



Guernsey Financial
Services Commission

Industry Seminar – 20 October 2011

Introduction to Registered Businesses

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Good afternoon everyone and thank you for attending this, the final session of the 2011 Industry Seminar; the first session to be entirely devoted to registered businesses. For many of you, this will be the first time that you have entered the Commission's offices or met with someone from the Commission. My name is Rosemary Stevens and I am the Assistant Director in the Registered Businesses team. A year ago I was working for a newly registered Prescribed Business and so became involved in the impact of registration first hand.

You may have noticed from each others name badges, that in this room, are Advocates, lawyers, accountants, estate agents, gold bullion dealers, postage stamp dealers, non-bank lenders, tax advisers, suppliers of foreign currency and diverse other business areas. You may ask – why are they here? Why am I here? Well, you all have something in common – you are ALL registered with the Commission for the purposes of countering financial crime and terrorist financing. I shall refer to this as AML/CFT. As a result of this, you must all comply with certain laws, regulations and rules. I appreciate that some of you are registered as Non-Regulated Financial Services Businesses, others are registered as Prescribed Businesses and there are others that are both. However, the matters we will talk about this afternoon, apply to each and every one of you, no matter how big or small the business or the sector to which you belong.

I should emphasise to you at this point that there are risks of money laundering and terrorist financing within each of your businesses - you will hear more on this from Martyn later. This isn't just something with an international impact, it applies here too. Our presentation is intended to go some way to demystify what you need to do to comply with the laws and regulations under which you are registered and provoke thought as to how this can be achieved.

Prior to April 2011 registered businesses, within the Commission, came under the wing of Policy and International Affairs. However, with the ever increasing number of registered businesses, especially with the registration of accountancy service providers in October 2010, the Commission decided to establish a team, sited within one of the regulatory divisions, whose sole responsibility is to address the growing demand to look after these businesses.

By way of team, there are 2 of us - Rosanna Hendry and myself - working solely on registered businesses, under the umbrella of the Fiduciary Services Division and the direction of Philip Nicol-Gent. Rosanna and I are your first point of contact with the

Commission, in respect of any queries or concerns. If you would like to discuss any issues, please feel free to just pick up the phone or drop either of us an email.

Rosanna and I are responsible for each registered business from the initial receipt of an application or registration form, through to registration. We will then be involved with the business, throughout its life, during which we will carry out both onsite and offsite monitoring, until the Commission receives notice, from the business, that it no longer meets the requirements to register, and so wishes to surrender its registration.

There are currently 155 registered businesses with roughly 1/3 Non-Regulated Financial Services Businesses, 1/3 providing accountancy services and 1/3 estate agents and firms of lawyers. There are also 6 applications, in progress as we speak, for registration as a non-regulated financial services business.

In speaking with you today, I shall address the following questions which may help you with your regulatory obligations:

- What is an onsite visit?
- What is a Business Risk Assessment and when should it be carried out?
- Why is communication with the Commission important?

Onsite visits

Onsite visits to registered businesses have been conducted since registration commenced in 2008. These visits are normally much shorter than visits to regulated licensees. The purpose of our visits is to ascertain compliance with AML/CFT legislation and identify if there are breaches of the law, regulations and/or the rules. To date just over 1/3 of registered businesses have been visited. We are aiming to visit all registered businesses over the next 3 or 4 years.

As many of you are new to regulation, I thought it would be helpful to give you a brief synopsis of what happens on an onsite visit. We will contact you a few weeks in advance, to advise you of the date of our visit and provide you with details of information that we require in advance of the visit. One of the items that we request is a copy of your Business Risk Assessment – I shall speak more about this later.

In our visit, we will normally meet with a director or partner, the Money Laundering Reporting Officer and possibly any other relevant staff. We will ask you to explain the type of your business you undertake, and, where you see the risks of money laundering and terrorist financing for your business. We will ask you to explain your approach to risk assessment and mitigation, together with other subjects, including, how you undertake customer or client due diligence, both initially and on an ongoing basis, how you report suspected money laundering and terrorist financing activity, staff screening and training and record keeping. You may be aware that each of these subjects has its own chapter in the Handbooks on Countering Financial Crime and Terrorist Financing issued by the Commission. These Handbooks can be found on the Commission's website on the Registered page by selecting Legislation and Guidance.

Following the interviews, we will review a selection of your customer or client files, and other relevant files, to corroborate that your policies procedures and controls are being followed.

So far as feedback from the visit is concerned, the team will advise you of their findings, in respect of any breaches of the Regulations or rules in the Handbook, in a separate meeting to be arranged shortly thereafter. The Commission will look to you to address any breaches as effectively and efficiently as possible, to ensure that the money laundering and terrorist financing risks within your business are mitigated and managed. You will receive an on-site visit report from the Commission summarising the scope of the visit, findings and the remedial action to be taken by you - if any.

