

Appendix 8

In this annex underlining indicates new text and striking through indicates deleted text.



The DFSA Rulebook

Authorised Market Institutions

(AMI)

1 INTRODUCTION

1.1 Application

- 1.1.1** (1) Subject to (2), this module applies to every Person who carries on, or intends to carry on, either or both of the Financial Services of Operating an Exchange or Operating a Clearing House in or from the DIFC.
- (2) This module does not apply to a Recognised Body or a Person who intends to carry on a Financial Service as a Recognised Body.
- 1.1.2** (4) Chapter 6 also applies to a Person who is, or proposes to become, a Controller as specified in Rule 6.1.2.
- (2) ~~Chapter 11 also applies to an Authorised Market Institution's Money Laundering Reporting Officer.~~

Guidance

Interpretations

1. References to Articles in this module are references to Articles in the Regulatory Law 2004 unless stated otherwise.

The Regulatory Law 2004 and the Markets Law 2012

2. The Regulatory Law establishes a principle based framework for the licensing and supervision of Authorised Market Institutions and for taking regulatory action against those licensed institutions. This framework is supplemented by some supervisory powers and other requirements in relation to Authorised Market Institutions in the Markets Law 2012. The Laws provide for the creation of Rules in relation to these activities. This module contains those Rules.
3. The Markets Law 2012 further establishes a framework in relation to how an Official List of Securities is administered by the Listing Authority.

1.2 Financial Services, ancillary services, official lists of securities and Authorised Market Institutions

Guidance

Financial Services

1. The GEN module prescribes the Financial Services which may be carried on by an Authorised Firm or Authorised Market Institution.

Ancillary Services

2. ~~Article 44(1) of the Regulatory Law 2004 prohibits a Person from carrying on Ancillary Services in or from the DIFC unless they are carried on by an Ancillary Services Provider whose registration allows it to do so.~~

Authorised Market Institutions and regulatory processes

2.3. In addition to this module, the RPP Sourcebook sets out some of the regulatory process, in relation to Authorised Market Institutions. The regulatory processes contained here supplement other Rules that relate to Authorised Market Institutions. These are set out in the AML, GEN, RPP, ENF and MKT modules of the Rulebook.

3.4. The following modules of the Rulebook, in addition to this module, apply to Authorised Market Institutions:

Module	Applicable chapters
General (GEN)	1, 2, 3, 5, 6, 7 and 8
Enforcement (ENF)	All chapters
Islamic Finance Rules (IFR)	2, 3 and 4
<u>Anti Money Laundering, Counter-Terrorist Financing and Sanctions Module (AML)</u>	<u>All Chapters except chapter 16</u>

The AMI module

4.5. Chapters 2 to 5 and chapter 7 set out the requirements for a new Licence application and also an application by an existing Authorised Market Institution to change the scope of its existing Licence.

5.6. Chapters 8, 9, 10 and 11 contain Rules relating to the ongoing obligations and supervision of Authorised Market Institutions and are in addition to those set out in SUP and include a series of notification requirements, anti money laundering provisions and supervisory directions that may be made by the DFSA to Authorised Market Institutions under Article 26 of the Markets Law 2012.

6.7. Chapter 12 refers to ENF which describes the DFSA’s enforcement powers under the Regulatory Law and outlines the policy for using these powers. ENF also establishes the framework for the DFSA’s decision making process and the giving of notice in relation to enforcement powers.

Change in control

7.8. Chapter 6 of this module covers the requirements with regard to changes and proposed changes to an Authorised Market Institution’s Controllers.

Official lists of securities

8.9. Chapter 7 contains a specific Licensing Requirement for applicants who wish to maintain an Official List of Securities. Chapter 10 contains some disclosure requirements in respect of listing decisions by an Authorised Market Institution and also some supervisory powers in relation to listings.

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11 ANTI MONEY LAUNDERING RULES FOR AUTHORISED MARKET INSTITUTIONS

11.1 U.A.E. federal law

Guidance

1. In connection with Article 72 of the Regulatory Law 2004, this chapter relates to regulatory requirements imposed by the DFSA, as opposed to requirements imposed by applicable criminal laws, that is relevant provisions of the ‘Federal Law No 4. of 2002 –Criminalisation of Money Laundering of the U.A.E.’ (U.A.E. Law No. 4), the ‘Federal Law No. 1 of 2004’ regarding anti terrorism, the U.A.E. Penal Code and any other federal law of the U.A.E as applicable in the DIFC in relation to anti money laundering compliance. The Rules of the chapter should therefore not be relied upon to interpret or determine the application of the money laundering laws of the U.A.E.
2. By virtue of Article 3(1) of ‘Federal Law No. 8 of 2004’, the U.A.E. Law No. 4 of 2002 applies to all operations in the DIFC. In recognition of this, Article 70(3) of the Regulatory Law requires an Authorised Market Institution to comply with the U.A.E. Law No. 4. Pursuant to Article 70(3), an Authorised Market Institution is required to comply with the U.A.E. Law No. 4. The defined term of ‘Money Laundering’ in these Rules follows that in the U.A.E. Law No.4. The legal definition of the offence of ‘Money Laundering’ is set out in Article 1 of the U.A.E. Law No.4.

11.12 Application

- 11.12.1 This chapter applies to every Authorised Market Institution and the Money Laundering Reporting Officer (MLRO) of an Authorised Market Institution.

Guidance

The requirement for the appointment of an MLRO of an Authorised Market Institution is set out in Rule 7.2.2(2)(c).

11.3 Purpose

Guidance

1. These Rules require an Authorised Market Institution to have adequate policies, procedures, systems and controls in place to prevent the activity of money laundering. Money laundering is generally described as the process by which criminals attempt to hide or disguise the true origin and ownership of the proceeds of their criminal activities, thereby avoiding prosecution, conviction and confiscation of criminal funds. This includes the closely related subject of ‘terrorist financing’.
2. Accordingly, where the DFSA uses ‘money laundering’ either as a defined or undefined term, Authorised Market Institutions are required to include ‘terrorist financing’ in all considerations with regard to their policies, procedures, systems and controls.

