



FINANCIAL INTELLIGENCE AUTHORITY
The Supervision Unit

**Guidance to Financial Institutions and Other
Business Activities on the AML/CFT/CPF
Compliance Programme**

(March 2021)

Overview

Section 16 (1) (o) of the Money Laundering (Prevention) Act, Chapter 12.20 of the Laws of Saint Lucia (the MLPA) requires all financial institutions (FIs) and persons engaged in other business activities (OBAs), collectively known as reporting entities, to develop programmes against money laundering (ML), terrorist financing (TF) and proliferation financing (PF). The programmes must comprise of internal policies, procedures and controls, including appropriate compliance management systems.

Purpose of Guidance Notes

The purpose of this document is to assist reporting entities in developing their anti-money laundering, countering the financing of terrorism and counter proliferation financing (AML/CFT/CPF) Compliance Manual and to advise of the minimum required content of such manual. The reporting entity may however, choose to expand the manual's content to include policies and procedures that are specific to the nature of its business operations/sector.

The Compliance Officer (CO) is primarily responsible for establishing your entity's AML/CFT/CPF Compliance Programme and documenting the content of such AML/CFT/CPF Compliance Programme.

Table of Contents

What is an AML/CFT/CPF Compliance Programme?.....	1
What are the Components of an AML/CFT/CPF Compliance Programme?	1
Table of Acronyms.....	2
References to the Relevant Legislations	2
The AML/CFT/CPF Policies	2
Overview of Money Laundering, Terrorist Financing & Proliferation Financing	3
Duties and Responsibilities of the Compliance Officer	3
AML/CFT/CPF Board Reports.....	4
AML/CFT/CPF Staff Training	5
Staff Vetting.....	5
Independent AML/CFT/CPF Audits	5
AML/CFT/CPF Risk Assessments	6
KYC/CDD/EDD Procedures	6
Politically Exposed Persons.....	7
Transaction Monitoring	7
Recognition and Reporting of Suspicious Transactions	8
Record Keeping.....	8

What is an AML/CFT/CPF Compliance Programme?

An AML/CFT/CPF Compliance Programme is a written document containing all the AML/CFT/CPF policies and procedures developed by your Compliance Officer and approved by the Board of Directors/Owners. It is important that all the relevant staff are trained and aware of the contents of the Programme.

An AML/CFT/CPF Programme should be specifically designed to suit the business activity that you engage in and must address the ML/TF/PF risks that your business faces, which were identified during the conduct of your risk assessment.

In developing an AML/CFT/CPF Compliance Programme, the ML/TF/PF risk factors which must be considered include:

1. The size of your business
2. The complexity and nature of your business, taking into account:
 - the types of customers that you have
 - the geographic locations of your customers
 - the payment systems used (such as cash, cross border payments, etc.)
 - the delivery channels of your products and services (such as face to face and/or non-face to face)
 - the type of products and services offered
 - the geographic locations in which you conduct business
 - the types of transactions that your customers engage in (that is, the reason why they use your business)

Once the above risks have been assessed, your AML/CFT/CPF Compliance Programme should be reflective of the policies and procedures to mitigate the identified risks with a greater focus placed on the higher risk areas.

What are the Components of an AML/CFT/CPF Compliance Programme?

The minimum content of the Programme which must be documented in a manual includes:

1. Table of Acronyms
2. References to Relevant Legislations
3. Overview of Money Laundering, Terrorist Financing, Proliferation Financing
4. AML/CFT/CPF
 - Policies
 - Board Reports

- Independent Audit
 - Staff Training
 - Staff Vetting
 - Risk Assessment
5. The Duties and Responsibilities of the Compliance Officer
 6. KYC/CDD/EDD Procedures
 7. Transaction Monitoring
 8. Recognition and Reporting of Suspicious Transactions
 9. Record Keeping

It should be noted that though there are templates that reporting entities may utilise for implementing an AML/CFT/CPF Compliance Programme, each programme should ideally be tailored to the specifics of your business activity.

Table of Acronyms

This section should include the acronyms used throughout the manual.

References to the Relevant Legislations

This section should include references to the applicable legislations which include:

- The Money Laundering (Prevention) Act, Chapter 12.20 of the Laws of Saint Lucia
- The Anti-Terrorism Act, Chapter 3.16 of the Laws of Saint Lucia
- The United Nations Sanctions (Counter-Proliferation Financing Act) No. 29 of 2019
- The Proceeds of Crime Act, Chapter 3.04 of the Laws of Saint Lucia

In addition, this section may advise of other resource documents that can be referenced for additional guidance when needed, such as the Financial Action Task Force (FATF) 40 Recommendations.

