.2 A Relevant Person is not obliged to comply with Rule 5.3.1 (d) or (e) if:

(a) to do so would amount to "tipping off" the customer in breach of Article 16 of the Federal Law No. 4 of 2002; or

(b) the AMLSCU directs the Relevant Person to act otherwise.

Guidance

1. In complying with Rule 5.3.1 a Relevant Person should apply one or more of the measures in (a) to (f) as appropriate in the circumstances. Where CDD cannot be completed, it may be appropriate not to carry out a Transaction pending completion of CDD. Where CDD cannot be conducted, including where a material part of the CDD, such as identifying and verifying a beneficial owner cannot be conducted, a Relevant Person should not establish a business relationship with the customer.

2. A Relevant Person should note that Rule 5.3.1 applies to both existing and prospective customers. For new customers it may be appropriate for a Relevant Person to terminate the business relationship before a product or service is provided. However, for existing customers, while termination of the business relationship should not be ruled out, suspension may be more appropriate depending on the circumstances. Whichever route is taken, the Relevant Person should be careful not to tip off the customer.

3. A Relevant Person should adopt the RBA for CDD of existing customers. For example, if a Relevant Person considers that any of its existing customers (which may include customers which it migrates into the DIFC) have not been subject to CDD at an equivalent standard to that required by this module, it should adopt the RBA and take remedial action in a manner proportionate to the risks and within a reasonable period of time whilst complying with Rule 5.3.1.

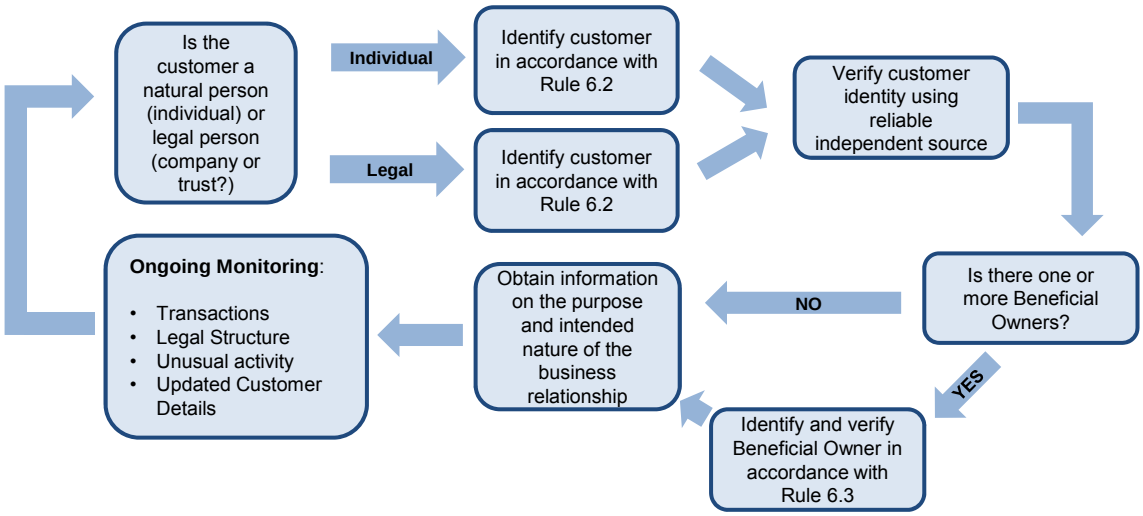
4. The DFSA considers that Rule 5.3.1 may not apply in circumstances where a lawyer is in the course of defending or representing a client in legal proceedings, including advising on the institution or avoidance of proceedings.

6 STANDARD CUSTOMER DUE DILIGENCE

Guidance

In complying with chapter 6, a Relevant Person may have regard to FATF Recommendation 10 and to the associated interpretive notes.

Figure 4. Standard CDD



6.1 Standard customer due diligence

6.1.1 Standard Customer Due Diligence means:

(a) where the customer is:

(i) a natural person, identifying the person and verifying the person's identity; or

(ii) a legal person, identifying the person, verifying the person's identity and understanding its legal structure;

on the basis of original documents, data or information issued by a reliable and independent source;

(b) establishing if there exists a beneficial owner in relation to the customer in (a);

(c) obtaining information on the purpose and intended nature of the business relationship;

(d) understanding the customer's source of funds;

(e) understanding the customer's source of wealth; and

(f) undertaking on-going due diligence of the customer business relationship by:

(i) monitoring the customer's Transactions and source of funds to ensure that they are consistent with the Relevant Person's knowledge of the customer, his business and risk profile; and

(ii) keeping the information obtained in complying with (a) to (e) up to date.

6.1.2 In this section and elsewhere in this module:

(a) "source of funds" means the origin of customer's funds which relate to a Transaction or service and includes how such funds are connected to a customer's source of wealth; and

(b) "source of wealth" means how the customer's global wealth or net worth is or was acquired or accumulated.

6.2 Identification and verification of natural and legal persons

Guidance

1. A Relevant Person should, in complying with Rule 6.1.1(a)(i), and adopting the RBA, obtain, verify and record, for every customer who is a natural person, the following identification information:

   a. full name (including any alias);

   b. date of birth;

   c. nationality;

   d. legal domicile; and

   e. current residential address (not a P.O. box).

2. Items (a) to (c) above should be obtained by sighting a current valid passport or, where a customer does not own a passport, an official identification document which includes a photograph.

3. A Relevant Person should, in complying with Rule 6.1.1(a)(ii), and adopting the RBA, obtain, verify and record, for every customer which is a legal person, the following identification information:

   a. full business name and any trading name;

   b. registered or business address;

   c. date of incorporation or registration;

   d. place of incorporation or registration;

   e. a valid commercial or professional license;

   f. the identity of the directors, partners, trustees or equivalent persons with executive authority of the legal person; and

   g. for a trust, a certified copy of the trust deed to ascertain the nature and purpose of the trust and documentary evidence of the appointment of the current trustees.

4. In complying with Rule 6.1.1(a), it may not always be possible to obtain original documents. Where identification documents cannot be obtained in original form, for example because a Relevant Person has no physical contact with the customer, the Relevant Person should obtain a copy certified as a true copy by a person of good standing such as a registered lawyer or notary, a chartered accountant, a police officer, an Employee of the person's embassy or consulate, or other similar person.

5. For higher risk situations the DFSA would expect identification information to be independently verified, using both public and non-public sources. For lower risk situations, not all of the relevant identification information would need to be verified.

6.3 Identification and verification of beneficial owners

6.3.1 A Relevant Person must, if there exists a beneficial owner in relation to a customer:

(a) identify the beneficial owner; and

(b) take adequate measures to verify the beneficial owner's identity so that the Relevant Person is satisfied that he knows who the beneficial owner is, including, in the case of a legal person, measures to understand the ownership and control structure of the person.

6.3.2 Where the customer is a legal person, a Relevant Person must not establish a business relationship with the customer if the presence of bearer shares prevents the Relevant Person from identifying one or more beneficial owners in relation to the customer.

Guidance

1. Where a customer is a legal person, two key areas of focus should be beneficial owners and PEPs. A Relevant Person should adopt a substantive (as opposed to form over substance) approach to CDD for legal persons. It should take all reasonable steps to establish and understand a corporate customer's legal ownership and control and to identify the beneficial owner. The DFSA does not set explicit ownership or control thresholds in defining the beneficial owner because the DFSA considers that the applicable threshold to adopt will ultimately depend on the risks associated with the customer so the DFSA expects a Relevant Person to adopt the RBA and justify an approach which is proportionate to the risks identified. A Relevant Person should not set fixed thresholds for identifying the beneficial owner without objective justification. An overly formal approach to defining the beneficial owner may result in a criminal "gaming" the system by always keeping his financial interest below the relevant threshold.

