

Industry Seminar – 20 October 2011

AML/CFT Cross-Divisional Presentation

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Good morning. Today will take the form of a discussion – high standard work is being performed. You are familiar with the Handbook and, where there is uncertainty we liaise with you. This has recently occurred within the investment fund industry, and we will shortly be issuing further interpretation.

I am kick-starting the key findings the Commission has seen in its on-site visits in the last 18 months or so. To try and avoid repetition, a challenge for any regulator, we are each taking separate Regulations and talking to them. In our planning we realised there were common themes across divisions. Hence, for today, I am also speaking about the experiences of my colleagues in Banking, Fiduciary and Insurance.

I am covering Business Risk Assessments and policies and controls, Regulations 3 and 15. If there is one point to take away, it is our ongoing emphasis on the crucial role of the Board.

Regulation 3 Business Risk Assessment

A Business Risk Assessment should be

- suitable and
- sufficient
- ie relevant to the business concerned.

A good Business Risk Assessment is memorable for its clarity – it does not have to be long. When I asked the on-site team for a good example of a Business Risk Assessment, I received an immediate response, and a copy was reverentially submitted to my desk. This Assessment considered the industry environment, then the specific risks to the business, then specific mitigators. There was no sense at all of a document that could have been produced by anyone – IT WAS RELEVANT TO THE BUSINESS.

When we see a weak Business Risk Assessment, which is very rare, and we ask why, the answers suggest a misunderstanding between risk mitigation and risk assessment. We are told that all specific risks have been mitigated, therefore the Business Risk Assessment can be generic. However a proper assessment of risk needs to be documented in full, before any deductors for risk mitigation are considered.

The Board must own Business Risk Assessments. The Board must have fully considered and ratified any Business Risk Assessment. Most financial services businesses are very good in this matter, but on occasions this is not so. Sometimes, this is the result of a Board not applying their own tailoring to third-party acquired manuals.

Regulation 15

Regulation 15 requires a financial services business to establish appropriate policies, procedures and controls. Regulation 15(b) makes clear that the Board must take effective responsibility for it, and conduct an ongoing review.

Again, we see many good examples of FSBs doing this. Alternatively, if we interview a Board, and the Board say, “Let me just go and get the MLRO”, this is not a good sign. Further, procedures manuals should be exactly that, specifically tailored to the individual businesses. Group procedures manuals might be ok, but the Board need to ensure that they comply with Guernsey AML regulations and requirements.

Conclusion

It is important that the policies and procedures flow out from the Business Risk Assessment. Of course, this will naturally happen should the Business Risk Assessment and policies and procedures be tailored to the individual business. The two are different but interlinked. A procedure should help to mitigate a risk identified.

Thank you for listening, ladies and gentlemen. I will now hand over to Manus Carvill, Senior Analyst, Insurance Division.