

9 SCREENING, AWARENESS AND TRAINING OF EMPLOYEES

Please note:

- › Regulatory requirements are set within this section as *AML/CFT Codes of Practice*.
- › This section contains references to Jersey legislation that may be accessed through the JFSC website.
- › Where terms appear in the Glossary this is highlighted by the use of italic text. The Glossary is available from the JFSC website.

9.1 Overview of Section

1. One of the most important controls over the prevention and detection of *money laundering* and the *financing of terrorism* is to have appropriately screened employees who are: (i) alert to *money laundering* and the *financing of terrorism* risks; and (ii) well trained in the recognition of notable transactions or activity which may indicate *money laundering* or the *financing of terrorism* activity (Section 6).
2. The effective application of even the best designed *systems and controls* (including *policies and procedures*) can be quickly compromised if employees lack competence or probity, are unaware of, or fail to apply, *systems and controls* (including *policies and procedures*), and are not adequately trained.
3. It is essential that a *relevant person* takes action to make sure that customer-facing and other employees are:
 - › competent and have probity;
 - › aware of *policies and procedures* and their obligations under the *money laundering* legislation and the *Money Laundering Order* and *AML/CFT Codes of Practice* issued under the *Supervisory Bodies Law*; and
 - › trained in the recognition of notable transactions or activities (which may indicate *money laundering* or the *financing of terrorism*) (Section 6).
4. In particular, customer facing employees and those who handle or are responsible for the handling of customers and transactions will provide a *relevant person* with its strongest defence, or its weakest link.
5. The term “employee” is to be understood to include officers of a *relevant person* and is not limited to individuals working under a contract of employment. It will include temporary and contract employees and the employee of any external party fulfilling a function in relation to a *relevant person* under an outsourcing agreement.
6. A *relevant person* should also encourage its customer facing employees and other employees to “think risk” as they carry out their duties within the legal and regulatory framework governing *money laundering* and the *financing of terrorism*.

9.2 Screening of Employees

Statutory Requirements

7. *Article 11(1)(d) of the Money Laundering Order requires a relevant person to maintain appropriate and consistent policies and procedures relating to screening of employees.*

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8. A *relevant person* must screen the competence and probity of the following employees at the time of recruitment and where there is a subsequent change in an employee's role:
- › Customer-facing employees and other employees handling or responsible for the handling of business relationships or one-off transactions;
 - › Employees directly supporting customer-facing employees or other employees handling or responsible for the handling of business relationships or one-off transactions, e.g. accounts and administration staff;
 - › The *MLRO* (and any *deputy MLRO*) and *MLCO*; and
 - › The Board and senior managers.

Guidance Notes

9. A *relevant person* may demonstrate that employees are screened where it does one or more of the following, as appropriate for the nature of the employee's role and responsibilities:
- › Obtains and confirms references.
 - › Obtains and confirms employment history and qualifications disclosed.
 - › Obtains details of any regulatory action taken against the individual (or absence of such action).
 - › Obtains and confirms details of any criminal convictions¹ (or absence of such convictions).

9.3 Obligations to Promote Awareness and to Train

Overview

10. The *Money Laundering Order's* requirements concerning both awareness training and training apply to employees whose duties relate to the provision of *financial services business* (hereafter referred to as "**relevant employees**"), and not to all employees of a *relevant person*. However, *money laundering* and the *financing of terrorism* offences established in the *Proceeds of Crime Law*, *Terrorism Law* and other legislation are wider in scope, and so all employees will need to have a basic understanding of *money laundering* and the *financing of terrorism*, and an awareness of internal reporting procedures and the identity of the *MLRO* (and, if applicable, *deputy MLRO*).
11. *Relevant employees* will include customer-facing, accounts and administration staff.

Statutory Requirements

12. *Articles 11(9) to (11) of the Money Laundering Order require that a relevant person must, in relation to employees whose duties related to the provision of a financial services business:*

¹ Enquiries into an individual's criminal past must be subject to the Rehabilitation of Offenders (Jersey) Law 2001, which prevents a relevant person requesting information from its directors, senior managers and other employees (and prospective directors, senior managers and other employees) about convictions that are "spent", except where provided for by the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002.

