

Know Your Customer: Quick Reference Guide

Anti-Money Laundering

*Understanding global
KYC differences*

January 2014



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Understanding global KYC differences

Compliance with anti-money laundering, Know Your Customer ('KYC') and sanctions regulatory requirements dominated the financial services landscape in 2013. This looks set to continue in 2014. Regulators are still identifying failings in firms' compliance with these requirements. In addition, firms will need to address the recently issued recommendations of the Basel Committee on Banking on how to manage the risks related to money laundering and the financing of terrorism. Firms operating on a global basis will also need to demonstrate a robust compliance framework ensuring that each territory has sufficient oversight, and that Anti Money Laundering ('AML') regulatory requirements are being adhered to at both a local and global level.

Given these challenges, we have developed a KYC quick reference guide which provides quick and easy access to global AML and KYC information, to assist firms operating internationally in mitigating their risk. This guide has already been extensively viewed by our client base and continues to be of value to those seeking to understand AML requirements across the globe. This year's guide has been expanded and now includes 80 countries with new sections on AML audits and Data Privacy.

Information about whether local regulators support the use of the risk based approach to AML; how to deal with Politically Exposed Persons ('PEPs') and whether doing business with shell banks is prohibited can all be found in our guide.

The guide has updated information on the regulatory and other cultural issues which need to be addressed when doing business across territories. Useful links to Financial Action Task Force ('FATF') reports and country evaluations are also included. There are also questions on the topic of reporting requirements within the various territories such as whom to report suspicious activity to, reporting obligations and any penalties for non compliance.

From time to time, you may need expert advice from AML specialists. We've included details of the appropriate PwC AML professionals in the countries featured. They would be happy to discuss any AML issues you might have.

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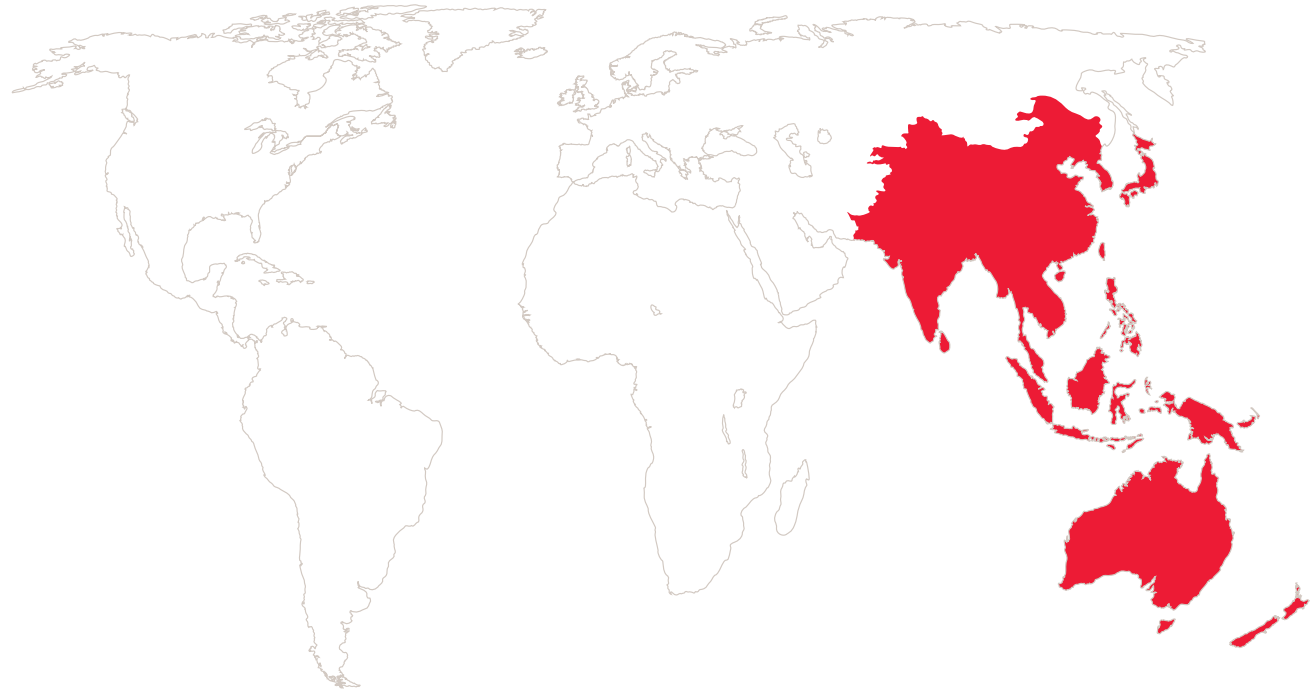
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Asia/Pacific



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Ukraine

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	On 28/11/2002 the Law of Ukraine on Prevention and Counteraction to Legalisation (Laundering) of the Proceeds of Crime or Terrorist Financing was adopted. The new edition of the AML law is expected to be approved soon.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<ul style="list-style-type: none">a) Banking:<ul style="list-style-type: none">a. The National Bank of Ukraine http://www.bank.gov.ua/control/en/;b. State Committee for Financial Monitoring of Ukraine ("SCFM") http://www.sdfm.gov.ua/ ;b) Other financial services:<ul style="list-style-type: none">a. SCFM http://www.sdfm.gov.ua/ ;b. National Securities and Stock Market Commission www.nssmc.gov.ua ;c) Non-financial sector:<ul style="list-style-type: none">a. Ministry of Justice of Ukraine http://www.minjust.gov.ua/;b. SCFM http://www.sdfm.gov.ua/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	All authorities listed in A3 provide regulations and clarifications as to the application of the AML law in the form of regulatory legal acts which can be found on the websites of relevant authorities.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes. According to the Law of Ukraine on Prevention and Counteraction to Legalisation (Laundering) of the Proceeds of Crime or Terrorist Financing, the subject of primary financial monitoring shall proceed with the classification of its clients taking into account risk criteria. The risk criteria was approved by the Decree of State Committee for Financial Monitoring of Ukraine #126 on 03/08/2010.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The last mutual evaluation report was conducted in March 2009: http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round3/MONEYVAL(2009)4Rep-UKR3_en.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Financial operations/customers are not subject to financial monitoring/due diligence if the transaction amount is less than UAH150,000 (approximately, EUR14,000).
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: name, date of birth, personal identity document details, residential (registration) address and actual address, taxpayer identification number and source of funds.</p> <p>Private Entrepreneur: name, date of birth, personal identity document details, residential (registration) address and actual address, bank account details (if any) and source of funds.</p> <p>Legal entities: the full name, registration address, information about management and controllers of the company, shareholder structure, registration number ("EDRPOU") and bank account details.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Legal entities accepting the identification documentation should be sure that the copies of such documentation correspond to the originals, i.e. no independent verification or authentication is needed.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Beneficial owners need to be known in all cases, but the level of requirements for identification depends on the type of transaction and risk involved.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Simplified due diligence can be applied if: a) the client is either a state body, a state company, or an international organisation Ukraine is a member of; or b) the financial transaction takes place at the organised securities market.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	a) The client originates from FATF blacklist countries; b) PEPs are involved in the transaction.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Additional due diligence for PEPs can be stipulated by the internal procedures of the companies.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Correspondent banking relationships with non-resident banks (except for the banks registered in EU countries and FATF member countries), are high risk relationships, and are subject to enhanced identification requirements and additional documentation review: a) information regarding the client's identification and client's owners should be checked; b) enhanced monitoring of all client's financial transaction should be performed; and c) other measures stipulated in the internal procedures should be taken.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	The concept of shell banks is not specified in the Ukrainian legislation. Generally fictitious business is considered a criminal offence under the Criminal Code of Ukraine.

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Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	In the case of providing services using the latest technology, including support of operations without direct contact with the client.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	SCFM: http://www.sdfm.gov.ua/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 975,399 GDP (in current prices): 2012 – USD176,310 (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD0.18 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	A transaction must be reported if it exceeds or is equal to UAH150,000 (approximately EUR4,000; for gambling industry UAH13,000 (approximately EUR1,200)) and has one or more of the following features: a) The transfer of money is to an anonymous bank account or an account in the offshore zone; b) Buying and selling cheques, travellers' cheques or other similar payments for cash; c) Any transaction in which the receiver or sender is located in a country which does not have AML legislation and which does not cooperate with other countries in the area of AML; d) The transfer of the money is to a third party the day after the transaction; e) The transfer of money is to the account of a private entrepreneur or legal entity that was opened less than 3 months or in the case where there were no transactions to/from the bank account of private entrepreneur or legal entity from the registration date; f) The transfer of money to a foreign company without contract; and/or g) Payment in cash, etc.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Below the thresholds as stipulated in A20, transactions do not need to be reported according to the AML law. However, the threshold should be applied by taking into consideration all other qualitative characteristics of transactions and customers as stipulated by the AML law.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, the penalties may be financial, the amount of which is calculated on a case by case basis. In addition, in the case of repeated violations, non-financial sanctions may apply (e.g. withdrawal of a licence). The type and amount of sanctions depend on the specific case.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Generally there are no requirements. Such a requirement is stipulated only for banks.

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Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	There is requirement to report suspicious transactions. If after the certain period the authority does not prohibit the transaction, the party can proceed with the transaction performance.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes, Data Protection Law (June 2010): a) Yes; b) Corporate data for legal entities is covered. However, according to the Ukrainian "Data Protection Law" corporates cannot gather, analyse or provide any information on individuals that may be considered as personal as it is confidential information by Law. This information can be gathered and analysed only with an individual's written consent, otherwise it is subject to criminal liability. c) Yes. Personal data regarding racial or ethnic origin, political, religious or ideological beliefs, membership in political parties and trade unions, charge with a crime or criminal sanction application, as well as data concerning health or sex life is considered as "sensitive data". Such information can be processed only upon the relevant person's consent or in order to protect the relevant person's rights.

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	The gathering, processing and transferring of such data is possible with the consent of the person whose data is transferred.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes, Ukrainian Data Protection Law and International Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data approved by Ukraine (1981) (transfer of information from/to countries that did not ratify this Convention requires enhanced regulation by parties).
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes. Data that was obtained by the bank in the process of providing the services to its clients and data defined by its owner as confidential is subject of regulation of the Law On Banks and Banking Activity and the Law On Information.

[†] GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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United Kingdom

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Last updated:
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Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1994 (subsequently amended in 2003 and 2007). The Money Laundering Regulations came into force in the UK on 15/12/2007. The Money Laundering (Amendment) Regulations 2012 extended the scope of the Regulations to include all estate agents, included a power for supervisory authorities to share information with each other and particularised HMRC's criteria that may be used to determine whether an individual is "fit and proper" in connection with money service businesses and trust and company service providers. .
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<p>a) Financial Conduct Authority ("FCA"): http://www.fca.org.uk/</p> <p>b) FCA</p> <p>c) FCA is the supervisory authority for trust or company service providers which are authorised persons Office of Fair Trading ("OFT") is the supervisory body for estate agents and consumer credit financial institutions: http://www.of.gov.uk/ HM Revenue and Customs is the supervisory authority for the following types of business: Money service businesses and trust or company service providers which are not supervised by the FCA, high value dealers, bill payment service providers and telecommunications digital and IT payment service providers: http://www.hmrc.gov.uk/ The Gambling Commission is the supervisory authority for casinos: http://www.gamblingcommission.gov.uk/ The Law Society is the supervisor for solicitors firms in England and Wales: http://www.lawsociety.org.uk/home.law The Institute of Chartered Accountants in England and Wales ("ICAEW") is the supervisor for Chartered Accountants: http://www.icaew.com A further 19 supervisory bodies for the purposes of the Money Laundering Regulations are particularised in Schedule 3 of the Money Laundering Regulations 2007. http://www.legislation.gov.uk/ukxi/2007/2157/pdfs/ukxi_20072157_en.pdf</p>
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>Key sources of practical guidance with regard to AML requirements include:</p> <p>a) FCA Handbook: Financial Crime: a guide for firms – Part 1: A firm's guide to preventing financial crime, April 2013 http://media.fshandbook.info/Handbook/FC1_20130401.pdf; and Financial Crime: a guide for firms – Part 2: Financial crime thematic reviews, April 2013 http://media.fshandbook.info/Handbook/FC2_20130401.pdf</p> <p>b) Joint Money Laundering Steering Group ("JMLSG"): http://www.jmlsg.org.uk/</p> <p>c) OFT Money Laundering Regulations 2007 Core Guidance, May 2009 http://www.of.gov.uk/shared_of/business_leaflets/general/of954.pdf</p> <p>d) Gambling Commission: 'Money Laundering: the prevention of money laundering and combating the financing of terrorism – Guidance for remote and non-remote casinos, Second edition, July 2013' http://www.gamblingcommission.gov.uk/pdf/prevention%20of%20money%20laundering%20and%20combating%20the%20financi ng%20of%20terrorism%20-%20july%202013.pdf</p> <p>e) ICAEW: http://www.icaew.com/en/technical/legal-and-regulatory/money-laundering/uk-law-and-guidance</p> <p>f) HM Revenue and Customs: http://www.hmrc.gov.uk/MLR/</p> <p>g) The Law Society: http://www.lawsociety.org.uk/productsandservices/practicenotes/aml.page</p>

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Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.

Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - with the FCA leading the work in terms of relevant persons' legal obligations and their practical implementation.

Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>The most recent mutual evaluation follow-up report was conducted in October 2009 and can be found at: http://www.fatf-gafi.org/media/fatf/documents/reports/mer/FoR%20UK.pdf. This was a follow-up from the Mutual Evaluation conducted in June 2007 which can be found at: http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20UK%20FULL.pdf</p> <p>The IMF United Kingdom 2013 Article IV Consultation Report was issued in July 2013 IMF Country Report No.13/210. See pages 108 and 117-118 of the Report. http://www.imf.org/external/pubs/ft/scr/2013/cr13210.pdf</p>

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Evidence of identity can be in documentary or electronic form.</p> <p>Individuals: full name, residential address and date of birth ideally from a government issued document which includes the customer's full name and photo, and either residential address or date of birth e.g. valid passport, valid photo card driving licence etc; or a government issued document (without a photograph) which includes the customer's full name, supported by a second document, either government-issued, or issued by a judicial authority, a public sector body or authority, a regulated utility company, or another FCA-regulated firm in the UK financial services sector or in an equivalent jurisdiction, which includes the customer's full name and either residential address or date of birth.</p> <p>Corporates (other than regulated firms): full name, registration number, registered office in country of incorporation, business address. Additionally, for private /unlisted companies: names of all directors (or equivalent), names of individuals who own or control over 25% of its shares or voting rights and names of any individual(s) who otherwise exercise control over the management of the company. The firm, should verify the existence of the corporate from either confirming the company's listing on a regulated market, conduct a search of the relevant company registry or obtain a copy of the company's Certificate of Incorporation. For private/unlisted companies, the firm may decide, following a risk assessment, to verify one or more of the directors as appropriate in line with CDD requirements for individuals. In respect of beneficial owners, the relevant person must take risk based and adequate measures to verify the identity of the beneficial owner(s).</p>

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	UK Guidance states that where identity is verified electronically, or copy documents are used, the firm should apply an additional verification checks to manage the risk of impersonation fraud. For example, one of these checks may be to require copy documents to be certified by an appropriate person.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The ML Regulations define beneficial owners as individuals either owning or controlling more than 25% of body corporates or partnerships (or at least 25% of trusts) or otherwise owning or controlling the customer. The JMLSG Guidance stipulates that a relevant person know the names of all individual beneficial owners owning or controlling more than 25% of the company's shares or voting rights (even where these interests are held indirectly) or who otherwise exercise control over the management of the company. The firm must take risk based and adequate measures to verify the identity of those individuals.

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Simplified due diligence may be applied to:</p> <ul style="list-style-type: none">a) A regulated firm in the financial sector;b) Companies listed on a regulated market subject to specified disclosure obligationsc) Beneficial owners of pooled accounts held by notaries or independent legal professionals;d) UK public authorities;e) European Community institutions;f) Certain life assurance and e-Money products;g) Certain pension funds;h) Certain low risk products; andi) Child trust funds and junior ISAs.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>A firm must apply, on a risk-sensitive basis, enhanced customer due diligence measures and enhanced ongoing monitoring in any situation which by its nature can present a higher risk of money laundering or terrorist financing. Enhanced due diligence measures must also be applied:</p> <ul style="list-style-type: none">a) Where the customer has not been physically present for identification purposes; orb) In respect of a correspondent banking relationship with Respondents from non- European Economic Area ('EEA') states; orc) In respect of a business relationship or an occasional transaction with a PEP.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>Where a firm proposes to establish a business relationship or carry out a one off transaction with a PEP the relevant person must:</p> <ul style="list-style-type: none">a) Have appropriate risk based procedures to determine whether a customer is a PEP;b) Obtain appropriate senior management approval for establishing the business relationship with that customer;c) Take adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or occasional transaction; andd) Conduct enhanced ongoing monitoring of the relationship.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Correspondents are required to subject Respondents from non- EEA states to enhanced customer due diligence, but should consider doing so whenever the Respondent is considered to present a greater money laundering/terrorist financing risk. The enhanced due diligence process should further consider the following elements designed to ensure that the Correspondent has secured a greater level of understanding of:</p> <ul style="list-style-type: none">a) The Respondent's ownership and management;b) The Respondent's business;c) PEP involvement; andd) The Respondent's AML / terrorist financing controls. <p>Best practice in the UK requires that due diligence should be undertaken using a risk-based approach. The JMLSG has provided sectoral guidance on correspondent banking which provides guidance as to the types of risk indicators which should be considered when initiating a relationship and on a continuing basis thereafter to determine the application of a risk based approach to the obtaining of due diligence. These risk indicators include: The Respondent's domicile, ownership and management structures, business and customer base and downstream Correspondent clearing.</p> <p>In assessing the level of due diligence to be carried out in respect of a particular Respondent, the relevant person must consider the regulatory status and history of the respondent and their AML/CTF controls. The Guidance also recommends the obtaining of independent senior management approval prior to the establishment of the relationship and in the case of higher risk relationships, Compliance sign off that the risk profile is acceptable.</p>
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>Where a customer has not been physically present for identification purposes, a firm must take specific and adequate measures to compensate for this higher risk by applying one or more of the following measures:</p> <ul style="list-style-type: none">a) Ensuring that the customer's identity is established by additional documents, data or information;b) Supplementary measures to verify or certify the documents supplied, or requiring confirmatory certification by a credit or financial institution; orc) Ensuring that the first payment is carried out through an account opened in the customer's name with a credit institution.

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	National Crime Agency ("NCA"): http://www.nationalcrimeagency.gov.uk/
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: October 2012-September 2013- 316,527 SARs (Source: NCA Suspicious Activity Reports (SARs) Annual Report 2013, http://www.nationalcrimeagency.gov.uk/publications/94-sars-annual-report-2013/file) GDP data is not available for this specific period.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – The Proceeds of Crime Act 2002 ("POCA") outlines the following penalties with regard to reporting requirements: a) Failure to report: up to five years imprisonment and/or an unlimited fine; and/or b) Tipping off: up to two years imprisonment and/or unlimited fine Changes to the Money Laundering Regulations 2007 which came into force on 1 October 2012, included the power to impose penalties for failure to provide information required by notice.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No, however, the transaction monitoring should be performed by using adequate means which assumes use of some automated technology for larger organisations.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Consent is required from NCA (UKFIU) to proceed with a current/ongoing transaction that is identified as suspicious.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) How frequently must the report be provided? b) To whom should the report be submitted? c) Is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) Sample testing of KYC files? b) Sample testing of SAR reports? c) Examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) Does the definition of "personal data" cover material likely to be held for KYC purposes? b) How do the laws apply to corporate data? c) Does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes. The processing or retaining of personal data in the United Kingdom is governed by the Data Protection Act 1998 (DPA). a) The DPA regulates the processing of 'personal data'. The information obtained/retained by a relevant person for the purposes of customer due diligence would fall within the definition of personal data; b) The DPA only applies to individuals and not legal persons. It therefore does not extend protection to corporate data; and c) Yes. Section 2 of the DPA provides a separate definition of "sensitive personal data" exists which relates to personal data consisting of information as to the racial or ethnic origin of the data subject, his political opinions, his religious beliefs or other beliefs of a similar nature, whether he is a member of a trade union, his physical or mental health or condition, his sexual life, the commission or alleged commission by him of any offence, or any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings. In addition to meeting one of the conditions for processing in Schedule 2 of the DPA, at least one of several other conditions listed in Schedule 3 of the DPA must be met in the case of processing of sensitive personal data. Additional regulations such as the Data Protection (Processing of Sensitive Personal Data) Order 2000 and subsequent orders also provide that sensitive personal data can be processed where there is substantial public interest, such as the prevention or detection of crime, and protecting the public against malpractice or maladministration. For further information see 'The Guide to Data Protection' published by the Information Commissioner's Office. http://ico.org.uk/for_organisations/data_protection/~media/documents/library/Data_Protection/Practical_application/the_guide_to_data_protection.pdf
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Credit reports are personal data and the processing and transmission of this category of information is governed by the DPA. Both criminal records and medical data fall within the definition of sensitive personal data and therefore in order to process such data, the data controller must meet at least one of the additional conditions identified in Schedule 3 of the DPA.