11.24 General requirements

- ~~11.4.1~~ (1) ~~An Authorised Market Institution must establish and maintain effective anti money laundering policies, procedures, systems and controls to prevent opportunities for Money Laundering, in relation to the Authorised Market Institution, and its activities in relation to its Members.~~
- (2) ~~An Authorised Market Institution must take reasonable steps to ensure that its Employees comply with the relevant requirements of its anti money laundering policies, procedures, systems and controls.~~

Guidance

- ~~1. An Authorised Market Institution's anti money laundering policies, procedures, systems and controls should:

 - a. ensure compliance with the U.A.E Law No.4 and any other relevant Federal laws;
 - b. enable suspicious transactions to be detected and reported;
 - c. ensure the Authorised Market Institution is able to provide an audit trail of a transaction; and
 - d. comply with any other obligation in these Rules.~~
 - ~~2. An Authorised Market Institution's anti money laundering compliance arrangements should consist of policies, procedures, systems and controls and may also encompass appropriate anti money laundering programmes and strategies.~~
 - ~~3. An Authorised Market Institution should have a policy statement detailing the duties and obligations of its MLRO.~~
 - ~~4. In accordance with GEN Rule 5.3.19 an Authorised Market Institution should have specific arrangements to consider the fitness and propriety of its staff. The arrangements should take into account criminal convictions, adverse findings by courts or regulatory authorities in the U.A.E. or elsewhere, or engagement in dishonest or improper business practices.~~
 - ~~5. Under Article 3 of the U.A.E. Law No.4, an Authorised Market Institution may be criminally liable for the offence of Money Laundering if such an activity is intentionally committed in its names or for its accounts.~~
- 11.2.14.2** (1) An Authorised Market Institution must include in its Business Rules an anti money laundering regime applicable to its Members.
- (2) The anti money laundering regime referred to in (1) must include at least rules in relation to:
- (a) application of the 'Federal Law No. 4 of 2002 - Criminalisation of Money Laundering of the U.A.E.' (U.A.E. Law No. 4), the 'Federal Law No. 1 of 2004' regarding anti-terrorism and the U.A.E. Penal Code;
 - (b) anti money laundering compliance arrangements;
 - (c) appointment of an MLRO;

- (d) customer identification, ongoing due diligence ~~and scrutiny required under Rule 11.7.3~~, and retention of documents;
 - (e) internal and external reporting of suspicious transactions, taking into account the applicable anti money laundering legislation;
 - (f) transaction monitoring;
 - (g) use of government, regulatory and international findings with regard to anti money laundering deficiencies in specific jurisdictions and with regard to money laundering and terror suspects;
 - (h) risk assessment; and
 - (i) training.
- (3) An Authorised Market Institution must monitor and regularly review compliance of its Members with its anti money laundering regime.
- (4) An Authorised Market Institution must ensure that its Members rectify any contraventions of its anti money laundering regime without delay.
- (5) An Authorised Market Institution must notify the DFSA of any:
- (a) material breach of its anti money laundering regime by a Member;
 - (b) circumstances in which a Member will not or cannot rectify a breach of its anti money laundering regime; and
 - (c) conduct which the Authorised Market Institution knows or ought reasonably to know amounts to terrorist financing.

Guidance

1. In accordance with the Regulatory Law, the DFSA is responsible for monitoring anti money laundering compliance of Authorised Market Institutions. An Authorised Market Institution is responsible for anti money laundering compliance of all its Members with its anti money laundering regime. Authorised Firms must also comply with the DFSA's AML module.
2. An Authorised Market Institution must operate appropriate measures to reduce Market Misconduct on the Authorised Market Institution's facilities. As part of this requirement, an Authorised Market Institution shall include an anti money laundering regime in their Business Rules.
3. An Authorised Market Institution may review the operation of its Members' anti money laundering policies, procedures, systems and controls in its regular reviews of Members' operations.
4. Before an Authorised Market Institution accepts a prospective Member, it should ensure that the applicant has an anti money laundering programme in place which is designed to comply with all applicable anti money laundering legislation.

11.5 Co-operation with regulators

~~11.5.1~~ An Authorised Market Institution that receives a request for information from a Financial Services Regulator or agency responsible for anti money laundering regarding enquiries into potential money laundering related to activities carried on in or from the DIFC, must promptly inform the DFSA in writing.

11.6 Appointment, responsibilities and duties of the MLRO

Appointment

Guidance

- ~~1.~~ The requirement to appoint an individual as MLRO is contained in Rule 7.2.2(2)(c).
- ~~2.~~ Pursuant to Rule 7.2.2(2)(c), the MLRO must be ordinarily resident in the U.A.E.

~~11.6.1~~ An Authorised Market Institution must ensure that the MLRO is of sufficient seniority within the Authorised Market Institution to enable him to:

- ~~(a)~~ act on his own authority;
- ~~(b)~~ have direct access to the Governing Body and senior management;
- ~~(c)~~ have 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;
- ~~(d)~~ have unrestricted access to information the Authorised Market Institution has about the financial and business circumstances of a Member; and
- ~~(e)~~ have unrestricted access to relevant information about the features of the transactions relevant to the Authorised Market Institution.

Guidance

GEN Rule 5.3.18 requires an Authorised Market Institution to establish and maintain systems and controls that enable it to satisfy itself of the suitability of anyone who acts for it.

Responsibilities

~~11.6.2~~ (1) An Authorised Market Institution must ensure that its MLRO is responsible for all of its anti money laundering activities carried on in or from the DIFC.

~~(2)~~ An Authorised Market Institution must ensure that its MLRO carries out and is responsible for the following:

- ~~(a)~~ establishing and maintaining the Authorised Market Institution's anti money laundering policies, procedures, systems and controls and compliance with anti money laundering legislation applicable in the DIFC;

- ~~(b) the day-to-day operations for compliance with the Authorised Market Institution's anti money laundering policies, procedures, systems and controls;~~
- ~~(c) the compliance monitoring and review of its Member's anti money laundering policies, procedures, systems and controls with the Authorised Market Institution's anti money laundering regime pursuant to Rule 11.4.2;~~
- ~~(d) taking appropriate action pursuant to Rule 11.4.2(3) in order to ensure that contraventions of its Members are rectified without delay;~~
- ~~(e) acting as the point of contact to receive internal Suspicious Transaction Reports from the Authorised Market Institution's Employees pursuant to Rule 11.8.1;~~
- ~~(f) taking appropriate action pursuant to Rule 11.8.2 following the receipt of an internal Suspicious Transaction Report from the Authorised Market Institution's Employees;~~
- ~~(g) making, in accordance with U.A.E. Law No.4, external Suspicious Transaction Reports to the Anti Money Laundering Suspicious Cases Unit (AMLSCU) of the U.A.E. and sending corresponding copies to the DFSA under Rule 11.8.2;~~
- ~~(h) acting as the point of contact within the Authorised Market Institution for competent U.A.E. authorities, the DFSA and its Members regarding money laundering issues;~~
- ~~(i) responding promptly to any request for information made by competent U.A.E. authorities or the DFSA;~~
- ~~(j) establishing and maintaining an appropriate anti money laundering training programme and adequate awareness arrangements pursuant to Rules under section 11.12; and~~
- ~~(k) receiving and acting upon any relevant findings, recommendations, guidance, directives, resolutions, sanctions, notices or other conclusions, described in section 11.9 and GEN Rule 5.3.30.~~