- › *take appropriate measures from time to time for the purposes of making them aware of:*
 - *the CDD, record-keeping, reporting and other policies and procedures for the purpose of preventing and detecting money laundering or the financing of terrorism; and*
 - *the enactments in Jersey relating to money laundering and the financing of terrorism and any relevant Code of Practice.*
 - › *provide those employees from time to time with training in the recognition and handling of:*
 - *transactions carried out by, or on behalf of, any person who is, or appears to be, engaged in money laundering or the financing of terrorism; and*
 - *other conduct that indicates that a person is or appears to be engaged in money laundering or the financing of terrorism*
- such training to include the provision of information on current money laundering techniques, methods and trends and on the financing of terrorism; and*
- › *establish and maintain procedures that monitor and test the effectiveness of the financial services business' policies and procedures, employees' awareness and the training provided to employees.*

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13. A *relevant person* must:
- › provide employees who are not *relevant employees* with a written explanation of the *relevant person's* and employee's obligations and potential criminal liability under the *money laundering* legislation, including the implications of failing to make an internal SAR; and
 - › require such employees to acknowledge that they understand the *relevant person's* written explanation and procedures for making internal SARs.
14. In the case of a *relevant person* that is a sole trader, that person must be aware of the enactments in Jersey relating to *money laundering* and the *financing of terrorism* and *AML/CFT Codes of Practice*.
15. In the case of a *relevant person* that is a sole trader, that person must be able to recognise and handle: (i) transactions carried out by or on behalf of a person who is or appears to be engaged in *money laundering* or the *financing of terrorism*; and (ii) other conduct that indicates a person is or appears to be engaged in *money laundering* or the *financing of terrorism*.

Guidance Notes

16. A *relevant person* may demonstrate that it has satisfied awareness raising and training obligations that apply to *relevant employees* where it includes:
- › customer-facing employees and other employees handling or responsible for the handling of business relationships or one-off transactions;
 - › employees directly supporting customer-facing employees or other employees who handle or are responsible for the handling of business relationships or one-off transactions, e.g. accounts and administration staff;
 - › the *MLRO* (and any *deputy MLRO*) and *MLCO*; and
 - › the Board and senior managers.
17. A *relevant person* that is a sole trader may demonstrate that they are aware of relevant enactments (under paragraph 14) and able to recognise and handle transactions and other conduct (under paragraph 15) where they have received formal training or through self study.

9.4 Awareness of Relevant Employees

Overview

18. With the passage of time between training initiatives, the level of employee awareness of the risk of *money laundering* and the *financing of terrorism* decreases. The utilisation of techniques to maintain a high level of awareness can greatly enhance the effectiveness of a *relevant person's* defences against *money laundering* and the *financing of terrorism*.

Guidance Notes

19. A *relevant person* may demonstrate that it has appropriate awareness measures in place to make *relevant employees* aware of *policies and procedures* where it:
- › provides them with a written explanation of its business risk assessment, in order to provide context for those *policies and procedures*.
 - › provides them with case studies illustrating how products or services provided by the *relevant person* may be abused, in order to provide context for the application of *policies and procedures*.
 - › provides ready access to its *policies and procedures*.
20. A *relevant person* may demonstrate that it takes appropriate measures to make *relevant employees* aware of enactments in Jersey relating to *money laundering* and the *financing of terrorism* where it:
- › provides *relevant employees* with a written explanation of the *relevant person's* and employee's obligations and potential criminal liability under the *money laundering* legislation, including the implications of failing to make an internal *SAR*.
 - › provides *relevant employees* with a written explanation of the disciplinary measures that may be applied for failing to report knowledge, suspicion or reasonable grounds for knowledge or suspicion without reasonable excuse, or as soon as it is practicable.
 - › requires such employees to acknowledge that they understand the *relevant person's* written explanations and procedures for making internal *SARs*.
 - › reminds employees of their obligations from time to time and the need to remain vigilant.
 - › circulates relevant material, e.g. material that is published by the *Commission* or *JFCU*, *FATF*, or *EU*, in order to provide context for enactments in Jersey.
 - › circulates relevant media reports, in order to provide context for enactments in Jersey.
21. A *relevant person* may demonstrate that it takes appropriate measures to make *relevant employees* who are officers (e.g. directors or equivalent) aware of enactments in Jersey relating to *money laundering* and the *financing of terrorism*, where it also explains how officers may be held personally liable for an offence committed by the *relevant person*.

9.4.1 Monitoring and Testing Effectiveness

Guidance notes

22. A *relevant person* may demonstrate that it maintains procedures for monitoring and testing the effectiveness of awareness raising where it periodically tests employees' awareness of:
- › risks and *policies and procedures*, and takes appropriate action where awareness is insufficient.
 - › statutory obligations, and takes appropriate action where awareness is insufficient.

9.4.2 Technological Developments

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23. Where a *relevant person* has identified a risk that may arise in relation to new services, business practices and technology, including where developed at group level or by outside developers (in Jersey and elsewhere), a *relevant person* must take steps to ensure that those involved in their development have a basic awareness of *money laundering* and the *financing of terrorism* and of current *money laundering* techniques, methods and trends.