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Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	The DPA regulates the sending of personal data outside of the EEA. The Act contains a prohibition on data being sent to countries that do not ensure an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data. No corresponding provisions exist governing the receipt of personal data from countries outside the EEA. Once received by an entity or individual within the United Kingdom, the data is subject to the requirements of the DPA.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	<p>The United Kingdom does not have bank secrecy laws. The case of <i>Tournier v National Provincial and Union Bank of England</i> [1924] determined that it is an implied term of the contract between customers and a bank that the bank will keep the customers' information confidential. The scope of confidentiality extends to all information held on a customer. However, a bank's duty of confidentiality is not absolute. The case established the conditions under which banks owed confidentiality to their clients, circumstances allowing banks to legally disclose information about their customer. These principles include:</p> <ul style="list-style-type: none">a) Where the financial institution is compelled by law to disclose the information;b) If a financial institution has a public duty to disclose the information;c) If the financial institution's own interests require disclosure; andd) Where the customer has consented, even implicitly to disclosure.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	<p>The Law on Preventing Money Laundering (Law No: 4208), enacted on 19 November 1996, is the primary AML law in Turkey. The AML legal framework established by this law has been updated and strengthened by the passing of the Prevention of Laundering the Proceeds of Crime (Law No: 5549) on 18 October 2006 and by subsequent amendments on 1 April 2008, 07 July 2011, 26 September 2011, and 11 October 2011. In addition, on 7 February 2013 the government of Turkey enacted the Law on the Prevention of the Financing of Terrorism (Law No: 6415) which further defines terrorist financing offenses and provides new powers to the authorities to take action against suspected terrorist financing. Overarching these laws are the provisions of the Turkish Criminal Code (Law No. 5237, 12 October 2004) and its subsequent amendments (Law No. 5377, 8 July 2005) and the Criminal Procedure Law (Law No. 5271, 12 December 2004) which also contains provisions in relation to the prosecution of financial crime.</p> <p>AML regulations have also been issued to supplement the provisions of these laws. The key regulations are:</p> <ul style="list-style-type: none">a) Measures regarding Prevention of Laundering the Proceeds of Crime and Financing of Terrorism, published in the Official Gazette No. 26751 of 9 January 2008 and amended on 26 June 2010;b) Money Laundering Offences Investigation, published in the Official Gazette No. 26603 of 4 August 2007 and amended on 5 February 2010; andc) Program of Compliance with Obligations of Anti-Money Laundering and Combating Financing of Terrorism, published in the Official Gazette No. 26999 of 16 September 2008 and amended on 2 January 2010. <p>The authorities have also provided guidance on specific AML issues through the publishing of several Communiqués. These have included, amongst other things, guidance on suspicious transaction reporting and customer due diligence.</p>
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	While the previous AML requirement remains in force, the passing of the Prevention of the Financing of Terrorism law (Law No.6415) on 7 February 2013 adds an additional facet to the existing regime by establishing new definitions of terrorist financing and creating new asset freezing powers for the regulatory authorities.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<p>The central authority for suspicious transaction reporting in Turkey is the Mali Suclari Arastirma Kurulu ("MASAK"), the Turkish Financial Crimes Investigation Board, which is a service unit instituted within the Ministry of Finance http://www.masak.gov.tr/en/default.aspx.</p> <p>Other regulators for the AML controls for (a) Banking; (b) Other financial Services; (c) Non financial sector are:</p> <ul style="list-style-type: none">a) Bankacilik Düzenleme ve Denetleme Kurumu ("BDDK") / The Banking Regulation and Supervision Agency ("BRSA") - http://www.bddk.org.tr/websitesi/English.aspx ;b) Sermaye Piyasasi Kurulu ("SPK") / The Capital Markets Board ("CMB") - http://www.cmb.gov.tr/index.aspx ; andc) The Undersecretariat of Treasury - http://www.treasury.gov.tr/ . <p>The Turkish customs authority also supports the AML framework by imposing identification requirements on customers importing and exporting physical goods into or out of the country.</p>

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Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes – As listed above, a series of regulation documents and guidance communiques have been issued to supplement the legal code. These are issued by the Financial Crimes Investigation Board ("MASAK"). http://www.masak.gov.tr/en/legislation/LaunderingProceedsofCrime/national-legislation.aspx
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	<p>Article 19 of the 'Regulation On Measures Regarding Prevention Of Laundering Proceeds Of Crime And Financing Of Terrorism' says that</p> <p><i>"The obliged parties shall be required to follow up permanently the transactions conducted by their customers whether they are in compliance with the information regarding the customer's profession, commercial activities, business history, financial status, risk profile and sources of funds within the scope of permanent business relationships and keep up-to-date information, documents and records regarding the customer. Furthermore, the accuracy of information regarding the telephone and fax number and e-mail address of customers received for customer identification shall be verified, if necessary, within the scope of risk-based approach using these means by contacting the relevant person. Financial institutions shall also take the necessary measures in order to follow up the transactions conducted out of permanent business relationship in the risk-based approach. Financial institutions shall establish, with this purpose, appropriate risk-management systems."</i></p> <p>Separately, the Ministry of Finance has the authority to determine obliged parties and specify the implementation of principles and procedures, including measures to assign an officer with necessary authority at an administrative level for ensuring compliance with this Law and to establish training, internal control and risk management systems regarding the size of business and business volumes.</p>
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>The latest FATF Mutual Evaluation Report is dated 2 April 2007 - http://www.fatf-gafi.org/documents/documents/mutualevaluationofturkey.html</p> <p>The latest IMF Financial System Stability Assessment is dated September 2012. http://www.imf.org/external/pubs/ft/scr/2012/cr12261.pdf .</p>

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Yes. Obligated parties shall identify their customers or those who act on behalf or for the benefit of their customers by receiving their identification information and verifying it:</p> <ol style="list-style-type: none">Regardless of the monetary amount when establishing permanent business relationships. Customer identification shall be completed before the business relationship is established or the transaction is conducted. When establishing permanent business relationship, information on the purpose and intended nature of the business relationship shall be obtained.When the amount of a single transaction or the total amount of multiple linked transactions is equal to or more than TRY20,000;When the amount of a single transaction or the total amount of multiple linked transactions is equal to or more than TRY2,000 in wire transfers;Regardless of the monetary amount in cases requiring Suspicious Activity Report; andRegardless of the monetary amounts in cases where there is suspicion about the adequacy and the accuracy of previously acquired identification information.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Turkish national real persons: National identification card, driving licence or passport. In the case of a continuous transaction relationship: any utility bill (water, electricity, gas etc.) issued within the last three months of the date of transaction for address verification.</p> <p>Foreign national real persons: Passport, residence permit or other identification cards determined to be valid by the Ministry of Finance. Address verification is the same as stated above.</p> <p>Legal persons registered under Chambers of Commerce: Trade gazettes, national identification card, driving licence or passport for Turkish national real persons and passport, residence permit or other identification cards determined by the Ministry of Finance for foreign national real persons authorised to represent the company, signature circulars, list of authorised company representatives and their signature circulars. The verification of the updated information is done through the Chamber of Commerce Databases and telephone, fax and email verification through using the same channels.</p> <p>Other detailed regulations exist for associations and foundations, unions and confederations, political parties, non-resident legal persons, unincorporated organizations, public institutions, and those acting on behalf of others - see http://www.masak.gov.tr/media/portals/masak2/files/en/Legislation/Regulations/measures.htm for details.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Submitted national identification cards, passports, driving licences and residency permits should be originals or copies stamped by the public notary. Trade gazettes and signature circulars should be stamped by the Chambers of Commerce and public notaries, respectively.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>On behalf of real persons: National identification card, driving licence or passport of the person performing the transaction and the beneficiary and proxy document stamped by the public notary.</p> <p>Legal persons: Trade gazettes, signature circulars, list of authorised company representatives and their signature circulars of the beneficiary, national identification card, driving licence or passport of the person performing the transaction. If the person performing the transaction is not listed as an authorised company representative of the beneficiary, then a proxy document stamped by the public notary is required.</p>
Q12.	In what circumstances are reduced/ simplified due diligence arrangements available?
A12.	<p>Financial institutions, bearing all responsibility, have the right to use third parties' (other financial institutions) identification of the customer only if they are certain that the third party took all necessary measures and met the requirements of the regulation with respect to the identification of the client and that the third party will provide identification documents stamped by the public notary at all times.</p> <p>The Ministry of Finance facilitates customer due diligence for:</p> <ol style="list-style-type: none">transfers between financial institutions realised on their own behalf;situations where the client is a government body covered by Law No: 5018;mass client acceptance within the framework of salary payment agreements;private pension plans based on cut of salaries; andlisted companies.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	For complex and unusually high volume transactions, enhanced customer due diligence measures is required. There is a recommendation by The Financial Crimes Investigation Board ("MASAK") stating that banks should utilise enhanced due diligence procedures for high-risk transactions. The risk is determined on the basis of various factors such as the background of the customer, country of residence, related bank accounts and commercial activities.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	There is a recommendation by the Financial Crimes Investigation Board ("MASAK") stating that financial institutions should utilise appropriate risk management policies to determine whether the customer is a PEP. In addition, financial institutions should obtain senior management approval to allow transactions for the PEP and to continue the relationship, if the beneficiary of an existing account turns out to be a PEP. They are also required to take appropriate measures to determine the source of funds of PEPs and apply continuous monitoring of their relationships with PEPs.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Financial institutions shall take necessary measures in foreign correspondent relationships in order to: <ul style="list-style-type: none">a) Obtain, by making use of publicly available resources, reliable information on whether the respondent financial institution has been subject to a money laundering and terrorist financing investigation and been punished as well as information on its business field, reputation and the adequacy of inspection on it;b) Assess anti-money laundering and terrorist financing system of the respondent financial institution and to ascertain that the system is appropriate and effective;c) Obtain approval from a senior manager before establishing new correspondent relationships;d) Clearly determine their and the respondent financial institution's responsibilities by a contract in a way that meets the obligations in Chapter 3 of Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing Terrorism;e) In cases where the correspondent relationship includes the use of payable- through accounts, be satisfied that the correspondent financial institution has taken adequate measures pursuant to principles in the Chapter 3 of the Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing Terrorism and will be able to provide the identification information of the relevant customers when requested.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes. Financial institutions are prohibited to have respondent institution relationships with shell banks or with banks which are not confirmed not to be shell banks.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Financial institutions are required to take appropriate and effective measures including paying special attention to operations such as depositing, withdrawing and wire transfers which are carried out by using systems enabling the institutions to conduct non face-to-face transactions, closely monitoring the transactions that are not consistent with financial profile or activities of the customer or do not have connection with their activities, and establishing a limit to amounts and number of transactions.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Suspicious Activity Reports are made to Financial Crimes Investigation Board ("MASAK") - http://www.masak.gov.tr/en/default.aspx

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<ul style="list-style-type: none">a) The obliged parties shall report to Financial Crimes Investigation Board ("MASAK") any transactions exceeding the amount determined by the Ministry of Finance to which they are party or intermediaries. (For this purpose, transactions which are linked to each other as to their natures shall be considered as a single transaction. Transactions carried out at weekends, on holidays and during night shall be considered as the transaction of the first workday following the date when the transactions were carried out.)b) Transaction types subject to periodically reporting, reporting procedure and periods, excluded obliged parties and other implementation principles and procedures shall be determined by the Ministry of Finance. The Ministry is authorised to determine, separately for each obliged party, the principles and procedures of filling the periodical reporting forms, submitting them to Financial Crimes Investigation Board ("MASAK") through all types of electronic means and communication forms and using electronic signature in the reports. Application dates for electronic reporting shall be determined by the Ministry of Finance.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – Financial Crimes Investigation Board (“MASAK”) states that: “According to Article 13 of Law No. 5549; The obliged parties violating any obligation shall be punished with administrative fine of TRY5,000 by the Presidency. If the obliged party is a bank, finance company, factoring company, money lender, financial leasing company, insurance and reinsurance company, pension company, capital market institution or bureau de change, administrative fine shall be applied two-fold.”

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	There is no clear requirement to use automated monitoring technology. However, the Article 5 of Law 5549 states that “In the scope of necessary measures, the Ministry of Finance has the authority to determine obliged parties and implementation principles and procedures, including measures to assign an officer with necessary authority at administrative level for ensuring compliance with this Law and to establish training, internal control and risk management systems by regarding size of business and business volumes.”

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Article 4(2) of Law No.5549 prohibits institutions and individuals from disclosing to other parties that they have reported a suspicious transaction to MASAK in relation to one of their customers. Article 29 of the Regulation On Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism covers the persons and the institutions who report suspicious transaction as well as any members of the institution who carry out and manage the transaction, their legal representatives and any other personnel that knows that the suspicious transaction has been reported. This regulation prohibits disclosing the fact that a suspicious transaction has been reported to MASAK to parent companies, branches, agencies and affiliated businesses abroad. In addition, internal reports relating to the suspicious transaction may also not be disclosed to these parties. There is also a requirement that access to systems and other information should be restricted to ensure that information regarding suspicious transaction reports remains confidential. While there is no specific prohibition, these requirements in combination with the restrictions around the transfer of customer information to other parties, make monitoring of transactions outside of the jurisdiction problematic.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes – The Banking Regulation and Supervisory Agency (“BRSA”) requires banks to conduct an independent “Information Systems and Banking Processes Audit” on an annual basis. Although this is not specifically AML related it does include requirements to review the deposits process, new customer creation, customer data entry and change management and money transfer controls.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	Audits are carried out on a yearly basis and the reports are submitted to BRSA with the release of financial statements.

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Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	The information systems audit covers system and controls generally. While testing must be performed as part of this, there is no requirement for this to include AML processes specifically.

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>Currently, there is no all-encompassing data protection law in Turkey and there is no specific definition of personal data or sensitive data. Likewise, there are no specific laws in relation to the protection of corporate data.</p> <p>A draft data protection law was submitted to Parliament for review on 24 April 2008. However, it has not yet received approval from the Turkish parliament. It is envisaged that the new law will govern the protection of personal data, the use of personal data, reliability for the accuracy of data, renewal and erasure requirements, information security and additional requirements about confidential personal data.</p> <p>In the absence of a specific data protection law, there is currently a fragmented set of laws that govern data privacy. The key applicable laws and articles are set out below:</p> <ul style="list-style-type: none">a) As per Article 20, titled Privacy of Private Life, of the Constitution of the Republic of Turkey; everyone has the right to demand respect for his/her private and family life.b) As per Article 73 of the Banking Law (No. 5411), staff of Banking Regulation and Supervision Agency and Savings Deposit Insurance Fund shall not disclose the confidential information that they acquire as part of their duties. Besides, those who, by virtue of their positions or in the course of performance of their duties, have access to confidential information about banks or clients are not permitted to disclose such confidential information to any person or entity other than the authorities expressly authorised by law.c) As per Articles 113 and 135 of the Capital Markets Law (No. 4902); the chairman and members of the Capital Markets Board as well as the staff shall not disclose the secrets they have learned during their services to anyone, except the persons authorised according to this Law and their special laws and they cannot use them for the benefit of themselves or others. Persons and institutions from which the Board has outsourced support services as well as their employees shall also be subject to this provision. This obligation shall also continue after retiring from office..d) As per Article 25 of the Civil Law (No. 4721); the person subject to assault on his/her personal rights may claim protection from the judge against the individuals who made the assault. Each assault against personal rights is considered contrary to the laws unless the assent of the person whose personal right is damaged is based on any one of the reasons related to private or public interest and use of authorisation conferred upon by the laws.e) As per Article 136 of Turkish Criminal Law (No. 5237), any person who unlawfully delivers data to another person, or publishes or acquires the same through illegal means is punished with imprisonment from one year to four years.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	A credit centre has been established within the Banks Association of Turkey for the purpose of collecting credit risk data relating to customers. Credit risk information is shared between eligible member financial institutions (as defined by the BRSA). General data privacy restrictions, outlined above, prohibit the transfer of other private information.

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Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	As there is no all-encompassing law, data protection principles are set out in a patch work of constitutional and other laws.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation?) If so, what data is subject to regulation?
A32.	<p>Yes – The Banking Law and Criminal Code contain secrecy provisions which limit the transfer of information. A criminal offence is in place for banks and bank employees who breach customer confidentiality. All persons or legal entities to which a bank provides services can be regarded as bank customer according to the Article 76 of Banking Law. Accordingly, even someone who just makes a payment to the bank counter is regarded as a bank customer even though he/she does not have an account in related bank.</p> <p>It is an offense when the customer secrets are shared with unauthorized persons or used for responsible individual's own or other's benefit. A verbal transfer of customer secrets is also regarded as offense. Occurrence of damage is not required. . The offense cannot occur, if a bank employee declares a customer secret negligently. For example, a bank employee may not be sentenced in cases where the transfer of information is unintentional, for example if conversations or documental are heard or seen by third parties incidentally.</p> <p>Furthermore, the aggrieved party may file a suit for damages against the bank, since the bank is also liable as employer for the tortuous acts of its employees within the scope of Obligations Law Article 49, 66 and 116. In this case, the bank may recourse to the responsible employee which declared the customer secret.</p>



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Switzerland

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1977 (amended at various stages between 1982 and 2013).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	a) Swiss Financial Market Supervisory Authority ("FINMA"): http://www.finma.ch/e/pages/default.aspx b) FINMA http://www.finma.ch/e/pages/default.aspx or various self-regulatory organisations ("SROs"), see a member list on http://www.finma.ch/e/beaufsichtigte/sro/Pages/default.aspx c) See b)
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	For Banks, the Swiss Banking Association provides an Agreement on the Swiss banks' code of conduct with regard to the exercise of due diligence (CDB 08) including a commentary: http://www.swissbanking.ch/en/home/publikationen-link/shop.htm .
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No – customer identification is not required, however the financial intermediary must identify beneficial owners retrospectively.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	The AML Act provides for a risk based approach; auditing is also governed by a risk based approach according to "Circular 2013/3 - Auditing" from the FINMA.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes - http://www.fatf-gafi.org/dataoecd/29/11/35670903.pdf and follow-up report - http://www.fatf-gafi.org/dataoecd/53/52/43959966.pdf .

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - due diligence obligations can be waived if the business relationship only involves assets of low value and there is no suspicion of money laundering or terrorist financing. The relevant thresholds are: a) for electronic payments for services and goods: CHF5,000 per calendar year and per client; b) for bilateral credit cards (including department store cards): CHF5,000 per month and per client; and c) in the case of financial leasing: CHF25,000 per calendar year and per client.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: For face-to-face contact, the bank verifies identity via an official identification document with a photograph (passport, identity card, driving licence, etc.) and puts on record the individual's full name, date of birth, address and nationality. For non face-to-face contact, the bank obtains a certified copy of an official identification document, as well as a confirmation of the domicile indicated, either through an exchange of correspondence or by any other appropriate method. Corporates: With a registered office in Switzerland the bank ascertains whether the firm's name is published in the official Swiss Commerce Gazette or listed on a public website for commercial register entries. Private directories/databases can also be used. Otherwise, identity must be established with an extract from the Commercial Register. Identity is verified with an extract from the Commercial Register or extracts from public websites for Commercial Register entries, or equivalent documents substantiating the existence of the legal entity or company (such as a certificate of incorporation). In addition, the identity of the individuals establishing the business relationship must also be checked and the bank must take note of and document the contracting partners' power of attorney arrangements. Further, the financial intermediary must acknowledge the provisions regulating the power to bind the legal entity, and verify the identity of the persons who enter into the business relationship on behalf of the legal entity.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Independent authentication of copies of official identification documents may be provided by branches, representative offices and subsidiaries of the bank, correspondent banks, other financial intermediaries recognised by the account opening bank as well as notaries and public authorities who customarily issue such confirmations of authenticity. Additionally, authenticated copies are issued by Post Offices and SBB (Swiss Railway) stations.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	All due diligence which can reasonably be expected under the circumstances must be exercised in establishing the identity of the beneficial owner. If there is any doubt as to whether the contracting partner is himself the beneficial owner, the bank shall require by means of Form A, a written declaration setting forth the identity of the beneficial owner.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	It is not necessary to formally verify the identity of a contracting partner when: a) an account, securities account or passbook is opened in the name of a minor by an adult third party, provided that the assets deposited at the outset do not exceed CHF25,000; however, the identity of the adult opening the account must be verified; b) a rental surety account is opened for a rented property located in Switzerland; or c) the legal entity is listed at a stock exchange.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	In case of high risk, Swiss law requires financial intermediaries to define higher risk criteria and provides guidance and examples of higher risk criteria (domicile of the contracting party and beneficial owner, type of business, origin country of payment, volume of incoming funds, the complexity of the structures, notably in case of use of domicile companies and the absence of personal contact with the beneficial owner). PEPs and correspondent banking institutions are deemed higher risk relationships.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Business relationships with PEPs are regarded as higher risk and local regulations/guidance requires that enquiries should be made to ascertain whether the contracting partner/beneficial owner is a PEP. The means of investigation for such higher risk business includes: obtaining information in written or oral form from the contracting partner or beneficial owner, visits to the places of business of the contracting partner and beneficial owner, consultation of publicly accessible sources and databases, and information from trustworthy individuals where necessary.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	For cross-border banking relationships with foreign banks, the following due diligence procedures are to be performed in addition to the standard clarifications for high risk relationships: ensuring that the foreign bank is prohibited from entering into business relationships with shell banks, clarifying the AML and CFT controls implemented by the foreign bank and examining whether the foreign bank is subject to an equivalent regulation and supervision in the anti-money laundering and counter financing of terrorism domain. Furthermore a risk-based procedure has to be established concerning the processing of repeated wire transfer instructions which lack the required sender information.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	In the case of business relations entered into through correspondence or via the internet, banks must verify the identity of the contracting partner by obtaining a certified copy of an official identification document as well as a confirmation of the domicile indicated, either through an exchange of correspondence or by any other appropriate method. Identification based on an official identification document at delivery or receipt of mail is also deemed as sufficient proof of identity, provided that personal delivery to the recipient is thus warranted. In addition, beneficial ownership according to Form A must invariably be provided by individuals entering into a business relationship with a bank through correspondence. For business relationships established by electronic means, the bank shall identify, mitigate and control the risk associated with the use of new technologies. The lack of personal contact with the contracting party and the beneficial owner is considered an element of increased risk, according to the domain of activity of the bank.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Money Laundering Reporting Office ("MROS"): http://www.fedpol.admin.ch/content/fedpol/en/home/themen/kriminalitaet/geldwaescherei.html

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 1,685 SARs (MROS) GDP (in current prices): 2012 – USD632,193 million (Source: data.worldbank.org*) This results in a ratio of 1 SAR for every USD375 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Anyone who fails to comply with the duty to report shall be liable to a fine of up to CHF500,000, or in the case of negligence, up to CHF150,000.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	The AML Ordinance requires banks, fund manager, investment companies and its asset managers and security dealers to operate an IT-based system for transaction monitoring.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	The financial intermediary must immediately freeze the assets connected with the report filed. It must continue to freeze the assets until it receives an order from the competent prosecution authority but, at the most, for five working days from the time the report is filed.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Transaction monitoring may be outsourced to persons outside Switzerland, provided that the respective information is still available in Switzerland and provided that the results are subject to a plausibility check in Switzerland. However, the Swiss financial intermediary remains responsible. Furthermore, the client needs to be informed in case of a transfer of client information outside Switzerland.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes, according to FINMA's standard audit strategy on a yearly basis.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) Annually. b) FINMA. c) No, part of the regulatory audit.
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	a) Yes. b) Yes. c) Yes.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>a) Yes, the definition of art. 3 lit. a DPA includes all data that refers to a specific person or can be used to identify a person; b) Yes, according to art. 2 para 1 DPA the law is also applicable to corporate data; c) Yes, the law differentiates between "personal data", "sensitive personal data" and "personality profile".</p> <p>The primary laws and regulations governing data protection in Switzerland are the Swiss Federal Data Protection Act ("DPA"), the Swiss Federal Data Protection Ordinance ("DPO"), the Swiss Federal Ordinance on Data Protection Certification ("DPCO") and Guidelines of the Federal Data Protection and Information Commissioner on the minimum requirements for a data protection management system (DPMS-Guidelines). The latest revisions of the DPA and the DPO as well as the DPCO came into force on 01/01/2008. The DPMS-Guidelines came into force on 01/09/2008.</p> <p>Sensitive personal data is defined as "data on religious, ideological, political or trade union-related views or activities; health, the intimate sphere or the racial origin; social security measures, and; administrative or criminal proceedings and sanctions".</p> <p>Personality profile is defined as a collection of data that permits an assessment of essential characteristics of the personality of a natural person.</p> <p>The additional protections of sensitive personal data and personality profiles include additional requirements regarding consent of the data subject, requirements of declaration of the existence of data files, prohibition of disclosure without justification and duty to inform the data subject of the data collection. Furthermore the disclosure is subject to fines.</p>
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Criminal records and medical data are considered sensitive personal data. The transfer of such information is only possible with justification (consent of the data subject, overriding public or private interest or law). Credit reports, depending on their content, might also be part of sensitive personal data or even personality profiles.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No, see A32. Furthermore, the Swiss Law has taken over large parts of the European Union ("EU") data protection law. Therefore, the interpretation within the EU is interesting for the Swiss interpretation as well.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes, Switzerland has bank secrecy laws (art. 47 Banking Act). All secrets that a representative of a bank (a person active for the bank – including BoD, Management Board, employees, auditors, liquidators) learns in his/her function.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Sweden