Guidance

~~In accordance with GEN Rule 5.3.21 where an Authorised Market Institution outsources specific anti money laundering tasks of its MLRO to another suitable individual of a third party provider, including within a corporate Group, the MLRO of the Authorised Market Institution remains responsible for ensuring compliance with the duties imposed on the MLRO.~~

Reporting

~~**11.6.3** The MLRO must report at least annually to the Governing Body or senior management of the Authorised Market Institution on the following matters:~~

- ~~(a) the Authorised Market Institution's compliance with applicable anti money laundering laws including Rules;~~
- ~~(b) the quality of the Authorised Market Institution's anti money laundering policies, procedures, systems and controls;~~
- ~~(c) the general compliance of its Members with the anti money laundering regime contained in the Business Rules;~~
- ~~(d) any internal Suspicious Transaction Reports made by the Authorised Market Institution's Employees pursuant to Rule 11.8.1 and action taken in respect of those reports, including the grounds for all decisions;~~
- ~~(e) any external Suspicious Transaction Reports made by the Authorised Market Institution pursuant to Rule 11.8.2 and action taken in respect of those reports including the grounds for all decisions;~~
- ~~(f) any external Suspicious Transaction Reports made by the Authorised Market Institution's Members to the AMLSCU;~~
- ~~(g) any relevant findings, recommendations, guidance, directives, resolutions, sanctions, notices or other conclusions described in section 11.9 and GEN Rule 5.3.30 and how the Authorised Market Institution has taken them into account; and~~
- ~~(h) any other relevant matters related to money laundering as it concerns the Authorised Market Institution's business.~~

~~**11.6.4** An Authorised Market Institution must ensure that its Governing Body or senior management promptly:~~

- ~~(a) assess the report provided under Rule 11.6.3;~~
- ~~(b) take action, as required subsequent to the findings of the report, in order to resolve any identified deficiencies; and~~
- ~~(c) make a record of their assessment in (a) and the action taken in (b).~~

~~**11.6.5** (1) The report provided under Rule 11.6.3 and the records of the assessment and actions pursuant to Rule 11.6.4 must be documented in writing.~~

- ~~(2) A complete copy of the Report and records of the assessment and actions must be provided to the DFSA promptly.~~

11.7—Member identification requirements

Duties and responsibilities

- ~~11.7.1~~ (1) Subject to the exception under Rule 11.7.4, an Authorised Market Institution must establish and verify the identity of any Member to whom the Authorised Market Institution allows access or proposes to allow access to its facilities.
- (2) In establishing and verifying a Member's true identity, an Authorised Market Institution must obtain sufficient and satisfactory evidence having considered:
- (a) its risk assessment under Rule 11.10.1 in respect of the Member; and
 - (b) the relevant provisions of App2 and App3.
- (3) An Authorised Market Institution must update as appropriate any Member identification policies, procedures, systems and controls.

Guidance

1. An Authorised Market Institution should adopt a risk based approach for the Member identification and verification process. Depending on the outcome of the Authorised Market Institution's money laundering risk assessment of its Member, it should decide to what level of detail the Member identification and verification process will need to be performed.
2. The requirements for Members on how to identify and verify their clients should be set out in the Authorised Market Institution's anti money laundering regime.

~~11.7.2~~ The obligations under Rules 11.7.1 must be fulfilled before the Authorised Market Institution effects any transaction on behalf of the Member.

- ~~11.7.3~~ (1) An Authorised Market Institution must:
- (a) ensure that the information and documentation concerning a Member's identity remains accurate and up-to-date; and
 - (b) conduct ongoing due diligence on its business relationship with, and ongoing scrutiny of transactions undertaken by, a Member throughout the course of the relationship.
- (2) If at any time an Authorised Market Institution becomes aware that it lacks sufficient information or documentation concerning a Member's identification, or develops a concern about the accuracy of its current information or documentation, it must promptly obtain appropriate material to verify the Member's identity.

Guidance

1. ~~An Authorised Market Institution should undertake a periodic review to ensure that Member identity documentation is accurate and up to date.~~
2. ~~An Authorised Market Institution should undertake a review particularly when there is a material change in the nature or ownership of the Member.~~
3. ~~Additional elements concerning the Member identification and ongoing due diligence of the business relationship with the Member and scrutiny of transactions which an Authorised Market Institution should take into account are set out as further Guidance in App2.~~
4. ~~The degree of the ongoing due diligence to be undertaken will depend on the risk assessment carried out pursuant to section 11.10.~~

Exception to member identification requirements

- 11.7.4** ~~(1) Subject to Rule 11.7.5, an Authorised Market Institution is not required to establish the identity of a Member pursuant to Rule 11.7.1 if the Member is one of the following:~~
- ~~(a) an Authorised Firm; or~~
 - ~~(b) a Recognised Member whose identity has been verified in a manner consistent with these Rules or equivalent international standards applying in FATF Countries, provided that:

 - ~~(i) no exception from identification obligations has been applied in the original identification process; and~~
 - ~~(ii) a written statement is received from the introducing exchange or clearing house confirming that the Recognised Member has been identified with the relevant standards under (b)(i); any identification evidence can be accessed by the Authorised Market Institution without delay; and the identification evidence is kept for at least six years or any other period acceptable to the DFSA.~~~~
- ~~(2) If an Authorised Market Institution is not satisfied that the Recognised Member has been identified in a manner consistent with these Rules, the Authorised Market Institution must perform the verification process itself.~~

Guidance

~~The DFSA would expect an Authorised Market Institution to take reasonable steps to determine whether or not a Member falls within the exceptions under this Rule, and to keep records of the basis on which a Member's identity was not required to be verified.~~