The AML/CFT/CPF Policies

This section should clearly state the policies of the reporting entity and highlight procedures and controls which constitutes the strategy adopted to prevent and effectively combat any ML/TF/PF related matters. It should clearly state the entity's commitment to combat ML/TF/PF and to fulfil its legislated obligations, cooperating with the FIA and/or other authorities charged with the responsibility for AML/CFT/CPF in Saint Lucia where necessary.

The policy should state the frequency for review and updates of the manual and the instances where this will be required, such as when deficiencies are detected or adjustments are needed to accommodate changes to the relevant legislation and/or the entity's business or risk profile.

Overview of Money Laundering, Terrorist Financing & Proliferation Financing

This section should explain the crimes of money laundering, terrorist financing and proliferation financing and may also provide red flag indicators in relation to ML/TF/PF specific to your business activity/sector.

Duties and Responsibilities of the Compliance Officer

The Manual should make a clear distinction between the duties and responsibilities of the Board of Directors, Senior Management and the Compliance Officer.

The duties and responsibilities of the board of directors or senior management, where applicable should include:

- Approval of the entity's AML/CFT/CPF policies, procedures and controls and changes to the Compliance Programme
- Appointment of a Compliance Officer in keeping Sections 38 -43 of the MLPA Regulations

The roles and responsibilities of the Compliance Officer as set out in Section 44 of the MLPA Regulations include:

- Organising training sessions for staff on various compliance related issues and for instructing employees as to their responsibilities in respect of the provisions of the MLPA and the Proceeds of Crime Act
- The establishment of procedures to ensure high standards of integrity of employees
- The development of a system to evaluate the personal employment and financial history of staff
- Making modifications or adjustments to policies, programmes, procedures and controls
- Arranging for independent audits in order to ensure that the programmes is being complied with
- Analysing transactions and verifying whether any of them are subject to reporting, in accordance with the relevant laws; (UTRs, STRs)
- Reviewing all internally reported unusual transaction reports on their completeness and accuracy with other sources
- Preparing and compiling the external reports of unusual transactions to the FIA;

- Undertaking closer investigations in respect of unusual or suspicious transactions, as directed by the FIA
- Remaining informed of the local and international developments on money laundering
- Preparing reports to the Board of Directors and senior management on the institution's efforts in combating money laundering
- Exercising control and review of the performance of lower level AML officers within the organization or within each branch or unit
- Maintaining contact with the FIA

The manual should at a minimum include the above as part of the CO's responsibilities and this must also be reflected in the CO's job description.

AML/CFT/CPF Board Reports

This section must reference the entity's obligation to prepare AML/CFT/CPF quarterly reports to the Board of Directors in keeping with Section 59 of the MLPA Regulations. In the absence of a Board of Directors, this report should instead be prepared for the senior management. The minimum contents of these reports are highlighted in Section 60 of the regulations and include:

- Any changes made or recommended in respect of new legislation
- Serious compliance deficiencies that have been identified relating to current policies and procedures, indicating the seriousness of the issues and either the action taken, or recommendations of change
- A risk assessment of any new types of products and services, or any new channels for distributing them and the money laundering compliance measures that have either been implemented or are recommended
- The means by which the effectiveness of ongoing procedures have been tested
- The number of internal reports that have been received from each separate division, product, area, subsidiary, etc.
- The percentage of those reports submitted to the FIA
- Any perceived deficiencies in the reporting procedures and any changes implemented or recommended
- Information identifying staff training during the period, the method of training and any significant key issues arising out of the training
- Any recommendations concerning resource requirements to ensure effective compliance

It should be noted that the AML/CFT/CPF findings/issues can be included as a component of the regular quarterly board reports.

AML/CFT/CPF Staff Training

This section should speak to the policy adopted by the reporting entity regarding its obligation to include an ongoing training programme as part of their AML/CFT/CPF Compliance Programme, in keeping with Section 16 (1) (o) (iii) of the MLPA. It is the CO's responsibility to ensure that this mandate is fulfilled.

