



Guernsey Financial
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Presentation on On-Site Visits, Problems and Guidance

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Thank you Rosemary and good afternoon everyone.

I'd like to start by asking how many of you have ever used a guidebook of some sort? Whether it be when revising for exams or for travelling in a foreign country for example? Thank you, obviously most of us at some point has used a guidebook. In my previous life, when I used to do a lot of travelling, I used to refer to the Lonely Planet guide as my Bible. I carried one everywhere with me and I used it every day as a reference for places to stay and places to visit, for guidance on the best deals and ways to save money and also for the do's and don'ts for travelling in another country, the rules that you need to abide by. Now, it may sound a bit sad, but I think that this book here, has become my Bible. This book that I am referring to, of course, is the Commission's Handbook for Countering Financial Crime and Terrorist Financing which may evoke different reactions in the people around this room. I'm sure that some of you, like me, refer to this book for guidance on a daily basis and some of you may hate it and wish that you could throw it away and never look at it again.

Well, I've been working with the registered businesses now since 2008 when the legislation came into force and this book goes everywhere with me in my job, when I am going on an on-site visit my job is to check that the person/business I am visiting is complying with the Regulations and the Rules in this book. Now I am not here today to give you a lesson on the Handbook but I would like to point out to you a few of the common things that we find when we are doing on-site visits to the businesses and possibly refer you to some areas of the Handbook which might not be so well known to you and might even make your lives a little easier and in doing so possibly give you a better opinion of the Handbook and encourage you to use it as a helpful tool in your job.

Since starting the on-site visits in 2008 we have seen many businesses coping very well with the new AML/CFT regime and it has been encouraging to see businesses taking on board the requirements and not encountering too many difficulties.

Some businesses initially struggled with and continue to find difficulties with the level of compliance with the client/customer due diligence (CDD) requirements of the Regulations and the Rules of the Handbook. In many cases we see on on-site visits that businesses are complying very well with what they need to do and sometimes going above and beyond what is strictly required of them. For example, we have come across situations where businesses encourage their staff to obtain copy passports for each new piece of business with a client, so where a copy of an expired passport is on file, procedures indicate that they must go back to the client to ask for a new passport copy. Now, unless the client has changed

their name (or perhaps their gender) since the copy was certified as long as that passport was valid at the time it was certified correctly then it is still adequate for verification purposes. Please also note that the list of suitable certifiers in the Handbook is meant only as guidance – you may consider other people suitable outside of this list in the same way as the list for verifying address is not exhaustive.

There is a section of the Handbook which deals with low risk business and when the conditions in this section are met the CDD measures are significantly reduced. For example, prescribed businesses still have the opportunity to rely on receipt of funds to verify the identity of the customer, so if your customer is a local person who has a local bank account and the funds that you are receiving are in the form of a cheque from their local bank account you can, as a prescribed business, rely on that to verify their identity. There is also the option of not needing to verify the identity of the individuals behind what we call Appendix C businesses i.e. businesses/individuals which are regulated by the Commission or similarly regulated in a country on the list in appendix C to the Handbook. Prescribed businesses can also treat each other as appendix C businesses and the only initial verification required for these clients is a print from the Commission website showing that the business was regulated/registered at the time of take-on. Likewise, to a certain extent regulated and registered entities can rely on each other to carry out CDD by using introducer certificates such as the examples provided in appendices A and B to the Handbooks, provided that a system of regular testing is in place.

Obviously we do sometimes come across areas where businesses are having difficulties in meeting the requirements and aren't doing enough CDD and this is usually either because they have misunderstood what is actually required of them or think that it isn't actually relevant to them, or because it appears to them to be too big a task that it is going to affect their business, that it is going to put people off, they won't actually be able to do business in this way by meeting the requirements. The message we receive on the whole is that customers very rarely object to having their ID verified these days and so if you are having problems implementing adequate procedures please don't wait for us to come visit you – we would much rather you approached us earlier so that we are aware of the problems and can work with you in finding the best way forward because obviously doing nothing is not an option. You may be doing all that you need to do already and it is simply a matter of putting it down on record. Ultimately, what we are looking for on a visit is evidence that you have carried out a risk assessment of the customer or piece of business, that you have followed procedures put in place to mitigate those risks or can show that all reasonable measures were taken to do so. Documentation is the key – if in doubt, make a note of it!