- ~~11.7.5~~ (1) ~~Rule 11.7.4 does not apply where the Authorised Market Institution:~~
- ~~(a) knows or suspects; or~~
 - ~~(b) has reasonable grounds to know or suspect;~~
- ~~that a Member is engaged in Money Laundering.~~
- ~~(2) The Authorised Market Institution will be taken to know or suspect or to have reasonable grounds to know or suspect, if:~~
- ~~(a) any Employee handling the transaction or potential transaction;~~
~~or~~
 - ~~(b) anyone managerially responsible for it;~~
- ~~knows or suspects or has reasonable grounds to know or suspect that a Member is engaged in Money Laundering.~~

Documentation and records

- ~~11.7.6~~ (1) ~~All relevant information, correspondence and documentation used by an Authorised Market Institution:~~
- ~~(a) to verify a Member's identity pursuant to Rules 11.7.1; and~~
 - ~~(b) in respect of the ongoing due diligence and scrutiny required under Rule 11.7.3,~~
- ~~must be kept for at least six years from the date on which the business relationship with a Member has ended.~~
- ~~(2) If the date on which the business relationship with a Member has ended remains unclear, it may be taken to have ended on the date of the completion of the last transaction.~~

Guidance

~~The records maintained by an Authorised Market Institution should be kept in such a manner that:~~

- ~~a. the DFSA or another competent third party is able to assess the Authorised Market Institution's compliance with legislation applicable in the DIFC;~~
- ~~b. any transaction which was processed by or through the Authorised Market Institution on behalf of a Member can be reconstructed;~~
- ~~c. any Member can be identified;~~
- ~~d. all internal and external Suspicious Transaction Reports can be identified; and~~
- ~~e. the Authorised Market Institution can satisfy, within an appropriate time, any regulatory enquiry or court order to disclose information.~~

- ~~11.7.7 All relevant details of any transaction carried out by the Authorised Market Institution with or for a Member must be kept for at least six years from the date on which the transaction was completed.~~

~~11.7.8 (1) Where Member identification records are kept by the Authorised Market Institution or other Persons outside the U.A.E., an Authorised Market Institution must take reasonable steps to ensure that the records are held in a manner consistent with these Rules.~~

~~(2) An Authorised Market Institution must verify if there are secrecy or data protection legislation that would restrict access without delay to such data by the Authorised Market Institution, the DFSA or the law enforcement agencies of the U.A.E. Where such legislation exists, the Authorised Market Institution must obtain without delay certified copies of the relevant identification evidence and keep these copies in a jurisdiction which allows access by all these Persons.~~

~~11.7.9 An Authorised Market Institution must not:~~

- ~~(a) establish a correspondent banking relationship with a Shell Bank;~~
- ~~(b) establish or keep anonymous accounts or accounts in false names; or~~
- ~~(c) maintain a nominee account which is held in the name of one Person, but controlled by or held for the benefit of another Person whose identity has not been disclosed to the Authorised Market Institution.~~

Guidance

~~An Authorised Market Institution should also have arrangements to guard against establishing a business relationship with business partners who permit their accounts to be used by Shell Banks.~~

11.8 Internal and external reporting requirements

~~11.8.1 (1) An Authorised Market Institution must have appropriate arrangements to ensure that whenever any Employee, acting in the ordinary course of his employment, either:~~

- ~~(a) knows or suspects; or~~
- ~~(b) has reasonable grounds for knowing or suspecting;~~

~~that a Person is engaged in Money Laundering, that Employee makes an internal Suspicious Transaction Report to the Authorised Market Institution's MLRO.~~

~~(2) An Authorised Market Institution must have policies and procedures to ensure that disciplinary action can be taken against any Employee who fails to make such a report.~~

Guidance

~~The requirement for Employees to make an internal Suspicious Transaction Report should include situations when no business relationship was developed because the circumstances were suspicious.~~

~~11.8.2~~ If an Authorised Market Institution's MLRO receives an internal Suspicious Transaction Report he must without delay:

- ~~(a)~~ investigate the circumstances in relation to which the report was made;
- ~~(b)~~ determine whether in accordance with U.A.E Law No.4 of 2002 a corresponding external Suspicious Transaction Report must be made to the AMLSCU;
- ~~(c)~~ if required, make such an external report to the AMLSCU; and
- ~~(d)~~ provide a copy of such an external report to the DFSA at the time of provision under U.A.E Law No.4 of 2002.

Guidance

- ~~1.~~ An Authorised Market Institution 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 transaction may involve money laundering.
- ~~2.~~ Authorised Market Institutions are reminded that the failure to report suspicions of Money Laundering may constitute a criminal offence that is punishable under the laws of the U.A.E.
- ~~3.~~ External Suspicious Transaction Reports under U.A.E. Law No.4 should be faxed to the AMLSCU and a copy faxed to the DFSA. The dedicated fax numbers and the template for making Suspicious Transaction Reports are available on the DFSA website.

~~11.8.3~~ The MLRO must document:

- ~~(a)~~ the steps taken to investigate the circumstances in relation to which an internal Suspicious Transaction Report is made; and
- ~~(b)~~ where no external Suspicious Transaction Report is made to the AMLSCU the reasons why no such report was made.

~~11.8.4~~ All relevant details of any internal and external Suspicious Transaction Report pursuant to Rules 11.8.1 and 11.8.2 must be kept for at least six years from the date on which the report was made.

~~11.8.5~~ An Authorised Market Institution must ensure that if the MLRO decides to make an external Suspicious Transaction Report in accordance with Rule 11.8.2, his decision is made independently and is not subject to the consent or approval of any other Person.

~~11.8.6~~ Authorised Market Institutions must not carry out transactions which they know or suspect or have reasonable grounds for knowing or suspecting to be related to Money Laundering until they have informed the AMLSCU and the DFSA pursuant to Rule 11.8.2.

