



CONDUCTING BUSINESS WITH FINANCIAL INSTITUTIONS REGULATED BY BANK OF JAMAICA WHAT YOU NEED TO KNOW...

*For many years,
the international community has been grappling with
the problem of money laundering and the financing of terrorism.
But what exactly is money laundering and what is regarded as financing of terrorism?*

- **Money laundering** is the act of disguising the proceeds of crime so that it appears that those proceeds originated from a legitimate source.
- **Financing of terrorism** involves offering financial services or making property or funding available to further the purpose of terrorism or to facilitate acts of terrorism.

Efforts to establish a global standard response to these activities have been led by the Financial Action Task Force (FATF), an inter-government body which sets standards, and develops and promotes policies to combat money laundering and terrorist financing. The FATF 40 Recommendations on Money Laundering, initially developed in 1990, provide a complete set of counter-measures against money laundering and cover all the measures which countries should have in place within their criminal justice and regulatory systems as well as the preventive measures to be taken by financial institutions and certain other businesses and professions.

In October 2001, the mandate of the FATF was expanded to deal with the issue of combating the financing of terrorism and 8 Special Recommendations on combating terrorist financing were adopted. In January 2005, a ninth Special Recommendation was adopted regarding the measures to be implemented to address the cross border movement of funds and "Cash Couriers". These recommendations are now commonly known as the 'FATF 40 + 9 Recommendations', that is the 40 Anti-Money Laundering (AML) Recommendations and the 9 Combating the Financing of Terrorism (CFT) Recommendations.

FATF-styled regional bodies have been established worldwide. One such body is the Caribbean Financial Action Task Force (CFATF) which has recognized, endorsed and fully adopted the FATF 40 + 9 Recommendations. The CFATF has also developed its own regulations, which closely resemble the FATF recommendations.

Jamaica is a founding member of CFATF and, along with its Caribbean counterparts, is complying with its obligations in this regard. As a member of the international community, Jamaica is also obliged to ensure that its systems do not present a threat to the other members who choose to participate in the country's financial system.

The Recommendations set out the basic framework for anti-money laundering efforts and are designed to be of universal application. But the FATF also recognizes that individual countries have different legal and financial systems and as such, are not able to take identical measures. The Recommendations are therefore not prescribed actions but rather guidelines for action with regard to anti-money laundering efforts. They do provide some flexibility in implementation by individual countries, in accordance with their own special circumstances and constitutional framework and through other regulatory requirements such as Guidance Notes. Perhaps the most basic of these AML/CFT procedures is that financial institutions "know their customers". Since 9/11, these requirements have been enhanced, and financial institutions now have to obtain more information from their customers than formerly.

Bank of Jamaica has developed and issued its own "Guidance Notes" to assist the financial institutions regulated by the central bank. These institutions are:

- commercial banks
- merchant banks
- building societies
- credit unions
- cambios/bureaux de change
- Money transfer and remittance agents and agencies.

The Guidance Notes are available on the Bank's web site www.boj.org.jm.

Over the next few weeks, Bank of Jamaica will be publishing in this newspaper, a series of questions which are most frequently asked about anti-money laundering and the financing of terrorism, and will also provide answers to these questions. It is our hope that these questions and answers will provide a better understanding of why customers are now required to provide more information prior to conducting transactions with cambios and other financial institutions, even after business relationships have been established with these financial institutions.

10 February 2006



CONDUCTING BUSINESS WITH FINANCIAL INSTITUTIONS REGULATED BY BANK OF JAMAICA WHAT YOU NEED TO KNOW... Part II

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Perhaps the most basic procedure is the requirement that financial institutions "know their customers."

Q. When a financial institution refers to KYC what does it mean?

R. KYC stands for "**Know Your Customer**" and refers to the procedures which require financial institutions to know more than just the names of their customers.

Financial institutions are now required to develop a complete profile of their customers.

For each customer, they must know:

- the full name of the customer (including aliases or 'pet' names);
- the address, that is, where the customer lives;
- the contact details, that is, the names of those persons who should be contacted if anything should happen to the customer, and
- knowledge of the customer's financial history.

Q. What is meant by 'the financial history of a customer'?

R. To find out about the customer's financial history, financial institutions will need to know:

- if the customer is employed or self-employed
- the location of the business(es)
- the type of business(es) in which the customer is engaged
- if employed, the name of the employer and the function which the customer performs
- the kinds of transactions the customer would be likely to undertake and if transactions are different from those originally stated, the reason(s) for the change.

Q. Who is KYC applicable to?

R. KYC is applicable to all customers of financial institutions, that is, regular or repeat customers, one-off customers or any person who carries out a transaction with a financial institution either directly or indirectly through an agent such as a bearer or a trustee.

