Financial Services Commission
Mauritius
Securities Market & Investment Funds Workshop on AML/CFT

Presented by: Ms Clairette AH-HEN
Date: 28 October 2014
AML/CFT – Securities Market & Investment Funds

**Agenda**

- Legal Framework
- Assessment by International Organisations
- Role of FSC
- Securities Market and Funds Vulnerabilities
- FSC AML/CFT Code
  - Major requirements
- Risk Based Approach
  - AML/CFT Programme
  - Effective Customer Risk Assessment
Legal Framework
Legal Framework

Financial Services Act 2007 [Section 6(g) – Functions of the FSC]
• “To carry out investigations and take measures to suppress illegal, dishonorable and improper practices, market abuse and financial fraud [including ML] in relation to any activity in the financial services sector and global business sectors”

Securities Act 2005 – Section 6(2)(b) & (g)
• “improve the protection of investors in Mauritius from unfair, improper and fraudulent practices in relation to securities”
• “suppress and prevent financial crimes and illegal practices”

FIAMLA Act 2005 – Section 18(1c)
• “The Financial Services Commission shall supervise and enforce compliance by financial institutions with the requirements imposed by this Act, regulations made under this Act and such guidelines as it may issue under paragraph (a).”

AML/CFT Code
• “The Code is intended to assist Licensees to comply with the obligations contained within the FIAMLA Act and is designed to serve as a statement of minima criteria and to describe operational practices expected of Licensees.”
Assessment by International Organisations
### Assessment by International Organisations

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<tbody>
<tr>
<td>40 Recommendations – Feb 2012</td>
<td>Resolution on Money Laundering (President Committee October 1992)</td>
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<td>Anti-money Laundering guidance for Collective Investment Schemes – October 2005</td>
<td>Financial Sector Assessment Program</td>
<td>Continuous monitoring of progress including mutual evaluation report</td>
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Last Assessment – Report issued in Dec 2008
## IOSCO Resolution on Money Laundering

<table>
<thead>
<tr>
<th>Customer identification information</th>
<th>Adequate record keeping requirements</th>
<th>Collaboration with national regulators</th>
<th>Monitoring and compliance procedure</th>
<th>Sharing of information</th>
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<tr>
<td>Adequate information to be kept at the level of licensees or the relevant authorities in order to identify and prosecute.</td>
<td>To understand the nature and the flow of transactions in the capital markets.</td>
<td>Identification and the reporting of suspicious transactions</td>
<td>To deter and detect money laundering</td>
<td>Close collaboration with foreign counterparts</td>
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<td>To understand the ownership and control structure of the company</td>
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Role of FSC
Role of FSC

- Issue of Guidelines – FSC AML/CFT Code
- On-site Inspection
  - Check adherence to FSC Code
- Off-site Supervision
  - Ensure proper implementation and compliance culture
- Enforcement Actions in case of non-compliance
Securities Markets and Investment Funds Vulnerabilities
## Securities Market and Investment Funds Vulnerabilities

<table>
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<th>Vulnerabilities</th>
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<tr>
<td>• Lack of face-to-face interaction</td>
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<td>• Jurisdictions may permit intermediaries to rely on third party introducers (compliance with FATF standards is a requirement)</td>
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<td>• Complexity of products/services being offered</td>
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<th>Ways to raise awareness</th>
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<td>• Appointment of a MLRO who need to act independently</td>
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<td>• Having an AML/CFT manual and dispense appropriate training to staff</td>
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<td>• Reporting of STRs</td>
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<td>• Implementing a Risk Based Approach</td>
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<th>Management of risks</th>
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<tr>
<td>• Client risk categorisation</td>
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<td>• Identification verification</td>
</tr>
<tr>
<td>• Due diligence procedures</td>
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<tr>
<td>• Automatic system alerts</td>
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<tr>
<td>• Transaction monitoring (money movements, deposits and withdrawals)</td>
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<td>• On-going monitoring of high risk clients</td>
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Effective ways of combating ML/TF

- Designation of offences (insider trading, market manipulation, securities-related fraud) as ML/TF offences
- Enhanced Due diligence for high-risk customers (including PEPs)
- Use of banking system as payment method
- Regulation and Supervision of securities market intermediaries
FSC AML/CFT Code
FSC AML/CFT Code

FSC Code issued in March 2012

- Applicable to all licensees & financial institutions as defined under the FIAMLA

FSC Code – Statement of minimum criteria

Regular updates of the FSC Code (from 2005 to 2012)
Non-compliance with the Code exposes the licensee to regulatory action including a direction under section 7(1)(b) of the FS Act to observe the Code.