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	In 2009, the 2009:62 Money Laundering and Terrorist Financing (Prevention) Act became effective.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	For general information in English: http://www.fi.se/Folder-EN/Startpage/Regulations/Money-laundering/ a) The Swedish Financial Supervisory Authority (Finansinspektionen), http://www.fi.se/Regler/Penningtvatt/ b) The Swedish Financial Supervisory Authority only governs companies within the financial sector. For other sectors, different regulators are in charge: a. Casinos and lotteries: The Gaming Board for Sweden (Lotteriinspektionen), www.lotteriinspektionen.se/en/ b. Realtors: The Swedish Board of Supervision of Estate Agents (Fastighetsmäklarnämnden), http://www.fastighetsmaklarnamnden.se/ c. Other: the County Administrative Boards of Stockholm (http://www.lansstyrelsen.se/stockholm/En/Pages/default.aspx), Västra Götaland (http://www.lansstyrelsen.se/vastragotaland/En/Pages/default.aspx) and Skåne (http://www.lansstyrelsen.se/skane/En/Pages/default.aspx) (http://www.bolagsverket.se/om/oss/fler/penningtvatt)
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes – by the Swedish Bankers' Association http://www.penningtvatt.se/
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	IMF Financial Sector Stability Assessment in 2011 (http://www.imf.org/external/pubs/ft/scr/2011/cr11172.pdf) and (http://www.fatf-gafi.org/media/fatf/documents/reports/mer/FoR%20Sweden.pdf)

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – single or linked transactions under EUR15,000.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Reliable and independent information sources must be used and controls signed off and documented independently whether the customer is a legal or physical entity. For example, evidence of identity can be in documentary or electronic form. The following information is required:</p> <p>Individuals: approved identification documents with name and social security number. Remote customers can be identified with an approved electronic identity card to verify name, social security number and address. Foreigners must be identified through a passport and a copy must be kept.</p> <p>Legal entities: official registration documents and the identity of representatives through approved identification documents.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Third parties can be used or the financial institution can choose to perform these controls in-house. However, the financial institution always has responsibility for identification procedures and ensuring compliance with laws and regulations.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Beneficial owners who control more than 25% of shares in a company or have significant influence over a company should be identified directly through an identification check, through official databases or through other documents received that can verify the identity of the beneficial owners.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<ul style="list-style-type: none"> a) Swedish public authorities; b) Firms within the European Union ("EU")/European Economic Area ("EEA") and specified countries that have similar AML/CFT legislation that conduct business as: <ul style="list-style-type: none"> a. banks (as defined by Swedish law); b. life insurance companies; c. securities firms (as defined by Swedish law); d. certain other financial firms that are registered with the Swedish Financial Services Agency (FSA) (as defined by Swedish law); e. insurance brokers (as defined by Swedish law); f. firms that issue electronic money (as defined by Swedish law); g. mutual funds (as defined by Swedish law); and h. registered payment service providers and payment institutions (as defined by Swedish law). c) Firms whose shares are listed on an exchange within EU/EEA as defined by 2004/39/EU or listed on an exchange outside the EU/EEA where the requirements correspond to 2004/39/EU; d) Life insurance products with an annual premium of maximum EUR1,000 or a one off premium of maximum EUR2,500; e) Certain occupational pensions; f) Electronic money with certain thresholds as defined by Swedish law; and g) Certain pooled accounts in EU/EEA or in territories outside EU/EEA provided that certain requirements are met.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<ul style="list-style-type: none"> a) when a business relationship is established or an individual transaction is carried out with another at a distance.; b) when establishing a business relationship or having a single transaction with a PEP who resides abroad; c) correspondent banking relationships with credit institutions outside EU/EEA; and d) when the risk of money laundering or financing of terrorism is deemed to be high.

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Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	a) the establishment of a business relationship; and b) single transactions. This only applies when the PEP is residing abroad.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Gather sufficient information about the bank in order to assess the reputation of the bank and the quality of supervision, assess the bank's AML/CFT controls, document the controls of each institution, obtain internal approval to establish a correspondent banking relationship and verify that the bank undertakes KYC procedures of its customers and can provide relevant information.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	When a business relationship is established or an individual transaction is carried out with another at a distance, such as opening bank accounts online.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Financial Intelligence Unit (Finanspolisen) http://polisen.se/Om-polisen/Organisation/Specialkompetenser/Finanspolisen/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2011 – 11,461 SARs (Financial Intelligence Unit - Finanspolisen) GDP (in current prices): 2011 – USD 538,131 million (Source: data.worldbank.org*) This results in a ratio of 1 SAR for every USD47.1 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – non-compliance which is intentional or due to negligence carries penalties, according to Chapter 7 in 2009:62 Money Laundering and Terrorist Financing (Prevention) Act.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No, but if there is a lack of control the auditor is obliged to report to the board of directors.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	a) Yes; b) The Swedish Personal Data Act only covers information relating to individuals; c) There is a general prohibition against processing sensitive personal data. Sensitive personal data is defined as information that reveals race, ethnic origin, political views, religious or philosophical belief, membership in labour unions and information relating to health and sexuality.

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes, criminal records and medical data are considered as sensitive information. Information typically contained in a credit report is possible to process according to the Swedish Act on combatting money laundering and terrorism (SFS 2009:62).
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes. Information about the relationship with a credit institute may not be revealed.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Spain

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2010 (pending approval of the new Royal Decree of Law 10/2010).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	Law 19/1993 regarding AML (in force until 30 Mar 2010).
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	The Executive Service of the Commission for Monitoring Exchange Control Offences ("SEPBLAC"): www.sepblac.com
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	SEPBLAC Reports and Publications: http://www.sepblac.es/espanol/informes_y_publicaciones/otra_documentacion.htm
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Until the issuing of the new Royal Decree for Law 10/2010, the following guidance under the previous regime are still applicable: http://www.sepblac.es/espanol/legislacion/norma-blanqueo.htm
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - SEPBLAC has been leading work to embed a risk based approach into AML controls, both in terms of firms' legal obligations and their practical implementation. Law 10/2010 reinforces this approach by enlarging the range of industries and activities affected by the updated regulation.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Last Mutual Report FATF/GAFI (2006) : http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Spain.pdf

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - one-off transactions (single or linked) under EUR3,000.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: firms should obtain a national identity document, permission of impeachment sent by the Ministry of Justice, passport or government issued document which includes the customer's full name and photograph. Additionally, firms must verify identification documents of all authorised persons of the account. Corporates: firms should obtain the following: full name, regulation form and number, business address and professional activity. Additionally, names and regulation documents of all Attorneys should be obtained.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Copies should be certified by an appropriate person, for example an employee of the commercial office.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The law determines that firms may consider it appropriate to verify the identity of appropriate beneficial owners. Where a principal owner is another corporate entity or trust, the firm should take measures to look behind that company or trust and establish the identities of its beneficial owners or trustees. The firm will then judge which of the beneficial owners exercise effective control, and whose identities should therefore be verified.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Simplified due diligence could be applied to some concrete clients and products. Detailed requirements for this are detailed in Law 10/2010, Section 2, Articles 9 and 10.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	The law determines that firms will require additional measures of identification for certain business transactions, including private banking, correspondent banking, on-line and telephone banking and currency exchanges. Enhanced due diligence must be applied for some particular clients and products. Detailed requirements for these activities are detailed in Law 10/2010, Section 3, Article 11: in general terms, and Article 16: for products and transactions where anonymous activity is possible.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Law 10/2010, Articles 14 and 15 detail the due diligence and monitoring requirements for PEPs.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Firms should take into account the greater potential for money laundering in a correspondent business relationship. Firms must send an AML questionnaire to their correspondent banks to verify that these banks have measures to control money laundering. Law 10/2010 Article 13 details the requirements for correspondent banking relationships.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Law 10/2010 Article 13 details the requirements for correspondent banking relationships. In particular, point 2 states that "financial entities do not set up relations or correspondent with shell banks".
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Firms should take account of the greater potential for money laundering in non face-to-face situations. Where a customer approaches a firm remotely (by post, telephone or over the internet), the firm should carry out non face-to-face verification, either electronically, or by reference to identification documents. Requirements for non face-to-face transactions and/or relationships are detailed in Law 10/2010, Article 12.

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Executive Service of the Commission for Monitoring Exchange Control Offences ("SEPBLAC"): www.sepblac.com
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>In Spain, until 2009, SARs were reported to authorities split into 2 ways, the General regime (Financial entities, Insurance related) and the Special regime, (notaries, attorneys, auditors, accountants, tax & legal advisors, casinos, real estate, jewellery, art dealers, numismatic & stamps, professional funds transportation).</p> <p>Volume of SARs: 2009 – 2,590, divided as follows: General regime: 2,326 and Special regime 2,264.</p> <p>GDP (in current prices): 2009 – USD1,464,089 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD565.3 million of GDP.</p>
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	There are two different types of reporting in Spain: Systematic Reporting and Suspicious Transaction Report.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Article 17 of Law 10/2010 states that, the subject will review transactions or operations regardless of the amount.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Penalties for non compliance with Law 10/2010 requirements are detailed on Chapter VIII, Articles 50, 51, 52, 53, 54 and 55, and Sanctions are detailed from article 56, 57 and 58.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Spanish Law 10/2010 has widened the scope of industries and activities to be monitored. All entities which have a large number of daily transactions are requested to use automated Suspicious Transaction monitoring technology. Article 17 of Law 10/2010 stated that accurate automated systems must be set up but adapted to the specific industry and Money Laundering risk. For these reasons, it was mandatory for industries such as finance, insurance and online gambling to have automated systems.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Law 10/2010 Article 19 details the requirement for injunctive enforcement.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Law 10/2010 Article 31 states the requirements for monitoring activity in branches and subsidiaries registered in other countries.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes, all banks have to be reviewed by an external auditor each year.

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Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) Every year: First year: Complete review; Next two years: Following recommendation; b) To Board of Directors; c) No.
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	All of the above are requirements.

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes. All the files used by the Entity to manage the AML obligations have to be reported to the Data protection authorities.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Only for medical data. In this case is forbidden to transfer data without client approve.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Law 15/1999; Law 2/2011; Law 10/2010; RD 1720/2007; RD 3/2010.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1994 – this has been amended several times and was completely replaced in 2007 with the Prevention of Money Laundering and Terrorist Financing Act which took effect on 21 July 2007 and last amended in 2011. http://www.uppd.gov.si/fileadmin/uppd.gov.si/pageuploads/zakonodaja/ZPPDFT_ZPPDFT-A_B_ANG.pdf http://www.uppd.gov.si/fileadmin/uppd.gov.si/pageuploads/zakonodaja/ZPPDFT-A_ANG.pdf http://www.uppd.gov.si/fileadmin/uppd.gov.si/pageuploads/zakonodaja/Slovenian_AML_CFT_law_2007.pdf
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	The regulator is the Office for Money Laundering Prevention which is a constitutive part of the Ministry of Finance http://www.mf.gov.si/ang/ , performing duties referring to the prevention and detection of money laundering and terrorist financing, and other duties determined by the Act on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of the Republic of Slovenia No. 60/2007) http://www.uppd.gov.si/fileadmin/uppd.gov.si/pageuploads/zakonodaja/ZPPDFT_ang_10_09.pdf .
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes – Forms for forwarding data to the Office for Money Laundering Prevention of the Republic of Slovenia. http://www.uppd.gov.si/en/legislation_and_documents/working_reports/ There are links to available guidelines published on the Office for Money Laundering Prevention's website: http://www.uppd.gov.si/si/zakonodaja_in_dokumenti/smernice/
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – the law differentiates between requirements for client identification based on the risk assessment.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>The MONEYVAL assessment report was published in March 2010: http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/MONEYVAL(2010)7_MERSLO_en.dw.pdf</p> <p>A second regular follow-up report was published in April 2013: http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/follow-up%20report%204round/MONEYVAL(2013)6_SLV_4Follow-upRep.pdf</p>

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Yes – transactions for which the sum does not exceed EUR15,000 (whether the transaction is carried out in a single operation or in several operations which are evidently linked) unless:</p> <ol style="list-style-type: none">it is establishing a business relationship with a customer;there are doubts about the veracity and adequacy of previously obtained customer or beneficial owner information;there is a suspicion of money laundering or terrorist financing in respect of a transaction or customer, regardless of the transaction amount;an organisation enters into an additional business relationship with the customer or carries out the transactions referred to in point 2 on the basis of the existing business relationship;the transactions is with a concessionaire offering games of chance in a casino or gaming hall when the transaction is effected at the cashier's desk;the customer's registration is for participation in a system of organising games of chance with organisers and concessionaires who offer games of chance via the Internet or other telecommunications means shall be deemed an established business relationship; orthe customer's accession to the fund rules of a mutual fund managed by a management company. <p>Also in the case of life insurance, customer due diligence is not required when arranging life insurance contracts where the single premium or multiple premiums to be paid in a year do not exceed EUR1,000 or where the single premium does not exceed EUR2,500.</p> <p>In arranging pension insurance contracts there is no need to carry out customer due diligence, provided that:</p> <ol style="list-style-type: none">such insurance policies contain no surrender clause and cannot be used as security for a loan; orthe collective insurance contract is entered into within a pension or other similar scheme guaranteeing the right to pension to the employees and provided the premiums are paid through salary deductions and the scheme rules contain no surrender clause. <p>Electronic money undertakings, electronic money undertakings from Member States and branches of electronic money undertakings from third countries need not apply customer due diligence measures in the following cases when:</p> <ol style="list-style-type: none">issuing electronic money, provided the amount of deposit made for the issue of electronic money stored on a medium does not exceed EUR250;issuing electronic money and in transactions via e-money, provided that the maximum amount for its issue in respect of the transaction stored on a medium does not exceed EUR2,500 in a calendar year, except when an amount of EUR1,000 or more is redeemed in that same calendar year by the bearer. <p>Organisations referred to in paragraph (1) of Article 4 of the Prevention of Money Laundering and Terrorist Financing Act may not apply customer due diligence measures also in respect of other products or related transactions when such products and related transactions represent a low risk of money laundering or terrorist financing:</p> <ol style="list-style-type: none">products related to the financing of physical assets and for which the right of ownership and the right to dispose of property are not transferred to the customer before the termination of contractual relationship (e.g. leasing of physical assets, leasing with purchase option, sale with retention of title) if the amount of down payment related to such product or the total of installments paid within one year do not exceed EUR15,000;savings products with characteristics similar to those of an insurance policy (e.g. gradual savings), provided that:<ol style="list-style-type: none">individual down payments or several down payments payable together in one year do not exceed EUR1,000 orin case of saving by a single down payment the amount of such down payment does not exceed EUR2,500;other products (e.g. small-value consumer loans) if the maximum amount of the product and the related transactions does not exceed EUR15,000. <p>For further details refer to 12.4 of the Prevention of Money Laundering and Terrorist Financing Act.</p>

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>The following information is required:</p> <p>Individuals, sole proprietors and individuals who conduct business: Name, surname, address, date of birth, place of birth, tax number, type of ID, ID number and name of issuing authority for ID inspected. This information would be verified by an identity card or passport. (Supporting evidence would have to be included).</p> <p>Legal entities: name of legal entity, type of legal entity, address of registered office, identification or registration number. The same principles for "individuals" apply for the identification of individuals in the company's statutory body. Evidence of power of representation must also be provided (e.g. excerpt from court, certification of incorporation or other similar document).</p> <p>Civil law entities (institutions, associations, institutes, etc.): name of entity, name of member, member's address, date and place of birth of member, member's tax number. Documents evidencing certified power of representation must be attached. If these are members of a legal person, then the data required for the identification of legal entities must also be provided.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	These should be certified by an appropriate person (notary, local authorities, etc).
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>The beneficial owner of a corporate entity shall be any natural person who owns through direct or indirect ownership at least 25% of the business share, stocks or voting or other rights, on the basis of which he/she participates in the management or in the capital of the legal entity with at least 25% share or has the controlling position in the management of the legal entity's funds; or any natural person who indirectly provides or is providing funds to a legal entity and is on such grounds given the possibility of exercising control, guiding or otherwise substantially influencing the decisions of the management or other administrative body of the legal entity concerning financing and business operations.</p> <p>Name of the company for which the person is a beneficial owner, personal name and permanent or temporary address.</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Provided that reasons for suspicion of money laundering or terrorist financing do not exist in connection with the customer, simplified due diligence may be applied when the customer is:</p> <ol style="list-style-type: none">an organisation referred to in points 1, 2, 4, 5, 6, 7 and 8 of paragraph 1 of Article 4 of the Prevention of Money Laundering and Terrorist Financing Act, or the insurance company, provided the organisation has its head office in a Member State or equivalent third country referred to in paragraph 5 of Article 25 of the Prevention of Money Laundering and Terrorist Financing Act;a state body, self-governing local community body, public agency, public fund, public institution or chamber, established in the Republic of Slovenia;a company whose securities are admitted to trading on a regulated market in one or more Member States in accordance with European Community legislation, or a company situated in a third country whose securities are admitted to trading on a regulated market;in a Member State or in that country, provided that its disclosure requirements are consistent with European Community legislation; orthe other person referred to in paragraph 4 of Article 6 of this Act in connection with whom there is little risk of money laundering or terrorist financing. <p>An auditing firm or independent auditor that establishes a business relationship of mandatory auditing of annual accounts of a legal entity pursuant to the Act governing its operations, may apply simplified due diligence procedures, except when reasons for suspicion of money laundering or terrorist financing exist in connection with the customer or auditing circumstances.</p>
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Enhanced due diligence measures are required when:</p> <ol style="list-style-type: none">entering into a correspondent banking relationship with a respondent bank or similar credit institution situated in a third country;entering into a business relationship or carrying out a transaction referred to in point 2 of paragraph 1 of Article 8 of the Prevention of Money Laundering and Terrorist Financing Act with a customer who is a politically exposed person referred to in Article 31 of the Prevention of Money Laundering and Terrorist Financing Act;when, within customer due diligence, a customer was not physically present for the purpose of determining and verifying his identity. <p>The organisation shall apply, by analogy, a measure or measures of enhanced customer due diligence (Corresponding banking relationships with credit institutions from third countries, foreign politically exposed persons and physical presence of a customer when determining and verifying identity) where it assesses that there is a high risk of money laundering or terrorist financing due to the nature of the business relationship, form or manner of executing the transaction, business profile of the customer, or other circumstances relating to</p>

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Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	When the customer entering into a business relationship with or effecting a transaction, or when the customer on whose behalf a business relationship is entered into or a transaction effected, is a politically exposed person or foreign politically exposed person.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Additional data, information and documentation must be obtained:</p> <ul style="list-style-type: none"> a) date of issue and period of validity of the authorisation to perform banking services, and name and head office of the competent authority from the third country that issued the authorisation; b) description of the performance of internal procedures relating to the detection and prevention of money laundering and terrorist financing, in particular to customer due diligence procedures, procedures for determining the beneficial owners, for reporting data on suspicious transactions to competent authorities, for keeping records, internal control and other procedures adopted by the bank or other similar credit institution with respect to detecting and preventing money laundering and terrorist financing; c) description of systemic arrangements in the field of detection and prevention of money laundering and terrorist financing applicable in the third country where the bank or other similar credit institution is established or registered; d) a written statement that the bank or other similar credit institution does not operate as a shell bank; e) a written statement that the bank or other similar credit institution has not established or does not enter into business relationships with shell banks; f) a written statement that the bank or similar credit institution is subject to administrative supervision in the country of its head office or registration and is, in accordance with the legislation of the country concerned, under the obligation to comply with laws and regulations governing the detection and prevention of money laundering and terrorist financing; and/or g) an employee of the organisation establishing the correspondent relationship and conducting the enhanced customer due diligence procedure shall obtain the written approval of his/her superior and the responsible person in the organisation prior to entering into such relationship. <p>The organisation shall obtain the data referred to above by inspecting public or other accessible data records, or by inspecting documents and business records submitted by the bank or other similar credit institution situated in the third country.</p>

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	In any case when a customer is not physically present in the organisation or in presence of the third person referred to in Article 25 of the Prevention of Money Laundering and Terrorist Financing Act when determining and verifying identity.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	To the Office for Money Laundering Prevention ("OMLP"). http://www.uppd.gov.si/en/legislation_and_documents/working_reports/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2011 – 327 new SARs opened</p> <p>GDP (in current prices): 2011 – USD50,250 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 new SAR for every USD153.6 million of GDP.</p> <p>The OMLP opened 327 new cases in the year 2011 (40% more than in the year 2010). In 323 cases there were reasons for the suspicion of the committing of the criminal offence of money laundering according to Article 245 of the Slovenian Criminal Code.</p>

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
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A20.	Yes.
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Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
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A21.	No.
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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
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A22.	Yes. The law prescribes penalties up to EUR120,000 depending on the seriousness of the violation.
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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
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A23.	No.
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Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
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A24.	Yes. The Office may issue a written order temporarily suspending a transaction for a maximum of 72 hours if the Office considers that there are reasonable grounds to suspect money laundering or terrorist financing, and it shall inform the competent authorities thereof.
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Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
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A25.	No.
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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
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A26.	No.
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Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
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A27.	N/A
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Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
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A28.	N/A
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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>a) Yes; b) Client consent must be obtained; c) Yes. Sensitive personal data - are data on racial, national or ethnic origin, political, religious or philosophical beliefs, trade-union membership, health status, sexual life, the entry in or removal from criminal record or records of minor offences that are kept on the basis of a statute that regulates minor offences (hereinafter: minor offence records); biometric characteristics are also sensitive personal data if their use makes it possible to identify an individual in connection with any of the aforementioned circumstances.</p> <p>There are special rules governing the processing of sensitive personal and precautions to secure that only authorised persons have access to this data.</p>
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	There are restrictions for transferring data out of Slovenia to countries that do not ensure an adequate level of protection of personal data.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Personal Data Protection Act of Slovenia.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	<p>Article 214 of the Slovenian Banking Act (ZBan-1) indicates that banks shall treat as confidential and protect all information, facts and circumstances about individual clients notwithstanding the manner in which this information has been obtained.</p> <p>Article 215 of the same law continues to outline the obligation to protect confidential information and indicates that members of the bank's governing bodies, shareholders, employees or other persons who have access to the confidential information from article 214 of this Act in connection with their work at the bank or provision of services for the bank, may not disclose this information to third parties or use them by themselves or enable third parties to use them.</p> <p>The obligation to protect confidential information shall not apply in the following cases:</p> <ol style="list-style-type: none"> If the client expressly agrees in writing with the disclosure of some confidential information; If this information is required by the Bank of Slovenia or another competent authority for the purposes of supervision carried out within its competencies; In cases of disclosure of information to parent undertakings in connection with supervision on a consolidated basis subject to the provisions of sub-section 7.9.3 of this Act or ZFK (Financial Conglomerates Act); and Exchange of information on credit rating of clients among banks or within a banking group for the purpose of credit risk management; and Take other measures stipulated by the law.