2. In identifying and verifying a beneficial owner the DFSA would expect a Relevant Person to adopt a substantive approach rather than a formal one. This would mean focussing on the money laundering risks of the customer and the product/service and avoiding an approach which sets fixed percentages at which beneficial owners are identified (or not). For example, for a widely-held fund with a large number of investors, a Relevant Person would not be expected to look through to every beneficial owner. However, for a closely-held fund with a small number of investors, each with a large shareholding or other interest, the DFSA would expect a Relevant Person to identify and verify each of the beneficial owners, depending on the risks identified as part of the RBA. For a corporate health policy with defined benefits, the DFSA would not expect a Relevant Person to identify the beneficial owners.

3. The DFSA considers that in some circumstances no percentage threshold should be used because it may be important to identify all underlying beneficial owners in order to ensure that they are not associated or connected in some way. This may be appropriate where there are a small number of investors in an account or fund, each with a significant financial holding and

the customer-specific risks are higher. However, where the customer-specific risks are lower a threshold can be appropriate. For example, for a low-risk corporate customer which, combined with a lower-risk product or service, a twenty-five per cent threshold may be an appropriate threshold for identifying "control" of the legal person for the purposes of limb (iii) of the definition of a beneficial owner. For a retail investment fund which is widely-held and where the investors invest via pension contributions, the DFSA would not expect the manager of the fund to look through to any underlying investors where there are none with any material ownership level in the fund.

4. In any situation where a Relevant Person does not look through to a beneficial owner because it sets a percentage threshold which prevents this, the DFSA expects that, should a request for information regarding a beneficial owner be made by a competent authority, including the DFSA, such Relevant Person should be able to have access to information about the identities of any beneficial owners which it has not identified in order to respond promptly to the request for information.

5. A Relevant Person should carry out identification and verification in respect of all actual and potential beneficial owners of a trust. This would include the trustee, settlor, the protector, the enforcer, beneficiaries, other person with power to appoint or remove a trustee and any person entitled to receive a distribution whether or not such person is a named beneficiary.

6.4 Identification for insurance policies

6.4.1 For life insurance and other similar policies, a Relevant Person must:

(a) identify the named beneficiaries of the insurance policy; and

(b) identify the persons in any class of beneficiary, or where these are not identifiable, ensure that it obtains sufficient information to be able to identify such persons at the time of payout of the insurance policy.

Guidance

An insurance policy which is similar to a life policy would include life-related protection, pension, and investment products which pay out to the policy holder or beneficiary upon a particular event occurring or upon redemption.

6.5 Monitoring the customer relationship

6.5.1 In complying with Rule 6.1.1(f), a Relevant Person must, using the risk-based approach:

(a) monitor Transactions undertaken during the course of its customer relationship to ensure that the Transactions are consistent with the Relevant Person's knowledge of the customer, his business and risk rating;

(b) pay particular attention to any complex or unusually large Transactions or unusual patterns of Transactions that have no apparent or visible economic or legitimate purpose;

(c) enquire into the background and purpose of the Transactions in (a); and

(d) periodically review the adequacy of the identification information it holds on customers and beneficial owners to ensure that the information is kept up to date, particularly for customers with a higher risk rating.

6.5.2 A Relevant Person must review its customers, their business and Transactions against United Nations Security Council sanctions lists and against any other relevant sanctions list when complying with Rule 6.5.1(d).

Guidance

1. In complying with Rule 6.5.1(d), a Relevant Person should undertake a periodic review to ensure that non-static customer identity documentation is accurate and up-to-date. Examples of non-static identity documentation include passport number and residential/business address and, for a legal person, its share register or list of partners.

2. A Relevant Person should undertake a review particularly when:

   a. the Relevant Person changes its CDD documentation requirements;

   b. an unusual Transaction with the customer is expected to take place;

   c. there is a material change in the business relationship with the customer; or

   d. there is a material change in the nature or ownership of the customer.

3. The degree of the on-going due diligence to be undertaken will depend on the risk assessment carried out pursuant to Rule 4.2.1.

4. A Relevant Person's Transaction monitoring policies, procedures, systems and controls, which may be implemented by manual or automated systems, or a combination thereof, are one of the most important aspects of effective CDD. Whether a Relevant Person should undertake the monitoring by means of a manual or computerised system (or both) will depend on a number of factors, including:

   a. the size and nature of the Relevant Person's business and customer base; and

   b. the complexity and volume of customer Transactions.

5. In Rule 6.5.2, a "relevant sanctions list" may include EU, U.K. HM Treasury, U.S. OFAC and any other list which may apply to a Relevant Person.

6.6 Timing of customer verification

6.6.1 (1) A Relevant Person must, subject to (2), complete the verification required by Rule 6.1.1 (a) to (e) before the establishment of a business relationship with the customer.

(2) A Relevant Person may establish a business relationship with a customer before completing the verification required by Rule 6.1.1 (a) to (e) if:

(i) any deferral of the verification of the customer or beneficial owner is necessary in order not to interrupt the normal conduct of a business relationship;

(ii) there is little risk of money laundering occurring and any such risks identified can be effectively managed by the Relevant Person, provided that the verification is completed as soon as reasonably practicable and in any event no later than 30 days after the establishment of a business relationship; and

(iii) in relation to a bank account opening, there are adequate safeguards in place to ensure that the account is not closed and

Transactions are not carried out by or on behalf of the account holder (including any payment from the account to the account holder) before verification has been completed.

Guidance

In Rule 6.6.1(2)(i), situations that the Relevant Person may take into account include, for example, accepting subscription monies during a short offer period or executing a time critical Transaction, which if not executed immediately, would or may cause a customer to incur a financial loss due to price movement or loss of opportunity.

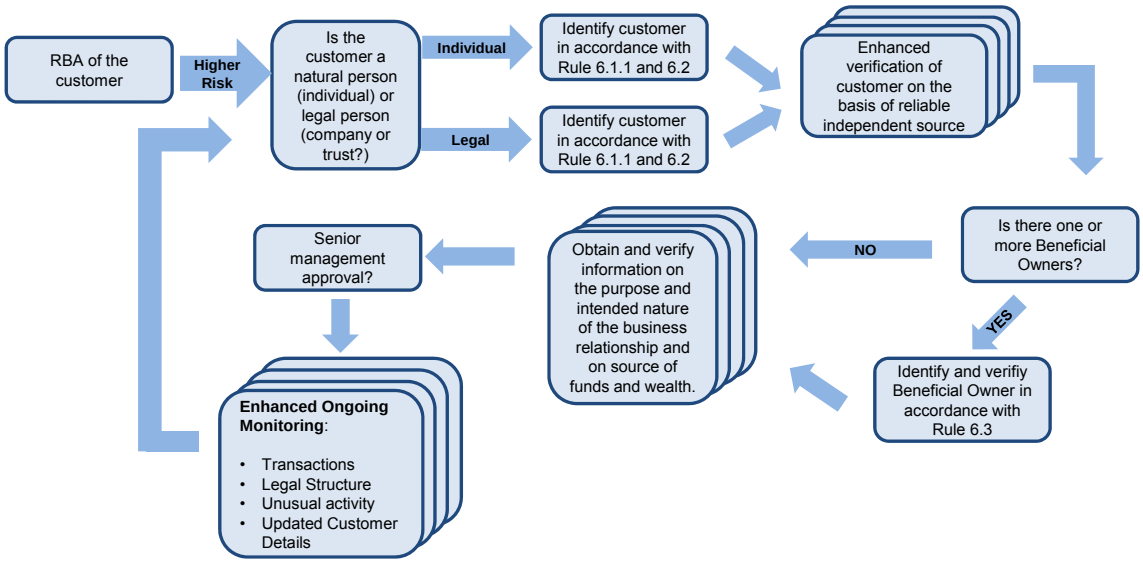
7 ENHANCED CUSTOMER DUE DILIGENCE

Guidance

1. Following a risk-based assessment of a customer a Relevant Person may conclude that the information it would obtain under the Standard CDD process is insufficient in relation to the money laundering risk of the customer. In this case, the Relevant Person should obtain additional information about the customer, the customer's beneficial owner, where applicable, and the purpose and intended nature of the business relationship. The process of Enhanced CDD is set out in figure 5.

