

Industry Seminar – 20 October 2011

AML/CFT Cross-Divisional Presentation

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Thank you Manus. As you can see, we have been working through each of the Regulations as themes to highlight the common findings across all of the Divisions when we have been carrying out site visits.

The three areas that I will be looking at today are:

- Monitoring Transactions and other activity
- Employee Screening and Training, and finally I will be talking about
- Record Keeping.

The first of the subjects I will cover is Monitoring Transactions and other activity.

As you will know this area is covered by Regulation 11 of the Regulations which requires Financial Services Business (*or FSBs as I shall refer to them from now on*) to monitor business relationships and to apply scrutiny when you are dealing with unusual, complex or high risk transactions or indeed a series of these type of transactions.

We also have various Rules starting from Rule 252 onwards along with the guidance you will also find within Chapter 9 of the Handbook which all support the requirements of Regulation 11.

Moving on to our general findings, we have noticed that this is an area which can be sometimes neglected. For example, we have seen licensees who have experienced backlogs in carrying out their periodic reviews for their clients; and in those cases, it is usually indicative of a lack of resource for the team who carry out those periodic reviews.

Although most licensees have excellent and effective monitoring systems in place, we have seen some rare cases where there is no monitoring system in place at all; and in those cases this has been indicative of poor Corporate Governance at Board level, as the licensee is not undertaking adequate compliance reviews.

We have also noticed other related problems such as the quality of the monitoring as we have we found some cases of poor audit trails and a failure to identify outstanding issues.

Moving on to Employee Screening and Training, Regulation 13 in this case is the Regulation that covers this area. This Regulation provides for procedures to be undertaken by an FSB when hiring employees and for the requirements to train relevant employees.

Again there are Rules starting from Rule 305 onwards along with the guidance you will also find within Chapter 11 of the Handbook which all support the requirements of Regulation 13.

You will remember that in November 2009, The Commission issued Instruction Number 5, where all FSBs were required to review their compliance with Regulation 13 and to pay special attention to the qualifications and professional membership of any potential employees.

Generally we have seen good improvements in this area. We may discover minor infractions of the Rules, but now rarely come across licensees who have materially neglected this area. Where we do see problems in this area, it is usually because AML/CFT training has been treated as a “box ticking” operation. For the majority of you who understand your responsibilities, you already appreciate that training is a key area. The main purpose of what we do is to ensure that AML/CFT risks are minimised; and this is something that can only be effective if all staff are suitably trained.

On occasions this year we have seen records showing that senior management alongside more junior staff received the same training; and that the training is deemed to be “enhanced training” for all staff. As you know the MLROs and senior management must receive additional enhanced training compared to the core staff. Therefore it is not satisfactory to say that all staff receive the same training.

We noticed that although all staff should receive AML/CFT training at least every two years, occasionally this equated to just one hour every two years. Seeing that senior management must not only understand their own individual obligations in this area, but must also receive enhanced training to ensure that they remain competent in considering the effectiveness of the FSB’s policies procedures and controls, it is difficult to see how this can be effected in a one hour session every two years.

Another difficulty for senior staff is missing scheduled training sessions due to other pressing business commitments such as business trips; and therefore that member of staff might need to be booked on the next scheduled training session to come round. In some cases that member of staff has then gone on to miss the next repeated session for the very same reasons.

One final point to remind you about is the requirement for new relevant employees to receive AML/CFT training prior to becoming active in the day to day job role as per rule 316. Although we see that new relevant employees do receive AML/CFT training, this does not always happen prior to starting their day to day job role, but later on at the next scheduled AML/CFT training session.

Finally let me briefly talk to you about Record Keeping.

Record Keeping can be found in Regulation 14 of the Regulations. This means that CDD and documentation along with reports and records of disclosures will need to be retained for a period of five years as detailed in this regulation.

Rules 325 onwards and the guidance also found under Chapter 12 of the Handbook further support the requirements of Regulation 14.

In this area we have noticed examples of good record keeping. However one observation we have is that the storage of records can be in mixed formats. There may be some hardcopy files stored in filing cabinets; different records might be kept as scanned documents held in electronic form; and also emails stored in a different format again. Although there is nothing to say that you cannot store your record keeping in mixed formats, you might like to consider whether this is an efficient way of holding records, so as to ensure that you can easily and effectively retrieve data.

We also have one example where we found a single customer file holding key CDD documents for other related customers without any cross referencing. Ideally it would make sense to have client records filed separately for each client. The biggest risk here would be that you might be viewing an incomplete record of a client because it is held on another file, which could especially be a risk when monitoring transactions and not having a complete picture in front of you.

So in summary I have very briefly outlined our findings relating to:

- Monitoring Transactions and other activity
- Employee Screening and Training, and
- Record Keeping

As mentioned earlier we generally find that licensees do comply in these areas and a lot of you out there have demonstrated to our on-site teams just how competent you are. However, I have also highlighted some of our negative findings as well, but hope that it has been useful for you to hear those observations.

I shall now pass you on to Andrea to finish this session before you have the chance to ask us all some questions on our presentations.

Thank you.