¹ GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1994 – this has been amended several times, and was fully replaced in 2008 by the Act no 297/2008 Coll. , effective from 1 September 2008 and last amended in 2011 - http://www.minv.sk/swift_data/source/policia/finpol/297_2008en.pdf
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<p>The key regulator for AML controls is: the Financial analytical department ("FAU") of the Police under the Ministry of Interior of the Slovak Republic - http://www.minv.sk/?financna-policia</p> <p>Controls are further regulated by:</p> <ul style="list-style-type: none">a) National Bank of Slovakia – www.nbs.sk which is a supervisory authority of the financial market in the Slovak Republic as well as the Ministry of Finance of the Slovak Republic - www.finance.gov.sk and;b) Administrative authorities and the Ministry of Finance supervise lotteries and other similar games, and holders of licenses to operate betting games.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>Yes – Guidelines for submitting AML notifications issued by the FAU: http://www.minv.sk/?financna-policia</p> <p>AML Guidelines for financial sector issued by the National Bank of Slovakia. http://www.nbs.sk/sk/dohlad-nad-financnym-trhom/prevenicia-legalizacie-prijmov-z-trestnej-cinnosti-a-financovania-terorizmu/odporucania-a-metodicke-uzmernenia</p>
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - National bank issued a guidelines in this respect for the banking sector http://www.nbs.sk/img/Documents/Dohlad/ORM/BankyAOcp/MU_4_2009_AML_SK.pdf
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last 3 years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes - MONEYVAL assessment – September 2011- http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Slovakia_en.asp

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Yes - any single transaction below EUR15,000 does not require any customer due diligence unless it is a:</p> <ul style="list-style-type: none">a) suspicious transaction;b) an agreement to enter into a business relationship;c) an agreement to establish an account, to make a deposit into a deposit passbook or a deposit certificate, or to make any other type of deposit;d) an agreement to use a safety deposit box or an agreement on custody;e) transaction with a PEP; andf) as part of the business relationship. <p>Also in the case of life insurance, customer due diligence is not required if the insurance premium payable per year does not exceed EUR1,000 or if payable in lump-sum, does not exceed EUR2,500 and in certain situations related to pension scheme agreements (no amount set by law).</p> <p>An ordinary transaction below EUR2,000 does not need customer due diligence.</p>
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>The following information is required:</p> <p>Individuals: Name, surname, birth identification number or date of birth, place of birth, gender, address and citizenship. These would normally be verified by an identity card or passport.</p> <p>Individuals who conduct business: In addition to the above, full name of the business, place of business and identification number needs to be noted.</p> <p>Legal entities: the full name, residency/seat, identification (or similar identification received from foreign offices) showing evidence of the company's existence (i.e. certificate of incorporation, trade register statement or other). The same principles for 'individuals' apply for the identification of individuals in the company's statutory body. If the company's statutory body or the owner is another legal entity, identification documentation must also be collected for that entity. The way of acting of the statutory representatives, acting on behalf of the legal must be proven, e.g. visible from the certificate of incorporation, trade register statement or other similar document, or power of attorney must be provided by the client.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	These should be certified by an appropriate person e.g. a notary, local authorities etc. Specific rules apply to credit and financial institutions, where certain employees are authorised to verify these when opening account, concluding contract, etc.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The shareholders of a legal entity (with more than 25% holding and/or voting rights) must be ascertained up to the level of the ultimate beneficiary of the transaction, if there are suspicions. Direct and indirect ownership identification requirements are the same as for the relevant legal entity and/or individual.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Simplified due diligence is applicable in the following situations:</p> <ul style="list-style-type: none">a) The client is a credit or financial institution within EU or EEA;b) The client is a listed entity in EU or EEA;c) The client is public authority (specific conditions detailed in the law);d) The client is the state;e) In case of a life insurance contract to be concluded if insurance premium payable per year does not exceed EUR1,000 or if payable in lump-sum does not exceed EUR2,500; andf) in certain situations related to pension scheme agreements, both mandatory and voluntary (no amount set by law).
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Enhanced customer due diligence is applicable for:</p> <ul style="list-style-type: none">a) a remote financial services agreement;b) a transaction and business relationship with a PEP; andc) a correspondent bank relationship with a foreign credit or similar institution ("correspondent institution").

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Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	All transactions with PEPs are subject to due diligence including the provision of information and supporting documentation relating to: <ul style="list-style-type: none"> a) the purpose and intended nature of the transactions or business relationship; b) the beneficial owner, if the client is a legal entity; c) the information required for continuous monitoring of the business relationship; and d) a review of the income source.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Prior to the creation of a correspondent banking relationship, the following is required: <ul style="list-style-type: none"> a) sufficient information on the relevant correspondent institution and the nature of its operations; b) publically sourced information to establish the quality of supervision overseeing the correspondent institution; c) an evaluation of measures applied by the correspondent institution against the legitimisation of proceeds of crime and financing terrorism; d) understanding if approval of relevant lead employee to open the corresponding bank relationship was granted, and e) in case of wire transfer, confirmation from the correspondent bank that it has identified the account holder.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	In the case of a remote financial services agreement: <ul style="list-style-type: none"> a) the first payment under this agreement shall be made via an account kept in the customer's name held at a credit institution or a foreign credit institution operating in the EU or EEA; and/or b) the customer shall submit to the entity a copy of a document verifying the existence of this account together with copies of the relevant parts of his identity card and at least one more identification document to validate the customer's identification data of this card i.e. the type, serial number, issuing country or institution and validity.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	To the Financial Analytical Department ("FAU") of the Police, the Ministry of Interior of the Slovak Republic: http://www.minv.sk/?financna-policia

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 3,650 SARs GDP (in current prices): 2012 – USD91.605 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD25.097 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	The suspicious transactions are identified based on various criteria such as unusual transactions, cash transactions above a certain threshold, international wire transfers etc. but no special report is required.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Potential cash penalties up to EUR332,000 (depending on the seriousness of the breach) or a suspension of business license for conscious non-compliance within a 12 month period.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No, however, transaction monitoring should be performed by using adequate means which assumes the use of some automated technology.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes - in general a transaction that is identified/reported as suspicious can be continued after 48 hours from when it has to be notified to the FAU, unless the FAU requires the transaction to be postponed further and FAU has passed the notification to criminal police (in which case an additional 24hour delay is anticipated by law).
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No. However, if the external auditor during performance of the regular audit procedures finds out facts which indicate suspicion of committing economic crime, crime against property or crime of corruption, he is obliged to inform the FAU, statutory representatives and control body of the given bank thereof. Internal audit/control body of the bank is the body primarily responsible for AML procedures within the bank.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes. Slovak Act No. 122/2013 Coll. ("the Data Protection Act") governs the area of personal data protection. a) Yes; b) The personal data used for corporate purposes are subject to the Data Protection Act. Rules for acquiring, processing, storing, and usage (jointly "processing") of the personal data must be complied with in full extent. However, for the purpose of AML, processing of personal data is generally not subject to the consent of affected persons, if their eventual submission to FAU as a part of SAR is required directly by the law; c) Yes, the Data Protection Act stipulates a separately protected category of personal data. It is forbidden to process personal data on racial or ethnic origin, political opinions, religious or philosophical beliefs, membership in political parties or political movements, trade union membership and data concerning health or sex life. Personal data regarding mental identity, biometric personal data, and personal data on records of criminal and administrative offences may be processed only by persons designated by relevant laws, and only for specific purposes.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	No. However, with regards to medical data, they are not very likely to be subject to SAR to the FAU.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	In general, the AML data provided by the obliged subjects are exempt from any usual restrictions imposed on these types of data. However, each transfer would need to be considered carefully and provided strictly within the extent to the AML law and other applicable legislation, so that no rights or legal entities or natural persons are breached. Generally, transfers of personal data to countries without adequate protection measures (i.e. outside EEA and EU and Safe Harbour Regime) require approval of the Slovak Personal Data Protection Office. Each case is considered separately.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes, the general business secrecy is stipulated in the Act No. 513/1991 Coll., the Commercial Code as amended, and specific bank secrecy is stipulated in the Act No. 483/2001 Coll. on banks. Trade secrets are all facts with commercial, production or technical nature, related to the business, which have actual or at least potential material or immaterial value, which are not available in the relevant business circles, should be classified according to the will of the entrepreneur, and the entrepreneur adequately ensures their confidentiality. Bank secrecy means keeping confidential all the information and documents on matters relating to the client of the bank, that is not publicly accessible, in particular, information on transactions, account balances and deposit balances. The bank is obliged to keep this information confidential and protected from disclosure, misuse, damage, destruction, loss or theft. Information and documents on matters that are protected by bank secrecy cannot be disclosed to third parties with the prior written consent of the client. There are also other types of confidentiality prescribed by the relevant laws, such as attorney-client confidentiality, medical confidentiality, auditor confidentiality and other.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2001.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	The Central Bank of the Russian Federation: www.cbr.ru/eng/ Federal Service of Financial Monitoring ("FSFM"): http://www.fedsfm.ru/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	No specific guidance although there have been various amendments to the federal AML law signed in 2001 (with the latest amendment dated July 2012) and a number of recommendations and instructions issued by public authorities.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The last mutual evaluation has been conducted in 2008: http://www.fatf-gafi.org/topics/mutualevaluations/documents/mutualevaluationoftherussianfederation.html

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	For legal entities, there is no specific threshold under which the due diligence is not required. For individuals the minimum threshold is set as RUB15,000 (approx EUR375). However, there are thresholds above which compulsory control (which means report to regulator) is required, for example, when: a) the amount of transaction is equal to or exceeds RUB600,000 (approx EUR15,000) if it is in petty cash or wire transfer to the payee located in countries which do not follow FATF recommendations, certain transactions with bank deposits, etc; b) transactions with immovable assets if the amount is equal to or exceeds RUB3,000,000 (approx EUR75,000); or c) receipt of monetary funds or other assets by non-profit organisations from foreign entities if the amount is equal to or exceeds RUB200,000 (approx. EUR5,000).
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Legislation requires collection by the Bank or the non-credit institution of original documents or notarised copies of all documents supporting KYC information.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	No independent verification requirements beyond collection of original documents/notarised copies of documents.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Identification of UBOs was introduced as a legal requirement in Summer 2013. Legislation requires identification (and collection of documents, such as passport copies) of all UBOs exceeding 25% ownership. Where the Bank has exercised reasonable effort to identify the beneficiary, but this has not been disclosed by the client, the Bank or the non-credit institution is allowed to show the client's managing organ (such as its general director) as the UBO.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Russian legislation does not generally provide for SDD.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	EDD is not generally prescribed as a concept by Russian legislation (generally, all clients are subject to the same level of DD referred to as identification, which is mostly around collection of a number of standard documents). However, in certain circumstances where the Bank or the non-credit institution has reasonable doubts around the validity of information or suspicions of money-laundering – it is given "a right" to request or collect additional information or documents.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Identification of PEPs in the client population is required, only natural person clients which are PEPs (and not UBOs) need to be identified/flagged. Additional DD for PEPs includes monitoring of source of funds.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Local regulations state that for the establishment of correspondent relations with non-resident banks, the institution shall request, in addition to standard identification information, documents and information about AML controls of the correspondent Bank. The decision on the establishment of such relations shall be adopted with the consent of the head of the institution or of the institution's employee as authorised to do so.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes (the Bank is prohibited to have transactions with Banks that do not have a permanent representation/location/operations in the country of registration).

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Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	None stated in local regulations.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	FSFM: http://www.fedsfm.ru/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Very regulated/prescriptive requirements to report (both based on volume, type of transactions and nature of transactions). Companies are obliged to verify the source and report transactions (also refer to A8 above) if: a) the amount of transaction is equal to or exceeds RUB600,000 (approx EUR15,000), if it is in petty cash or wire transfer to the payee located in countries which do not follow FATF recommendations, certain transactions with bank deposits, finance lease arrangements, income from lottery, transactions with precious metals, etc.; b) transactions with immovable assets if the amount is equal to or exceeds RUB3,000,000 (approx EUR75,000); c) receipt of monetary funds or other assets by non-profit organisations from foreign entities if the amount is equal to or exceeds RUB200,000 (approx EUR5,000); or d) any transaction in which the receiver or sender is located in a country which does not have AML legislation and which does not cooperate with other countries in the area of AML, etc.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Transactions below RUB15,000 unless there are reasonable suspicions.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, but the amount and action (e.g. withdrawal of a licence) depends on the specific case.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	There are specific instructions which were issued by FSFM on 5 October 2009 (with amendments on April 2012) in respect of suspicious transaction reporting and, in particular, using electronic tools or specialist software for reporting.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No. Upon receipt of suspicious transaction reports, FSFM may verify the information reported by the company and if necessary pass on the information to another competent government body for further consideration.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Subject to local legislation and inter-governmental agreements.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	There are established data protection laws in respect of personal data protection. In terms of banking secrecy laws – for all "banks" and credit institutions – this means that no client data can be viewed by external organisations, unless by external auditor during statutory audit.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes. All client data is subject to data security for credit organisations.



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Country by country comparison of high level Know Your Customer and Anti-Money Laundering information

Romania

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2002. Law no. 656/2002 with its subsequent amendments, together with Guidance Notes issued through the Government Decision No 496/2006 set out the local regulatory framework for the prevention and sanctioning of money laundering, as well as for establishing measures for the prevention of and fight against financing terrorist acts, with subsequent amendments in 2006, 2007, 2008, 2009, 2010, 2011 and 2012.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<ul style="list-style-type: none">a) The National Office for Prevention and Control of Money Laundering (www.onpcsb.ro);b) The National Office for Prevention and Control of Money Laundering and other specific institutions in their respective field of activity – National Bank of Romania (www.bnr.ro), National Insurance Commission (www.csa-isc.ro), National Securities Commission (www.cnvmr.ro) and the Private Pension System Supervisory Commission (www.csspp.ro);c) The National Office for Prevention and Control of Money Laundering.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The National Office for Prevention and Control of Money Laundering organises training seminars at least once a year regarding prevention of money laundering and of financing of terrorist acts.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - the 2008 amendments established the standard, simplified and enhanced customer due diligence rules and procedures.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Progress%20reports%20y/MONEYVAL(2011)14_ProgRep2ROMann_en.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - transactions below EUR15,000.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>The following information is required:</p> <p>Individuals: need to provide the following details:</p> <ol style="list-style-type: none">name;surname;citizenship; anddate of birth. <p>These details are normally verified by an identity card or passport.</p> <p>Legal entities: need to provide the following details:</p> <ol style="list-style-type: none">name;identification; andnames and dates of birth of individual members of the statutory bodies (such as board of directors) or administrators. <p>This is normally verified by an official extract from The National Trade Registry Office which proves existence of the entity. This applies to customers and real beneficiaries as well.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Copies of provided documents can be certified by a notary public.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>Beneficial owners are subject to the following requirements:</p> <ol style="list-style-type: none">identification of beneficial owners and the verification of their identity by taking risk-based and adequate measures;gathering of information on the purpose and nature of the established business relationship; andconducting continual monitoring of the business relationship with the respective customer.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Simplified due diligence arrangements apply to:</p> <ol style="list-style-type: none">domestic public authorities;life insurance under the conditions mentioned in the law and subscription to pension funds;electronic currency as defined by the regulations;a credit or financial institution from an European Union ("EU") member state or from the European Economic Area ("EEA"), or a credit or financial institution from a non-EU state or from a state outside the EEA that imposes similar anti-money laundering and fight against terrorist financing requirements and supervision; andtransactions and products that are low risk in respect to money laundering and financing of terrorist acts.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Enhanced due diligence measures are required in the following cases:</p> <ol style="list-style-type: none">non face-to-face transactions;in the case of correspondent relationships with credit granting institutions from non-EU countries and those countries that are not part of the EEA;transactions or business relationships with politically exposed persons who are resident in another EU member state or in the EEA, or in non-EU countries or countries outside the EEA; andin any other cases where it is considered that due to their nature a high risk in respect of money laundering and financing of terrorist acts is present.

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Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Additional due diligence is required for transactions or business relationships with PEPs who are resident in another EU member state or in the EEA, or in non-EU countries or countries outside the EEA.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Enhanced due diligence must be performed for cross-border correspondent banking relationships with credit institutions in third countries.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes - the law specifies that credit institutions will not enter into correspondent relationships with a fictitious bank or with a credit institution where it is known that it allows a fictitious bank to use its accounts.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Additional due diligence is required for all non face-to-face transactions.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The National Office for Prevention and Control of Money Laundering: http://www.onpcsb.ro/html/english.php

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARS is not publicly available.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Transactions in cash over EUR15,000 must be reported.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Non-compliance is considered a misdemeanour and certain sanctions may be applied for non compliance, ranging from fines to the closure the entity breaching its obligation to report.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	There are regulatory requirements, applicable only to banks and other financial institutions.

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Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Local persons who are obliged to report suspicious transactions may rely upon the KYC checks made by 'third parties' (banks and financial institutions) from other Member States or from third countries applying KYC rules similar or equivalent to Romania there in.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	There is no specific legal requirement for an external auditor/other external organisation to report on the bank's AML systems and controls.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>Yes, Romania's personal data protection legislation exists mainly in Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data.</p> <p>a) Yes;</p> <p>b) They only apply in relation to the personal data of the individuals;</p> <p>c) Yes. It refers to "special categories of data", and it includes personal data regarding ethnic or racial origin, political, religious or philosophical beliefs or those of similar nature, trade-union allegiance, as well as personal data regarding the state of health or sex life, personal data regarding criminal or minor offences, as well as personal identification number or of other personal data with a general identification function. Additional protections depend on the category of data. In general, the additional protection consists of the requirements to process such data based exclusively on the express and unequivocal consent of the person. However, the processing of data regarding ethnic or racial origin, political, religious or philosophical beliefs or those of similar nature, trade-union allegiance, as well as personal data regarding the state of health or sex life is prohibited or it is very strictly regulated.</p> <p>Also, processing personal data regarding criminal offences committed by the data subject, or regarding previous criminal convictions, security measures or administrative or minor offence sanctions applied to the data subject, may be carried out only under the control of public authorities, within the limits of their powers given by law and under the terms established by the specific provisions in this field of law.</p>

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes. In general, the transfer of data to another data controller means that a new processing is made by a new data controller for its own purposes and that the authorisations obtained by the transferor to process any such special category of data may not automatically be transferred to the transferee along with the data. Therefore, such transferee – data controller - must obtain itself all the necessary authorisations. However, if the transferee is merely a data processor working under the supervision of the data controller (transferor), then the data processor's activity should be deemed covered by the transferor's authorisation. However, should the data processor be located in a country outside of EEA and which is not recognised as having a similar degree of protection of personal data, such transfer must be authorised by the Romanian Authorities.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Any processing of personal data in Romania falls under the protection of the Romanian laws regarding personal data processing.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes. Under Government Emergency Ordinance 99/2006 on credit institutions and capital adequacy, all facts, data and information on the activity performed, as well as of any fact, data or information at the credit institution's disposal, regarding the person, property, activity, business, personal or business relationships of clients, or any information related to the clients' accounts - balances, flows, operations, services or contracts concluded with its clients is protected by the banking secrecy law.



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Portugal

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Law No.25/2008 came into effect on 10/06/2008 and gave effect to the EU Third Money Laundering Directive. Law no. 52/2003 (Anti-Terrorism Law) has been amended in 2007 which created a new independent and free standing offence of financing terrorism.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	Article 38 of Law No.25/2008 provides that the supervisory authorities with responsibility for AML controls are as follows: a) The Bank of Portugal (Banco de Portugal): http://www.bportugal.pt/en-US/Pages/inicio.aspx ; b) Securities Market Commission (Comissão do Mercado de Valores Mobiliários) ("CMVM") http://www.cmvm.pt/en/Pages/default.aspx and Insurance and Pension Funds Supervisory Authority (Instituto Seguros de Portugal) ("ISP") http://www.isp.pt/NR/exeres/97C24D91-5FD7-4874-9D7D-FFE049D206D9.htm ; and c) The Service for Gambling Inspectorate in respect of casinos and operators awarding betting or lottery prizes (Serviço de Inspeção de Jogos do Turismo de Portugal), Institute for Construction and Real Estate for real estate agents as well as agents buying and reselling real estate and construction entities selling property directly (Instituto da Construção e do Imobiliário), Economy and Food Safety Authority for persons trading in goods, only to the extent that such payments are made in cash in an amount of EUR15,000 or more (Autoridade de Segurança Alimentar e Económica), The Order of Statutory Auditors (Ordem dos Revisores Oficiais de Contas), Chamber of Chartered Accountants (Câmara dos Técnicos Oficiais de Contas), The Institute for Registrars and Notaries (Instituto dos Registos e do Notariado), The Bar Association (Ordem dos Advogados) and The Chamber of Solicitadores (Câmara dos Solicitadores).
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	N/A
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No - however, entities should retrospectively review documentation to identify pre-existing customers based on materiality and risk criteria, namely the characteristics of the account, the customer and the business relationship with the customer in order to identify accounts that need an immediate update.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – Article 10 of Law No.25/2008 provides that in compliance with identification and diligence duties, financial institutions can adapt the nature and scope of the verification and diligence procedures, taking into account the risk associated with the type of customer, the business relationship, the product, the transaction and the origin or the purpose of the funds.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>The last IMF Country Report was published in November 2013. The report is the eighth and ninth country reviews under the extended arrangement and request for waivers of applicability of End-September Performance Criteria. The report can be accessed here: http://www.imf.org/external/pubs/cat/longres.aspx?sk=41050.0</p> <p>Portugal has not been subject to an FATF review in the last three years. The most recent Third Round Mutual Evaluation Report was published on 13/10/2006. The most recent Second Biennial Update to the Mutual Evaluation of Portugal was published in September 2010: http://www.fatf-gafi.org/media/fatf/documents/reports/mer/PT_SecondUpdateReport_2010.pdf</p>

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – Article 7 of Law No.25/2008 provides an exemption for occasional transactions under EUR 15,000. For financial institutions, according to Instrução 26/2005 of Banco de Portugal, the threshold is EUR 12,500, in the case of one off or linked transactions.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: should provide a valid document with: Full name, date of birth, nationality, address, profession, work address, tax identification number and photo and politically exposed job/function.</p> <p>Legal persons: Should provide a valid document with the headquarters address, identification number (should be made through the card named Cartão de Identificação de Pessoa Colectiva), shareholder identification for individuals who hold more than 25% of the voting rights, and identification of the board of directors. For non-resident entities, equivalent documentation is required.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	The copies of documentation can be certified by external third parties such as notaries.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Management Board and shareholder identification must be obtained for individuals who hold more than 25% of the voting rights. Identification and verification requirements for beneficial owners are the same as those for individuals or companies listed above.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Articles 11 and 25 provide that except where there are suspicions of money laundering or terrorist financing, simplified due diligence can be adopted in the following situations:</p> <ol style="list-style-type: none"> Financial entities shall not be subject to the identification requirement where the customer is a financial entity set up in a European Union Member State or in a third country which imposes equivalent requirements in respect of money laundering and terrorist financing prevention; The customer is a listed company whose securities have been admitted to trading in a regulated market in any EU Member State, as well as listed companies in third country markets, which are subject to equivalent reporting obligations; The customer is the State, autonomous regions, local authorities, a legal person governed by public law, of any nature, integrated in the central, regional or local governments; The customer is a public authority or body with transparent accounting practices and subject to monitoring; The customer is the entity providing postal services or is the Treasury and Government Debt Agency; Issuance of electronic money, whose monetary value is stored on an electronic device and represents a claim on the issuer, issued on receipt of funds or an amount not less than the monetary value issued and accepted as a means of payment by undertakings other than the issuer; Life insurance policies, pension fund contracts or similar savings schemes where the annual premium or contribution is no more than EUR1000 or the single premium is no more than EUR2,500; Insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral; and Pension superannuation or similar schemes that provide retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme.