The staff training requirements are covered in Sections 175 to 179 of the MLPA Regulations for OBAs. (Sections 185 to 189 of the MLPA Regulations for FIs). The content of the training programmes should include:

- The AML/CFT/CPF Compliance Manual
- A description of the nature and processes of ML/TF/PF
- An explanation of the underlying legal obligations contained in the relevant legislations and guidelines issued by the FIA
- An explanation of vigilance policy and systems, including particular emphasis on verification and the recognition of suspicious transactions and the need to report suspicions to the Compliance Officer (or equivalent)

This section should also include the provisions for training of the CO and other key staff, including senior management. The frequency of training (at least annually) should also be addressed.

Staff Vetting

This section of the Manual must address the policies with regard to staff screening procedures upon hiring, to ensure a high standard of integrity of employees and the ongoing and evaluating the personal employment and financial history of staff. It should also speak to the role of the Compliance Officer in this process as per Sections 44 (a) (ii) and (iii) of the MLPA Regulations.

Independent AML/CFT/CPF Audits

This section must make reference to the entity's obligation to conduct independent AML/CFT/CPF Audits as required by Section 53 of the MLPA Regulations. The purpose of an AML/CFT/CPF audit is to assess whether an entity's AML/CFT/CPF program is functioning in practice as intended, and whether the policies, procedures and controls, have been adequately designed and operate effectively throughout the given period.

The minimum requirements of the audit are set out in Section 16 (1) (g) of the MLPA and Section 54 of the MLPA Regulations and include:

- Evaluate the internal policies, procedures or controls Section 16 (1) (g) of the MLPA

- Testing of internal procedures for employee evaluation with respect to integrity, personal employment and financial history
- Evaluating the extent and frequency of training received by employees
- Testing of employees' knowledge of ML/TF/PF
- A review of investments/transactions of clients for possible structured transactions
- Analysis of a sampling of reportable transactions including a comparison of those transactions with reports submitted on those transactions
- A review of transactions for possible suspicious transactions
- Testing of record keeping of all money laundering reports, identification documentation of customers and transaction records

AML/CFT/CPF Risk Assessments

This section should explain the importance of conducting an AML/CFT/CPF Risk Assessments. The assessment should consist of identifying the risks, assessing the risks, implementing appropriate mitigating measures and monitoring the implementation and adequacy of these measures.

The Manual should also state the need to keep the risk assessment up to date in response to changing environments and trigger events.

Ideally, the risk assessment should be conducted prior to the establishment of an AML/CFT/CPF Compliance Programme.

KYC/CDD/EDD Procedures

The requirement to verify customer identity and the customer due diligence procedures are documented in Sections 15 and 17 of the MLPA, along with the procedures to be performed.

The Manual should comprehensively document the KYC/CDD measures that the reporting entity applies and it must reflect at a minimum the requirements of the MLPA.

The KYC/CDD policies and procedures should differentiate the requirements for the risk categories of customers, detailing the depth and breadth of those measures. In keeping with Section 17 (3) of the MLPA, this should take account of the simplified due diligence procedures applied to low risk customers and the enhanced due diligence procedures applied to high risk customer, including PEPs.

The Manual should also mention when (timing) due diligence should be performed on customers in keeping with Section 17 (1) of the MLPA.

In the case where the customer is part of a structure, information must be obtained on:

- the ownership and control of the structure
- the purpose and nature of the business relationship
- the measures and steps to be taken to determine the economic profile of the customer (including the Source of Funds and Source of Wealth)

Provisions regarding verification of the information collected from should be included and must reflect the requirements of Sections 70 to 144 of the MLPA Regulations for OBAs (Sections 70 to 156 of the MLPA Regulations for FIs)

Politically Exposed Persons

The manual should address and define Politically Exposed Persons. Reference can be made to the FATF definition of PEPs.

The manual should document:

- How PEP customers should be dealt with in keeping with Sections 82 to 87 of the MLPA Regulations for OBAs (Section 84 to 89 of the MLPA Regulations for FIs)
- The need to perform ongoing scrutiny of such accounts as required by 134 to 137 of the MLPA Regulations for OBAs (Section 141 to 144 of the MLPA Regulations for FIs).