I will just mention that the Commission has a range of enforcement powers that can be used in cases of breach. This is part of a separate process and can arise from either onsite or offsite monitoring but we do not have time to address this today.

Business Risk Assessments

I will now turn to the Business Risk Assessment or B R A. The Regulations state that a suitable and sufficient B R A must be carried out and regularly reviewed. To help focus on what should be in your B R A, I suggest you ask yourself 2 questions: – “What is the risk that my business faces from money laundering and terrorist financing?” and “How can I manage and mitigate these risks?”

By discussing the answers to these questions with your fellow board members or partners, and documenting your consideration of the answers, you will have completed your B R A. To comply with the regulations, your B R A must then be reviewed on a regular basis or when significant changes arise, for example the provision of new services, a new client profile or changes to the regulations. For someone who is self-employed this can be achieved by documenting your thoughts on paper and signing and dating this consideration. Again you must regularly review your B R A to keep it up to date, and this too will need to be documented. The frequency of review of your BRA will depend on several factors, including the stability and nature of your customer or client base and the services that you provide. These factors will differ from one business to another.

I must remind those of you who work in trust companies and administer registered businesses, that each registered business must take ownership of its own B R A, as the money laundering or terrorist financing risk for that business must be considered and reviewed by its board. But where, for example, 5 registered businesses are administered by the same firm and those registered businesses all do the same thing, they can have the same B R A provided that the Board of each registered business has considered that it adequately deals with the money laundering or terrorist financing risk of that business and the Board takes ownership of, and considers that B R A, as being its B R A.

Further guidance on the B R A can be found in the Handbooks, the guidance note issued by the Commission in December 2009 entitled “**Guidance on the AML/CFT Framework which applies to financial services businesses and Prescribed Businesses**” or the more recently issued FAQ entitled “**What is a Business Risk Assessment?**” All of these documents are available on the Commission’s website on the Registered page.

Communication with the Commission

I mentioned before that Rosanna and I are always willing to discuss with you any queries, however there are certain matters that must be advised to the Commission. The Regulations require that notification is given to the Commission if any of the information provided on registration or application changes, either prior to the change or, when a change is sudden or unexpected, promptly after such a change is made, for example, change of company or partnership name, change of address, change of Money Laundering Reporting Officer, change of activities for which a Non-Regulated Financial Services Business is registered, to name but a few.

Continuing on communication, you will have noticed when you arrived, that there was a flyer on each seat giving details of two training workshops designed specifically for Prescribed Businesses. These workshops are the result of you, voicing your concerns to us, that there was no suitable training available for those of you who do not have a financial services background or who have little knowledge of the obligations that registration brings. Around the same date, the Guernsey Training Agency contacted the Commission as they too had received a similar comment regarding the lack of suitable training. Consequently Rosanna and I met with the Guernsey Training Agency and asked if they could organise training for registered businesses. Workshops for Non-Regulated Financial Services Businesses are being planned for early 2012 - if you have an interest in attending, please email either of us and we shall send you a copy of the flyer when this is available. Although these are pilot workshops we understand that, if they are well received, the Guernsey Training Agency will look to repeat them on an annual basis taking any feedback you provide into account.

Still on the theme of communication and turning to the 2011 questionnaire that was sent to all registered businesses in the summer, I would like to thank all of you for your responses and especially those businesses that took the time to clarify any questions that they did not understand and those businesses that provided explanations for any of their responses.

Your response to the questions has given us a better understanding of the money laundering and terrorist financing risks that are faced by your business, which we have been able to combine with similar businesses for each business sector. We have been able to look, for example, at the number of customers or clients that you have assessed as being high risk and whether these are Politically Exposed Persons and see if these are more prevalent in one business sector than another. When extrapolated over the entire regulated community this will enable the Commission to ensure that its resources are targeted appropriately.

You will appreciate that the information that you provided was a snapshot in time, and, like any assessment of risk will need to be reviewed on a regular basis to ensure that our perception of the risks in the registered businesses sectors remain the same or takes account of changes. We will appreciate your ongoing cooperation in completing similar questionnaires in the future.

To sum up, I would like to leave you with these thoughts – when you leave here today, think of your registration as a Registered Business as working with the Commission, not as a chore, but to keep Guernsey free of financial crime and terrorist financing. The registered businesses team, of Rosanna Hendry and myself, are here to help you do this – we will not try to baffle you with jargon but will point you in the direction of what your business needs

to do. Today I have looked to explain what happens on an on-site visit, how to carry out a suitable and sufficient Business Risk Assessment and how, through communication we can work better together.

I will be happy to answer any questions you may have at the end of our presentation or by telephone or email if you would prefer not to ask in open forum and in the meantime will hand you over to Rosanna.