

## Anti-Money Laundering and Sanctions Rules and Guidance (AML)

\*In this attachment underlining indicates new text and striking through indicates deleted text.

## 2. OVERVIEW AND PURPOSE OF THE AML RULEBOOK

### Guidance

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3. The AML Rulebook is not intended to be read in isolation from other UAE relevant legislation or developments in international policy and best practice and, to the extent applicable, Relevant Persons need to be aware of, and take into account, how these aforementioned matters may impact on the Relevant Person's day to day operations. This is particularly relevant when considering the ~~List~~ list of terrorist organisations or persons issued under Article 63 of Federal Law No. 7 of 2014 on Combating Terrorism and the United Nations Security Council ("**UNSC**") Resolutions which apply in the ADGM, and Sanctions imposed by other jurisdictions which may apply to a Relevant Person depending on the Relevant Person's jurisdiction of origin, its business and/or customer base.

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6. Chapter 4 outlines the general compliance requirements including Group policies, notifications, record keeping requirements and the annual AML Return.

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10. Chapter 11 sets out a Relevant Person's obligations in relation to UNSC ~~resolutions~~ Resolutions and Sanctions, and government, regulatory and international findings (in relation to AML, terrorist financing and the financing of weapons of mass destruction).

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18. The Regulator has had regard to the FATF recommendations in making these Rules and has determined to closely align these Rules with the FATF Recommendations, where that is deemed to be necessary and appropriate. A Relevant Person may wish to refer to the FATF Recommendations and ~~interpretive notes~~ Interpretive Notes to assist it in complying with these rules. However, in the event that a FATF Recommendation or ~~interpretive note~~ Interpretive Note conflicts with a rule in the AML Rulebook, the relevant Rule takes precedence.

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23. In the event that any part of the Wolfsberg Group published guidance conflicts with a Rule in the AML Rulebook, the relevant Rule takes precedence.

24. The U.A.E, as a member of the United Nations, is required to comply with all Sanctions issued and passed by the UNSC. The U.A.E periodically publicises its imposition of ~~sanctions~~ Sanctions. These UNSC obligations apply in the ADGM and their importance is emphasised by specific obligations contained in the AML Rulebook requiring Relevant Persons to establish and maintain effective systems and controls to make appropriate use of UNSC Sanctions and ~~resolutions~~ Resolutions (see Chapter 11).

25. The FATF has issued guidance on a number of specific UNSC Sanctions and ~~resolutions~~ Resolutions regarding the countering of the proliferation of weapons of mass destruction. Such guidance has been issued to assist in implementing the targeted financial Sanctions and activity based financial prohibitions. This guidance can be found on the FATF website (at [www.fatf-gafi.org](http://www.fatf-gafi.org)).

**3. INTERPRETATION AND TERMINOLOGY**

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**3.2 Glossary for AML**

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**3.2.1** The following terms and abbreviations bear the following meanings for the purposes of these Rules.

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Company Service Provider	<p>Means a Person that, carries out the following services <del>to</del> <u>on behalf of</u> a customer:</p> <ul style="list-style-type: none"> <li>(a) acting as a formation agent of Legal Persons;</li> <li>(b) acting as (or arranging for another Person to act as) a director or secretary of a company, a partner of a partnership or a similar position in relation to other Legal Persons or Legal Arrangements;</li> <li>(c) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other Legal Person or Legal Arrangement;</li> <li>(d) acting as (or arranging for another Person to act as) a trustee of an express trust or performing the equivalent function for another form of Legal Arrangement; or</li> <li>(e) acting as (or arranging for another Person to act as) a nominee shareholder for another Person.</li> </ul>
Financial Institution	<p>Means:</p> <ul style="list-style-type: none"> <li><del>(a)</del><u>(i1)</u> an Authorised Person; <u>or</u></li> <li><del>(ii2)</del> any Person <del>which</del> <u>that</u> carries out as its principal business an activity which would, <del>if carried out in ADGM,</del> be a Regulated Activity <u>if carried out in ADGM</u>; and</li> <li><del>(3b)</del> <u>that</u> is not one of the following: <ul style="list-style-type: none"> <li><del>(Ai)</del> a governmental organisation, including the Central Bank of any State; or</li> </ul> </li> </ul>