Guidance

1. ~~If the Authorised Market Institution has reported a suspicion to the AMLSCU, the AMLSCU may instruct an Authorised Market Institution on how to proceed with the transaction. If a Person expresses his wish to move the funds before an Authorised Market Institution receives instruction from the AMLSCU on how to proceed, the Authorised Market Institution should immediately contact the AMLSCU for further instructions.~~
2. ~~Pursuant to Article 4 of the U.A.E. Law No.4:

 - a. ~~the Central Bank of the U.A.E. may order the freezing of suspected Property for a maximum of seven days;~~
 - b. ~~the public prosecutor office of the U.A.E. may order seizure of suspected Property, proceeds or instrumentalities; or~~
 - e. ~~a competent court of the U.A.E. may order provisional attachment for undetermined periods on any Property, proceeds or instrumentalities, if they have resulted from, or are associated with, a Money Laundering offence.~~~~
3. ~~Further, and pursuant to Article 4 of the U.A.E. Law No. 4, the Attorney General of the U.A.E. has the exclusive authority to initiate criminal action against a perpetrator of offences set out in the law.~~

Tipping-off

4. ~~Authorised Market Institutions are reminded that in accordance with Article 16 of the U.A.E. Law No.4 of 2002, Authorised Market Institutions or any of their Employees must not tip off any Person, that is, inform any Person that his transaction is being scrutinised for possible involvement in suspicious Money Laundering operations, or that any other competent authority is investigating his possible involvement in suspicious Money Laundering operations.~~

11.9 Government, regulatory and international findings

11.9.1 ~~An Authorised Market Institution 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) ~~the Financial Action Task Force (FATF); and~~
- (d) ~~the DFSA;~~

~~concerning arrangements for preventing money laundering or terrorist financing in a particular country or jurisdiction, including any assessment of material deficiency against relevant countries in adopting international standards.~~

Guidance

1. ~~The systems and controls mentioned in Rule 11.9.1 should be established and maintained by an Authorised Market Institution taking into account its risk assessment pursuant to section 11.10. In relation to the term “make appropriate use” in Rule 11.9.1 this may mean that an Authorised Market Institution 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. ~~When an Authorised Market Institution makes a decision about its anti money laundering policies, procedures, systems and controls, it should take into account any findings of inadequacy, for example, any notice or guidance issued by the FATF concerning the approach to money laundering of individual countries or jurisdictions.~~
3. ~~An Authorised Market Institution should examine and pay special attention to any transactions or business relations with Persons located in such countries or jurisdictions.~~
4. ~~An Authorised Market Institution 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.~~
5. ~~The Authorised Market Institution’s MLRO is not obliged to report all transactions from these countries or jurisdictions to the AMLSCU and the DFSA if they do not qualify as suspicious pursuant to U.A.E. Law No.4. See section 11.8 on internal and external reporting requirements.~~
6. ~~Transactions with counterparties located in countries or jurisdictions which have been relieved from special scrutiny, for example, taken off the sources mentioned in this Guidance, may nevertheless require attention which is higher than normal.~~
7. ~~In order to assist Authorised Market Institutions, the DFSA will, from time to time, publish U.A.E. national, FATF or other findings, guidance, directives or sanctions. However, the DFSA expects an Authorised Market Institution to take its own steps in acquiring relevant information from various available sources. For example, an Authorised Market Institution may obtain relevant information from the consolidated list of financial sanctions in the European Union Office, HM Treasury (United Kingdom) lists, and from the Office of Foreign Assets Control (OFAC) of the United States Department of Treasury.~~
8. ~~Authorised Market Institutions should take note of GEN Rule 5.3.30 which requires such institutions to obtain and make appropriate use of the United Nations Security Council’s relevant resolutions and sanctions. Such resolutions and sanctions may, for example, relate to money laundering and terrorist financing and financing of weapons of mass destruction.~~

11.9.2 ~~An Authorised Market Institution 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) ~~U.A.E. enforcement agencies; and~~

~~(d) — the DFSA;~~

~~concerning names of Persons, groups, organisations or entities or any other body where suspicion of money laundering or terrorist financing exists.~~

Guidance

- ~~1. — The systems and controls mentioned in Rule 11.9.2 should be established and maintained by an Authorised Market Institution taking into account its risk assessment pursuant to section 11.10. In relation to the term “make appropriate use” in Rule 11.9.2 this may mean that an Authorised Market Institution 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. — An Authorised Market Institution may obtain and appropriately use available national and international information, for example, suspect lists or databases from credible public or private sources, with regard to money laundering and terrorist financing. The DFSA encourages Authorised Market Institutions to perform checks against their Member databases and records for any names appearing on such lists and databases. In addition, the Authorised Market Institution may refer to the sources mentioned in Guidance under Rule 11.9.1.~~
- ~~3. — Authorised Market Institutions should take note of GEN Rule 5.3.30 which requires such institutions to obtain and make appropriate use of the United Nations Security Council’s relevant resolutions and sanctions. Such resolutions and sanctions may, for example, relate to money laundering and terrorist financing and financing of weapons of mass destruction.~~

11.10 — Money laundering risks

Risk assessment

- ~~11.10.1 (1) — The anti money laundering policies, procedures, systems and controls of an Authorised Market Institution must adequately address the money laundering risks which take into account any vulnerabilities of its products, services and Members.~~
- ~~(2) — In assessing the risks in relation to money laundering, an Authorised Market Institution must have regard to the relevant provisions of App2 and App3.~~
- ~~(3) — An Authorised Market Institution must assess its risks in relation to money laundering and perform enhanced due diligence investigations for higher risk products, services and Members.~~
- ~~(4) — An Authorised Market Institution must be aware of any money laundering risks that may arise from new or developing technologies that might favour anonymity and take measures to prevent their use for the purpose of money laundering.~~

Risks regarding corruption and politically exposed persons

- ~~11.10.2 (1) — An Authorised Market Institution must have systems and controls to determine whether a Member is a Politically Exposed Person.~~

- ~~(2) — When an Authorised Market Institution has a Member relationship with a Politically Exposed Person, it must have specific arrangements to address the risks associated with corruption and Politically Exposed Persons.~~

Guidance

~~Guidance on how an Authorised Market Institution may address this risk is set out in App3 section A3.2.~~

Suspicious transactions and transaction monitoring

- ~~**11.10.3** — An Authorised Market Institution must establish and maintain policies, procedures, systems and controls in order to monitor and detect suspicious transactions.~~

Guidance

- ~~1. — An Authorised Market Institution should apply an intensified and ongoing monitoring programme over higher risk transactions and accounts.~~
- ~~2. — Various risk aspects about transaction monitoring and about the detection of suspicious transactions, which the Authorised Market Institution should take into account, are set out as further Guidance in App3 section A3.3.~~
- ~~3. — An Authorised Market Institution may have transaction monitoring arrangements which are less sophisticated than those for clearing houses.~~

11.11 — Transfer of funds

- ~~**11.11.1** (1) — Where an Authorised Market Institution makes a payment on behalf of a Person to a financial institution using an electronic payment and message system, it must include the Person's name, address and either an account number or an unique reference number in the payment instruction.~~
- ~~(2) — The requirement in (1) does not apply to an Authorised Market Institution which transfers funds to a financial institution where both the originator and the beneficiary are financial institutions acting on their own behalf.~~