Q. Why does the financial institution need all this information?

R. The financial institution needs this information to ensure that the systems of the institutions are not used to launder money or to assist terrorist groups or to further such purposes.

Over the next few weeks, Bank of Jamaica will be publishing in this newspaper, some of the questions most frequently asked about money laundering and the financing of terrorism as well as the answers to these questions. We hope these questions and answers will provide a better understanding of why customers are required to provide more information prior to conducting transactions with cambios and other financial institutions, even after business relationships have been established with these financial institutions.



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WHAT YOU NEED TO KNOW... Part III

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Perhaps the most basic procedure is the requirement that financial institutions "know their customers."

Q. What documents must a customer present in order to transact business with a financial institution?

R. Apart from documentation related to the specific transaction that must be provided, customers should also present:

- identification
- evidence of the source of funds, for example, salary, bank account or proceeds from services offered.
- written authorization if the person carrying out the transaction is doing so on behalf of the account holder.

Q. What types of identification are acceptable?

R. An individual should provide either of the following:

- a valid, that is, current passport
- a valid driver's licence
- a valid National Identification Card

A corporate customer must provide:

- details of incorporation
- names of owners and directors
- business undertaken by the company
- audited financial statements
- signing officers
- persons authorized to conduct transactions with the financial institutions on the company's behalf

To assist their corporate clients, the Cambio Association of Jamaica has developed a corporate profile form to simplify this process.

Q. Can identification that is expired be accepted as appropriate identification of the customer?

R. While an expired identification will no doubt contain the same basic details of the holder, that is photograph of the holder and full name, the renewal process ensures that subsequent developments are taken into account, for example:

- name change, whether by marriage or deed poll
- change of address
- change in features because of age or scars subsequently obtained.

If a current identification is unavailable it could be an indication that the customer is either negligent in following up the renewal process or that the customer is unable or unwilling to fulfill the renewal requirements.

An expired form of identification would therefore not satisfy the requirement of presenting a valid identification.

Q. Can a financial institution accept expired identification from a frequent customer, on the basis that he/she is known to them?

R. Members of the public are encouraged to ensure that some form of identification is kept current as an expired identification does not satisfy the requirement of presenting valid identification.

Q. Suppose the customer does not have a passport, a national I.D. or a Driver's Licence, how can that person conduct business with a financial institution?

R. If an individual does not have any of the standard forms of identification, alternative forms of identification may be offered. The respective financial institution will advise the customer on the matter, depending on the circumstances of the case.

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Perhaps the most basic procedure is the requirement that financial institutions "know their customers."

Q. Do customers need to give their particulars to a financial institution each time they conduct business with the same institution?

R. Yes. However, there are a few instances where the financial institution may not be required to enforce the KYC requirements. In such cases the financial institutions will be guided by the Bank of Jamaica's AML/CFT Guidance Notes which state, for example that, depending on the circumstances, cambios are not required to apply KYC requirements for transactions below US\$250 or the equivalent in any other currency.

Q. If the customer is well-known in the area and holds several representative positions in the community, does he/she still need to present identification to the financial institution in order to conduct a transaction?

R. Yes.

Q. If a customer is conducting business in cash only, does he/she still need to provide identification?

R. Yes.

Q. If a business is well-known in the area and transacts business with all the banks in the area, why should this business be subject to any KYC requirements?

R. To ensure that the systems of the financial institution are not used to launder money or to route money to terrorist groups or to further such purposes.

Q. If a customer does business with more than one financial institution why can't the financial institutions confirm his/her identification amongst themselves?

R. Each financial institution has to satisfy itself of the customer's identity and KYC details firsthand. During the course of confirming the KYC details, the financial institution may seek verification from independent sources, including other financial institutions.

Q. Can one person conduct a transaction with a financial institution on behalf of someone else?

R. Yes, providing the person, for example a bearer or a trustee, has written authorization to carry out the transaction on behalf of the third party who is the intended beneficiary, that is the account holder or the company on whose instruction the bearer or trustee is acting.

Depending on the transaction being conducted, the authorization may need to be notarized or witnessed by a Justice of the Peace (JP).

Q. Would it still be necessary for that person to provide the identification details of the company or account holder?

R. Yes.

Over the next two weeks, Bank of Jamaica will be publishing in this newspaper, some of the questions most frequently asked about money laundering and the financing of terrorism as well as the answers to these questions. We hope these questions and answers will provide a better understanding of why customers are required to provide more information prior to conducting transactions with cambios and other financial institutions, even after business relationships have been established with these financial institutions.



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Perhaps the most basic procedure is the requirement that financial institutions "know their customers."

Q. If a customer has no prior relations with the financial institution, must he/she provide identification to carry out a transaction?