Guidance Notes

24. A *relevant person* may demonstrate that developers have a basic awareness of *money laundering* and the *financing of terrorism* and of current *money laundering* techniques, methods and trends where it:
- › provides them with a written explanation of its business risk assessment, in order to provide context for development work.
 - › provides case studies illustrating how new services, business practices and technology may be abused.
 - › circulates any relevant material, e.g. material that is published by the *Commission* or *JFCU*, *FATF*, or *EU*.
 - › circulates relevant media reports.
25. A *relevant person* may demonstrate that developers have a basic awareness of *money laundering* and the *financing of terrorism* and of current *money laundering* techniques, methods and trends where it obtains assurances that similar measures to those set out in paragraph 24 are taken by group or outside developers.

9.5 Training of Employees

Overview

26. The guiding principle for all *AML/CFT* training should be to encourage employees, irrespective of their level of seniority, to understand and accept their responsibility to contribute to the protection of the *relevant person* against the threat of *money laundering* and the *financing of terrorism*.
27. There is a tendency, in particular on the part of more junior employees, non-customer facing employees, and support employees to mistakenly believe that the role that they play is less crucial than, or secondary to, that of more senior colleagues or customer facing colleagues. Such an attitude can lead to failures to report important information because of mistaken assumptions that the information will have already been identified and dealt with by other colleagues.

AML/CFT Codes of Practice

28. A *relevant person* must provide employees with adequate training at appropriate frequencies.
29. Such training must:
- › be tailored to the *relevant person* and relevant to the employees to whom it is delivered;
 - › highlight to employees the importance of the contribution that they can individually make to the prevention and detection of *money laundering* and the *financing of terrorism*; and
 - › cover key aspects of legislation to prevent and detect *money laundering* and the *financing of terrorism*.

9.5.1 All Relevant Employees

Guidance Notes

30. A *relevant person* may demonstrate the provision of adequate training to *relevant employees* where it addresses:
- › the *money laundering* legislation, the *Money Laundering Order* and *AML/CFT Codes of Practice* issued under the *Supervisory Bodies Law*;
 - › vulnerabilities of products and services offered by the *relevant person* (based on the *relevant person's* business risk assessment), and subsequent *money laundering* and the *financing of terrorism* risk;
 - › *policies and procedures*, and employees' responsibilities;
 - › application of risk based *CDD policies and procedures*;
 - › recognition and examination of notable transactions and activity, such as activity outside of expected patterns, unusual settlements, abnormal payment or delivery instructions and changes in the patterns of business relationships;
 - › *money laundering* and the *financing of terrorism* developments, including techniques, methods, trends and typologies (having regard for reports published by the insular authorities, *FATF* and *FSRBs*); and
 - › management of business relationships or one-off transactions subject to an internal *SAR*, e.g. risk of committing the offence of tipping-off, and dealing with questions from such customers, and/or their advisers.

9.5.2 The Board

Guidance Notes

31. A *relevant person* may demonstrate the provision of adequate training to board members where (in addition to training for *relevant employees*) it addresses:
- › conducting and recording a business risk assessment;
 - › establishing a formal strategy to counter *money laundering* and the *financing of terrorism*;
 - › assessing the effectiveness of, and compliance with, *systems and controls* (including *policies and procedures*).

9.5.3 The MLCO

Guidance Notes

32. A *relevant person* may demonstrate the provision of adequate training to the *MLCO* where (in addition to training for *relevant employees*) it addresses the monitoring and testing of compliance with *systems and controls* (including *policies and procedures*) to counter *money laundering* and the *financing of terrorism*.

9.5.4 The MLRO and Deputy MLROs

Guidance Notes

33. A *relevant person* may demonstrate the provision of adequate training to the *MLRO* (and, if applicable, *deputy MLROs*) where (in addition to training for *relevant employees*) it addresses:
- › the handling and validation of internal *SARs*;
 - › liaising with the *Commission*, *JFCU* and law enforcement;

- › management of the risk of tipping-off; and
- › the handling of production and restraint orders.

9.5.5 Non-relevant Employees

Guidance Notes

34. A *relevant person* may demonstrate the provision of adequate training to employees who are not *relevant employees* where it addresses:
- › the threat of *money laundering* and the *financing of terrorism*; and
 - › procedures for making internal SARs.

9.5.6 Timing and Frequency of Training

Guidance Notes

35. A *relevant person* may demonstrate the provision of training at appropriate frequencies by:
- › providing all employees with induction training within 10 working days of the commencement of employment and, when necessary, where there is a subsequent change in an employee's role;
 - › delivering training to all employees at least once every two years, and otherwise determining the frequency of training for *relevant employees* on the basis of risk, with more frequent training where appropriate.

9.5.7 Monitoring the effectiveness of screening, awareness and of training

OVERVIEW

36. Monitoring and testing the effectiveness of *policies and procedures*, awareness-raising measures and of training provided is a function of the *MLCO*, further detail of which is set out at Section 2.5 of this Handbook.
37. Such monitoring and testing should also be considered in the context of the Board's periodic check that *systems and controls* (including *policies and procedures*) are operating effectively, as set out at Section 2.4.1 of this Handbook.