Guidance

- ~~1. — 'FATF Special Recommendation Number 7' seeks to ensure that national or international electronic payment and message systems, including fund or wire transfer systems such as SWIFT, are not misused as a means to break the money laundering audit trail. Therefore, the information about a Person as the originator of the fund transfer should remain with the payment instruction through the payment chain.~~
- ~~2. — An Authorised Market Institution should monitor for and conduct enhanced scrutiny of suspicious activities including incoming fund transfers that do not contain complete originator information, including name, address and account number or unique reference number in accordance with App3.~~

11.12 — Awareness and training

~~**11.12.1** An Authorised Market Institution must have arrangements to provide periodic information and relevant training to all Employees to ensure that they are aware of:~~

- ~~(a) the identity and responsibilities of the Authorised Market Institution's MLRO;~~
- ~~(b) the Authorised Market Institution's anti money laundering regime in relation to its Members pursuant to Rule 11.4.2;~~
- ~~(c) applicable legislation relating to anti money laundering;~~
- ~~(d) the potential effect on the Authorised Market Institution, its Employees and its Members of breaches of applicable legislation relating to money laundering;~~
- ~~(e) the Authorised Market Institution's anti money laundering policies, procedures, systems and controls and any changes to these;~~
- ~~(f) money laundering risks, trends and techniques;~~
- ~~(g) the types of activity that may constitute suspicious activity in the context of the business in which an Employee is engaged that may warrant an internal Suspicious Transaction Report pursuant to Rule 11.8.1;~~
- ~~(h) the Authorised Market Institution's arrangements regarding the making of an internal Suspicious Transaction Report pursuant to Rule 11.8.2;~~
- ~~(i) requirements relating to Member identification and ongoing due diligence and scrutiny pursuant to the Rules in section 11.7; and~~
- ~~(j) the use of findings, recommendations, guidance, directives, resolutions, sanctions, notices or other conclusions described in section 11.9 and GEN Rule 5.3.30.~~

~~**11.12.2** Information described under Rule 11.12.1 must be brought to the attention of new Employees and must remain available to all Employees.~~

~~**11.12.3** (1) An Authorised Market Institution must have arrangements to ensure that:~~

- ~~(a) its anti money laundering training is up-to-date with money laundering trends and techniques;~~
- ~~(b) its anti money laundering training is appropriately tailored to the Authorised Market Institution's different activities, services, Members and indicates any different levels of money laundering risk and vulnerabilities; and~~
- ~~(c) all Employees receive anti money laundering training.~~

~~(2) — An Authorised Market Institution must conduct anti money laundering training sessions with sufficient frequency to ensure that within 12 months it is provided to all Employees.~~

~~**11.12.4** (1) — All relevant details of the Authorised Market Institution's anti money laundering training must be recorded, including:~~

~~(a) — dates when the training was given;~~

~~(b) — the nature of the training, and~~

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

~~(2) — These records must be kept for at least six years from the date on which the training was given.~~

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APP2 IDENTIFICATION AND ONGOING DUE DILIGENCE REQUIREMENTS

A2.1 Duties and responsibilities

Guidance relating to Rule 11.7.1

1. Pursuant to Rule 11.7.1, an Authorised Market Institution is required to be satisfied that a prospective Member is who he claims to be and obtain evidence to verify this.
2. It is important for an Authorised Market Institution to obtain such information because this process should allow for the risk of being exploited for the purpose of money laundering to be reduced to a minimum.
3. Any unusual facts of which an Authorised Market Institution becomes aware during the identification process may be an indication of money laundering and should prompt the Authorised Market Institution to request supplementary information and evidence.
4. The following list, which is not meant to be exhaustive, should be considered as Guidance regarding the type of information and evidence which should be obtained by an Authorised Market Institution to establish and verify the identity of a Member.

Individuals

- a. Evidence to be obtained in either documentary (hard copy) or electronic form:
 - i. true full name or names used;
 - ii. complete current permanent address, including all relevant details with regard to country of residence;
 - iii. telephone, fax number and email address;
 - iv. date and place of birth;
 - v. nationality;
 - vi. fiscal residence;
 - vii. occupation or profession, name of employer and location of activity;
 - viii. information regarding the nature of the business to be conducted;
 - ix. information regarding the origin of the funds; and
 - x. information regarding the source of wealth or income.
- b. The address of a prospective Member should enable an Authorised Market Institution to physically locate the Member. If P.O. Box numbers are customary to a country, additional methods of physically locating the Member should be applied.
- c. Documentary evidence of identity:
 - i. current, signed passport;
 - ii. current, signed ID card; or
 - iii. other identification documentation that is customary in the country of residence, such as driving licence, including a clear photograph of the prospective Member.
- d. An Authorised Market Institution should ensure that any documents used for the purpose of identification are original documents.

- e. ~~Where personal identity documents, such as passport, ID card or other identification documentation cannot be obtained in original form, for example because the Member is not physically present in the DIFC the identification documentation provided should be certified as a true copy of the original document by any one of the following:~~
- ~~i. a registered lawyer;~~
 - ~~ii. a registered notary;~~
 - ~~iii. a chartered accountant;~~
 - ~~iv. a government ministry;~~
 - ~~v. a post office;~~
 - ~~vi. a police officer; or~~
 - ~~vii. an embassy or consulate.~~
- f. ~~The individual or authority undertaking the certification under (e) should be contactable if necessary.~~
- g. ~~Where a copy of an original identification document is made by an Authorised Market Institution, the copy should be dated, signed and marked with 'original sighted'.~~
- h. ~~Documentary evidence of address:~~
- ~~i. record of home visit;~~
 - ~~ii. confirmation from an electoral register search that a Person of such a name lives at that address;~~
 - ~~iii. tenancy agreement;~~
 - ~~iv. utility bill; or~~
 - ~~v. local authority tax bill.~~