Failure to comply with the direction may lead to criminal action and to regulatory action.
FSC AML/CFT Code

Major Requirements

- Internal controls and MLRO
- Customer Due Diligence
- High risk and low risk relationships
- On-going monitoring and reporting suspicious transaction
- Training and culture
- Record keeping
FSC Competency Standards - MLRO

New MLRO appointed by licensees as from **1 Jan 2015**

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<th>Technical Competencies</th>
<th>How to demonstrate competencies</th>
<th>Structured CPD</th>
<th>Other requirements</th>
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<td><strong>Advanced knowledge:</strong></td>
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<tr>
<td>- the industry/sector in which the licensee operates</td>
<td>Relevant qualification from a recognised institution</td>
<td>Minimum <strong>10 hours</strong></td>
<td>Statement of Declaration from licensee</td>
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<tr>
<td>- the anti-money laundering framework in Mauritius</td>
<td><strong>Experience</strong>: at least 5 years in the industry</td>
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<td>Any other requirements which the Commission may prescribe from time to time.</td>
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<td>- the licensee’s products and services, including their legitimate uses and their laundering vulnerabilities</td>
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**Grandfathered MLRO appointed prior to 1 Jan 2015**
Risk Based Approach
AML/CFT Programme

The primary reasons for an effective AML-CFT programme include legal compliance, reputation management, protection from criminal prosecution and just not wanting to handle dirty money.

Know the Law
- Keeping up with ever-changing laws and regulations about financial transactions and money laundering possibilities

Define the Risk
- Quantitative impact of defined risks
- Understand how operating locations affect risk
- Profile and risk rate customers and assets

Quantify the Risk

Manage the Risk

Design
- Define corporate roles & responsibilities
- Determine risk-based due diligence
- Designate risk categories
- Build suspicious activity controls

Implement
- Regularly test controls
- Monitor personnel
- Evaluate data
- Ensure proper channeling communication of suspicious activity

Test & Analyse
- Report suspicious activity and system weaknesses for analysis
- File Suspicious Activity Reports (with FIU)

Report

Constant Improvement
- Continually capture and update the understanding of threats and system weaknesses to influence continued evolution of an effective AML programme

Know the exposure - threats posed by your operations, products & services, markets and different customer types

Develop a programme of people, processes and controls proportional to the quantified risks which can ensure compliance, visibility and protection
Effective Customer Risk Assessment

Customer Identification Program (CIP)

- **Who is the Customer?**
- **Where do they do Business?**
- **What is the Product / Service?**
- **How do they do Business?**
- **With whom do they do Business?**

**CUSTOMER DUE DILIGENCE**

- Identification of the customer and verifying the customer’s identity using reliable, independent source documents, data or information.

**ENHANCED DUE DILIGENCE**

- While KYC requirements may be applicable to all customers on the basis of materiality and risk, in case of customers categorized as high-risk and PEPs enhanced due diligence is required.

**SIMPLIFIED DUE DILIGENCE**

- Customers with few risk factors, for example well known large public companies and customers utilizing some types of low-risk products or services, may only require a simplified due diligence process.

**ONGOING MONITORING**

- Once the customer has been taken on board, ongoing monitoring is essential in identifying specific Customer Risk.
### Category of Risk Profile for Licensees

Licensees will fall into one of the following risk profile

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<th>Monitor</th>
<th>Remediation</th>
<th>Low</th>
<th>High</th>
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<tr>
<td>Low</td>
<td>Licensees will fall into one of the following risk profile</td>
<td>This would apply to Licensees who are undergoing a change in both business and control environment either as a result of the changing business plan or to correct control deficiencies.</td>
<td>These Licensees are the ones that the FSC will be most concerned about and where close monitoring, focused visits and regular contacts are required.</td>
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<td>Licensees that have strong control environment supported by good governance as well as a stable business plan and who generally are lower impact entities.</td>
<td>Licensees where a remediation programme is necessary to improve their risk profile.</td>
<td>Licensees that are making improvements to their control environment and regulatory compliance arrangements, and are operating in a stable business environment.</td>
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This could apply to newly licensed companies.
Any Questions
Conclusion

- The financial sector is often the target for money launderers due to the ever changing nature of products and services
- Strong compliance culture
- Appropriate risk prevention mechanism
- Uphold the reputation of the jurisdiction
- Align with international best practices for combating ML/TF
THANK YOU
FOR YOUR KIND ATTENTION

Vision

“To be an internationally recognised Financial Supervisor committed to the sustained development of Mauritius as a sound and competitive Financial Services Centre”