	( <del>B</del> ii) a multilateral development bank.
Sanctions	<p>Means any law executing foreign policy, security, sanction, trade embargo, or anti-terrorism objectives or similar restrictions imposed, administered or enforced from time to time by:</p> <p>(<del>a</del>)(i) the U.A.E.;</p> <p>(<del>b</del>)(iii) the United Nations Security Council;</p> <p>(<del>c</del>)(iii) the European Union;</p> <p>(<del>d</del>)(iv) H.M. Treasury of the United Kingdom;</p> <p>(<del>e</del>)(v) the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury;</p> <p>(<del>f</del>)(vi) any other relevant governmental authority; or</p> <p>(<del>g</del>)(vii) any of their successors.</p>

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## 4. GENERAL COMPLIANCE REQUIREMENTS

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~~4.1.2 A Relevant Person that is a Domestic Firm must ensure that its Anti Money Laundering policies, procedures, systems and controls apply to any branch or subsidiary operating in another jurisdiction.~~

4.1.32 If another jurisdiction's laws or regulations prevent or inhibit a Relevant Person from complying with the Federal AML Legislation or with these Rules, the Relevant Person must immediately inform the Regulator in writing.

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### 4.5 Record keeping

4.5.1 A Relevant Person must, where relevant, maintain the following records:

- (a) a copy of all documents and information obtained in undertaking initial and on-going CDD or due diligence on business partners;
- (b) records, consisting of the original documents or certified copies, in respect of the customer business relationship, including:
  - (i) business correspondence and other information relating to a customer's account;
  - (ii) sufficient records of transactions to enable individual transactions to be reconstructed; and
  - (iii) internal findings and analysis relating to a transaction or any business, if the transaction or business appears unusual or suspicious, whether or not it results in a Suspicious Activity Report;
- (c) Internal Suspicious Activity Report notifications made under Rule 14.2.2;
- (d) Suspicious Activity Reports and any relevant supporting documents and information, including internal findings and analysis;
- (e) any relevant communications with the FIU;
- (f) the documents in Rule 4.6.13; and
- (g) any other matter that the Relevant Person is expressly required to record under these Rules,

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

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#### **4.6 Annual AML Return**

- 4.6.1** A Relevant Person must complete the prescribed AML Return form and submit it to the Regulator by the end of April each year. The AML Return must cover the period from 1 January to 31 December of the preceding year.

##### **Guidance**

~~Relevant Persons should be aware of their obligations under Cabinet Resolution 38 of 2014 to prepare AML reports and copy them to the FIU.~~

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#### **4.8 Employee disclosures**

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

##### **Guidance**

The Regulator considers that "relevant body" in Rule 4.810.1 would include the FIU, any other financial intelligence unit, the police, or an Abu Dhabi or Federal ministry.

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## 7. CUSTOMER RISK ASSESSMENT

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**7.1.2** (1) When undertaking a risk-based assessment of a customer and considering whether or not to assign a high risk rating under 7.1.1(1), a Relevant Person must take into account all relevant risk factors that would reasonably apply to the customer, including but not limited to:

(a) customer risk factors, including whether the:

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(iii) customer is a Legal Person or ~~legal arrangement~~ Legal Arrangement that is a vehicle for holding personal assets;

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(2) For the purposes of ~~7.1.22.1~~7.1.22.1(1)(c), a credible source includes, but is not limited to, mutual evaluations, detailed assessment reports or follow up reports issued by FATF, the International Monetary Fund (“**IMF**”), the World Bank, the OECD and other International Organisations.

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## 8. CUSTOMER DUE DILIGENCE

### 8.1 Requirement to undertake Customer Due Diligence

**8.1.1** (1) A Relevant Person that is an Authorised Person or a Recognised Body must undertake CDD under Rule 8.3.1 where the Relevant Person:

- (a) establishes a business relationship with a customer;
- (b) carries out an occasional Transaction for a customer that is of an amount of equal to or more than USD15,000; ~~or~~
- (c) suspects a customer of, or a Transaction to be for the purposes of, money laundering; or
- (d) doubts the veracity or adequacy of any documents or information previously provided by, or obtained for, a customer in relation to (a), (b) or (c) above.

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**8.3.6** (1) For the purposes of Rule 8.3.1(1)(b), a Relevant Person must identify the Beneficial Owners of a customer that is a foundation or other Legal Arrangement similar to a foundation in accordance with this Rule.

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(3) For the purposes of (2)(e), a natural person shall have “control” over a foundation or a Legal Arrangement if such person:

- (a) holds, directly or indirectly, 25% or more of the voting rights in the conduct and management of the foundation or ~~other legal arrangement~~ the Legal Arrangement; or
- (b) holds the right, directly or indirectly, to appoint or remove a majority of the officials of the foundation or ~~other legal arrangement~~ the Legal Arrangement.

