



Microcredit Sector Engagement

Role and Responsibilities of the Nominated Officer



Disclaimer:

The information provided in this presentation is for information purposes. It does not and is not intended to constitute professional legal advice, nor does it seek to be an exhaustive statement of the law. You should obtain professional legal advice on any particular matter in or arising from the presentation which concerns you.



Jamaica's AML/CFT Compliance Framework





▶ Jamaica's AML/CFT Compliance Framework

The AML/CFT framework for Jamaica can be characterized by 4 pillars:

1. A comprehensive legal framework - sufficient powers of investigation and prosecution for relevant law enforcement agencies, and a broad range of proportionate and dissuasive sanctions;
2. Implementation of preventive measures - detect and deter ML/TF activities via transactions undertaken by financial institutions as well as designated non-financial businesses and professions;
3. Enforcement of laws and regulations - Investigations and enforcement actions are carried out by the relevant law enforcement agencies;
4. Cooperation between agencies, both domestically and internationally – Jamaica's membership in the Egmont Group of Financial Intelligence Units provides a platform to securely exchange expertise and financial intelligence to combat money laundering, terrorist financing, and associated predicate crimes.



Designation as a Financial Institution





MCI Designated as Financial Institutions

Under the following legislation, the definition of “financial institution” includes, a microcredit institution licensed under the Microcredit Act.

- Section 2 of the Proceeds of Crime Act;
- Section 2(1) of the Terrorism Prevention Act; and
- Section 2 of the United Nations Security Council Resolutions Implementation Act.



AML/CFT Compliance Programme





AML/CFT Compliance Programme

- Operating a business requires staying compliant with laws and regulations. One important responsibility for management is creating and implementing an Anti-Money Laundering/Counter Financing of Terrorism (AML/CFT) programme.
- AML/CFT regulations and requirements are meant to prevent criminals from disguising illegal money and to prevent terrorist financing activities.
- An AML/CFT Compliance Programme is a formal effort by the institution to enforce AML/CFT regulations and requirements.
- At a minimum, the institution needs to designate a Nominated Officer, establish written policies and procedures, establish an education programme for employees and implement a review and monitoring system.



Responsibilities of the Board





Responsibilities of the Board

- The board of directors must have a clear understanding of the ML/TF risks faced by the institution;
- The board must also be actively aware of the broader risks posed from a national perspective (National Risk Assessment);
- Risks from the national perspective include broader concerns — performance of the economy; levels of crime and types of crimes to which financial services are most vulnerable; the country's external ratings in the areas of – transparency; cooperation; and inclusion in watch lists, or lists which require countries to apply certain economic measures (including financial sanctions) before or when undertaking dealings with the particular country.



Responsibilities of the Board

The board must be satisfied that:

- The officer who is appointed to carry out the function of the Nominated Officer has the requisite stature and authority to undertake the responsibilities of that function and to effectively execute that function (issues raised by this officer receive the necessary attention from the board, management and employees);
- The reports by the Nominated Officer are provided in a frequency that accords with the risk profile of the MCI, and ensures the board is at all times fully aware of the ML /TF risks faced by the institution, and of the effectiveness of the institution's measures to address these risks;
- The institution's AML/CFT policies and procedures are effectively implemented (in a manner which accords with functional implications);
- The board itself receives adequate and appropriate exposure to training materials and updates on the local AML/CFT laws and framework as well as the international standards and best or sound practices which impact AML/CFT obligations for financial institutions.



Appointment of a Nominated Officer





Appointment of a Nominated Officer

As a designated financial institution, and in keeping with the legal requirements:

Under the Proceeds of Crime (Money Laundering Prevention Regulations), 2007 r. 5(3) and the Terrorism Prevention Act (TPA) section 18(3), a financial institution must designate an officer of the institution who performs management functions as its **“Nominated Officer”**.

The Nominated Officer is responsible for ensuring the effective implementation of policies, programmes, procedures and controls to prevent and detect money laundering and terrorist financing activities in accordance with the relevant statutes and the BOJ Guidance Notes.



Selecting a Nominated Officer





Selecting a Nominated Officer

The position of Nominated Officer is most effective where the individual:

- is senior enough in the institution to allow reporting to the Board (other any such governing body);
- has an awareness of the AML/CFT laws, framework, trends and can provide guidance to the institution in establishing and maintaining the requisite controls, policies and procedures in accordance with the statutory requirements;
- has the capacity to undertake the responsibility for ongoing monitoring of the fulfilment of AML/CFT duties by the institution;
- is independent of the business lines of the institution to allow objective assessment and monitoring and enforcement of the compliance of the institution's operations and decision making with its AML/CFT obligations under the country's framework and with the institution's own AML/CFT policies and procedures.