2. In complying with section 7.1, a Relevant Person may have regard to FATF Recommendation 10 and to the associated interpretive notes.

Figure 5. Enhanced CDD



7.1 Enhanced customer due diligence

7.1.1 (1) Enhanced Customer Due Diligence means conducting Standard Customer Due Diligence and, consistent with the higher money laundering risks identified, conducting additional due diligence measures in relation to the customer.

(2) In (1), additional measures must include, to the extent applicable:

(a) obtaining and verifying additional identification information on the customer ;

(b) obtaining and verifying additional information on the intended nature of the business relationship;

(c) obtaining and verifying additional information on the reasons for a Transaction;

(d) updating more regularly the identification data of the customer and beneficial owner;

(e) verifying information on the customer's source of funds;

(f) verifying information on the customer's source of wealth;

(g) increasing the degree and nature of monitoring of the business relationship, in order to determine whether the customer's Transactions or activities appear unusual or suspicious; and

(h) obtaining the approval of senior management to commence a business relationship with a customer.

Guidance

1. In Rule 7.1.1(2)(h), senior management approval may be given by an individual member of the Relevant Person's senior management or by a committee of senior managers appointed to consider higher-risk customers.

2. For higher risk customers, a Relevant Person should, in order to mitigate the perceived and actual risks, exercise a greater degree of diligence throughout the customer relationship and should endeavour to understand the nature of the customer's business and consider whether it is consistent and reasonable, including:

   a. the source of the customer's wealth;

   b. documentary evidence relating to the circumstances that gave rise to the customer's wealth;

   c. the nature and type of Transactions;

   d. the client's business and business structures;

   e. the use made by the customer of the Relevant Person's products and services;

   f. the nature and level of business to be expected from the customer;

   g. for corporate and trust structures, the chain of title, authority or control leading to the ultimate beneficial owner, settler and beneficiaries, if relevant and known;

   h. where relevant, the reasons a customer is using complex legal structures; and

   i. the Relevant Person should be satisfied that a customer's use of complex legal structures and/or the use of trust and private investment vehicles, has a genuine and legitimate purpose.

3. Verification of source of funds would include obtaining independent corroborating evidence such as proof of dividend payments connected to a shareholding, bank statements, salary/bonus certificates, loan documentation and proof of a Transaction which gave rise to the payment into the account. A customer should be able to demonstrate and document how the relevant funds are connected to a particular event which gave rise to the payment into the account or to the source of the funds for a Transaction.

4. Verification of source of wealth would include obtaining independent corroborating evidence such as share certificates, publicly-available registers of ownership, bank or brokerage account statements, probate documents, audited accounts and financial statements, news items from a reputable source and other similar evidence.

5. A Relevant Person may commission a third party vendor report to obtain further information on a customer or Transaction or to investigate a customer or beneficial owner in very high-risk cases. A third party vendor report may be particularly useful where there is little or no publicly-available information on a person or on a legal arrangement.

8 SIMPLIFIED CUSTOMER DUE DILIGENCE

Guidance

In complying with section 8.1, a Relevant Person may have regard to FATF Recommendation 10 and to the associated interpretive notes.

8.1 Simplified customer due diligence

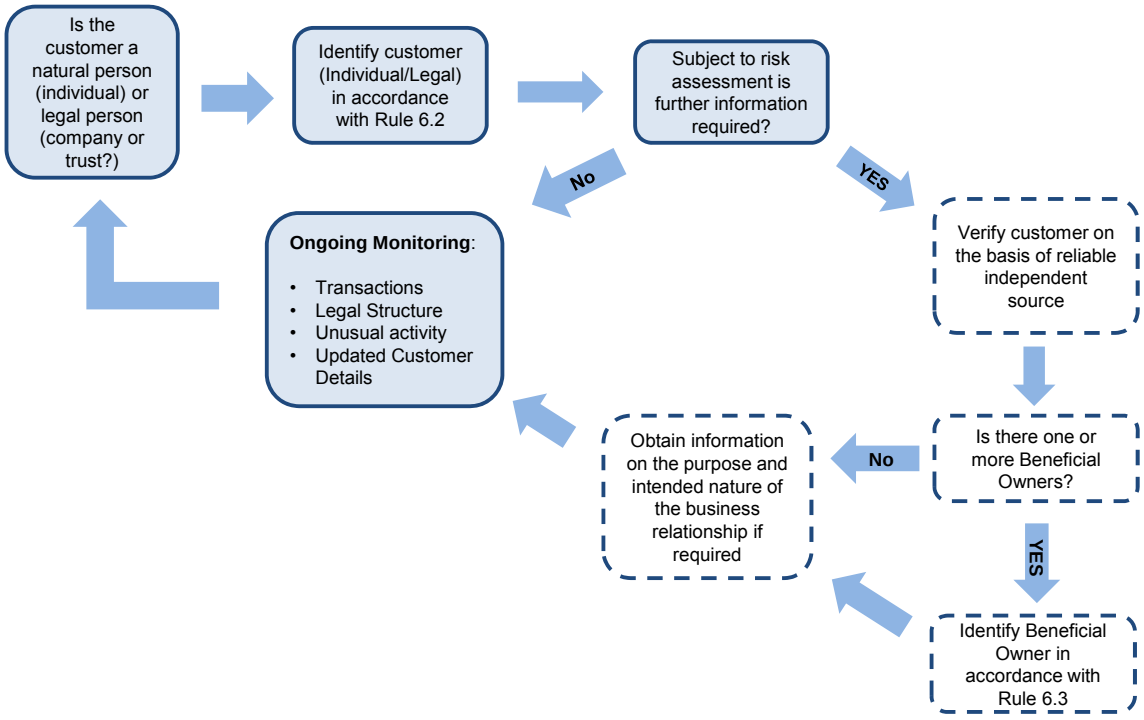
8.1.1 Simplified Customer Due Diligence means modifying Standard Customer Due Diligence using simplified measures, consistent with the lower money laundering risks identified.

8.1.2 A Relevant Person must not conduct Simplified Customer Due Diligence if:

(a) it has a reasonable suspicion of money laundering; or

(b) where a Relevant Person's ongoing monitoring raises the customer's risk profile.

Figure 6. Simplified CDD



Guidance

1. In conducting Simplified Due Diligence, examples of possible simplified measures include:

   a. verifying the identity of the customer and the beneficial owner after the establishment of the business relationship pursuant to Rule 6.6.1;

   b. reducing the frequency of, or as appropriate, not undertaking customer identification updates. This may be appropriate for customers in Rule 4.2.2;

c. deciding, in some low risk cases, not to enquire as to whether there is a beneficial owner. This may be appropriate for customers in Rule 4.2.2;

d. deciding not to verify an identification document other than by requesting a copy;

e. not enquiring as to a customer's source of funds or source of wealth. This may be appropriate for customers in Rule 4.2.2;

f. reducing the degree of on-going monitoring of Transactions, based on a reasonable monetary threshold or on the nature of the Transaction; or

g. not collecting specific information or carrying out specific measures to understand the purpose and intended nature of the business relationship, but infer such purpose and nature from the type of Transactions or business relationship established.

2. A Relevant Person should not use a "one size fits all" approach for all its low risk customers. Notwithstanding that the risks may be low for all such customers, the degree of CDD undertaken should be proportionate to the risks identified. For example, for customers where the money laundering risks are very low, a Relevant Person may decide to simply identify the customer and verify such information only to the extent that this is commercially necessary. On the other hand, a low risk customer which is undertaking a complex Transaction might require more comprehensive simplified CDD.

3. An example of where a Relevant Person might reasonably reduce the frequency of or, as appropriate, eliminate customer identification updates would be where the money laundering risks are low and the service provided does not offer a realistic opportunity for money laundering, such as non-life insurance products (motor, medical etc) or basic advice on a product.