Transaction Monitoring

The Manual should contain provisions regarding on-going monitoring procedures and the updating of records. Techniques for on-going monitoring may include:

- Scrutinising of transactions and business activities for ML/TF/PF risks
- Reviewing client behaviour for changes/deviations in the expected level of activity
- Reviewing the documents and information collected from customers to ensure they are up-to-date
- Examining transactions and identifying transactions with increased risk level or without apparent economic or lawful purpose

The need to screen customers both new and existing must also be addressed. This must include determining changes in the risk profile, in particular the existence of PEPs, Terrorists, or known criminals, as well as the tools used to screen customers. The tools should include at a minimum open-source checks such as google, the FIA's Domestic PEP List, the UNSCR Sanctions List and FATF High Risk and Other Monitored Jurisdiction listings.

The method of on-going monitoring and the timing of record updates should form part of this section.

The manual should also make reference to the requirement for clients to complete a Source of Funds Declaration on the prescribed form for transactions exceeding \$25,000 (Section 21 of the MLPA). A copy of this form is appended in the Money Laundering (Prevention) (Declaration of Source of Funds) (Forms) Regulations – Sections 21 and 43.

Recognition and Reporting of Suspicious Transactions

The Manual should indicate when and how a suspicious activity must be reported to the CO. In addition, Section 145 of the MLPA Regulations for OBAs (Section 152 of the MLPA Regulations for FIs) requires that reporting entities ensure that:

- Key staff know to whom their suspicions should be reported
- There is a clear procedure for reporting such suspicions without delay to the Compliance Officer.

The Manual should reflect at a minimum the recognition and reporting of suspicious activity requirements as per Sections 145 to 162 of the MLPA Regulations for OBAs (Sections 152 to 169 of the MLPA Regulations for FIs).

The documented policy should differentiate between internal (staff to CO) and external (CO to FIA) reporting procedures. A suggested format of an internal reporting form is set out in Appendix E of the MLPA and the external reporting (SAR) form is set out in Appendix F of the MLPA.

In the case where an external report must be made to the FIA, the manual should state the legislated period within which such a report must be made, that is, within seven (7) days of the date the transaction being deemed suspicious as per Section 16 (1) (k) of the MLPA.

Finally, the provision relating to tipping-off, must be incorporated in the Manual, clarifying what this prohibition means/entails as well as the penalties for tipping off as per Section 16 of the MLPA Regulations.

Record Keeping

The entity's record keeping policy must be properly documented in the Manual and should reflect the requirements of Section 163-174 of the MLPA Regulations for OBAs (Section 170-184 of the MLPA Regulations for FIs), that is, the requirement to maintain all relevant records on the identity and transactions of customers, both local and international for a period of at least seven (7) years.

The 2016 amendment to Section 2 (h) of the MPLA indicates that a transaction record should include, where relevant to a transaction:

- the identification records of a person who is a party to a transaction (this should include copies of identification cards)

- a description of the transaction sufficient to identify the date, purpose and method of execution;
- the details of any account used for a transaction including the name of the financial institution or person engaged in other business activity, address and sort code;
- the total value of the transaction
- the name and address of the employee who prepared the transaction record
- all business correspondence relating to the transaction
- documents relating to the background and purpose of the transaction (this should also include a source of funds declaration form if required)

The Manual must also make reference to the other types of records/registers which must be maintained. These include:

1. ***Training Records*** in keeping with Section 169 of the MLPA Regulations for OBAs (Section 177 of the MLPA Regulations for FIs). The training register must include at a minimum:
 - details and contents of the training programme
 - names of staff receiving training
 - dates of training sessions
 - assessment of training
2. ***Unusual Activity Reporting (UAR) Register*** in keeping with Section 156 of the MLPA Regulations for OBAs (Section 163 of the MLPA Regulations for FIs). A UAR register must be maintained in instances where the contents of the UAR are insufficient to file a SAR. The reason for the decision not to file a particular SAR is documented in the register and signed by the CO.
3. ***Suspicious Activity Reporting (SAR) Register*** in keeping with Section 162 of the MLPA Regulations for OBAs (Section 169 of the MLPA Regulations for FIs). The SAR training register must include at a minimum:
 - the date of the report
 - the person who made the report
 - the person/s to whom the report was forwarded
 - a reference by which supporting evidence is identifiable
 - the receipt of acknowledgement from the FIA
4. ***Register of Enquiries*** in keeping with Section 174 of the MLPA Regulations for OBAs (Section 184 of the MLPA Regulations for FIs). The register should document all enquiries made to it by the FIA and must include at a minimum:
 - the date and nature of the enquiry; and
 - the details of the transaction involved.

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