Must-Have Skills





Must-Have Skills for a Nominated Officer

- **Understanding the big picture.** Nominated Officers must understand the bigger picture and what the regulators are trying to accomplish with the regulations, and still pay attention to detail to help them figure out how to implement within their institutions.
- **Ability to interpret relevant laws.** The ability to interpret the spirit of the law as well as the actual language is important.
- **Attention to detail.** While regulations require detailed analysis, it is important to attend to these details while not losing sight of the big picture.
- **Ability to apply rules to real-life situations.** Nominated Officers must have the ability to apply the rules and regulations to real-life situations.
- **Risk assessment capabilities.** The ability to assess alternatives and make a decision based on the risk.
- **Communication skills.** Written and verbal communication skills are essential. The Nominated Officer must have the ability to communicate at all levels in the institution; from front-line staff to the CEO and Board as well as the FID and regulators.



Responsibilities of the Nominated Officer



Responsibilities of the Nominated Officer

Nominated Officers are gatekeepers.

- Oversee and ensure the implementation of AML/CFT compliance programmes;
- Provide guidance to the staff of the institution on the identification of suspicious transactions, bearing in mind any Advisories or guidance issued by the Financial Investigations Division (FID);
- Report to the FID all activities / transactions as required under the relevant statutes and the BOJ Guidance Notes;
- Act as liaison between the institution and the BOJ and law enforcement;



Responsibilities of the Nominated Officer

- Ensure that the institution conducts risk assessments and oversee those risk assessments to ensure that appropriate risk profiles are assigned and appropriate mechanisms are implemented – assessments are to be kept up-to-date and relevant;
- Advise management and employees of proposed or pending regulatory changes;
- Report to the Board (or other such governing body) and senior management at least once a year, or more frequently if warranted, of the ML and TF risks faced by the institution, and the effectiveness of the institution's AML/CFT framework;
- Prepare and update policies and procedures and ensure that these policies and procedures are disseminated to the Board, management and staff;
- Develop training material, including responding to directives to apply targeted financial sanctions notified by the United Nations Security Council



Annual AML/CFT Report





Annual Report to the Board

Size and complexity of the institution will guide the level of detail required.

The Annual Report to the Board must at a minimum include:

- An overview and evaluation of the overall effectiveness of the institution's AML/CFT framework, the effectiveness of AML/CFT measures implemented, and training conducted;
- The institution's level of compliance with the relevant legislation and the BOJ's Guidance Notes, as well as any directives issued by the FID;
- Details of the risk assessment – adequacy and effectiveness of the institution's risk assessment processes, measures employed to mitigate, minimise or otherwise manage the risks identified;
- The number and frequency of filing of TTRs, STRs / SARs;
- Any significant or unusual trends arising from the review of transactions;
- The findings from any internal or external audits conducted or reviews conducted by the BOJ, and the steps taken to address the AML/CFT weaknesses identified;
- The institution's overall relationship with the FID and any guidance received;
- Advice on any proposed/impending legislative/regulatory changes with regard to AML/CFT, with an assessment of how the institution will be impacted and how necessary operational changes will be implemented



Successful AML/CFT Compliance Programme





► Successful AML/CFT Compliance Programme

You may choose to build a complex system or a simple system, depending on your specific institution. This is not a one-size-fits-all.

1. Tone at the top

Leaders must prioritize and encourage a company-wide culture of AML/CFT compliance by setting an example to the rest of the company.

2. Corporate governance

Ensuring that there is a corporate governance structure that includes a Nominated Officer that is aware of AML/CFT regulatory requirements. The Nominated Officer ensures that issues identified can be addressed in a timely manner and not further expose the institution to more risk. And, all employees understand their responsibility under the AML/CFT programme.

3. Risk assessments

The fundamental purpose of an AML/CFT risk assessment is to better manage ML/TF risk through the identification of risk, a mitigation plan and the creation of the institution's risk appetite.



Successful AML/CFT Compliance Programme

4. Policies and Procedures

Policies and procedures are essential to an AML/CFT compliance programme. Policies address key issues, risk appetite and behaviour deemed acceptable by the institution. Policies and procedures should be developed, implemented, communicated and updated on a consistent basis.

5. Reporting

Implement an internal escalation process in the institution to report any AML/CFT issues efficiently and swiftly.

6. Ongoing monitoring and testing

The institution should test its compliance programme periodically. This can be conducted annually, or where there are material changes either internally or externally (i.e., regulatory changes), whichever is earlier.



Conclusion





Conclusion

- An AML/CFT compliance programme not only helps the institution to comply with regulations, but if done properly, it can assist in identifying opportunities or potential weakness within the business processes that may or may not be AML/CFT related.
- Also, it allows the Nominated Officer to help guide and better advise internally on the ML/TF risks, as well as promoting a culture that will benefit the institution in the long run.
- Some may see an AML/CFT programme as a barrier to their business efficiency or a financial cost to the institution, but not having a plan to comply with regulations – costs even more.





Thank You