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Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Article 12 provides that entities should apply enhanced due diligence measures in respect of customers and transactions which by their nature or characteristics present a higher risk of money laundering or terrorist financing. This includes: <ul style="list-style-type: none">a) Non-face-to-face transactions and in particular to those operations that may favour anonymity;b) Operations carried out with PEPs resident outside the jurisdiction; andc) Correspondent banking operations with credit institutions established in third countries and any others designated by the competent supervisory or monitoring authorities.

Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Article 12(4) provides that a non-resident PEP relationship requires additional due diligence. When establishing a relationship with a non-resident PEP entities should: <ul style="list-style-type: none">a) Have appropriate risk-based procedures to determine whether the customer is a PEP;b) Have senior management approval for establishing business relationships with such customers;c) Take adequate measures to establish the source of wealth and the source of funds that are involved in the business relationship or occasional transaction; andd) Conduct enhanced ongoing monitoring of the business relationship;

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Enhanced due diligence is not required in the case of correspondent banking relationships with financial institutions in EU Member States. Article 26 provides in the case of cross border relationships with institutions in third countries that the following enhanced due diligence measures should be adopted: <ul style="list-style-type: none">a) The correspondent should gather sufficient information about a respondent institution to fully understand the nature of the respondent's business, to assess the respondent institution's anti-money laundering and anti-terrorism financing controls and to determine from publicly available information the reputation of the institution and the characteristics of its supervision;b) Approval should be obtained from senior management before the establishment of a new banking relationship and the respective responsibilities documented; andc) If the correspondent relationship involves payable through accounts, the institution shall be satisfied that the respondent has verified the identity of the customer and performed due diligence on the customer having direct access to the accounts, ensuring that all these elements of information can be provided upon request.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Article 12 provides that non face-to-face relationships (especially those that can favour anonymity) require enhanced due diligence. In these cases, the institution should demand additional documentation or information considered adequate to check or certify the data provided by the customer and ensure the first credit or debit is made through an account opened in the customer's name.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	SARs are made to Policia Judiciaria - http://www.pj.pt/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
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A20.	No.
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Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
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A21.	No.
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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
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A22.	<p>Articles 16 and 53 provide that failure to report suspicious activity is an offence. Articles 19 and 53 provide that disclosure as to the making of such a report constitutes an offence. Article 54 provides that breaches of regulations outlined in Article 53 shall be punishable as follows:</p> <ul style="list-style-type: none">a) Where the offence is committed within the scope of activity of a financial entity:<ul style="list-style-type: none">a. By a fine from EUR 25,000 to EUR 2,500,000, where the offender is a legal person;b. By a fine from EUR 12,500 to EUR 1,250,000, where the offender is a natural person;b) Where the offence is committed within the scope of activity of a non-financial entity, with the exception of lawyers and solicitors:<ul style="list-style-type: none">a. By a fine from EUR 5,000 to EUR 500,000, where the offender is a legal person;b. By a fine from EUR 2,500 to EUR 250,000, where the offender is a natural person. <p>Article 55 provides for the imposition of additional penalties which includes prohibition or publicity.</p>
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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
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A23.	No.
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Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
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A24.	No.
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Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
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A25.	No.
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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
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A26.	Notice of Banco de Portugal No 9/2012 defines the risk management information report regarding anti-money laundering and terrorism financing internal control. This report must be attached with a formal opinion from the bank's audit committee or equivalent body.
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Q27.	If an external report on the bank's AML systems and controls is required: <ul style="list-style-type: none">a) how frequently must the report be provided?b) to whom should the report be submitted?c) is it part of the financial statement audit?
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A27.	<ul style="list-style-type: none">a) The report is provided annually;b) The report is submitted to Banco de Portugal;c) No.
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Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	a) Yes; b) Notice 25/2008 does not prevent financial institutions and non-financial entities exchanging information that concerns a joint business relationship on the same client, if their sole purpose is preventing money laundering and terrorist financing. In addition, all entities are subject to equivalent obligations of professional secrecy and protection of personal data is established in other Member States of the European Union or equivalent third country prevention of money laundering and terrorist financing; c) Yes.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	There are no prohibitions within the EU.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The Act on Countering Money Laundering and Terrorist Financing 2000 became effective in 2001. The Act was amended to provide for implementation of the Third EU Anti-Money Laundering Directive which took place on 25/07/2009 and came into effect on 22/10/2009.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<ul style="list-style-type: none">a) The Polish Financial Supervisory Authority www.knf.gov.pl supervises financial institutions in full cooperation with the General Inspector of Financial Information ("Generalny Inspektor Informacji Finansowej") within the Ministry of Finance: http://www.mf.gov.pl/en/aml-ctf/newsb) The National Bank of Poland is responsible for the supervision of the currency exchange officers and the National Savings and Credit Cooperative Union supervises the credit unions.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The Polish Banking Association ("ZBP") developed guidance concerning AML practices. The Regulator provides limited guidelines concerning AML procedures which are published on the website of the General Inspector of Financial Information.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The most recent Report on Fourth Assessment Visit on Poland was conducted by MONEYVAL and published on 11/04/2013 : http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/PL4-SUMMMONEYVAL%282013%292_en.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes, the obligation to conduct full customer due diligence does not apply to occasional transactions below EUR15,000. For life insurance below the threshold of EUR1,000 per year (or EUR2,500 in case of a one off payment). Lower thresholds allowed in relation to electronic payments (EUR150 for regular premiums and EUR2,500 for single premiums).
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: Determining and noting the distinguishing features of a document confirming the person's identity pursuant to separate regulations, or of a passport, as well as the first name, last name, the citizenship and address of the person executing the transaction, and furthermore the PESEL (national citizens' registry) number in the case of the identification on the basis of identity card or date of birth for a person without a PESEL number, number of ID for foreigners and country code in the case of the passport. Legal entities: Up-to date information from a court registry extract or other document specifying its name, the organisational form of the legal entity, its location, address and tax ID number, as well as the name, surname and PESEL or date of birth of the person executing the transaction to represent the legal entity.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Not stated in local regulations or guidance regarding external third party certification. Certification of copies of identification documents may be made by a state authority, a notary public or a lawyer.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Local guidance requires verification of the identity of appropriate beneficial owners holding 25% or more. Where a principal owner is another corporate entity or trust, the firm should take measures to establish the identities of its beneficial owners or trustees, unless that company is publicly traded. The firm will then judge which of the beneficial owners exercise effective control, and whose identities should therefore be verified.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Simplified due diligence arrangements may be applied for: a) Clients registered in EU or equivalent country; b) Central / local government entities; c) Life insurance arrangements (if year contribution is less than EUR1,000 or one time contribution is less than EUR2,500; d) Insurance policy if the policy cannot be transferred to a different person and cannot be credit provision; e) Electronic money if the value is less than EUR250; f) Transactions where the supplier can track the transfer and it is less than EUR1,000; or g) Companies listed on regulated markets in EU or equivalent countries.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced customer due diligence is required for: a) A company engaged in activities that are assessed to carry a higher money laundering risk; b) PEPs; c) The establishment of a non-face-to-face business relationship; or d) A financial institution operating in jurisdictions where AML law is assessed as inadequate.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Article 9e requires that in the case of PEPs a obligated institution: a) Apply measures, adequate to the risk determined by the institution, in order to establish the source of funds; b) Maintain constant monitoring of conducted transactions; c) Conclude a contract with a client after having obtained the consent of the board, the designated member of the management board or a person designated by the board or a person responsible for the activities of the obligated institution; d) May collect written statements on whether a client is a person holding a politically exposed position, which are given under the penal liability for providing data incompatible with the facts.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Article 9e of the Act requires that enhanced due diligence should involve further consideration of the following elements, designed to ensure that the bank has secured a greater level of understanding with corresponding banks overseas (other than those based in the EU or other states with equivalent AML regulations): <ul style="list-style-type: none">a) Collect information allowing the correspondent allowing it to determine the scope of operations and whether the respondent is supervised by a competent regulator;b) Assess measures taken by the respondent in counteracting AML/CFT;c) Prepare documentation determining the scope of responsibilities of the correspondent and respondent;d) Ascertain with respect to payable through accounts that the respondent has taken appropriate actions in accordance with procedures on the application of CDD measures in respect of clients having direct access to the respondent's bank accounts and that such information could be provided upon request; ande) Obtain consent of senior management.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Article 9e of the Act requires that establishment of a non-face-to-face business relationship requires enhanced due diligence. As a minimum, one of the following actions is required: <ul style="list-style-type: none">a) Verification of the customer's identity against additional documents;b) Certification of copies of identification documents by an appropriate authority; orc) Confirmation that the customer's initial transaction was made through an account in the customer's name with another financial institution.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	General Inspector of Financial Information: http://www.mf.gov.pl/en/aml-ctf/news

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 2,427 SARs (General Inspector of Financial Information – activity report for the year 2012) GDP (in current prices): 2012 – USD489,795 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD 201.8 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes, Article 8 requires that certain transactions above the threshold of EUR15,000 as well as related transactions where the aggregated amount exceeds the threshold should be reported. Article 8 provides exemptions to the requirement to report <i>inter alia</i> in the case of incoming transfers unless they are cross border, or transfers between accounts of the same customer, transfers on the interbank market.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>Article 34a provides for fines where an obligated institution fails to register any transactions above the required threshold of EUR15,000. Article 34c provides that such fines will be for an amount not higher than PLN750,000.</p> <p>In accordance with Article 35(1) failure to register a transaction, to submit documentation relating to the transaction to the GIFI or to store the register of such transactions or documentation for the required period of time, failure to report suspicious activity, failure to suspend a transaction or block an account can result in the punishment of imprisonment for up to 3 years. Pursuant to Article 35(2) tipping off is subject to a sentence of imprisonment for up to 3 years.</p>
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Suspicious transactions reported to the regulator should be suspended for 24 hours. If the regulator does not request further suspension of a transaction it can be processed. Based on the regulator's request a transaction can be suspended or account blocked for further 72 hours. A prosecutor can suspend a transaction or block an account for up to 3 months.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	The Act provides that as a rule it is the Polish General Inspector of the Financial Information that is officially authorised to monitor the transactions. However, bearing in mind that the Act implements the EU regulations (that should have been implemented by all Member States), it is likely that a transaction may be subject to monitoring outside Poland, on the basis stipulated by the local law of the foreign party of the transaction, especially in cases where a given transaction is performed with or via a foreign entity.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes, Poland has established personal data protection laws. a) Yes; b) Although corporate data is not considered as personal data, the processing of natural persons data (such as the representatives of a company) is subject to personal data protection law; c) Polish data protection law provides a catalogue of "sensitive personal data". They include data on: racial or ethnic origin, political opinions, religious or philosophic beliefs, religion, party or trade-union membership, data concerning health, genetic code, addictions, sexual life, data relating to convictions, decisions on penalty, fines and other decisions issued in any court or administrative proceedings. The processing of such data, as a general rule, is prohibited, unless one of the requirements permitting such processing is provided (e.g. the data subject provides written consent in that respect, such data processing is necessary to protect the data subjects interests, specific provisions of law enable such data processing etc.). Additional protections that apply to the processing of sensitive personal data include: prohibition of processing sensitive personal data before a data filing system is registered in the Polish Data Protection authority's register and an obligation to apply medium security level for protecting the data.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Information included in the credit reports is covered by the banking secrecy rules, which provide for a general prohibition on the data transfer (with certain exceptions). Criminal record and medical data constitute in turn sensitive data, which is subject to the limitations described in A29.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Polish Personal Data Protection Act, Polish Banking Law and other regulations on professional secrecy (brokerage secrecy, insurance secrecy etc.) including, amongst others, Act on Financial Instruments Trading, Act on Insurance Activity and the Act on Payment Services. Poland does not have a case law in the meaning of institution of common law. However the jurisprudence of Polish courts and the decisions of the Polish Data Protection authority provide guidelines how to transfer such information.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation?) If so, what data is subject to regulation?
A32.	Yes. The relevant law is contained in the Banking Law, Act on trading in Financial Instruments of 29/07/2005, National Bank of Poland Act of 29/08/1997, Act of 22/05/2003 on Insurance Activity. The Banking Law applies in the case of banks, their employees and anyone through whom the bank undertakes banking acts. They are bound by banking secrecy, which is applicable to all information regarding a banking act, whether obtained in the course of negotiations, or during the conclusion or performance of an agreement on the basis of which the bank undertakes the act. Some financial institutions and their employees are also obliged to keep their professional secrecy and there are specific regulations as to when data sharing may take place. Usually, this may happen upon written consent of their client. In addition, certain information of technical, technological, commercial or organisational character regarding the entrepreneur is covered by law concerning trade secrecy and cannot be revealed to third parties, if it was not disclosed to the public and the trade partner was directly advised by the client not to disclose such information.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2009 (15 April 2009). A new Circular No. 8/2009 was published by the Financial Supervisory Authority of Norway on 23 June 2009.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	Customer identification and verification of authentication.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	For a) and b): Finanstilsynet (The Financial Supervisory Authority of Norway) - http://www.finanstilsynet.no/en
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes, guidance by The Financial Supervisory Authority of Norway – Circular no 8/2009 - http://www.finanstilsynet.no/no/Artikkelarkiv/Rundskriv/2009/2-kvartal/Veiledning-til-ny-lov-og-forskrift-med-tiltak-mot-hvitvasking-og-terrorfinansiering
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - risk based customer due diligence and monitoring customer relationships on an ongoing basis.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes, latest report was 26 February, 2009 - http://www.fatf-gafi.org/media/fatf/documents/reports/mer/FoR%20Norway.pdf

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No. However some exception the limit is NOK40,000 (ex. dealers in movable property, including auctioneers, commission agents and etc).

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: a natural person's identity is normally verified by producing a document issued by a public authority, which normally contains full name, signature, photograph and personal identity number or D-number (non-residents liable to pay tax are registered with a unique D-number). Examples of suitable documents include a passport, bank card and driving licence.</p> <p>Corporates: a legal person's identity is verified by Certificate of Registration/Certificate of Incorporation from the Public Register.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Normally, the establishment of non-face-to-face business relationships is not allowed and the customer must physically appear either at the reporting financial institution or at an agent or outsource company, where identification and verification is performed. Copies can be certified in exceptional circumstances and must be verified by authorised persons, including postal employees, the police and lawyers or two adult persons.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The Money Laundering Act ("MLA") requires financial institutions (and many others) to verify the identity of beneficial owners on the basis of reasonable measures. The MLA defines 'beneficial owners' generally as the 'natural persons who ultimately own or control the customer and/or on whose behalf a transaction or activity is being carried out'. The definition is then further elaborated to describe five situations where a person 'in all cases' is to be regarded as a beneficial owner.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Norway has introduced simplified customer due diligence procedures. If a customer or transaction falls into specific cases, simplified customer due diligence will apply, such as: <ul style="list-style-type: none">a) financial undertakings listed in the Money Laundering Regulations;b) a financial institution in the European Union ("EU") and European Economic Area ("EEA"), and their correspondent financial institutions, which are compliant with the relevant FATF Recommendations;c) a financial institution listed or regulated in an EEA state or a financial institution subject to disclosure requirements consistent with those that apply to listing on a regulated market in an EEA state; andd) a Norwegian state or municipal administrative body.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	The MLA requires financial institutions to apply 'other customer due diligence measures', in addition to the basic customer due diligence measures stipulated in the MLA in the following cases: <ul style="list-style-type: none">a) situations that by their nature involve a 'high risk of transactions associated with proceeds of crime' or certain designated offences listed in the Criminal Code (including terrorist financing and terrorism offences);b) business relationships and transactions with PEPs; andc) correspondent banking relationships.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Reporting entities are required to conduct 'appropriate customer due diligence measures' to verify whether the customers are PEPs. Such measures include: <ul style="list-style-type: none">a) obtaining approval from senior management before establishing a customer relationship;b) taking appropriate measures to ascertain the origin of the customer's assets and of capital involved in the customer relationship or the transaction; andc) carrying out enhanced ongoing monitoring of the relationship.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	When establishing cross-border correspondent banking relationships with institutions outside the EEA area, institutions are required to: <ul style="list-style-type: none">a) gather sufficient information concerning the correspondent institution to fully understand the nature of its activities and, on the basis of publicly available information, to determine the reputation of the institution and the quality of supervision;b) assess the institution's control measures;c) ensure that the decision maker obtains approval from senior management before establishing a new correspondent relationship;d) document the respective responsibilities; ande) ascertain that the correspondent institution conducts ongoing monitoring of customers.

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Q16.	Are relationships with shell banks specifically prohibited?
A16.	No.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	The former requirement of face-to-face relationships is replaced by the implementation of risk based customer due diligence and ongoing monitoring of customer relationships.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	To ØKOKRIM; (Norwegian FIU). The National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway http://www.okokrim.no/artikler/in-english

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 - 4,069 SARs GDP (in current prices): 2012 – USD499,667 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD122.80 million per SAR.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	International wire transfers, foreign exchange and foreign credit and debit card transactions are reported to the: a) Foreign Exchange; b) Foreign Currency Register with the Norwegian Directorate of Customs; and c) Excise.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, breaches of the Money Laundering Act can be punished with fines or imprisonment for up to 1 year when special aggravating circumstances exists.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Yes, financial institutions have an obligation according to the Money Laundering Act to use electronic suspicious transaction monitoring systems.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes, as the principal rule, suspicious transactions shall not proceed before a report is made to the FIU (ØKOKRIM). ØKOKRIM can decide that the actual transaction shall not be effected.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Not mentioned in the regulations.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes, with reference to ISA 250.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) Every year; b) Every year, to the owners of the company, and in some cases to authorities; and c) Yes.
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	It is risk based. Can be none of the above, some or even more.

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes, prohibitions exist.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	There exists specific privacy legislation for certain sectors e.g. public sector, telecom sector which apply in addition to the Privacy Act.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No, this is likely to not be the case.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1993 (amended 2003). Revised legislation as per July 2008.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	a) De Nederlandsche Bank ("DNB"): http://www.dnb.nl/en/home/index.jsp ; b) DNB and Authority for the Financial Markets (Autoriteit Financiële Markten) ("AFM"): http://www.afm.nl/en ; c) DNB, Dutch Tax Administration http://www.belastingdienst.nl/wps/wcm/connect/bldcontenten/belastingdienst/individuals/ and Financial Supervision Office (Bureau Financieel Toezicht) ("BFT"): www.bureauft.nl .
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	a) http://www.dnb.nl/en/home/index.jsp ; b) http://www.afm.nl/en ; c) http://www.belastingdienst.nl/wps/wcm/connect/bldcontenten/belastingdienst/individuals/ and www.bureauft.nl .
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The latest FATF Mutual Evaluation Report on the Netherlands is dated 25/02/2011: http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Netherlands%20ES.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – Customer Due Diligence is not required for business relationships leading to one or more transactions with a total value of less than EUR15,000.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individual customers: Verification of individual customer identification information includes: a valid passport, a valid Dutch identity card, a valid identity card issued by the competent authorities in another Member State and bearing a photograph of the holder indicating the holder's name, a valid Dutch driver's licence, a valid driver's licence issued by the competent authorities in another Member State and bearing a photograph of the holder indicating the holder's name, travel documents for refugees and aliens or aliens' documents issued pursuant to the Aliens Act 2000.</p> <p>Corporate customers: For the identification of Dutch legal persons: an (online) extract from the Chamber of Commerce/Trade Register, a deed or statement drawn up or issued by a lawyer, a civil-law notary, a junior civil law notary or a comparable, independent legal professional who are resident in the Netherlands or in another Member State, a document showing that a religious community, or a religious body in which it is united, is affiliated with the Interchurch Contact in Government Affairs (Interkerkelijk Contact in Overheidszaken) or that the religious community or religious body has been designated as an institution as referred to in section 6.33(1)(b) of the Income Tax Act 2001 (Wet Inkomstenbelasting 2001), a document showing that an independent section of a religious community forms part of that religious community and the religious community fulfils the statutory provisions.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	If documents do not originate from public authorities or the courts, the institution will question if the documents are sufficiently reliable. Usually, such documents will, in and by themselves, be insufficient to verify identity in an adequate manner.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Ultimate Beneficial Owners need to be identified for legal entities - their identity needs to be verified based on independent, reliable documents. Both identification and verification can be performed in a risk-based manner.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Simplified due diligence arrangements are available for customers with a specific legal personality and a very technical and detailed set of products.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Based on the risk profile of the customer, transaction, product or country concerned, enhanced due diligence must always be carried out if: a) The customer is not physically present; b) The customer is a PEP; c) There is a correspondent banking relationship; or d) If facts or circumstances, including the country where the customer lives or is established, suggest a higher risk of money laundering or terrorist financing.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Enhanced due diligence measures are required in the case of transactions or business relationships with PEPs who live in a different country or Member State (regardless of their nationality); or who live in the Netherlands with a non-Dutch nationality.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Enhanced due diligence is required for all correspondent banking relationships outside the EU, whereby a number of factors need to be taken into account including, but not limited to: a) Obtaining sufficient information to obtain a full picture of the nature of the bank's activities; b) Evaluation of the reputation of the bank and quality of oversight based on publically available information; and/or c) Evaluation of procedures and measures to prevent money laundering and terrorist financing.