4. An example of where a Relevant Person might reasonably reduce the degree of on-going monitoring and scrutinising of Transactions, based on a reasonable monetary threshold or on the nature of the Transaction would be where the Transaction is a recurring, fixed contribution to a savings scheme, investment portfolio or fund or where the monetary value of the Transaction is not material for money laundering purposes given the nature of the customer and the Transaction type.

9 RELIANCE AND OUTSOURCING

9.1 Reliance on a third party

9.1.1 (1) A Relevant Person may, in order to comply with Rule 5.1.1:

(a) rely on a person in (3) to conduct one or more elements of Customer Due Diligence required by Rule 5.1.1 on its behalf; or

(b) rely on the information previously obtained by a person in (3) which covers one or more elements of Customer Due Diligence required by Rule 5.1.1.

(2) Rule 9.1.1(1) is subject to (6) and (7).

(3) The following persons may be relied upon for the purposes of (1):

(a) an Authorised Person;

(b) a DNFBP in Rule 2.2.1(1) (d) and (e);

(c) a Financial Institution; and

(d) a member of the Relevant Person's Group.

(4) Where, pursuant to (1), a Relevant Person seeks to rely on a person in (3) it may only do so if and to the extent that:

(a) it immediately obtains the necessary Customer Due Diligence information from the person in (3) ;

(b) it takes adequate steps to satisfy itself that certified copies of the documents used to undertake the relevant elements of Customer Due Diligence will be available from the other person upon request without delay;

(c) the person in (3) is subject to regulation, including AML, by a Financial Services Regulator or other competent authority in a country with AML regulations which are equivalent to the standards set out in the FATF Recommendations and it is supervised for compliance with such regulations;

(d) the person in (3) has not relied on any exception from the requirement to conduct any relevant elements of Customer Due Diligence which the Relevant Person seeks to rely on; and

(e) in relation to (1)(b), the information is up to date.

(5) Where pursuant to (1), a Relevant Person relies on a member of its Group, such Group member need not meet the condition in (4)(c) if:

(a) the Group applies and implements a Group-wide policy on Customer Due Diligence and record keeping which is equivalent to the standards set by FATF; and

(b) where the effective implementation of those Customer Due Diligence and record keeping requirements and AML programmes are supervised at Group level by a Financial Services Regulator or other competent authority in a country with AML regulations which are equivalent to the standards set out in the FATF Recommendations.

(6) If a Relevant Person is not reasonably satisfied that a customer or beneficial owner has been identified and verified in a manner consistent with these Rules, the Relevant Person must immediately perform the Customer Due Diligence itself with respect to any deficiencies identified.

(7) Notwithstanding the Relevant Person's reliance on a person in (3), the Relevant Person remains responsible for compliance with, and liable for any failure to meet, Rule 5.1.1.

Guidance

1. The DFSA would expect a Relevant Person, in complying with Rule 9.1.1(6), to fill any gaps in the CDD process as soon as it becomes aware that a customer or beneficial owner has not been identified and verified in a manner consistent with these Rules.

2. If a Relevant Person acquires another business, either in whole or in part, the DFSA would permit the Relevant Person to rely on the CDD conducted by the business it is acquiring but would expect the Relevant Person to have done the following:

   a. as part of its due diligence for the acquisition, to have taken a reasonable sample of the prospective customers to assess the quality of the CDD undertaken; and

   b. to undertake CDD on all the customers to cover any deficiencies identified in a. as soon as possible following the acquisition, prioritising higher-risk customers.

9.2 Outsourcing

9.2.1 A Relevant Person which outsources any one or more elements of its Customer Due Diligence obligations in Rule 5.1.1 to a service provider (including within its Group) remains responsible for compliance with, and liable for any failure to meet, such obligations.

Guidance

1. Prior to appointing an outsourced service provider to undertake CDD, a Relevant Person should undertake appropriate due diligence to ensure itself of the suitability of the outsourced service provider and should ensure that the outsourced service provider's obligations are clearly documented in a binding agreement.

2. An Authorised Person should be mindful of its obligations regarding outsourcing set out in GEN Rules 5.3.21 and 5.3.22.

10 CORRESPONDENT BANKING, WIRE TRANSFERS, ANONYMOUS ACCOUNTS AND AUDIT

10.1 Application

10.1.1 This chapter only applies to an Authorised Person other than a Representative Office.

10.2 Correspondent banking

10.2.1 An Authorised Firm proposing to have a correspondent banking relationship with a respondent bank must:

(a) undertake appropriate Customer Due Diligence on the respondent bank;

(b) as part of (a), gather sufficient information about the respondent bank to understand fully the nature of the business, including making appropriate enquiries on its management, its major business activities and the countries or jurisdictions in which it operates;

(c) determine from publicly-available information the reputation of the respondent bank and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or relevant regulatory action;

(d) assess the respondent bank's AML controls and ascertain if they are adequate and effective in light of the FATF Recommendations;

(e) ensure that prior approval of the Authorised Firm's senior management is obtained before entering into a new correspondent banking relationship;

(f) ensure that the respective responsibilities of the parties to the correspondent banking relationship are properly documented; and

(g) be satisfied that, in respect of any customers of the respondent bank who have direct access to accounts of the Authorised Firm, the respondent bank:

(i) has undertaken Customer Due Diligence (including ongoing monitoring) at least equivalent to that in Rule 6.1.1 in respect of each customer; and

(ii) is able to provide the relevant Customer Due Diligence information in (i) to the Authorised Firm upon request; and

(h) document the basis for its satisfaction that the requirements in (a)-(g) are met.

10.2.2 An Authorised Firm must:

(a) not enter into a correspondent banking relationship with a shell bank; and

(b) take appropriate measures to ensure that it does not enter into, or continue a corresponding banking relationship with, a bank which is known to permit its accounts to be used by shell banks.

Guidance

A shell bank would be a bank that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial Group that is subject to effective consolidated supervision. The DFSA does consider that the existence of a local agent or low level staff constitutes physical presence.

10.3 Wire transfers

10.3.1 In this section:

(a) "beneficiary" means the natural or legal person or legal arrangement who is identified by the originator as the receiver of the requested wire transfer;

(b) "originator" means the account holder who instructs the wire transfer from the relevant account, or where there is no account, the natural or legal person that places the order with the ordering Financial Institution to perform the wire transfer; and

(c) "wire transfer" includes any value transfer arrangement.

10.3.2 (1) An Authorised Person must:

(a) when it sends or receives funds by wire transfer on behalf of a customer, ensure, subject to (b), that the wire transfer and any related messages contain accurate originator and beneficiary information;

(b) ensure that, while the wire transfer is under its control, the information in (a) remains with the wire transfer and any related message throughout the payment chain; and

(c) monitor wire transfers for the purpose of detecting those wire transfers that do not contain originator and beneficiary information and take appropriate measures to identify any money laundering risks.

(2) The requirement in (1) does not apply to an Authorised Person which transfers funds to another Financial Institution where both the originator and the beneficiary are Financial Institutions acting on their own behalf.

Guidance

1. Information accompanying all wire transfers should always contain:

   a. the name of the originator;

   b. the originator account number where such an account is used to process the Transaction;

   c. the originator's address, or national identity number, or customer identification number, or date and place of birth;

d. the name of the beneficiary; and

e. the beneficiary account number where such an account is used to process the Transaction.

In the absence of an account number, a unique Transaction reference number should be included which permits traceability of the Transaction.

2. The DFSA considers that concealing or removing in a wire transfer any of the information required by Rule 10.3.2 would be a breach of the requirement to ensure that the wire transfer contains accurate originator and beneficiary information.

10.4 Anonymous and nominee accounts

10.4.1 An Authorised Person must not establish or maintain:

(a) an anonymous account or an account in a fictitious name; or

(b) a nominee account which is held in the name of one person, but which is controlled by or held for the benefit of another person whose identity has not been disclosed to the Authorised Person.