One area of particular difficulty which crops up sometimes - especially for small, local businesses - seems to be complying with the sanctions legislation. Now, we can understand, especially in a place like Guernsey where the small businesses are only dealing with locals and it is hard to imagine the lists of sanctioned individuals and organisations having any relevance to your business but the sanctions orders are part of Guernsey law and we must all be aware of them and prove that we aren't dealing with anyone on the lists. For most people this isn't as huge a task as it seems. Thankfully, there are only 2 lists (links can be found in the sanctions chapter of the handbook) but the HM Treasury website provides a free update email service for a consolidated list so there is no need to spend thousands of pounds on a software program which automatically checks your clients against these lists or anything like that for small businesses to be able to meet the requirements. The same goes for complying with Instructions from the Commission. When you receive an Instruction from the

Commission which talks about the requirements for dealing with individuals or businesses in certain countries, for example, once you have checked that you don't have any business with the countries on the Instruction, even as a sole practitioner you can note that you have given it consideration and acknowledged that no action is required and simply sign the instruction itself before you put it in the file.

I'm sure you will all be aware now that the method of reporting suspicion to the FIS has changed recently in that you now report on-line – Martyn will be talking to you more about that shortly but I would like to mention the benefits as well as the importance of having procedures in place for the reporting of suspicion internally even in a small office. We often see during on-sites to registered businesses that the lines of communication are always open and the money laundering reporting officer is on hand to talk to staff on a daily basis. Staff are encouraged to raise any suspicions with the MLRO and these may be allayed quickly and painlessly or lead to reports being made on to the FIS. Either way, I would urge you all to keep a note of any such discussions and wherever possible to use internal reporting forms – an example can be found in appendix D to the Handbook. The main advantage in using these forms is it offers protection to the staff member making the report in that it evidences that they fulfilled their obligations – whatever decision was subsequently taken by the MLRO. The form also requires the MLRO to document what action was taken if any – and if not why not – which again evidences reasonable consideration was given to the report and also shows compliance with the record keeping requirements.

And the final point I would like to bring to your attention is regarding AML/CFT training. Everyone knows that they have to have some form of AML/CFT training if they are involved in financial services or prescribed business but what is maybe not so well known is that the training needs to be tailored to the Guernsey requirements. This is particularly relevant to individuals who are members of professional bodies in the UK for example, the ICAEW, and large firms whose head office is in the UK. From time to time the AML/CFT training which has been received is based on UK legislation and although the requirements are very similar there needs to be evidence of training in the Guernsey requirements having been received.

Something else I think worth mentioning is that the definition of relevant employee when providing training can sometimes be a little bit subjective so please don't discount your secretaries, your filing clerks, your receptionists who are the front line, they are the people who quite often speak to the clients on a regular basis and it is not impossible that they would notice something before or even instead of the people who are dealing with the actual transaction or service, and don't forget training for directors and partners – this can sometimes be overlooked especially in a company where the director is not in the office on a daily basis or isn't necessarily involved in the transactions or services themselves but they are still required to have training relevant to their roles.

And in summary, once again please remember to keep a record of any AML/CFT training you have received and provided to your staff – it makes it easy to demonstrate during an on-site visit that you have complied with the requirements and also fulfils your record keeping obligations.

Which brings me to my conclusion. I realise that the Handbook isn't exactly bedtime reading but I think that by familiarising yourself with each of the sections bit by bit you will find that it is not just a list of rules and regulations but that it can also be used (if not as in

my case, the Bible) at least as a helpful guide book to help you on your way to full AML/CFT compliance

Thank you very much I will now hand over to Martyn Waters of the FIS.