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Q16.	Are relationships with shell banks specifically prohibited?
A16.	It is forbidden to enter into a correspondent banking relationship with a shell bank. In addition banks are not permitted to enter into or continue a correspondent banking relationship with a credit institution that allows shell banks to use their accounts.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Identification in person is not obligatory in all circumstances. In summary, payment of services has to be done from a bank account. There are no additional requirements in local regulations or guidance. If identification cannot be done face-to-face this is regarded as high risk and requires to be adequately mitigated by enhanced due diligence.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Financial Intelligence Unit-Nederland: www.fiu-nederland.nl

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 – 209,239 SARs</p> <p>GDP (in current prices): 2012 –USD772,226 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD3.7 million of GDP.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Institutions with a duty to report are required to report unusual transactions. Guidance on objective and subjective indicators by industry sector which may indicate unusual transactions is provided on the FIU's website: http://en.fiu-nederland.nl/content/list-indicators

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	There are several different thresholds in place for a variety of objective indicators. There is no threshold for subjective indicators. See list of thresholds on the FIU's website: http://en.fiu-nederland.nl/content/list-indicators

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	There are penalties for non-compliance with the legal requirements.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Monitoring of the business relationship needs to be performed by the institution itself.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	The Netherlands has an established Data Protection Act: Wet bescherming persoonsgegevens (Wbp: Dutch Data Protection Act). a) Personal data is defined in a very broad manner in the Netherlands: "personal data shall mean: any information relating to an identified or identifiable natural person ;"(art. 1 sub a. Wbp). It is therefore very likely that personal data held for KYC purposes is covered by this Act; b) Art. 2 Wbp states: "This Act applies to the fully or partly automated processing of personal data, and the non-automated processing of personal data entered in a file or intended to be entered therein". Given the scope definition, corporate data is not covered by the Dutch Data Protection Act; and c) Article 16 Wbp contains a prohibition on the processing of sensitive personal data (such as religion, race, political persuasion, health and criminal past), unless one of the exemptions listed in articles 17-23 Wbp apply. Pursuant to Article 23(1)f Wbp, the Dutch DPA may grant an exemption, if this is required in view of substantial general interest and appropriate guarantees are offered to protect personal privacy.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	a) There are no specific restrictions on the transfer of credit reports; b) Concerning criminal records, art. 16 Wbp states that the processing of criminal personal data is not permitted: "It is prohibited to process personal data concerning a person's religion or philosophy of life, race, political persuasion, health and sexual life, or personal data concerning trade union membership, except as otherwise provided in this Section. This prohibition also applies to personal data concerning a person's criminal behaviour, or unlawful or objectionable conduct connected with a ban imposed with regard to such conduct." However, art. 22(2)a Wbp lists an exception: "The prohibition does not apply to responsible parties who process these data for their own purposes with a view to: a. assessing an application by data subjects in order to take a decision about them or provide a service to them". This exception only applies if the company is analysing the data itself. If third parties are involved, art. 31(1)c applies and a prior investigation has to be performed: "The Data Protection Commission shall initiate an investigation prior to any processing for which responsible parties: c. plan to process data on criminal behaviour or on unlawful or objectionable conduct for third parties other than under the terms of a licence issued under the Private Security Organisations and Investigation Bureaus Act." Companies within a concern are not subjected to a prior investigation; and c) Concerning medical data, the restriction of art. 16 Wbp also applies. Exceptions are stated in art. 21 Wbp. Regarding Pension Funds, art. 21(1)f states: "The prohibition on processing personal data concerning a person's health, as referred to in Article 16, does not apply where the processing is carried out by: administrative bodies, pension funds, employers or institutions working for them, provided that this is necessary for: 1°. the proper implementation of the provisions of laws, pension regulations or collective agreements which create rights dependent on the state of health of the data subject, or a 2°. the reintegration of or support for workers or persons entitled to benefit in connection with sickness or work incapacity."

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Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	<p>There are no specific restrictions on the transfer of personal data to the Netherlands.</p> <p>Transfer of data within the European Union The Wbp does not have any individual provisions governing data movements within the European Union ("EU"), as the Wbp implements the European Directive for the Dutch jurisdiction. Data movement from the Netherlands to another EU Member State thus only has to conform to the general requirements of the Wbp.</p> <p>Transfer to countries outside the European Union The Wbp has specific provisions for the movement of data to countries outside the European Union, the third countries (Chapter 11 Wbp). Third countries are all countries outside the European Union, with the exception of the countries of the European Economic Area ("EEA"). The countries of the EEA (Norway, Liechtenstein and Iceland) have undertaken to implement the directive in their own legislation.</p> <p>Appropriate level of protection The primary rule is that personal data may only be transferred to a third country if the general requirements of the Wbp have been conformed to and the third country ensures an adequate level of protection. For a number of countries, the European Commission has adopted decisions regarding the adequacy of the level of protection.</p> <p>No adequate level of protection If a third country does not provide an adequate level of protection, there are two possibilities for still being entitled to transfer data to these third countries:</p> <ul style="list-style-type: none">a) Transfer based on the exceptions mentioned in the Act (Art 77(1) Wbp); orb) Transfer based on a permit issued from the Minister of Justice. Such a permit will be made subject to additional conditions that serve as a guarantee for the protection of personal data. To apply for the permit, a form must be used. <p>The granting of such a permit will be facilitated if the model contracts prepared by the European Commission are used for the transfer.</p>
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The Prevention of Money Laundering Act was enacted in 1994 and was subject to a number of amendments thereafter.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<p>The Financial Intelligence Analysis Unit ("FIAU") serves as Malta's FIU and is the entity designated to fulfil the responsibilities of an FIU set out in the European Union's Third Money Laundering Directive (Directive 2005/60/EC) and the FATF 40 Recommendations: http://www.fiumalta.org/.</p> <p>The Malta Financial Services Authority ("MFSA") is the single regulator for financial services. This is a fully autonomous public authority, which reports to the Maltese Parliament on a regular basis. As an agent of the FIAU, the MFSA undertakes a number of on-site Anti-Money Laundering checks on its License Holders during its compliance visits.</p>
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The Prevention of Money Laundering Act and the Prevention of Money Laundering and Funding of Terrorism Regulations ("PMLFTR") are supplemented by the Implementing Procedures issued by the FIAU: http://www.fiumalta.org/implementing-procedures
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	<p>The PMLFTR require subject persons to apply customer due diligence ("CDD") measures to existing customers at appropriate times on a risk sensitive basis and when the subject person becomes aware that changes have occurred in the circumstances surrounding the established business relationship.</p> <p>The PMLFTR do not impose an obligation on subject persons to update all CDD documentation of all existing customers prior to 31/07/2008 when the PMLFTR came into force. However, since the PMLFTR require subject persons to update documentation of existing clients at appropriate times on a risk sensitive basis, subject persons are required to update the documentation of customers posing a higher risk, determined on the basis of the subject persons procedures for risk assessment and risk management, as soon as reasonably practicable. With respect to other customers, subject persons should update CDD documentation when certain trigger events occur, such as when an existing customer applies to open a new bank account or to establish a new relationship, or where an existing relationship changes.</p>
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	http://www.fiumalta.org/moneyval-evaluations/fourth-round

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	One off transactions (single or linked) under EUR15,000 do not require customer due diligence.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individual The following information should be obtained:</p> <ul style="list-style-type: none">a) official full name;b) place and date of birth;c) permanent residential address;d) identity reference number, where available; ande) nationality. <p>These should be verified against photographic evidence of identity listed through one of the following:</p> <ul style="list-style-type: none">a) a valid unexpired passport;b) a valid unexpired national identity card; orc) a valid unexpired driving licence. <p>The verification of the residential address shall be carried out by making reference to any one of the following documents:</p> <ul style="list-style-type: none">a) a recent statement from a recognised credit institution;b) a recent utility bill or any similar document as may be specified in sectoral implementing procedures issued by the FIAU;c) a correspondence from a central or local government authority, department or agency;d) a record of a visit to the address by a senior official of the subject person; ore) any government issued document listed in paragraph (1) above, where a clear indication of residential address is provided. <p>Legal entity The subject person is required to first identify the private company by gathering the following information:</p> <ul style="list-style-type: none">a) the company's official full name;b) the company's registration number;c) the company's date of incorporation or registration; andd) the company's registered address or principal place of business. <p>These should be verified by viewing one or more of the following documents:</p> <ul style="list-style-type: none">a) the certificate of incorporation;b) a company registry search, including confirmation that the private company has not been, and is not in the process of being dissolved, struck off, wound up or terminated; orc) the most recent version of the Memorandum and Articles of Association or other statutory document.

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Certification of the documentation is required <ul style="list-style-type: none">a) by a legal professional;b) accountancy professional;c) a notary;d) a person undertaking relevant financial business; ore) a person undertaking an activity equivalent to relevant financial business carried out in another jurisdiction.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Beneficial ownership refers to direct or indirect ownership or control of more than 25% of the shares or voting right. Refer to A9.

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<ul style="list-style-type: none">a) Applicants for business, which are authorised to undertake relevant financial business, including regulated entities in the financial sector. This provision also applies to applicants for business which are licensed or authorised to carry out activities equivalent to relevant financial business in another Member State of the European Community or in a reputable jurisdiction;b) Legal persons listed on a regulated market and which are subject to public disclosure requirements. These entities may either be authorised under the Financial Markets Act,⁴² an equivalent regulated market within the Community, or in a reputable jurisdiction.c) Beneficial owners of pooled accounts held by notaries or independent legal professionals;d) Certain domestic and foreign public authorities or bodies; and/ore) Legal persons who present a low risk of ML/FT.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>The PMLFTR refer to three specific types of relationships in respect of which enhanced due diligence ("EDD") measures must necessarily be applied:</p> <ul style="list-style-type: none">a) where the applicant for business has not been physically present for identification purposes;b) in relation to cross-border correspondent banking relationships; andc) in relation to a business relationship or occasional transaction with a PEP.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Subject persons are required to apply EDD measures to all PEPs as defined in the PMLFTR.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Where a credit institution seeks to establish such correspondent banking relationship it has to ensure that:</p> <ul style="list-style-type: none">a) it fully understands and documents the nature of the business activities of its respondent institution, including from publicly available information:<ul style="list-style-type: none">a. the reputation of the institution;b. the quality of supervision of that institution; andc. whether that institution has been subject to a ML/FT investigation or regulatory measure.b) it assesses the adequacy and effectiveness of the internal controls of the institution for the prevention of ML/FT;c) it obtains prior approval of senior management;d) it documents the respective responsibilities for the prevention of ML/FT; ande) it is satisfied that, with respect to payable through accounts, the respondent credit institution has verified the identity of and performed ongoing due diligence of the customers having direct access to the accounts of the respondent institution and that it is able to provide relevant CDD data upon request.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Credit institutions are prohibited from entering into, or continuing, correspondent banking relationships with shell banks.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>Where the applicant for business has not been physically present for identification purposes, subject persons are required to apply one or more of the following measures:</p> <ul style="list-style-type: none">a) establish the identity of the applicant by using additional documentation and information;b) verify or certify the documentation supplied using supplementary measures;c) require certified confirmation of the documentation supplied by a person carrying out relevant financial business; and/ord) ensure that the first payment or transaction into the account is carried out through an account held by the applicant for business in his name with a credit institution authorised under the Banking Act or otherwise authorised in another Member State of the Community or in a reputable jurisdiction <p>Also refer to A13.</p>

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Reporting	
Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Financial Intelligence Analysis Unit serves as Malta's FIU and is the entity designated to fulfil the responsibilities of an FIU set out in the European Union's Third Money Laundering Directive (Directive 2005/60/EC) and the FATF 40 Recommendations: http://www.fiumalta.org/
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 – 142 SARs</p> <p>GDP (in current prices): 2012 – USD8,722 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD61.42 million of GDP.</p>
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>(1) Subject persons shall examine with special attention, and to the extent possible, the background and purpose of any complex or large transactions, including unusual patterns of transactions, which have no apparent economic or visible lawful purpose, and any other transactions which are particularly likely, by their nature, to be related to money laundering or the funding of terrorism, establish their findings in writing, and make such findings available to the Financial Intelligence Analysis Unit and to the relevant supervisory authority in accordance with applicable law.</p> <p>(2) Subject persons shall pay special attention to business relationships and transactions with persons, companies and undertakings, including those carrying out relevant financial business or a relevant activity, from a jurisdiction that does not meet the criteria of a reputable jurisdiction as defined in regulation 2, and, where the provisions of sub regulation (1) apply to such transactions, subject persons shall proceed as provided for in sub regulation (1).</p>
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Non compliance with procedures including tipping off shall on conviction be liable to a fine ("multa") not exceeding EUR50,000 or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	<p>Appropriate consent is the consent of the FIAU to proceed with a transaction that is suspected or known to be related to ML/FT, in accordance to Article 28 and Regulation 15(7).</p> <p>The subject person will need to inform the FIAU before executing the transaction. After acknowledging receipt of the information, the FIAU will determine whether the execution of the transaction should be delayed. The execution of the transaction may be delayed by 24 hours and notice of such delay of execution shall be immediately given to the subject person.</p>

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes. a) In terms of the Data Protection Act (Chapter 440 of the Laws of Malta) ("DPA") the term "personal data" means "any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity"; b) The DPA expressly provides that its provisions are to "...apply to the processing of personal data, wholly or partly, by automated means and to such processing other than by automated means where such personal data forms part of a filing system or is intended to form part of a filing system." Hence, the DPA should apply to data which falls within the definition of "personal data". Furthermore, non-living entities should fall outside the scope of the DPA; c) The DPA defines the term "sensitive data" as "...personal data that reveals race or ethnic origin, political opinions, religious or philosophical beliefs, membership of a trade union, health, or sex life". The general rule is that sensitive personal data may only be processed if the data subject: a. has given his explicit consent to processing; or b. has made the data public.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	In general, the data subject should be required to give his/her consent to the disclosure of personal data by the Controller to third parties. In addition, in terms of the DPA the "...transfer to a third country of personal data that is undergoing processing or intended processing, may only take place subject to the provisions of this Act and provided that the third country to which the data is transferred ensures an adequate level of protection." Furthermore, the DPA expressly provides that "It is for the Commissioner to decide whether a third country ensures an adequate level of protection. The transfer of personal data to a third country that does not ensure adequate protection is prohibited." The website maintained by the Office of the Information and Data Protection Commissioner explains that a transfer of personal data to another country constitutes processing and as such must be notified to the Commissioner in the same way as other processing operations. However, no restrictions or other formalities apply in relation to transfer of personal data to: a) EU Member States; b) Member countries of the EEA; and c) Third countries (i.e. countries that are not Member States of the European Union) which are from time to time recognised by the EU Commission to have an adequate level of protection; and d) Organisations complying with the US Department of Commerce's Safe Harbour Privacy Principles.

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Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	<p>We are not aware of any case law, laws or regulations that may impact upon the transfer of information to Malta.</p> <p>However, as noted on the Office of the Information and Data Protection Commissioner website (http://idpc.gov.mt/), the Commissioner is required to collaborate with supervisory authorities of other countries to the extent necessary for the performance of his duties, in particular by exchanging all useful information, in accordance with any convention to which is a party or other international obligation. Hence, bilateral agreements are in place with third countries for the transfer of data.</p>
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	<p>Yes.</p> <p>Article 257 of the Criminal Code (Chapter 9 of the Laws of Malta) ("CC") provides that the disclosure of secret information by any person, who by reason of his calling, profession or office, becomes the depository of any secret confided in him, is an offence. This should not apply if such person would have been compelled by law to disclose such information.</p>

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
 January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	<p>1993 (amended 2004, 2008, 2010, 2012). In Luxembourg, the EU's 3rd AML Directive was implemented in 2008.</p> <p>Laws & Regulations in force in Luxembourg for AML:</p> <ul style="list-style-type: none"> a) Law of 12/11/2004 as amended on the fight against money laundering and terrorist financing: http://www.cssf.lu/fileadmin/files/Lois_reglements/Legislation/Lois/L_121104_AML_upd120713_eng.pdf b) Grand-ducal regulation of 01/02/2010 providing details on certain provisions of the amended law of 12/11/2004 on the fight against money laundering and terrorist financing: http://www.cssf.lu/fileadmin/files/Lois_reglements/Legislation/Reglements/gdr_aml_ft_01022010_eng.pdf ; c) Law of 27/10/2010 enhancing the anti-money laundering and counter terrorist financing legal framework; organising the controls of physical transport of cash entering, transiting through or leaving the Grand Duchy of Luxembourg; implementing United Nations Security Council resolutions as well as acts adopted by the European Union; concerning prohibitions and restrictive measures in financial matters in respect of certain persons, entities and groups in the context of the combat against terrorist financing: http://www.cssf.lu/fileadmin/files/Lois_reglements/Legislation/Lois/L_271010_AML_TF.pdf ; d) Grand-ducal regulation of 29/10/2010 (co-ordinated version) enforcing the law of 27/10/2010 implementing United Nations Security Council resolutions as well as acts adopted by the European Union concerning prohibitions and restrictive measures in financial matters in respect of certain persons, entities and groups in the context of the combat against terrorist financing: http://www.cssf.lu/fileadmin/files/Lois_reglements/Legislation/Reglements/GDR_291010_restr_meas_upd030811.pdf; CSSF Regulation N°12-02 of 14/12/2012 on the fight against money laundering and terrorist financing: http://www.cssf.lu/fileadmin/files/Lois_reglements/Legislation/Reglements/RCSSF_No12-02eng.pdf; e) Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15/11/2006 on information on the payer accompanying transfers of funds: http://www.cssf.lu/fileadmin/files/Lois_reglements/Legislation/Reglements/regulation_EC_1781_2006.pdf.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	<p>The Law effective 27/10/ 2010 comes as a consequence of the recommendations made by the FATF in early 2010. This Law reinforces and clarifies the previous legislation.</p> <p>CSSF regulation 12-02 of 14/12/2012 on the fight against money laundering and terrorist financing confers a legally binding character to existing professional obligations that were, until now, set forth in the form of CSSF circulars.</p>
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<p>The supervisory authorities are as follows:</p> <ul style="list-style-type: none"> a) Banking : Commission de Surveillance du Secteur Financier ("CSSF") http://www.cssf.lu/en/ ; b) Other financial services: CSSF http://www.cssf.lu/en/; c) Non-financial sector: lawyers (barrister of the Bar); and d) Insurance: CAA (Commissariat aux Assurances) http://www.commassu.lu/.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>A practical guide for the funds industry has been published by Association of the Luxembourg Fund Industry ("ALFI"): http://www.alfi.lu/sites/alfi.lu/files/files/Alfi%20guidelines%20and%20recommendations/Guidelines-ABBL-ALCO-ALRIM-final.pdf</p>

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Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes.

Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	<p>Yes.</p> <p>CSSF Regulation 12-02 stresses that all AML/CTF measures taken have to be properly aligned to the assessed risk. The risk based approach methodology set forth in the Regulation comprises a risk assessment based on various criteria such as client risk, country risk, risk associated with products, transactions or the distribution/selling of the product. For the investment fund industry, the latter risk variable will be of particular relevance.</p> <p>With regards to the written AML/CTF risk assessment of the professionals' own activity, an obligation as required by the Law of 12/11/2004, as amended, and Article 5 of the Regulation specifies that:</p> <ol style="list-style-type: none"> The risk assessment of each new client and for each new product needs to be done prior to client acceptance/product launch; The risk score of each client must be kept up to date; and The professional must be in a position to communicate its risk assessment to the CSSF.

Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes - http://www.fatf-gafi.org/countries/j-m/luxembourg/documents/mutualevaluationofluxembourg.html

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – one-off transactions (single or linked) under EUR15,000 for occasional customers.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: Pursuant to Article 18 of the Regulation 12-02, the identity of a customer must be verified by means of a valid official document issued by a competent authority and bearing a photo and signature. In addition to passports and identity cards, other official documents such as residential permits can be accepted. Article 24 of the Regulation now clearly states that when establishing the client relationship, the information on the origin of funds must be part of this initial customer due diligence.</p> <p>Corporates: Articles of Association (or equivalent), extract of the Commercial Register (or equivalent), business authorisation if the entity manages funds of third parties, identification of the beneficial owners and of the persons with authorised signatures.</p>

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	If non face-to-face business is conducted, the copy should be certified as true by a competent authority, for example a consulate, embassy, police station or notary.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Beneficial owners must be identified and their identification needs to be verified in line with the requirements applicable to a natural person. Article 23 of the Regulation 12-02 confirms that a beneficial owner can, notwithstanding the 25% of ownership threshold, be a person who owns or controls less than 25% of a legal structure but who is nevertheless the person who ultimately controls the legal structure. According to Article 17 of the Regulation 12-02, the professionals are required to obtain a declaration of beneficial ownership signed by their clients. The beneficial owner is no longer required to sign such a declaration himself, but the clients must inform the professional in case of any change in beneficial ownership.