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### 8.4 Enhanced Customer Due Diligence

**8.4.1** Where a Relevant Person is required to undertake Enhanced CDD, having assigned a customer a high risk rating or it or its Beneficial Owners is a PEP, then, in addition to CDD under Rule 8.3.1, it must:

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### **Guidance**

8. A Relevant Person may commission a report from a third party vendor to obtain further information on a customer or Transaction or to investigate a customer or Beneficial Owners in very high-risk cases. Such a report may be particularly useful where there is little or no publicly-available information on a Person or on a ~~legal arrangement~~ Legal Arrangement or where the Relevant Person has difficulty in obtaining and verifying information.

## 9. RELIANCE AND OUTSOURCING OF ANTI-MONEY LAUNDERING COMPLIANCE

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### 9.2.2 A Relevant Person must not:

- (1) establish a correspondent banking relationship with a Shell Bank;
- (2) establish or keep anonymous accounts or accounts in false names; or
- (3) 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 Relevant Person.

#### Guidance

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3. The requirement to identify the business partner is meant to cover only those business partners who may pose any relevant money laundering risk to the Relevant Person. Hence, a Relevant Person would ~~be~~ not be required to establish and verify the identity of, for example, its maintenance or cleaning service.

## 10. CORRESPONDENT BANKING, WIRE TRANSFERS, ANONYMOUS ACCOUNTS AND AUDIT

### 10.1 Application

10.1.1 This Chapter applies to Recognised Bodies and all Authorised Persons, other than Credit Rating Agencies or ~~Recognised Body other than a~~ and Representative Offices.

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### 10.3 Wire transfers

10.3.1 In this section:

- (a) "**beneficiary**" means the natural or Legal Person or ~~legal arrangement~~ the Legal Arrangement ~~who that~~ is identified by the originator as the receiver of the requested wire transfer;

## 11. SANCTIONS AND OTHER INTERNATIONAL OBLIGATIONS

### 11.1 Resolutions and Sanctions

- 11.1.1 (1) A Relevant Person must establish and maintain effective systems and controls to ensure that on an ongoing basis it is properly informed as to, and takes reasonable measures to comply with, relevant resolutions or Sanctions which it is required to comply with, under the laws of ADGM or any other jurisdiction.

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#### Guidance

1. In Rule 11.1.1(1), taking reasonable measures to comply with resolutions or Sanctions may include, for example, a Relevant Person not undertaking a transaction for or on behalf of a Person undertaking further due diligence in respect of a Person.

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4. A Relevant Person may use a database maintained elsewhere for an up-to-date list of resolutions and sanctions, or to perform checks of customers or transactions against that list. For example, it may wish to use a database maintained by its head office or a Group member. However, the Relevant Person retains responsibility for ensuring that its systems and controls are effective to ensure compliance with this Rulebook module.

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## 12.4 Reporting

**12.4.1** The MLRO must report ~~at least semi-annually in a form prescribed by the Regulator,~~ to the Governing Body or Senior Management of the Relevant Person on the following matters:

- (a) the results of the review under Rule 4.1.1(4);
- (b) the Relevant Person's compliance with applicable Anti-Money Laundering laws including these Rules;
- ~~(c) the quality of the Relevant Person's Anti-Money Laundering policies, procedures, systems and controls;~~
- ~~(c)~~ any relevant findings, recommendations, guidance, directives, resolutions, Sanctions, notices or other conclusions and how the Relevant Person has taken them into account;
- ~~(d)~~ any internal Suspicious Activity Reports made by the Relevant Person's Employees and action taken in respect of those reports, including the grounds for all decisions;
- ~~(e)~~ any external Suspicious Activity Reports made by the Relevant Person and action taken in respect of those reports including the grounds for all decisions; and
- ~~(f)~~ any other relevant matters related to Anti-Money Laundering as it concerns the Relevant Person's business.

**12.4.2** A Relevant Person must ensure that its Governing Body or Senior Management promptly:

- (a) assess the report provided under Rule 12.4.1;
- (b) take action, as required, subsequent to consideration of the findings of the report, in order to resolve any identified deficiencies; and
- (c) make a record of their assessment pursuant to paragraph (a) and the action taken pursuant to paragraph (b).

**12.4.3** The Relevant Person must provide to the Regulator a copy of:

- (a) the report provided under Rule 12.4.1; and
- (b) the record made under Rule 12.4.2(c).

**13. ANTI-MONEY LAUNDERING TRAINING AND AWARENESS**

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**13.3.2** These records must be kept for at least six years from the date on which the training was given.

**Guidance**

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

**16. NON-PROFIT ORGANISATIONS (“NPOs”)**