

AML/CFT Obligations of Regulated Entities

Ten Essential Responsibilities
Practical Issues
Where it All Goes Wrong

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Overview: AML/CFT obligations of regulated entities

- ❖ The Ten Essential Responsibilities
- ❖ Supervisory Practice
- ❖ Practical Issues
- ❖ Where it all goes wrong

Overview: FATF upgraded its 40+9 Recommendations in February 2012

- ❖ Entitled the “New 40” or “the Revised FATF Standards”, these now include AML, CFT and PF.
 - Anti-Money Laundering
 - Combating the Financing of Terrorism
 - Financing the Proliferation of Weapons of Mass Destruction

- ❖ Very importantly, predicate offences (the proceeds of which are the object of money laundering) must include tax offences. This has been the case in Belize since the 2014 amendments to the MLTPA.

The Ten Essential Responsibilities

1. Conduct a Business Risk Assessment
2. Institute Policies and Procedures
3. Conduct Customer Due Diligence
4. Establish Source of Funds and Source of Wealth
5. Establish and understand the commercial rationale for the structure (remembering tax advice)
6. Risk Rate your clients (remembering PEPs and country risk)
7. Appoint an MLCO
8. Train your staff (Board to Receptionist)
9. Monitor Transactions and Review files
10. Make Suspicious Transaction Reports (STRs)

The Ten Essential Responsibilities/continued

- ❖ This is of course a simplified list. Within item 2 (“Institute Policies and Procedures”) many issues need to be covered. However, the preceding list is designed to help you focus on the first priorities which Reporting Entities should ensure are in place as a matter of urgency, if they are not yet wholly embedded.
- ❖ The current responsibilities of Reporting Entities are, of course, to comply with the AML/CFT/PF regime in place in Belize. However, Belize has a reputation in the international community for a low level of compliance. More attention and resource must be paid to meeting AML/CFT/PF obligations.

Supervisory Practice

- ❖ The FATF is a body under the OECD umbrella. It is no co-incident that OECD initiatives on tax compliance harmonise with FATF standards.
- ❖ It is no co-incident that the Peer Group Review on tax practices involves onsite examinations which seek evidence of effectiveness of the regime, and no co incident that FATF Evaluations follow the precise same standard.
- ❖ Belize MUST evidence effectiveness to both sets of reviewers
- ❖ Where on-site examination show low levels of compliance, AML Supervisors MUST evidence application of “proportionate and dissuasive sanctions” to increase levels of compliant behaviour in the industry.

Supervisory Practice/continued

- ❖ **Step 1** – Belize passed numerous legislative amendments in 2013 and 2014 upgrading existing legal framework that had been in place for some time.
- ❖ **Step 2** – The International Financial Services Commission (IFSC), Central Bank of Belize and FIU have run several training sessions.
- ❖ **Step 3** – The IFSC reports it has commenced its first formal round of onsite examinations, providing reports to each entity and issuing directives to remedy deficiencies identified.

Supervisory Practice/continued

- ❖ **Step 4** – The next step is to commence a second formal round of examinations. It is anticipated that this round will be more rigorous. Although directives to remedy minor short falls will still be issued, firms showing major deficit or firms that, despite previous examinations have done little to improve, may suffer more stringent penalties.
- ❖ This is normal supervisory practice and required behaviour of all AML Supervisors if Belize is to secure good evaluation ratings when the FATF commences their fourth round of assessments.

Supervisory Practice/continued

- ❖ This process of introducing law, outreach through training, early round visits, and moving to more stringent insistence on compliance, combined with enforcement, is the standard progress of AML/CFT/PF Supervision.
- ❖ Businesses must raise their standards and take their AML/CFT/PF obligations seriously.
- ❖ The businesses that have done so, responsibly and willingly, have a right to expect that Supervisory Authorities will force less compliant businesses to similarly invest – to secure the collective investment of protecting the reputation of Belize.

Practical Issues:

Awareness of AML/CFT/PF – in house training

- ❖ The Board of each reporting Entity must ensure that they, as individuals, and all their staff are properly trained in AML/CFT/PF issues. Correspondence and general discussion with the industry indicate a low level of readiness.

Practical Issues/continued

Awareness of AML/CFT/PF – in house training

- ❖ If you are not sure my statement is fair – quickly run off the ten essential obligations in your own mind.
- ❖ If you can do so successfully, go back to the office and ask your staff to list them.
- ❖ All your reputation rests on the answer of your weakest colleague.
- ❖ All Belize's reputation rests on the business with the weakest colleague.
- ❖ You owe it to the legislature, your AML Supervisor, your business, yourselves and your community to have strong defences in the AML/CFT/PF area.

Where it all goes wrong

❖ Typical failures:

- Businesses fail to identify their client in high risk
- Businesses do risk rate their clients but fail to treat high risk clients differently from normal risk clients.
- Businesses identify their client low risk and fail to notice changes in behaviour that render them high risk.

❖ Directors do not value the compliance function and see it as a “prevention of business” unit – start thinking of it as your insurance policy – something that preserves the value of what you have got.

Where it all goes wrong/continued

- ❖ Directors override internal controls to facilitate pushy or profitable clients.
- ❖ Directors place weak or underqualified employees in vital compliance roles where extra strength and independence is required – employees afraid to raise a red flag.
- ❖ Businesses simply don't know what their clients are up to.

Conclusion

- ❖ We all felt the sting of being blacklisted as a non-compliant country and losing correspondent banking relationships.
- ❖ We do not want to experience that again – and the assessors will be back.
- ❖ Businesses must prioritize AML/CFT/PF compliance issues to protect the reputation and economy of Belize.

Thank you!