R. Yes. However, there are a few instances where the financial institution may not be required to enforce the KYC requirements. In such cases the financial institutions will be guided by the Bank of Jamaica's AML/CFT Guidance Notes which state, for example that, depending on the circumstances, cambios are not required to apply KYC requirements for transactions below US\$250 or the equivalent in any other currency.

Q. If a transaction is only for US\$50, does the customer still have to provide identification?

R. No, unless the customer is a repeat customer or if the transaction is suspicious.

Q. Why should customers tell the financial institution their business?

R. This will assist the financial institution to fulfill its KYC mandate and enable the institution, to be in a better position to detect transactions which depart from those of the normal clientele or a particular customer. It also provides the added safeguard, to some extent, for customers whose names or accounts could be used without their knowledge or permission to conduct transactions with a view to laundering money or facilitate the commission of any other crime.

Q. If a customer gives this information to a cambio or any other financial institution, what will be done with the information?

R. The information will be kept confidential by the cambio or other financial institution and will be utilized mainly to ensure that the KYC mandate is fulfilled.

Q. Will this information be used for taxation purposes?

R. No.

Q. If a person refuses to provide a financial institution with the required information, can the institution refuse to do business with that person?

R. Yes. A financial institution is mandated to comply with the law and in so doing it has a right to take the requisite steps to protect itself and its systems from being utilized to launder money or to facilitate the commission of any other crime.

Q. If a financial institution refuses to do business with any individual, would that be regarded as discrimination?

R. No, if the person in question refused to comply with the requirements of the particular financial institution.

Next week the Bank of Jamaica will be publishing in this newspaper, the last in the series of questions most frequently asked about money laundering and the financing of terrorism as well as the answers to these questions. We hope these questions and answers will provide a better understanding of why customers are required to provide more information prior to conducting transactions with cambios and other financial institutions, even after business relationships have been established with these financial institutions.



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Q. Has Jamaica passed any legislation to combat money laundering and the financing of terrorism?

R. Yes. There are three pieces of legislation:

- The Money Laundering Act and regulations under this Act
- The Drug Offences (Forfeiture of Proceeds) Act, and the recently passed
- Terrorism Prevention Act.

Q. What are the penalties/sanctions imposed by the regulatory authorities if a cambio or other financial institution is not compliant with the legislation?

R. Non-compliance with the obligations under the Money Laundering Act (including the KYC obligations) could result in severe penalties.

- (i) For committing a money laundering offence, an individual convicted in the Registered Magistrate's Court would be liable to pay a fine not exceeding \$1 000 000 and/or imprisonment for a term not exceeding five (5) years. An individual convicted in the Circuit Court would be liable to a fine and/or imprisonment for a term not exceeding twenty (20) years.
- (ii) In the case of a corporation, on conviction before the RM Court, that corporation would be liable to a fine not exceeding \$3 000 000. On conviction before the Circuit Court, a corporation would be liable to a fine.
- (iii) For non-compliance with the KYC and other regulatory controls, a financial institution would be liable on conviction, to a fine not exceeding \$400 000.
- (v) For failure to comply with Threshold Transaction Reporting Requirements a financial institution would be liable on conviction to a fine not exceeding \$400 000.
- (vi) For failure to comply with Suspicious Transaction Reporting requirements, a person would be liable on conviction, to a fine not exceeding \$1 000 000 and/or imprisonment for a term not exceeding 12 months. In the case of financial institutions regulatory sanctions may also be imposed and these include suspension or revocation of a licence to operate.

Q. Are there any repercussions for the country if our institutions are deemed to be non-compliant with the AML and CFT best practices?

R. The Financial Action Task Force (FATF) has implemented a penalty feature whereby countries whose AML/CFT framework are considered weak or not compliant with the FATF 40 + 9 recommendations are flagged as Non-cooperative Countries/Territories. Following on this designation, advisories are issued, cautioning the international community about this status of a country.

Countries so designated may experience difficulty in maintaining correspondent accounts overseas, that is, accounts with overseas banks and basically, to continue participating in the global financial system.

Countries would no doubt wish to be very cautious about continuing a financial relationship with a country flagged as a Non-cooperative Territory since this means that their financial systems could be exposed to the dangers of dealing with countries that have weak AML/CFT systems.

The Bank of Jamaica hopes that the responses to these most frequently asked questions about money laundering and the financing of terrorism have been helpful and have enabled members of the public to better understand why customers of cambios and other financial institutions are required to provide more information prior to conducting business with these institutions, even after business relationships have been established.

These questions and answers as well as the guidance Notes issued by the Bank of Jamaica may also be viewed on the Bank's web site at www.boj.org.jm