10.5 Audit

10.5.1 An Authorised Person must maintain an audit function that is adequately resourced and independent, and which will be able to regularly review and assess the effectiveness of the Authorised Person's money laundering policies, procedures, systems and controls, and its compliance with its obligations in this AML module.

Guidance

1. The review and assessment undertaken for the purposes of Rule 10.5.1 may be undertaken:

   a. internally by the Relevant Person's internal audit function; or

   b. by a competent firm of independent auditors or compliance professionals.

2. The review and assessment undertaken for the purposes of Rule 10.5.1 should cover at least the following:

   a. sample testing of compliance with the Relevant Person's CDD arrangements;

   b. an analysis of all notifications made to the MLRO to highlight any area where procedures or training may need to be enhanced; and

   c. a review of the nature and frequency of the dialogue between the Governing Body with the MLRO.

11 SANCTIONS AND OTHER INTERNATIONAL OBLIGATIONS

11.1 Application

11.1.1 This chapter does not apply to a DNFBP in Rule 2.2.1(1) (b) or (c).

11.2 Relevant United Nations resolutions and sanctions

11.2.1 (1) A Relevant Person must establish and maintain effective systems and controls to obtain and make appropriate use of relevant resolutions or sanctions issued by the United Nations Security Council.

(2) A Relevant Person must immediately notify the DFSA when it becomes aware that it is:

(a) carrying on or about to carry on an activity;

(b) holding or about to hold money or other assets; or

(c) undertaking or about to undertake any other business whether or not arising from or in connection with (a) or (b);

for or on behalf of a person, where such carrying on, holding or undertaking constitutes or may constitute a contravention of a relevant sanction or resolution issued by the United Nations Security Council.

(3) A Relevant Person must ensure that the notification stipulated in (2) above includes the following information:

(a) a description of the relevant activity in (2) (a), (b) or (c); and

(b) the action proposed to be taken or that has been taken by the Relevant Person with regard to the matters specified in the notification.

Guidance

1. In relation to the term "make appropriate use" in Rule 11.2.1 this may mean that a Relevant Person cannot undertake a Transaction for or on behalf of a person or that it may need to undertake further due diligence in respect of a person.

2. Relevant resolutions or sanctions mentioned in Rule 11.2.1 may, among other things, relate to money laundering, terrorist financing or the financing of weapons of mass destruction or otherwise be relevant to the activities carried on by the Relevant Person. For example:

   a. a Relevant Person should exercise due care to ensure that it does not provide services to, or otherwise conduct business with, a person engaged in money laundering, terrorist financing or the financing of weapons of mass destruction; and

   b. an Authorised Market Institution should exercise due care to ensure that it does not facilitate fund raising activities or listings by persons engaged in money laundering or terrorist financing or financing of weapons of mass destruction.

11.3 Government, regulatory and international findings

11.3.1 (1) A Relevant Person must establish and maintain systems and controls to obtain and make appropriate use of any findings, recommendations, guidance, directives, resolutions, sanctions, notices or other conclusions issued by:

(a) the government of the U.A.E. or any government departments in the U.A.E.;

(b) the Central Bank of the U.A.E. or the AMLSCU;

(c) FATF;

(d) U.A.E. enforcement agencies; and

(e) the DFSA,

concerning the matters in (2).

(2) For the purposes of (1), the relevant matters are:

(a) arrangements for preventing money laundering, terrorist financing or the financing of weapons of mass destruction in a particular country or jurisdiction, including any assessment of material deficiency against relevant countries in adopting international standards; and

(b) the names of persons, groups, organisations or entities or any other body where suspicion of money laundering or terrorist financing or the financing of weapons of mass destruction exists.

Guidance

1. The purpose of this Rule is to ensure that a Relevant Person takes into consideration the broad range of tools used by competent authorities and international organisations to communicate AML/CTF risks to stakeholders.

2. A Relevant Person should examine and pay special attention to any Transactions or business relationship with persons located in countries or jurisdictions mentioned by the persons in Rule 11.3.1(a) to (e).

3. Relevant Persons considering Transactions or business relationships with persons located in countries or jurisdictions that have been identified as deficient, or against which the U.A.E. or the DFSA have outstanding advisories, should be aware of the background against which the assessments, or the specific recommendations have been made. These circumstances should be taken into account in respect of introduced business from such jurisdictions, and when receiving inward payments for existing customers or in respect of inter-bank Transactions.

4. The Relevant Person's MLRO is not obliged to report all Transactions from these countries or jurisdictions to the AMLSCU if they do not qualify as suspicious pursuant to Federal Law No. 4 of 2002. See chapter 13 on Suspicious Activity Reports.

5. Transactions with counterparties located in countries or jurisdictions which no longer identified as deficient or have been relieved from special scrutiny, for example, taken off sources mentioned in this Guidance, may nevertheless require attention which is higher than normal.

6. In order to assist Relevant Persons, the DFSA will, from time to time, publish U.A.E., FATF or other findings, guidance, directives or sanctions. However, the DFSA expects a Relevant Person to take its own steps in acquiring relevant information from various available sources. For example, a Relevant Person may obtain relevant information from the consolidated list of financial sanctions in the European Union Office, HM Treasury (United Kingdom) lists, and the Office of Foreign Assets Control (OFAC) of the United States Department of Treasury.

7. In addition, the systems and controls mentioned in Rule 11.3.1 should be established and maintained by a Relevant Person taking into account its risk assessment pursuant to chapter 4. In relation to the term "make appropriate use" in Rule 11.3.1, this may mean that a Relevant Person cannot undertake a Transaction for or on behalf of a person or that it may need to undertake further due diligence in respect of such a person.

8. A Relevant Person should be proactive in obtaining and appropriately using available national and international information, for example suspect lists or databases from credible public or private sources with regard to money laundering including obtaining relevant information from sources mentioned in Guidance 6 under Rule 11.3.1. The DFSA encourages Relevant Persons to perform checks against their customer databases and records for any names appearing on such lists and databases as well as to monitor Transactions accordingly.

9. The risk of terrorists entering the financial system can be reduced if Relevant Persons apply effective AML strategies, particularly in respect of CDD. Relevant Persons should assess which countries carry the highest risks and should conduct an analysis of Transactions from countries or jurisdictions known to be a source of terrorist financing.

10. The DFSA may require Relevant Persons to take any special measures it may prescribe with respect to certain types of Transactions or accounts where the DFSA reasonably believes that any of the above may pose a money laundering risk to the DIFC.

12 AML TRAINING AND AWARENESS

12.1 Training and awareness

12.1.1 A Relevant Person must

(a) provide AML training to all relevant Employees at appropriate and regular intervals; and

(b) ensure that its AML training:

(i) is appropriately tailored to the Relevant Person's activities, including its products, services, customers, distribution channels, business partners, level and complexity of its Transactions; and

(ii) indicates the different levels of money laundering risk and vulnerabilities associate with the matters in (i); and

(iii) enables its Employees to be able to:

(A) understand the relevant legislation relating to money laundering including Federal Law No. 4 of 2002, Federal Law No. 1 of 2004 and any other relevant Federal laws;

(B) understand its policies, procedures, systems and controls related to money laundering and any changes to these;

(C) recognise and deal with Transactions and other activities which may be related to money laundering;

(D) understand the types of activity that may constitute suspicious activity in the context of the business in which an Employee is engaged and that may warrant a notification to the MLRO pursuant to Rule 13.2.2;

(E) understand its arrangements regarding the making of a notification to the MLRO pursuant to Rule 13.2.2;

(F) be aware of the prevailing techniques, methods and trends in money laundering relevant to the business of the Relevant Person;

(G) understand the roles and responsibilities of Employees in combating money laundering, including the identity and responsibility of the Relevant Person's MLRO and deputy, where applicable; and

(H) understand the relevant findings, recommendations, guidance, directives, resolutions, sanctions, notices or other conclusions described in chapter 11.