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Simplified due diligence arrangements are listed in Article 3-1 of the Luxembourg AML Law. Examples of simplified due diligence arrangements include: <ul style="list-style-type: none">a) Where the customer is a credit or financial institution subject to equivalent AML regulations and which is supervised;b) On certain conditions, pooled accounts held by notaries and other legal independent professionals;c) Where the customer is a Luxembourg public authority;d) Insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral;e) Pension schemes that provide retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the transfer of rights; andf) Where the customer is a listed company whose securities are admitted to trading on a regulated market within the meaning of Article 1-11 of the law of 13 July 2007 in one or more European Union ("EU") Member States or a listed company in a third country subject to disclosure requirements consistent with EU legislation.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced customer due diligence measures are required in situations which by nature present a higher risk of money laundering or terrorist financing and at least in the cases listed in Article 3-2 of the Luxembourg AML Law (for example non face-to-face business, foreign PEPs and cross-frontier correspondent banking relationships with respondent institutions from non EU countries).
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Enhanced due diligence measures are required for foreign PEPs, including the implementation of an appropriate risk-based procedure to detect such foreign PEPs. Such measures should include senior management approval of customer acceptance, ascertaining the source of wealth/income and ensuring enhanced on-going monitoring of the relationship.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	For correspondent banking relationships, the correspondent bank must: <ul style="list-style-type: none">a) Gather sufficient information about the respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision;b) Assess the respondent institution's AML and CTF controls;c) Obtain approval from senior management before establishing new correspondent banking relationships;d) Document the respective responsibilities of each institution; ande) With respect to payable-through accounts, be satisfied that the respondent credit institution has checked the identity of and performed on-going due diligence on the customers having direct access to the accounts of the correspondent and that it is able to provide relevant customer due diligence data to the correspondent institution upon request.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes - it is prohibited to enter into, or continue a correspondent banking relationship with a shell bank or with a bank that is known to permit its accounts to be used by a shell bank.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Enhanced due diligence measures are required for non-face-to-face customers. These include: <ul style="list-style-type: none">a) Obtaining additional documents, data or information that ensures adequate identification of customers;b) Performing additional measures to verify or certify the identification documents (for example, copies of identification documents certified true by a credit or financial institution or by a competent authority); orc) First payment to be drawn on an account opened in the customer's name with a credit institution.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Financial Intelligence Unit ("FIU") of the Luxembourg Public Prosecutors: http://www.justice.public.lu/fr/actualites/2010/09/rapport-activite-crf/index.html

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Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012: 11,423 GDP (in current prices): 2012: USD57,177 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD5 million of GDP.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No - all suspicious transactions, regardless of the amount have to be reported.
Q22.	Are there any penalties for non-compliance with reporting requirements e.g. tipping off?
A22.	Offenders who knowingly violate AML/CTF legislation could face a fine up to EUR1.25 million and those guilty of professional negligence could face administrative and disciplinary sanctions.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	There is no legal or regulatory obligation to use automated suspicious transaction monitoring technology. However, it is highly recommended by the authorities to implement such a tool (CSSF circular 08/387).
Q24.	Is there a requirement to obtain authority to proceed with a current/on-going transaction that is identified as suspicious?
A24.	Professionals must refrain from carrying out a transaction which they know or suspect to be related to money laundering or terrorist financing before having informed the FIU. The FIU can give instructions not to execute one or more operations relating to the transaction or the customer. Where a transaction is suspected of giving rise to money laundering or terrorist financing and where to refrain in such manner is impossible or is likely to frustrate efforts to pursue the beneficiaries of a suspected money laundering or terrorist financing operation, the professionals concerned shall submit the necessary information immediately afterwards.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	In practice, because of professional confidentiality, the monitoring of transactions is not performed outside the jurisdiction. However, credit institutions and professionals of the financial sector forming part of a financial group shall guarantee to the group's internal control bodies, where necessary, access to information concerning specific business relations, to the extent that this is needed for the global management of legal risks and risks to their reputation in connection with money laundering or the financing of terrorism within the meaning of the laws of Luxembourg.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes.

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Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) Annually; b) Regulator (CSSF or the CAA); c) Yes, in the Long Form Report.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	a) Yes; b) Yes; c) Yes.

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes, the Law of 2/8/2002 on the protection of personal data transposes the EU Directive 95/46/CE. a) To the extent that KYC material includes information about individuals this falls within the definition of "personal data"; b) The Law does not cover corporate data but only personal data. Corporate entities related data are not in the scope of the Law; c) No. The Law adopts the EU directive definition for data of sensitive nature. In some cases, the processing of such data is prohibited; in other cases it requires an approval from the local Data Protection Authority.

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes, such processing is not prohibited but requires consent and to pass the "loyalty", "legitimacy", "proportionate", etc. usual tests: Criminal record data cannot be processed except when so authorised by law. Medical data might be processed for life insurance purposes, subject to compliance with the legal requirements (consent, etc.).

Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.

Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation?) If so, what data is subject to regulation?
A32.	Yes, there is a bank secrecy imposed by law to financial institutions and other financial players. Any breach is subject to criminal sanctions. This covers all client related data without any limit of time. Client's consent does not waive the professional secrecy duty.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Since March 2009.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	There were no AML requirements before.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	Committee of Financial Monitoring of the Ministry of Finance of the Republic of Kazakhstan: http://www.kfm.gov.kz/en/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The requirements in respect of Law on AML can be found at http://www.kfm.gov.kz/en/
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	There is no risk based approach in the AML Law. Though it was agreed with Ministry of Finance that auditors will report their findings to the extent they come across suspicious transactions or those exceeding special threshold as part of their normal audit tests.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Kazakhstan is a member of the Eurasian Group on combating money laundering and financing of terrorism ("EAG"). This evaluation was conducted by the EAG and was the discussed and adopted by the EAG Plenary in June 2011: http://www.kfm.gov.kz/en/mutual-evaluation-kfm/

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – these are explained in Article 4. Transactions in Money and (or) Other Assets Liable to Financial Monitoring, Law No. 191 Of 28/08/2009 of the Republic of Kazakhstan: concerning counteraction to legalisation (laundering) of income gained in an illegal way and financing of terrorism: http://www.kfm.gov.kz/en/legal-base-kfm/legislation/laws-kfm/
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Please refer to Article 5 of the AML Law.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Customer identification information includes obtaining the following:</p> <p>Individuals:</p> <ul style="list-style-type: none">a) Kazakh residents: Personal ID and Tax ID are required; orb) non-residents: Personal ID/Passport and Tax ID are required in addition to a document confirming registration of the individual with migration authorities. <p>Legal entities:</p> <ul style="list-style-type: none">a) management's ID;b) entity's legal documents (Charter, State Registration Certificates Tax ID, Statistical ID, Licenses etc); and/orc) Identification for the owners of the business (except for Joint Stock Companies). <p>The documents should be either originals or notarised copies.</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	ID for owners of the business (except for Joint Stock Companies) should be obtained.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	No specific guidance in this respect. The approach is the same regardless of circumstances.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	No specific guidance in this respect. The approach is the same regardless of circumstances.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>As the Article 8 reads:</p> <p>In relation to foreign public official persons, entities of financial monitoring shall be obliged:</p> <ul style="list-style-type: none">a) to check that the public official person is connected to the entity;b) to perform an evaluation of the reputation of the said foreign public official person in relation to his participation in cases associated with legalisation of income gained in an illegal way (laundering) and financing of terrorism;c) to receive a permit of an executive officer of the organisation for the establishment and continuation of business relations with such clients; andd) to undertake measures to establish a source of funds. <p>There is no other specific guidance for Politically Exposed Persons.</p>

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Article 9. Proper Checking Correspondent Banks by Entities of Financial Monitoring: Besides the measures provided for by paragraph 3 of Article 5 of this Law, in relation to correspondent banks, entities of financial monitoring shall be additionally obliged:</p> <ol style="list-style-type: none">to gather information on the reputation of correspondent banks;to make evaluation of participation of a correspondent bank in cases associated with legalisation (laundering) of income gained in an illegal way and financing of terrorism; andto receive a permit of an executive officer of the organisation to establish new correspondent relations.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	<p>The following is subject to reporting to the Committee of Financial Control:</p> <p>Placement on or transfer to a client's bank account of money that is performed by a natural person or legal entity which has registration, place of residence or place of location, respectively, in an offshore zone, and equally which has an account at a bank registered in an offshore zone, or a transfer of money by a client for the benefit of the mentioned category of persons both as a one-time transaction, and also as a transaction that is made within seven sequential calendar days.</p>

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Please refer to Article 4 of the AML Law http://www.kfm.gov.kz/en/legal-base-kfm/legislation/laws-kfm/

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Committee of Financial Monitoring of the Ministry of Finance of the Republic of Kazakhstan http://www.kfm.gov.kz/en/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 – 345 SARs</p> <p>GDP (in current prices): 2012 – USD200,485 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD581.1 million of GDP.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Transactions above a certain threshold should be reported. Please refer to Article 4 of the AML Law.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	There are some de-minimis thresholds depending on nature of transactions. Please refer to Article 4 of the AML Law for details.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Tipping off is considered as a breach of the Law. There are penalties for non compliance with reporting requirements.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Not for auditors.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	As we understand if a transaction was stopped then authority should be obtained from Committee of Financial Monitoring of the Ministry of Finance of the Republic of Kazakhstan to proceed.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Not aware of the requirements in this respect.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	In November 2013 Law on personal data was enacted. a) It is likely that the definition covers personal data; b) It does not include a definition of "corporate data" and does not apply to corporate data; and c) It does not include a separate definition of "sensitive data", but includes the following article: Article 11. Confidentiality of personal information a. Owners and (or) operators, and also the third parties who access to personal information of limited access, provide their confidentiality by observance of requirements not to allow their distribution without consent of the subject or his lawful representative or existence of other lawful basis; b. Persons for whom personal information of limited access in connection with professional, office need became known, and also the labour relations, are obliged to provide their confidentiality; c. Confidentiality of biometric data is established by the legislation of the Republic of Kazakhstan.

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	With written consent only.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	In accordance with the Law of the Republic of Kazakhstan "Concerning Personal Data and Their Protection" dated 21/05/2013, No 94-V, cross-border transfer of personal data to the territory of foreign states shall be performed provided that this state ensures the protection of personal data transferred, and if such protection is not ensured, it is a requirement to obtain subject's or legal representative's written consent.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Please refer to A29.

⁷ GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The Proceeds of Crime (Jersey) Law was issued in 1999. It is supplemented by the Money Laundering (Jersey) Order 2008 and the Jersey Financial Services Commission ("JFSC") Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	The Order and the Handbook issued in February 2008 updated existing subordinate legislation and detailed guidance which supported the 1999 law.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	JFSC - www.jerseyfsc.org
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes – the AML Handbook has specific guidance for industries on the application of AML requirements. For example, the AML Handbook for the accountancy sector. https://www.jerseyfsc.org/pdf/Consolidated-Version-AML-HBK-December-2013.pdf
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes. The Money Laundering Order is currently being updated which will require by 31 December 2014 every relevant person to: a) Hold information for every continuing business relationship that takes into account a relevant person's assessment of the risk of that relationship, or be taking action under Article 14(7) of the Money Laundering Order; or b) Have agreed a bespoke remediation plan with the JFSC.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - the Handbook was issued and effective on 4 February 2008 for regulated financial services businesses. The answers below are taken from that guidance. On 19 February 2008, customer due diligence requirements were extended to lawyers, accountants, estate agents and others.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	In September 2009 the IMF published its report on 'Jersey: Financial Sector Assessment Program Update – Detailed Assessment of Observance of AML/CFT' http://www.imf.org/external/pubs/ft/scr/2009/cr09280.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - one-off transactions (single or linked) under EUR15,000.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: Legal name, any former names (such as maiden name) and any other names used; principal residential address and date of birth are required for all customers. In the case of standard or higher risk customers, place of birth, nationality and sex should be obtained. No specific documents are mandatory, but local issued guidance dictates that evidence of identity should be obtained from documents issued by reputable sources.</p> <p>Identity verification: Current passport, national identity card, driving licence providing photographic evidence of identity or independent data sources.</p> <p>Address verification: Correspondence from a central or local government department, letter from regulated entity, personal visit to residential address, a bank statement or utility bill.</p> <p>Legal persons: Name of company, any trading names, date and country of incorporation/registration, official identification number, registered office address, mailing address (if different), principal place of business/operations, names of all directors, identification information of all directors who have and exercise authority to operate a relationship or to give the relevant person instructions concerning the use or transfer of funds or assets and identification information of individuals ultimately holding a 25% or more interest in the capital of the company.</p> <p>Verification of identity of the company can be demonstrated where the name of company, date and country of incorporation/registration and official identification number are verified. In the case of standard and higher risk customers, the registered office address and principal place of operations should also be verified. Components of identity can be verified using one or more (in the case of standard and higher risk customers) verification methods:</p> <ol style="list-style-type: none"> Original or certified copy of the certificate of incorporation; Memorandum and Articles of Association; Company registry search; Latest audited financial statements; Independent data sources, including electronic sources; and Personal visit to principle place of business.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Where non face-to-face identification and verification is carried out, a certified copy of the identification documentation is required (by a Notary Public or other qualified professional able to legally certify documents).
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Beneficial owners and controllers must be identified including at a minimum, those holding 25% or more interest in the capital of the entity extending to those with a material interest depending on the risk profile. Reasonable measures must also be taken to obtain verification documentation depending upon the risk profile of the entity.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Reduced and simplified arrangements are available for identification and verification procedures of institutions in equivalent jurisdictions and publically traded companies. There is also some scope for reliance to be placed on procedures already conducted by intermediary regulated institutions.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Article 15 of the Money Laundering (Jersey) Order 2008 requires enhanced due diligence to be performed when:</p> <ol style="list-style-type: none"> Where the customer has not been physically present for identification purposes; In the case of a banking or similar relationship with an institution whose address is outside of Jersey; Where a relevant person has a relationship has or proposes to have, a business relationship with, or carry out a one off transaction with a person connected with a country or territory that does not apply, or insufficiently applies the FATF recommendations; Business relationship or transactions with a PEP; and In any situation which by its nature can present a higher risk of money laundering.

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Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Article 15(5A) of the Money Laundering (Jersey) Order 2008 requires that any new business relationship or continuation of such a relationship or any new one-off transaction is approved by the senior management of the relevant person and that measures to establish the source of the wealth or the PEP and source of funds are undertaken.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Article 15(4B) of the Money Laundering (Jersey) Order 2008 requires the adoption of specific and adequate measures which include: a) Gathering sufficient information about the institution to understand fully the nature of its business; b) Determining the reputation of the institution and the quality of its supervision, including whether it has been subject to any money laundering investigation or regulatory action; c) Assessing the institution's systems and controls to combat money laundering in order to determine whether they are consistent with the requirements of the FATF recommendation and their effectiveness; d) Requiring any new relationship to be approved by senior management; e) Recording the respective responsibilities of the relevant person and the institution to prevent and detect money laundering so that both parties clearly understand those responsibilities; and f) Being satisfied that, in respect of customers of the institution who have services provided directly by the relevant person that the institution has applied customer due diligence measures at least equivalent to those set out in this Order and is able to provide a copy upon request.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Article 23A of the Money Laundering (Jersey) Order 2008 prohibits relationships with shell banks.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Additional measures are required for relationships established or transactions conducted remotely, or where the identity of an individual is to be verified using documentary evidence when the individual is not physically present. Issued guidance suggests that certified copies of verification documents such as passports should be obtained which have been certified by a 'suitable certifier'.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Jersey Financial Crimes Unit (www.jersey.police.uk/FinancialCrime)
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 1,748 SARs GDP data is not available for this specific period.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Whilst there is no specific legal requirement, there is guidance for specific industries (for example, high value goods dealers) on unusual transactions, cash transactions, wire transfers etc. This is part of the AML Handbook.

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Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – There are penalties for “Failure to report”, “Assisting” and “Tipping Off”.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No but section 5.3 of the AML Handbook provides guidance on the use of automated monitoring.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes – authorisation is required to proceed if transactions are identified as suspicious.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Not currently.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes. Data Protection (Jersey) Law 2005 a) Yes; b) Not specifically defined; c) Yes – section 2 Sensitive personal data is personal data in relation to the data subject (which qualifies for an additional level of protection under the Law) containing information as to: a) Racial or ethnic origin; b) Political opinions; c) Religious or other similar beliefs; d) Union membership; e) Physical or mental health or condition; f) Sexual life; g) The commission or alleged commission of any criminal offences; or h) Any criminal proceedings or convictions (including verdict and sentencing).
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	There are some restrictions in the Law.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Jersey meets or exceeds all OECD, EU and UK standards on tax transparency and information exchange. It has no banking secrecy laws and has a regime in place to provide information under the EU Savings Tax Directive.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1991 (amended 2004, 2006, 2007, 2009 and 2010 and 2013).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	The new KYC rules of the Bank of Italy, issued in April 2013, give more specific details on how to conduct customer due diligence and AML risk profiling.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	a) Financial Intelligence Unit (i.e. Unità di informazione finanziaria) http://www.bancaditalia.it/UIF b) IVASS (for life insurance companies) http://www.ivass.it/ivass/imprese_jsp/HomePage.jsp c) CONSOB (auditors) http://www.consob.it/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes- guidelines for Organization and Internal Controls for AML purposes http://www.bancaditalia.it/vigilanza/normativa/norm_bi/disposizioni-vig/Provvisoria_Organizz.pdf and Guidelines for KYC rules for Banking and Financial sector http://www.bancaditalia.it/vigilanza/normativa/norm_bi/disposizioni-vig/Provvisoria_KYC.pdf
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes - banks, financial institutions, non-financial businesses and professionals have to verify the identity of customers in the case of transactions, a new relationship or as soon as they come into contact with the customer.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	The Italian system provides strict and detailed provisions on anti-money laundering and terrorist financing requirements. In general, it is possible to assign these obligations on the basis of risk (the risk based approach became effective in December 2007). Furthermore, KYC rules issued by Bank of Italy provide more details on the application of a risk-based approach.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The most recent FATF Mutual Evaluation Report on Italy was published in February 2006. http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Italy%20full.pdf . The most recent update on Italy's performance is contained in the Second Biennial Update to the Mutual Evaluation of Italy dated February 2013 . http://www.fatf-gafi.org/media/fatf/documents/reports/mer/Second_Biennial_Update_Feb2013_Italy.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - one-off transactions below EUR15,000 (other than where there are two or more such transactions which the firm believes are linked and which together would amount to EUR15,000 or more) and EUR1,000 for cash and bearer instruments.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Any person who:</p> <ol style="list-style-type: none"> Opens, changes or closes a current, savings or deposit account or has another 'continuing relationship'; or Carries out a single transaction, or several transactions which appear to be linked, involving the transmission, handling or the transfer of means of payment or bearer instruments in an amount of EUR15,000 or more; must be identified and must indicate in writing the full details of the person, if any, on whose behalf the transaction is carried out. Identification must take place each time a transaction is executed. <p>Individuals – evidence of identity should be obtained such as name, address, date and place of birth, tax code and a government issued document e.g. an identity card, passport or driving licence.</p> <p>Legal persons – evidence of identity of the firm, as well as the identity of the person physically present at the transaction, should be obtained such as the company name, registrar office, tax code and evidence of the identity of the beneficial owner.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Financial institutions, designated non-financial businesses and professionals cannot rely on a copy of an identification document. An exception is provided for copies validated by public officers.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	In Italy, customers have to provide all information regarding beneficial ownership of transactions/relationships. Joint stock companies are required to publish lists of their shareholders and lists of persons who hold rights on securities. This information is available to the authorities and to the public upon request (including online).
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Other than for telephone and internet banking, there are specific provisions allowing for simplified due diligence. Customer due diligence is not required in the following cases:</p> <ol style="list-style-type: none"> Transactions and account relationships between equivalent financial institutions; The transfer of funds within the State Treasury and payments arranged by the public administration, through the State Treasury, with the exception of payment operations linked to the national debt; The accounts, deposits and other continuing relationships between provincial sectors of State treasuries, the Bank of Italy and the Financial Intelligence Unit ("FIU"); Relationships and transactions between banks, other licensed intermediaries that have their head office or branch in Italy and banks or branches located abroad. This exemption applies regardless of whether the countries in which the banks/branches are located have effectively implemented the FATF Recommendations; and When the customer is a listed company.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	There are specific provisions requiring enhanced due diligence for higher risk categories of customers (for example PEPs), operations or transactions such as financial products distributed via the internet (or when the customer is not physically present), companies incorporated in a tax haven or a country listed on the Organisation for Security and Co-operation in Europe ("OSCE") grey list.

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Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Article 28(5) of Legislative Decree 231/2007 requires the application of enhanced due diligence measures to foreign PEPs which comprise: <ul style="list-style-type: none"> a) Establishing adequate risk-based procedures to determine whether the customer is a politically exposed person; b) Obtaining the authorization of the general manager, his delegate or a person performing an equivalent function before establishing a continuous relationship with such customers; c) Taking all necessary measures to establish the source of wealth and source of funds that are involved in the continuous relationship or the transaction; d) Conducting enhanced ongoing monitoring of the continuous relationship or professional service.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	For correspondent banking relationships, banks, financial and non financial institutions as well as professionals have to perform enhanced due diligence and acquire information as provided by the public register. In addition, where possible, they must evaluate the internal control system of their correspondent bank and can only start the business relationship with the authorisation and responsibility of senior management.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes - there are specific provisions that prohibit financial institutions from entering into or continuing correspondent banking relationships with shell banks. Moreover, there are specific provisions that prohibit financial institutions from establishing relations with correspondent foreign financial institutions that permit their accounts to be used by shell banks.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	The 'Decalogo' of the Bank of Italy requires financial intermediaries to adopt special precautions for transactions relating to telephone or electronic accounts, and to take steps to ensure adequate knowledge of the customer and his business in cases of relationships with customers in non face-to-face situations.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	SARs must be reported to the Financial Intelligence Unit (i.e. Unità d'Informazione Finanziaria - UIF), which is a special agency of the Banking Supervisory Authority (Banca d'Italia) http://www.bancaditalia.it/UIF

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 - 67,047 SARs. GDP (in current prices): 2012 - USD2,013,263 million (Source: data.worldbank.org ¹) This results in a ratio of 1 SAR for every USD30.01 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	There is an obligation to report all financial transactions above EUR3,000 made by credit card or e-payment, but this is not specifically for AML purposes - this type of report is made to the tax agency (Agenzia delle Entrate).

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Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	See answer to A20 above.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes. There is a penal sanction for tipping off.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Even if there is not a strict requirement to use automated suspicious transaction monitoring technology, there is the possibility to use automated monitoring tool in order to support suspicious transaction reporting.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Usually financial intermediaries define internal authorization procedures to proceed with current/ongoing suspicious transaction.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	There is a general requirement for auditors to report on the bank's systems and internal controls.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) The report must be reported frequently, usually every 6-12 months; b) Board of directors / controls offices; c) No.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	a) Yes; b) N/A; c) N/A
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Customers' information acquired by financial intermediary is usually used only internally, also for AML purposes.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	N/A
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.

¹ GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The Proceeds of Crime Act became fully effective in 2009, and in 2011 the Anti-terrorism and Crime (Amendment) Act was introduced. The Acts are supplemented by secondary legislation which was last updated by the Money Laundering and Terrorist Financing (Online Gambling) Code 2013 which came into force on 1st May 2013 and by the Money Laundering and Terrorist Financing (Amendment) Code 2013 which came into force on 1st July 2013. The types of businesses that are required to comply with the measure to prevent money laundering and terrorist financing, whether or not they accept cash of EUR15,000 or more are specified in Proceeds of Crime (Businesses in the Regulated Sector) Order 2013, which amends Schedule 4 of the Proceeds of Crime Act 2008.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<ul style="list-style-type: none">a) The Financial Supervision Commission ("FSC") is the regulator for banks, investment businesses, fiduciary service providers, collective investment schemes, e-money providers and money transmission services: http://www.gov.im/fscb) The insurance and pensions sector is regulated by the Insurance and Pensions Authority ("IPA") http://www.gov.im/ipa/.c) The gaming industry is regulated by the Gambling Supervision Commission ("GSC") http://www.gov.im/gambling/.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>The FSC provides guidance in the form of the Anti-Money Laundering and Countering the Financing of Terrorism Handbook http://www.fsc.gov.im/AML/</p> <p>The IPA provides guidance on money laundering and terrorist financing in the Guidance Notes on Anti-Money Laundering and Preventing the Financing of Terrorism – for Insurers (http://www.gov.im/ipa/insurance/regulations/insurancemoneylaundering.xml).</p> <p>Guidance Notes on the Prevention of Money Laundering and Countering of Terrorist Financing are provided by the GSC covering the online gambling industry (http://www.gov.im/gambling/licensing/).</p> <p>Guidance for businesses can be found at: http://www.gov.im/about-the-government/departments/home-affairs/chief-executive's-office/anti-money-laundering-legislation/guidance-notes-for-businesses/</p>
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Customer due diligence requirements apply to existing and continuing business only when a 'trigger event' has occurred as per paragraph 7 of the Proceeds of Crime (Money Laundering) Code 2010.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – this has been effective from 2008.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The IMF last carried out a visit in 2009 (http://www.gov.im/lib/docs/fsc/detailedassessmentofobservanceof.pdf).