Unincorporated businesses or partnerships

- i. ~~Evidence to be obtained in either documentary or electronic form:~~
- ~~i. true full name or names;~~
 - ~~ii. complete current registered and trading address, including relevant details with regard to country of establishment;~~
 - ~~iii. telephone, fax number and email address;~~
 - ~~iv. fiscal residence;~~
 - ~~v. business activity;~~
 - ~~vi. information on the nature of the business to be conducted;~~
 - ~~vii. trading licence, with renewal date;~~
 - ~~viii. list of authorised signatories of the business or partnership;~~
 - ~~ix. regulatory body, if applicable;~~
 - ~~x. information regarding the origin of funds; and~~
 - ~~xi. information regarding the source of wealth/income.~~
- j. ~~Documentary evidence of identity:~~
- ~~i. latest annual report and accounts, audited where applicable, and~~
 - ~~ii. certified copy of the partnership deed, to ensure that it has a legitimate purpose and to ascertain the nature of the business or partnership.~~
- k. ~~Evidence of the trading address of the business or partnership should be obtained and may be verified with a visit to the place of business.~~

Corporate entities including financial or credit institutions

- l. ~~Evidence to be obtained in either documentary or electronic form:~~
- ~~i. registered corporate name and any trading names used;~~

- ii. ~~complete current registered address and any separate principal trading addresses, including all relevant details with regard to country of residence;~~
 - iii. ~~telephone, fax number and email address;~~
 - iv. ~~date and place of incorporation;~~
 - v. ~~corporate registration number;~~
 - vi. ~~fiscal residence;~~
 - vii. ~~business activity;~~
 - viii. ~~regulatory body, if applicable;~~
 - ix. ~~name and address of Group, if applicable;~~
 - x. ~~legal form;~~
 - xi. ~~name of external auditor;~~
 - xii. ~~information regarding the nature and level of the business to be conducted;~~
 - xiii. ~~information regarding the origin of the funds; and~~
 - xiv. ~~information regarding the source of wealth/income.~~
- m. ~~Documentary evidence of identity:~~
- i. ~~copy of the extract of the register of the regulator or exchange, or state law or edict creating the entity, in case of regulated, listed or state owned companies;~~
 - ii. ~~certified copy of the articles of association or statutes;~~
 - iii. ~~certified copy of either the certificate of incorporation or the trade register entry and the trading licence including the renewal date;~~
 - iv. ~~latest annual report, audited and published if applicable;~~
 - v. ~~certified copies of the list of authorised signatories specifying who is authorised to act on behalf of the Member account and of the board resolution authorising the signatories to operate the account;~~
 - vi. ~~certified copies of the identification documentation of the authorised signatories;~~
 - vii. ~~names, country of residence, nationality of directors or partners and of the Members of the governing body; and~~
 - viii. ~~list of the main shareholders holding more than 5% of the issued capital.~~
- n. ~~If the applying Member is not obliged to publish an audited annual report, adequate information about the financial accounts should be obtained.~~
- o. ~~An Authorised Market Institution should verify that the applying Member is active and has not been, or is not in the process of being dissolved, wound up or terminated.~~
- p. ~~Pursuant to Rules 11.7.4, identification evidence is not required for Members which are Authorised Market Institutions.~~
- q. ~~However, the confirmation of the existence of such a relevant firm or institution under Guidance note 2.s. above and its regulatory status should be verified by the Authorised Market Institution prior to entering into a Member relationship. Regular professional and commercial checks and due diligence investigations should still be performed.~~
5. ~~The DFSA will from time to time:~~
- a. ~~review the Guidance under App2 in light of changing money laundering legislation issued by the U.A.E. Central Bank, money laundering trends and techniques and according to international standards, in order to keep the Guidance current; and~~
 - b. ~~provide such other Guidance as it deems appropriate regarding Member identification obligations.~~

- e. ~~The DFSA expects that an Authorised Market Institution will take these changes into account by amending, as appropriate, its policies, procedures, systems and controls including its anti money laundering regime for Members.~~
6. ~~Sound Member identification arrangements have particular relevance to the safety and soundness of an Authorised Market Institution, in that:~~
- a. ~~they help to protect its reputation and the integrity of the DIFC by reducing the likelihood of Authorised Market Institutions becoming a vehicle for, or a victim of, financial crime and suffering consequential reputational damage; and~~
- b. ~~they constitute an essential part of sound risk management.~~
7. ~~In accordance with Rule 11.7.1, an Authorised Market Institution should adopt a risk-based approach for the Member identification and verification process. Depending on the money laundering risk assessment regarding the Authorised Market Institution's Member, the Authorised Market Institution should decide to what level of detail the Member identification and verification process will need to be performed. See also Rules under section 11.10. The risk assessment regarding a Member should be recorded in the Member file.~~
8. ~~The risk based approach does not release an Authorised Market Institution from its overall obligation to identify fully and obtain evidence of Member identification to the DFSA's satisfaction.~~
9. ~~An Authorised Market Institution is advised that in cases of doubt it should adopt a stricter rather than a moderate approach in its judgement concerning the risk level and the level of detail to which Member identification is performed and evidence obtained.~~

Guidance relating to Rule 11.7.3.

10. ~~Pursuant to Rule 11.7.3, an Authorised Market Institution must ensure that the information and evidence concerning a Member's identity is accurate and up to date.~~
- a. ~~An Authorised Market Institution is expected to ensure that the information and the evidence obtained from a Member is valid and has not expired, for example, when obtaining copies of identification documentation such as a passport or trading licence.~~
- b. ~~The Member identification process does not end at the point of application. Following the start of the Member relationship, an Authorised Market Institution should ensure that all relevant evidence and information is kept up to date including, for example, the list of authorised signatories who can act on behalf of a corporate Member.~~
- c. ~~If a Member account is dormant or an Authorised Market Institution has had no contact with the Member within the previous twelve months, an Authorised Market Institution should take reasonable steps to verify whether available information, documentation and evidence concerning the Member is still valid and up to date.~~
- d.
11. ~~When conducting ongoing due diligence on the business relationship with, and scrutiny of transactions undertaken by, a Member, an Authorised Market Institution should:~~
- a. ~~ensure consistency of such transactions with its knowledge of the Member and the Member's purpose and risk profile; and~~
- b. ~~verify, where necessary, the source of funds.~~