Guidance

1. The DFSA considers it appropriate that all new relevant Employees of a Relevant Person be given appropriate AML training as soon as reasonably practicable after commencing employment with the Relevant Person.

2. The DFSA considers that AML training should be provided by a Relevant Person to each of its relevant Employees at intervals commensurate with the role and responsibilities of the Employee. In the case of an Authorised Firm the DFSA expects that training should be provided to each Employee at least annually.

3. The manner in which AML training is provided by a Relevant Person need not be in a formal classroom setting, rather it may be via an online course or any other similarly appropriate manner.

4. A relevant Employee would include a member of the Governing Body or senior management, all operational staff, any Employee with customer contact or which handles or may handle customer monies or assets, and any other Employee who might otherwise encounter money laundering in the business.

13 SUSPICIOUS ACTIVITY REPORTS

13.1 Application and definitions

13.1.1 In this chapter, a DNFBP in Rule 2.2.1(1) (b) or (c) is only required to comply with Rule 13.3.4 and section 13.4.

13.1.2 In this chapter:

(a) "money laundering" means the criminal offence defined in Federal Law No 4 of 2002; and

(b) "terrorist financing" means the criminal offence defined in Federal Law No 1 of 2004.

13.2 Internal reporting requirements

13.2.1 A Relevant Person must establish and maintain policies, procedures, systems and controls in order to monitor and detect suspicious activity or Transactions in relation to potential money laundering or terrorist financing.

13.2.2 A Relevant Person must have policies, procedures, systems and controls to ensure that whenever any Employee, acting in the ordinary course of his employment, either:

(a) knows;

(b) suspects; or

(c) has reasonable grounds for knowing or suspecting;

that a person is engaged in or attempting money laundering or terrorist financing, that Employee promptly notifies the Relevant Person's MLRO and provides the MLRO with all relevant details.

Guidance

1. Circumstances that might give rise to suspicion or reasonable grounds for suspicion include:

   a. Transactions which have no apparent purpose, which make no obvious economic sense, or which are designed or structured to avoid detection;

   b. Transactions requested by a person without reasonable explanation, which are out of the ordinary range of services normally requested or are outside the experience of a Relevant Person in relation to a particular customer;

   c. the size or pattern of Transactions, without reasonable explanation, is out of line with any pattern that has previously emerged or are deliberately structured to avoid detection;

   d. a customer refuses to provide the information requested without reasonable explanation;

   e. a customer who has just entered into a business relationship uses the relationship for a single Transaction or for only a very short period of time;

f. an extensive use of offshore accounts, companies or structures in circumstances where the customer's economic needs do not support such requirements;

g. unnecessary routing of funds through third party accounts; or

h. unusual Transactions without an apparently profitable motive.

2. The requirement for Employees to notify the Relevant Person's MLRO should include situations when no business relationship was developed because the circumstances were suspicious.

3. A Relevant Person may allow its Employees to consult with their line managers before sending a report to the MLRO. The DFSA would expect that such consultation does not prevent making a report whenever an Employee has stated that he has knowledge, suspicion or reasonable grounds for knowing or suspecting that a person may be involved in money laundering. Whether or not an Employee consults with his line manager or other Employees, the responsibility remains with the Employee to decide for himself whether a notification to the MLRO should be made.

4. An Employee, including the MLRO, who considers that a person is engaged in or engaging in activity that he knows or suspects to be suspicious would not be expected to know the exact nature of the criminal offence or that the particular funds were definitely those arising from the crime of money laundering or terrorist financing.

5. CDD measures form the basis for recognising suspicious activity. Sufficient guidance must therefore be given to the Relevant Person's Employees to enable them to form a suspicion or to recognise when they have reasonable grounds to suspect that money laundering or terrorist financing is taking place. This should involve training that will enable relevant Employees to seek and assess the information that is required for them to judge whether a person is involved in suspicious activity related to money laundering or terrorist financing.

6. A Transaction that appears unusual is not necessarily suspicious. Even customers with a stable and predictable Transaction profile will have periodic Transactions that are unusual for them. Many customers will, for perfectly good reasons, have an erratic pattern of Transactions or account activity. So the unusual is, in the first instance, only a basis for further inquiry, which may in turn require judgement as to whether it is suspicious. A Transaction or activity may not be suspicious at the time, but if suspicions are raised later, an obligation to report then arises.

7. Effective CDD measures may provide the basis for recognising unusual and suspicious activity. Where there is a customer relationship, suspicious activity will often be one that is inconsistent with a customer's known legitimate activity, or with the normal business activities for that type of account or customer. Therefore, the key to recognising 'suspicions' is knowing enough about the customer and the customer's normal expected activities to recognise when their activity is abnormal.

8. A Relevant Person may consider implementing policies and procedures whereby disciplinary action is taken against an Employee who fails to notify the Relevant Person's MLRO.

13.3 Suspicious activity report

13.3.1 A Relevant Person must ensure that where the Relevant Person's MLRO receives a notification under Rule 13.2.2, the MLRO, without delay:

(a) investigates and documents the circumstances in relation to which the notification made pursuant to Rule 13.2.2 was made;

(b) determines whether in accordance with Federal Law No. 4 of 2002 a Suspicious Activity Report must be made to the AMLSCU and documents such determination;

(c) if required, makes a Suspicious Activity Report to the AMLSCU as soon as practicable; and

(d) notifies the DFSA of the making of such Suspicious Activity Report immediately following its submission to the AMLSCU.

13.3.2 Where, following a notification to the MLRO under 13.2.2, no Suspicious Activity Report is made, a Relevant Person must record the reasons for not making an Suspicious Activity Report.

13.3.3 A Relevant Person must ensure that if the MLRO decides to make a Suspicious Activity Report, his decision is made independently and is not subject to the consent or approval of any other person.

13.3.4 When a Relevant Person which is a DNFBP in Rule 2.2.1(1) (b) or (c) either:

(a) knows;

(b) suspects; or

(c) has reasonable grounds for knowing or suspecting;

that a person is engaged in or attempting money laundering or terrorist financing, it must make a Suspicious Activity Report to the AMLSCU as soon as practicable and notify the DFSA of the making of such report immediately following its submission to the AMLSCU.

Guidance

1. Relevant Persons are reminded that the failure to report suspicions of money laundering or terrorist financing may constitute a criminal offence that is punishable under the laws of the U.A.E.

2. SARs under Federal Law No. 4 of 2002 should be emailed or faxed to the AMLSCU. The dedicated email address and fax numbers, and the template for making a SAR are available on the DFSA website.

3. In the preparation of a SAR, if a Relevant Person knows or assumes that the funds which form the subject of the report do not belong to a customer but to a third party, this fact and the details of the Relevant Person's proposed course of further action in relation to the case should be included in the report.

4. If a Relevant Person has reported a suspicion to the AMLSCU, the AMLSCU may instruct the Relevant Person on how to continue its business relationship, including effecting any Transaction with a person. If the customer in question expresses his wish to move the funds before the Relevant Person receives instruction from the AMLSCU on how to proceed, the Relevant Person should immediately contact the AMLSCU for further instructions.

13.4 Tipping-off

Guidance

1. Relevant Persons are reminded that in accordance with Article 16 of the Federal Law No. 4 of 2002, Relevant Persons or any of their Employees must not tip-off any person, that is, inform any person that he is being scrutinised for possible involvement in suspicious activity related to money laundering, or that any other competent authority is investigating his possible involvement in suspicious activity relating to money laundering.

2. If a Relevant Person reasonably believes that performing CDD measures will tip-off a customer or potential customer, it may choose not to pursue that process and should file a SAR. Relevant Persons should ensure that their Employees are aware of and sensitive to these issues when considering the CDD measures.

14 GENERAL OBLIGATIONS

14.1 Groups, branches and subsidiaries

14.1.1 (1) A Relevant Person which is a DIFC entity must ensure that its policies, procedures, systems and controls required by Rule 3.1.1(2) apply, subject to (2) and (3) to:

(a) any of its branches or Subsidiaries; and

(b) any of its Group entities in the DIFC.

(2) The requirement in (1) does not apply if the Relevant Person can satisfy the DFSA that the relevant branch, Subsidiary or Group entity is subject to regulation, including AML, by a Financial Services Regulator or other competent authority in a country with AML regulations which are equivalent to the standards set out in the FATF Recommendations and is supervised for compliance with such regulations.

(3) Where the law of another jurisdiction does not permit the implementation of policies, procedures, systems and controls consistent with those of the Relevant Person, the Relevant Person must:

(a) inform the DFSA in writing; and

(b) apply appropriate additional measures to manage the money laundering risks posed by the relevant Branch or Subsidiary.

14.1.2 A Relevant Person must:

(a) communicate the policies and procedures which it establishes and maintains in accordance with these Rules to its Group entities, Branches and Subsidiaries; and

(b) document the basis for its satisfaction that the requirement in Rule 14.1.1(2) is met; and

Guidance

In relation to an Authorised Firm, if the DFSA is not satisfied in respect of AML compliance of its Branches and Subsidiaries in a particular jurisdiction it may take action, including making it a condition on the Authorised Firm's Licence that it must not operate a Branch or Subsidiary in that jurisdiction.

14.2 Group policies

14.2.1 A Relevant Person which is part of a Group must ensure that it:

(a) understands the policies and procedures covering the sharing of information between Group entities, particularly when sharing customer Due Diligence information;

(b) has in place adequate safeguards on the confidentiality and use of information exchanged between Group entities, including consideration of relevant data protection legislation;

(c) remains aware of the money laundering risks of the Group as a whole and of its exposure to the Group and take active steps to mitigate such risks;

(d) contributes to a Group-wide risk assessment to identify and assess money laundering risks for the Group; and

(e) provides its Group-wide compliance, audit and AML functions with customer account and Transaction information from branches and subsidiaries when necessary for AML purposes.

Guidance

A Relevant Person which is a DIFC entity should conduct a periodic review to verify that any Branch or Subsidiary operating in another jurisdiction is in compliance with the obligations imposed under these Rules.

14.3 Notifications

14.3.1 A Relevant Person must inform the DFSA in writing as soon as possible if, in relation to its activities carried on in or from the DIFC or in relation to any of its Branches or Subsidiaries, it:

(a) receives a request for information from a regulator or agency responsible for AML or counter-terrorism financing regarding enquiries into potential money laundering or terrorist financing;

(b) becomes aware, or has reasonable grounds to believe, that a money laundering event has occurred or may have occurred in or through its business;

(c) becomes aware of any money laundering or sanctions matter in relation to the Relevant Person or a member of its Group which could result in adverse reputational consequences to the Relevant Person; or

(d) becomes aware of any a significant breach of a Rule in this module or breach of Federal Law No. 4 of 2002 or Federal Law No. 1 of 2004 by the Relevant Person or any of its Employees.

14.4 Record keeping

14.4.1 A Relevant Person must where relevant maintain the following records:

(a) a copy of, all documents and information obtained in undertaking customer Due Diligence;

(b) the supporting records (consisting of the original documents or certified copies) in respect of a business relationship which is the subject of Customer Due Diligence including on-going monitoring;

(c) notifications made under Rule 13.2.2;

(d) Suspicious Activity Reports and any relevant supporting documents and information, including internal findings and analysis;

(e) any relevant communications with the AMLSCU,

for at least six years from the date on which the notification or report was made, the business relationship ends or the Transaction is completed, whichever occurs last.

14.4.2 A Relevant Person must document, and provide to the DFSA on request any of the following:

(a) the risk assessment of its business undertaken pursuant to Rule 4.1.1;

(b) how the assessment in (a) was used for the purposes of complying with Rule 4.1.2;

(c) the risk assessment of the customer undertaken pursuant to Rule 4.2.1(1); and

(d) the determination made pursuant to Rule 4.2.1(4).

Guidance

1. The records required to be kept pursuant to Rule 14.4.1 may be kept in electronic format provided that such records are readily accessible and available to respond promptly to any DFSA requests for information. Authorised Persons are reminded of their obligations in GEN Rule 5.3.25.

2. If the date on which the business relationship with a customer has ended remains unclear, it may be taken to have ended on the date of the completion of the last Transaction.

3. The records maintained by a Relevant Person should be kept in such a manner that:

   a. the DFSA or another competent authority is able to assess the Relevant Person's compliance with legislation applicable in the DIFC;

   b. any Transaction which was processed by or through the Relevant Person on behalf of a customer or other third party can be reconstructed;

   c. any customer or third party can be identified; and

   d. the Relevant Person can satisfy, within an appropriate time, any regulatory enquiry or court order to disclose information.

14.4.3 Where the records referred to in Rule 14.4.1 are kept by the Relevant Person outside the DIFC, a Relevant Person must:

(a) take reasonable steps to ensure that the records are held in a manner consistent with these Rules;

(b) ensure that the records are easily accessible to the Relevant Person; and

(c) upon request by the DFSA, ensure that the records are available for inspection within a reasonable period of time.

14.4.4 A Relevant Person must:

(a) verify if there is secrecy or data protection legislation that would restrict access without delay to the records referred to in Rule 14.4.1 by the Relevant Person, the DFSA or the law enforcement agencies of the U.A.E.; and

(b) where such legislation exists, obtain without delay certified copies of the relevant records and keep such copies in a jurisdiction which allows access by those persons in (a).

14.4.5 A Relevant Person must be able to demonstrate that it has complied with the training and awareness requirements in Chapter 12 through appropriate measures, including the maintenance of relevant records.

Guidance

1. In complying with Rule 14.4.3, Authorised Persons are reminded of their obligations in GEN Rule 5.3.25.

2. The DFSA considers that "appropriate measures" in Rule 14.4.5 may include the maintenance of a training log setting out details of:

   (a) the dates when the training was given;

   (b) the nature of the training; and

   (c) the names of Employees who received the training.

14.5 Annual AML return

14.5.1 A Relevant Person which is:

(a) an Authorised Person; or

(b) a DNFPB in category (a), (d), (e) or (f) of Rule 2.2.1(1),

must complete the AML Return form in AFN on an annual basis and submit such form to the DFSA within four 4 months of its financial year end.

14.6 Communication with the DFSA

14.6.1 A Relevant Person must:

(a) be open and cooperative in all its dealings with the DFSA; and

(b) ensure that any communication with the DFSA is conducted in the English language.

14.7 Employee disclosures

14.7.1 A Relevant Person must ensure that it does not prejudice an Employee who discloses any information regarding money laundering to the DFSA or to any other relevant body involved in the prevention of money laundering.

Guidance

The DFSA considers that "relevant body" in Rule 14.7.1 would include the AMLSCU or another FIU, the police, or a Dubai or Federal ministry.

15 MONEY LAUNDERING REPORTING OFFICER

15.1 Application

15.1.1 This chapter does not apply to a DNFBP in Rule 2.2.1(1) (b) or (c).

15.2 Appointment of a MLRO

15.2.1 (1) A Relevant Person must appoint an individual as MLRO, with responsibility for implementation and oversight of its compliance with the Rules in this module, who has an appropriate level of seniority and independence to act in the role.

(2) The MLRO in (1) and Rule 15.2.5 must be resident in the U.A.E.

15.2.2 The individual appointed as the MLRO of a Representative Office, must be the same individual who holds the position of Principal Representative of that Representative Office.

Guidance

1. A Representative Office which has adequate systems and controls may, with the DFSA's prior approval, use its head office or another Group company to undertake all or some of the responsibilities of its MLRO.