APP3 MONEY LAUNDERING RISKS

A3.1 Risk assessment

Guidance relating to Rule 11.10.1

1. ~~The securities sector on a global scale is characterised by its diversity, the ease with which trading can take place (through electronic trading for example) and the ability to perform transactions in markets with little regard to national borders. These characteristics, along with the sheer volume of transactions, also make the securities sector potentially vulnerable to the laundering of funds. The securities sector is to be understood in the broader sense and shall include all trading and related activities relating to Investments.~~
2. ~~The illegal funds laundered through the securities sector may be generated by illegal activities both from outside and from within the sector. For illegal funds generated outside the sector, securities transactions or the creation of legal entities are used as the mechanism for concealing or obscuring the source of these funds. In the case of illegal activities carried out within the securities market itself, for example, embezzlement, insider trading, securities fraud, market manipulation, terrorist financing etc., the securities transactions or manipulations generate illegal funds that must then be laundered.~~
3. ~~Funds in the form of cash are generally introduced into the financial system before entering the securities sector. Consequently, the securities sector is less at risk than the banking sector regarding the placement of laundered funds directly into the securities industry. However, the securities sector is especially vulnerable to the layering of laundered funds subsequent to the placement phase.~~
4. ~~Generally, an Authorised Market Institution is expected to take a risk based approach when assessing any business relationship or transaction with respect to its specific money laundering risk and the information and evidence that might be required or validated for this purpose. ‘Know Your Member’ procedures need to be established and managed according to the perceived money laundering risk.~~
5. ~~a. The Authorised Market Institution should take specific and adequate measures necessary to compensate for the higher risk of money laundering which might arise, for example from the following products, services or Members:

 - i. ~~“Wash sales” or other fictitious trading schemes to transfer money or value through the clearing and settlement infrastructure;~~
 - ii. ~~activities of employees that unwittingly are requested to take actions which further a Person’s money laundering scheme; including the activities of “rogue employees”;~~
 - iii. ~~acceptance of orders and related funds from intermediaries or banks operating from jurisdictions that do not have effective systems in place to prevent the introduction of laundered funds into the investment firms and banks operating in those jurisdictions;~~
 - iv. ~~non face to face business relationships or transactions, such as via mail, telephone or the Internet;~~
 - v. ~~correspondent banking relationships, see also Rule 11.7.9;~~
 - vi. ~~Members from higher risk countries as may be found in sources mentioned in Guidance under Rule 11.9.1; and~~
 - vii. ~~Politically Exposed Persons, see also Rule 11.10.2~~~~

- ~~b. Pursuant to Rule 11.10.3, an Authorised Market Institution should apply an intensified monitoring of transactions and accounts in relation to these products, services and Members.~~
- ~~6. While an Authorised Market Institution should assess the money laundering risks posed by the products and services it offers and devise its products with due regard to those risks, a risk based approach does not release the Authorised Market Institution from its overall obligation to comply with anti money laundering obligations.~~
- ~~7. Money laundering risks are increased if a Person is able to hide behind corporate structures such as limited companies, offshore trusts, special purpose vehicles and nominee arrangements. When devising its internal procedures, an Authorised Market Institution should consider how its Members and operational systems impact upon the capacity of its staff to identify suspicious transactions.~~
- ~~8. The geographical location of an Authorised Market Institution's Member may also affect the money laundering risk assessment. The DFSA recommends that where an Authorised Market Institution has Members located in countries:~~
- ~~a. without adequate anti money laundering strategies;~~
 - ~~b. where cash is the normal medium of exchange;~~
 - ~~e. which have a politically unstable regime with high levels of public or private sector corruption;~~
 - ~~d. which are known to be drug producing or drug transit countries; or~~
 - ~~e. which have been classified as countries with inadequacies in their anti money laundering regulations, see Rule 11.9.1;~~
- ~~it should consider which additional 'Know Your Member' and monitoring procedures might be necessary to compensate for the enhanced risks of money laundering. Such measures may encompass, for example, the following:~~
- ~~f. requiring additional documentary evidence;~~
 - ~~g. taking supplementary measures to verify or certify the documents supplied; or~~
 - ~~h. performing direct mailing of account opening documentation to a Member at an independently verified address.~~

A3.2 Risks regarding corruption and politically exposed persons

Guidance relating to Rule 11.10.2

- ~~1. Corruption, especially with the involvement of Politically Exposed Persons, may involve serious crimes and has become the subject of increasing global concern. The risk for an Authorised Market Institution can be reduced if the Authorised Market Institution conducts detailed 'Know Your Member' investigations at the beginning of a relationship with an Individual and on an ongoing basis where it knows, suspects, or is advised that, the business relationship involves a Politically Exposed Person. An Authorised Market Institution should develop and maintain enhanced scrutiny and monitoring practices to address this risk, see also App2.~~
- ~~2. Where a Member relationship is maintained with a Politically Exposed Person, detailed monitoring and due diligence procedures should include:~~

- a. ~~analysis of any complex structures, for example involving trusts or multiple jurisdictions;~~
 - b. ~~appropriate measures to establish the source of wealth;~~
 - e. ~~development of a profile of expected activity for the business relationship in order to provide a basis for transaction and account monitoring;~~
 - d. ~~senior management approval for the Member relationship; and~~
 - e. ~~regular oversight of the relationship with a Politically Exposed Person by senior management.~~
3. ~~An Authorised Market Institution is advised that Member relationships with family Members or close associates of Politically Exposed Persons involve similar risks to those with Politically Exposed Persons themselves.~~

A3.3 Suspicious transactions and transaction monitoring

Guidance relating to Rule 11.10.3

- 1.
 - a. ~~The Rules in section 11.8 require a Suspicious Transaction Report to be made when there is knowledge or suspicion of money laundering. Suspicion is a personal and subjective assessment. Suspicion of money laundering requires a degree of satisfaction although this may not amount to belief, it should at least extend beyond mere speculation and should be based upon some foundation that money laundering has occurred or is about to occur.~~
 - b. ~~A Member of staff who considers a transaction 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.~~
 - e. ~~The Rules in section 11.8 also make reference to 'reasonable grounds to suspect' which introduces an objective test rather than a subjective test of suspicion by assessing whether or not 'suspicion' was ignored in the way of:

 - i. ~~wilful blindness;~~
 - ii. ~~negligence, that is wilfully and recklessly failing to make the adequate enquiries; or~~
 - iii. ~~failing to assess adequately the facts and information that are either presented or available.~~~~
- 2. ~~Circumstances that might give rise to suspicion or reasonable grounds for suspicion may be:~~
 - a. ~~transactions which have no apparent purpose and which make no obvious economic sense;~~
 - b. ~~transactions requested by a Member without reasonable explanation, which are out of the ordinary range of services normally requested or are outside the experience of an Authorised Market Institution in relation to a particular Member or Person;~~
 - e. ~~the size or pattern of transactions, without reasonable explanation, is out of line with any pattern that has previously emerged;~~
 - d. ~~a Member or Person refuses to provide the information requested without~~

reasonable explanation;

- e. ~~a Member or Person 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 Member'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.~~