2. Authorised Firms are reminded that under GEN Rule 7.5.1, the MLRO function is a mandatory appointment. For the avoidance of doubt, the individual appointed as the MLRO of an Authorised Firm, other than a Representative Office, is the same individual who holds the Licensed Function of Money Laundering Reporting Officer of that Authorised Firm. Authorised Firms are also reminded that the guidance under GEN Rule 7.5.2 sets out the grounds under which the DFSA will determine whether to grant a waiver from the residence requirements for an MLRO.

3. The individual appointed as the MLRO of an Authorised Market Institution is the same individual who holds the position of Money Laundering Reporting Officer of that Authorised Market Institution pursuant to the relevant AMI Rule.

15.2.3 An Authorised Person, other than a Representative Office, must appoint an individual to act as a deputy MLRO of the Authorised Firm to fulfil the role of the MLRO in his absence.

15.2.4 A Relevant Person's MLRO must deal with the DFSA in an open and co-operative manner and must disclose appropriately any information of which the DFSA would reasonably be expected to be notified.

Guidance

1. The individual appointed as the deputy MLRO an Authorised Firm need not apply for Authorised Individual status for performing the Licensed Function of Money Laundering Reporting Officer, subject to Rules in GEN section 11.6.

2. A Relevant Person other than an Authorised Firm should make adequate arrangements to ensure that it remains in compliance with this module in the event that its MLRO in absent. Adequate arrangements would include appointing a temporary MLRO for the period of the

MLRO's absence or making sure that the Relevant Person's AML systems and controls allow it to continue to comply with these Rules when the MLRO is absent.

15.2.5 A Relevant Person may outsource the role of MLRO to an individual outside the Relevant Person provided that the relevant individual under the outsourcing agreement is and remains suitable to perform the MLRO role.

Guidance

Where a Relevant Person outsources specific AML tasks of its MLRO to another individual or a third party provider, including within a corporate Group, the Relevant Person remains responsible for ensuring compliance with the responsibilities of the MLRO. The Relevant Person should satisfy itself of the suitability of anyone who acts for it.

15.3 Qualities of a MLRO

15.3.1 A Relevant Person must ensure that its MLRO has:

(a) direct access to its Governing Body and senior management;

(b) sufficient resources including, if necessary, an appropriate number of appropriately trained Employees to assist in the performance of his duties in an effective, objective and independent manner;

(c) a level of seniority and independence within the Relevant Person to enable him to act on his own authority; and

(d) timely and unrestricted access to information sufficient to enable him to carry out his responsibilities in Rule 15.4.1.

15.4 Responsibilities of a MLRO

15.4.1 A Relevant Person must ensure that its MLRO carries out and is responsible for the following:

(a) the day-to-day operations for compliance by the Relevant Person with its AML policies, procedures, systems and controls;

(b) acting as the point of contact to receive notifications from the Relevant Person's Employees pursuant to Rule 13.2.2;

(c) taking appropriate action pursuant to Rule 13.3.1 following the receipt of a notification from the Relevant Person's Employees;

(d) making, in accordance with Federal Law No. 4 of 2002, Suspicious Activity Reports;

(e) acting as the point of contact within the Relevant Person for competent U.A.E. authorities and the DFSA regarding money laundering issues;

(f) responding promptly to any request for information made by competent U.A.E. authorities or the DFSA;

(g) receiving and acting upon any relevant findings, recommendations, guidance, directives, resolutions, sanctions, notices or other conclusions described in chapter 11; and

(h) establishing and maintaining an appropriate money laundering training programme and adequate awareness arrangements pursuant to chapter 12.

16 DNFBP REGISTRATION AND SUPERVISION

Guidance

1. A DNFBP should ensure that it complies with and has regard to relevant provisions of the Regulatory Law 2004. The Regulatory Law 2004 gives the DFSA a power to supervise DNFBPs', compliance with relevant AML laws in the U.A.E. It also gives the DFSA a number of other important powers in relation to DNFBPs including powers of enforcement. This includes a power to obtain information and to conduct investigations into possible breaches of the Regulatory Law 2004. The DFSA may also impose fines for breaches of the Law or the Rules.

2. The DFSA takes a Risk Based Approach to regulation of persons which it supervises. Generally, the DFSA will work with DNFBPs to identify, assess, mitigate and control relevant risks where appropriate. RPP describes the DFSA's enforcement powers under the Regulatory Law 2004 and outlines its policy for using these powers.

16.1 Registration and notifications

16.1.1 A DNFBP must register with the DFSA by way of a notification by completing and submitting the appropriate form in the AFN Sourcebook.

16.1.2 A DNFBP must promptly notify the DFSA of any change in its:

(a) name;

(b) legal status;

(c) address; or

(d) if applicable, its MLRO.

16.2 Withdrawal of registration

16.2.1 A DNFBP must notify the DFSA in writing when it proposes to cease carrying on its business activities in or from the DIFC.

16.2.2 A DNFBP which proposes to cancel its registration as a DNFBP must provide the DFSA with 14 day's written notice of such cancellation and provide written evidence of the basis of its withdrawal.

16.2.3 The DFSA may cancel the registration of a DNFBP:

(a) if the DNFBP notifies the DFSA of the cancellation in accordance with Rule 16.2.2;

(b) if the DNFBP's commercial licence is cancelled or expires and a reasonable time has passed without such licence being renewed;

(c) following a request by the ROC;

(d) in the event of the insolvency or the entering into administration of the DNFBP; or

(e) if the DFSA considers it necessary or desirable in the interests of the DIFC.

16.2.4 If, having given the person an opportunity to make representations, the DFSA cancels the registration of a DNFBP pursuant to Rule 16.2.3, the DFSA shall without delay inform the DNFBP in writing of:

(a) such decision;

(b) the reasons for the decision; and

(c) the date on which the decision shall be deemed to take effect.

16.2.5 A DNFBP may appeal to the DFSA's Regulatory Appeals Committee against any decision of the DFSA to cancel its registration pursuant to Rule 16.2.3 (b) to (e).

Guidance

1. A DNFBP may request a cancellation of its registration because, for example, it no longer meets the definition of a DNFBP, becomes insolvent or enters into administration, or proposes to leave the DIFC.

2. The DFSA would expect to use the power to de-register a DNFBP under Rule 16.2.3(e) once its supervisory tools have been exhausted. Examples of when it might use this power include where a DNFBP commits serious or persistent breaches of the AML rules which it fails to rectify, or where the DNFBP or its activities in or from the DIFC create risks to the DFSA's regulatory objectives.

3. Under Article 28 of the Regulatory Law, a person wishing to appeal to the Regulatory Appeals Committee a decision of the DFSA must submit a written notice of appeal within 30 days of the notification of the relevant decision. The form of submission that an appeal must take is specified in the rules of procedures of the Regulatory Appeals Committee. Information on the DFSA's Regulatory Appeals Committee can be found on the DFSA website.

16.3 Disclosure of regulatory status

16.3.1 A DNFBP must not:

(a) misrepresent its regulatory status expressly or by implication; or

(b) use or reproduce the DFSA logo without express written permission from the DFSA and in accordance with any conditions for use.

17 TRANSITIONAL RULES

17.1 Application

17.1.1 This chapter applies to every person to whom a provision of the Previous Regime applied.

17.1.2 For the purposes of this chapter:

(a) "Ancillary Service Provider" has the meaning that it had under the Previous Regime;

(b) "Commencement Date" means the date on which the Rules in this module came into force;

(c) "Current Regime" means the Rules in force on the Commencement Date;

(d) "DNFBP" has the meaning that it had in DNF chapter 2 under the Previous Regime; and

(e) "Previous Regime" means the Rules that were in force immediately prior to the Commencement Date.

17.2 General

17.2.1 A Relevant Person must continue to maintain any records required to be maintained under the Previous Regime until such time as the requirement to hold such record would have expired had the Previous Regime still been in force.

17.3 Specific relief – Ancillary Service Provider

17.3.1 A person who was an Ancillary Service Provider or was registered as a DNFBP immediately prior to the Commencement Date is deemed, on the Commencement Date, to be registered as a DNFBP for the purposes of the Current Regime.