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	There is no requirement to verify the identity of the customers if the transaction qualifies as an "exempted one-off transaction", defined as a single transaction or a series of linked transactions which has an (aggregate) value of less than: a) EUR3,000 for holders of Casino licences and bookmakers (but excluding e-gaming businesses); b) EUR1,000 for bureaux de change, money transmission services or cheque encashment facilities; or c) EUR15,000 in all other cases.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: The elements of identity which must be verified comprise: a) All customers: Name and date of birth and permanent residential address; and b) Standard and higher risk customers: Nationality, place of birth, gender and official identification number. Legal Entities: For all companies that are not listed on a recognised stock exchange (or their wholly owned subsidiaries), the elements of identity which must be verified comprise: a) Name; b) Official identification number; c) Date and country of incorporation; d) Registered office address of the legal person; and e) Address of the principal place of business where this is different to the registered office.

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Suitable persons to certify verification of identity documents include: a) A member of the judiciary, a senior civil servant, or a serving police or customs officer; b) An officer of an embassy, consulate or high commission of the country of issue of documentary verification of identity; c) A lawyer or notary public who is a member of a recognised professional body; d) An actuary who is a member of a recognised professional body; e) An accountant who is a member of a recognised professional body; f) A company secretary who is a member of a recognised professional body; and g) A director, company secretary or manager of a business regulated on the Isle of Man or an external regulated business as defined in the Code.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	In all cases, it is a requirement to identify underlying principals and/or beneficial owners at the outset of the business relationship, irrespective of the geographical origin of the client, or of any introducer or fiduciary.

Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	There are no simplified due diligence provisions in the Code.

Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Where in accordance with the risk assessment, an applicant for business poses a higher risk, the relevant person must carry out enhanced customer due diligence. Enhanced due diligence is also required where a suspicious transaction trigger event occurs, or where a complex, large, unusual transaction is identified.

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Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>A relevant person must maintain appropriate procedures and controls for the purpose of determining whether any of the following is a PEP:</p> <ul style="list-style-type: none">a) An applicant for business;b) A customer;c) Any natural person having power to direct the activities of an applicant for business or a customer;d) The beneficial owner of an applicant for business or a customer; ore) A known beneficiary of a legal arrangement. <p>A relevant person must maintain appropriate procedures and controls for requiring the approval of its senior management before any business relationship is established with a PEP or before any one-off transaction is carried out with a PEP; or where it is discovered that an existing business relationship is with a PEP, before continuing that relationship.</p>

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Before entering into a business relationship or one-off transaction involving correspondent banking services or other similar arrangements, banks must take additional steps as per paragraph 13 of the Code as follows:</p> <ul style="list-style-type: none">a) Obtain sufficient information about the respondent bank to understand fully the nature of its business;b) Determine from publicly available information the respondent bank's reputation and quality of supervision including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action;c) Assess the respondent bank's AML/CFT procedures and controls, and ascertain that they are adequate and effective;d) Obtain senior management approval, i.e. sign off before establishing new correspondent banking relationships; ande) Document the respective AML/CFT responsibilities of the licence holder and the respondent bank.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Where the licence holder deals with an applicant for business otherwise than face-to-face, it must take adequate measures to compensate for any risk arising as a result.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Isle of Man Financial Crime Unit "FCU" (http://www.gov.im/categories/home-and-neighbourhood/emergency-services/police/police-support-services/financial-crime-unit/suspicious-transaction-reports/)

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2010 – 1,442 SAR's</p> <p>GDP data is not available for this specific period.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.

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Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Under the Proceeds of Crime Act 2008, the penalty for failure to report is a fine and/or a prison sentence of up to five years. The penalty for tipping off is a fine and/or a prison sentence of up to two years.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Consent is required from the FCU to proceed with a current/ongoing transaction that is identified as suspicious.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Questions and Answers:

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes. Data Protection Act 2002: a) Yes; b) Controllers of data must comply with the Act and the Eight Data Protection Principles; c) Yes. Sensitive personal data means personal data consisting of information as to: a) The racial or ethnic origin of the data subject; b) His political opinions; c) His religious beliefs or other beliefs of a similar nature; d) Whether he is a member of a trade union (within the meaning of the Trade Unions Act 1991); e) His physical or mental health or condition; f) His sexual life; g) The commission or alleged commission by him of any offence; or h) Any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Before personal information can be transferred outside the Island an organisation must ensure that adequate protection exists for the information in the receiving country. Countries within the European Economic Area, that is, European Union member states plus Norway, Iceland and Liechtenstein are deemed to have adequate protection. In addition, the European Commission has made adequacy findings for other countries, including Argentina, Guernsey, Jersey, Switzerland and Canada, and US companies that have "signed up" to the Safe Harbour provisions. On the 28 April 2004, the European Commission formally decided that the Isle of Man has adequate data protection legislation.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	See A30.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.



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January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (CJA 2010) commenced on 15 July 2010. http://www.oireachtas.ie/documents/bills28/acts/2010/a0610.pdf The 2010 Act was subsequently amended by the Criminal Justice Act 2013 (CJA 2013).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	The law previously did not adopt the utilisation of a risk-based approach. Different levels of CDD and ongoing monitoring was not a requirement.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<ul style="list-style-type: none">a) Central Bank of Ireland: http://www.centralbank.ie/Pages/home.aspx;b) Central Bank of Ireland;c) The Anti-Money Laundering Compliance Unit ("AMLCU") is the supervisory body for auditors, external accountants, tax advisers, trust or company service providers, private members' gaming clubs and high value goods dealers: http://www.antimoneylaundering.gov.ie/en/AML/Pages/WP1000040
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Industry guidance notes have been prepared by a committee representing various sectors of the financial services industry. The Core Guidelines have been drafted jointly by various sectors of the financial services industry. The guidelines are stated to be for the purpose of guiding designated persons on the application of Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. While these guidelines have not been approved under Section 107 of the Act, the Central Bank will have regard to these guidelines in assessing compliance by designated persons with the Act. Links to the various guidelines can be located via: http://www.finance.gov.ie/viewdoc.asp?DocId=-1&CatID=16
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	CDD in relation to existing customers must be conducted where: <ul style="list-style-type: none">a) The designated body has reasonable grounds to doubt the veracity or adequacy of documents or information previously obtained; and/orb) There are doubts concerning previously obtained customer identification data.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	The CJA 2013 provides expressly for risk-based measures to be applied by designated persons.
Q7.	Has the country been the subject of a FATF (of FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The last mutual evaluation conducted by FATF was in June 2013: http://www.fatf-gafi.org/media/fatf/documents/reports/mer/Ireland-FUR-2013.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?				
A8.	In relation to "occasional transaction" where the total amount of money paid by the customer in a single transaction or series is greater than EUR15,000; For more information see A12 (SCDD).				
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?				
A9.	<p>The CJA 2010 specifies in section 33(2)(a) that the measures to be applied under section 33(1) of the Act include identifying the customer, and verifying the customer's identity on the basis of documents (whether or not in electronic form), or information, that the designated person has reasonable grounds to believe can be relied upon to confirm the identity of the customer, including—</p> <ol style="list-style-type: none"> a) Documents from a government source (whether or not a State government source), or b) Any prescribed class of documents, or any prescribed combination of classes of documents <p>The Guidance states that the following information should be obtained and verified:</p> <p>Individuals: Name, Date of Birth and Current Address.</p> <p>Documentary Verification "One plus One" approach – one item from the list of photographic IDs (typically to verify name and date of birth) and one item from the list of non-photographic IDs (typically to verify address).</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding: 5px;">Photographic ID:</th> <th style="text-align: left; padding: 5px;">Non Photographic ID:</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top; padding: 5px;"> <ul style="list-style-type: none"> Current valid Passport Current valid driving licence; Current valid National Identity Card. </td> <td style="vertical-align: top; padding: 5px;"> <ul style="list-style-type: none"> Official documentation/cards issued by the Revenue Commissioners and addressed to the individual; Official documentation/cards issued by the Department of Social and Family Affairs and addressed to the individual; Instrument of a court appointment (such as liquidator, or grant of probate); Current local authority document e.g. refuse collection bill, water charge bill (including those printed from the internet); Current statement of account from a credit or financial institution, or credit/debit card statements (including those printed from the internet); Current utility bills; (including those printed from the internet); Current household/motor insurance certificate and renewal notice. </td> </tr> </tbody> </table> <p>Legal persons: Name, legal form & proof of existence; address of registered office and main place of business; the nature of the business and its ownership and control structure) and Directors or equivalent (Either two directors or one director and one authorised signatory) and beneficial owner(s) to be verified as warranted by the risk.</p> <p>Documentary verification</p> <ol style="list-style-type: none"> a) A search of the relevant company or other registry; b) A copy, as appropriate to the nature of the entity, of the certificate of incorporation, a certificate of good standing, a partnership agreement, a deed of trust, or other official documentation proving the name, form and current existence of the customer. c) In cases regarded by the Designated Person as higher risk, use of more than one source of information may be warranted; and/or d) Obtain a copy of the annual audited accounts listing directors. 	Photographic ID:	Non Photographic ID:	<ul style="list-style-type: none"> Current valid Passport Current valid driving licence; Current valid National Identity Card. 	<ul style="list-style-type: none"> Official documentation/cards issued by the Revenue Commissioners and addressed to the individual; Official documentation/cards issued by the Department of Social and Family Affairs and addressed to the individual; Instrument of a court appointment (such as liquidator, or grant of probate); Current local authority document e.g. refuse collection bill, water charge bill (including those printed from the internet); Current statement of account from a credit or financial institution, or credit/debit card statements (including those printed from the internet); Current utility bills; (including those printed from the internet); Current household/motor insurance certificate and renewal notice.
Photographic ID:	Non Photographic ID:				
<ul style="list-style-type: none"> Current valid Passport Current valid driving licence; Current valid National Identity Card. 	<ul style="list-style-type: none"> Official documentation/cards issued by the Revenue Commissioners and addressed to the individual; Official documentation/cards issued by the Department of Social and Family Affairs and addressed to the individual; Instrument of a court appointment (such as liquidator, or grant of probate); Current local authority document e.g. refuse collection bill, water charge bill (including those printed from the internet); Current statement of account from a credit or financial institution, or credit/debit card statements (including those printed from the internet); Current utility bills; (including those printed from the internet); Current household/motor insurance certificate and renewal notice. 				
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?				
A10.	<p>The Guidance states that the following, and potentially their equivalents in other jurisdictions, are considered suitable persons to certify documentation, where they are willing to do so:</p> <ol style="list-style-type: none"> a) Garda Siochana/ Police Officer; b) Practising Chartered & Certified Public Accountants; c) Notaries Public / Practising solicitors; d) Embassy/Consular Staff; e) Regulated financial or credit institutions; f) Justice of the peace; g) Commissioner for oaths; or h) Medical professional. 				

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Q11.	What are the high level requirements around beneficial ownership (identification and verification)?	
A11.	<p>How to identify:</p> <p>Identify any beneficial owner connected with the customer or service concerned. This information can be provided by the customer (or on the customer's behalf by the customer's duly authorised representative) or obtained from a reliable, independent source. This should include designated persons taking reasonable measures to understand the ownership and control structure of the customer. This would comprise:</p> <ul style="list-style-type: none"> a) Any natural person who owns or controls more than 25% of the shares or voting rights in the legal person or arrangement; or b) Any natural person who exerts ultimate control over the legal person through its management or otherwise. <p>If, exceptionally, due to the nature or structure of the legal person or arrangement, it is not feasible to identify any natural person who meets either of the definitions at a) or b) above, the designated person may treat as exercising control the directors (or equivalent) or other persons having the power to legally bind the customer.</p> <p>The designated person must record the basis for their decision in reaching the conclusions it has in relation to the ownership/control of the customer.</p>	<p>How to verify:</p> <p>Verify the identity of the natural persons who own or control more than 25% of the shares or voting rights or otherwise exercises control over the management of the legal person or arrangement. The extent of this verification is dependent on the relevant risks. This would be satisfied by verifying identity in line with the requirements for individuals.</p> <p>This could also be satisfied by one or more of the following alternative approaches in line with the risk policy of the designated person. In high risk scenarios a designated person should use more than one source to verify information.</p> <ul style="list-style-type: none"> a) Obtaining a copy of the annual audited accounts listing shareholders, directors or other persons exercising control over the customer (where the information is considered by the designated person to be current and reliable), or b) For complex structures, (particularly where a company is registered abroad) a relevant and up-to-date legal opinion from a source on which the designated person is prepared to rely, documenting due diligence conducted, including in relation to information on the shareholding/control structure and directors (or equivalent); or c) Placing reliance on information provided/certified by counterparties/agents (e.g. in syndicated deals) where such persons are regulated credit or financial institutions or are legal or accountancy professionals subject to equivalent AML/CTF obligations; or d) Having a notary public (or equivalent) certify the validity of the information provided by or on behalf of the customer; or e) Placing reliance on information provided/certified by a Company Secretary (or equivalent) - e.g. copies of constitutional documentation (e.g., Memo & Articles/Certificates of Incorporation / Trust Deed) and shareholder certification. <p>In line with the designated person's risk assessment the process may include verifying a beneficial owner's personal identity (the extent of verification required will depend on the risk) in line with the requirements for personal customers. Such verification should be considered the norm for any customer regarded by the designated person as higher risk.</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?	
A12.	<p>Specified Customers</p> <ul style="list-style-type: none"> a) Credit and Financial Institutions; b) Listed Companies; c) Public Bodies; and d) Beneficial Owners of Pooled Accounts held by Solicitors and other Legal Professionals. <p>Specified Products:</p> <ul style="list-style-type: none"> a) Electronic money; (If the device cannot be recharged, the maximum amount stored in the device is no more than EUR250 or EUR500, if the device cannot be used outside the State. Where the device can be recharged, a limit of EUR2,500 is imposed on the total amount transacted in a calendar year, except where an amount EUR1,000 or more is redeemed in that same calendar year by the bearer of electronic money). b) Life assurance policy (having an annual premium of no more than EUR1,000 or a single premium of no more than EUR2,500); and c) Pensions. 	
Q13.	In what circumstances are enhanced customer due diligence measures required?	
A13.	<p>Enhanced due diligence is required in respect of:</p> <ul style="list-style-type: none"> a) A correspondent banking relationship; b) A business relationship or transaction with a non- resident PEP; and c) A higher risk customer (including non-face to face). 	

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Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	The CJA 2010 requires designated persons to apply enhanced measures to PEPs that are resident outside the State but not to domestic PEPs (under the definition of a PEP, an individual ceases to be so regarded one year after he has left office).
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Section 38(1) of the CJA 2010 states that prior to commencing the relationship, the credit institution: <ul style="list-style-type: none"> a) Has gathered sufficient information about the respondent institution to understand fully the nature of the business of that institution; b) Is satisfied on reasonable grounds, based on publicly available information, that the reputation of the respondent institution and the quality of supervision or monitoring of the operation of that institution in the place are sound; c) Is satisfied on reasonable grounds, having assessed the anti-money laundering and anti-terrorist financing controls applied by the respondent institution, that those controls are sound; d) Has ensured that approval is obtained from the senior management of the credit institution; and e) Has documented the responsibilities of each institution in applying anti-money laundering and anti-terrorist financing controls to customers in the conduct of the correspondent banking relationship.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes - under Section 59 of CJA 2010.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Section 33(4) of CJA 2010 contains a supplementary obligation on a designated person where a customer who is an individual does not present in person. This is not an alternative obligation but a supplementary one. The subsection provides that, without prejudice to the generality of section 33(2)(a), one or more of the following measures shall be applied by a designated person under section 33(1) of the Act, where a customer who is an individual does not present to the designated person for verification in person of the customer's identity. e.g. verification of the identity with additional documentation; robust anti-fraud checks, etc.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.						
A18.	<table border="0"> <tr> <td>An Garda Síochána</td> <td>Revenue Commissioners</td> </tr> <tr> <td>Detective Superintendent, Financial Intelligence Unit (FIU), Garda Bureau of Fraud Investigation, Harcourt Square, Dublin 2</td> <td>Suspicious Transactions Reports Office Block D, Ashtowngate, Navan Road, Dublin 15</td> </tr> <tr> <td>Phone No: 01-6663714 Fax No: 01-6663711</td> <td>Phone No: 01-8277542 Fax No: 01-8277484</td> </tr> </table>	An Garda Síochána	Revenue Commissioners	Detective Superintendent, Financial Intelligence Unit (FIU), Garda Bureau of Fraud Investigation, Harcourt Square, Dublin 2	Suspicious Transactions Reports Office Block D, Ashtowngate, Navan Road, Dublin 15	Phone No: 01-6663714 Fax No: 01-6663711	Phone No: 01-8277542 Fax No: 01-8277484
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Phone No: 01-6663714 Fax No: 01-6663711	Phone No: 01-8277542 Fax No: 01-8277484						
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.						
A19.	Information on the volume of SARs is not publicly available.						
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?						
A20.	Section 43 CJA 2010 requires a relevant person to report any service or transaction which is connected with a place that does not have adequate procedures in place for the detection of money laundering or terrorist financing (The power to designate a jurisdiction is contained in section 32 CJA 2010).						

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Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – Failure to report suspicious activity is a criminal offence which carries a penalty pursuant to section 43(2) CJA 2010 - a) On summary conviction, to a fine not exceeding EUR5,000 or imprisonment for a term not exceeding 12 months (or both); or b) On conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both).

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	According to section 42(7) of CJA 2010, a designated person who is required to make a report shall not proceed with any suspicious transaction or service connected with the report, or with a transaction or service the subject of the report, prior to the sending of the report to the Garda Síochána and the Revenue Commissioners unless: a) it is not practicable to delay or stop the transaction or service from proceeding; or b) the designated person is of the reasonable opinion that failure to proceed with the transaction or service may result in the other person suspecting that a report may be (or may have been) made or that an investigation may be commenced or in the course of being conducted. Nothing in subsection (7) authorises a designated person to proceed with a service or transaction if the person has been directed or ordered not to proceed with the service or transaction under section 17 and the direction or order is in force.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>Yes:</p> <p>a) Yes; b) The laws apply to Personally Identifiable Information ("PII") but not to other aspects of Corporate Data; c) Yes – Sensitive data includes Personally Identifiable information and other sensitive personal data, such as medical records.</p> <p>Personal data means data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of the data controller.</p> <p>Sensitive personal data means personal data as to:</p> <p>a) The racial or ethnic origin, the political opinions or the religious or philosophical beliefs of the data subject; b) Whether the data subject is a member of a trade union; c) The physical or mental health or condition or sexual life of the data subject; d) The commission or alleged commission of any offence by the data subject; or e) Any proceedings for an offence committed or alleged to have been committed by the data subject, the disposal of such proceedings or the sentence of any court in such proceedings.</p> <p>Additional rules apply regarding transfer of data to third countries (i.e. those outside the European Economic Area EEA). The rules regarding transfers to third countries can be summarised as follows:</p> <p>a) The general rule is that personal data cannot be transferred to third countries unless the country ensures an adequate level of data protection. The EU Commission has prepared a list of countries that are deemed to provide an adequate standard of data protection; b) If the country does not provide an adequate standard of data protection, then the Irish data controller must rely on use of approved contractual provisions or one of the other alternative measures, provided for in Irish Law; and c) The Data Protection Commissioner retains the power to prohibit transfers of personal data to places outside of Ireland, if he considers that data protection rules are likely to be contravened, and that individuals are likely to suffer damage or distress as a result.</p>
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes - EU laws apply - EU Data Protection Directive (95/46/EC).
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.



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Hungary

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The AML Act – Act CXXXVI of 2007 on the Prevention and Combating of Money Laundering and Terrorist Financing came into effect on 14 December 2007 and is still currently in force.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	<p>a) Hungarian National Bank - http://www.mnb.hu/</p> <p>b) Hungarian National Bank - http://www.mnb.hu/</p> <p>c) casinos: national tax authority (National Tax and Customs Administration) - http://en.apeh.hu/</p> <p>Other:</p> <p>a. for auditors: Chamber of Hungarian Auditors - http://www.mkvk.hu/</p> <p>b. for attorneys, law firms, notaries, etc – local Bar which they are the member of</p> <p>c. for trading companies - http://mkeh.gov.hu/ tax advisors and advisors dealing with real estate issues: FIU - http://nav.gov.hu/nav/penzmosas/peii</p>
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes, each regulator, indicated above in A3, issued guidance and/or template AML documents. Template policies are published by the supervisory bodies listed above on their websites.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes – in cases where there are doubts surrounding the verification or adequacy of the customer identification data obtained previously.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – simplified and enhanced customer due diligence.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Information is not publicly available.

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - one-off transactions below EUR15,000 (HUF3.6m) (other than where there are two or more such transactions which the firm believes are linked, and which together would amount to EUR15,000 or more) or any amount which is viewed to be of a suspicious nature.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>For the purposes of identification and verification procedures, service providers require the following documents to be presented:</p> <p>Natural persons:</p> <ol style="list-style-type: none">personal identification document (official identity card) and official address card of Hungarian citizens; andpassport or personal identity card for foreign nationals or documentary evidence of the right of residence or a valid residence permit. <p>Legal persons and business associations:</p> <ol style="list-style-type: none">the application for registration or the document of registration for recognised legal persons, or the articles of incorporation of legal persons and business associations lacking legal status whilst not yet registered by the registrar of companies, court or appropriate authority; andfor non-resident legal persons and business associations lacking the legal status of a legal person, the document proving that the person or body has been registered under the law of the country in which it is established.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Certified copies of the documents shall be accepted for identification procedures if certified by the competent authority of the country where it was issued or by the competent Hungarian foreign representative.</p> <p>Certified copies of the documents referred to above shall be accepted for the verification of the identity of the customer if:</p> <ol style="list-style-type: none">it was prepared by the officer of a Hungarian consular post or by a notary public, and certified accordingly; orthe officer of a Hungarian consular post or the notary public has provided an endorsement for the copy to verify that the copy is identical to the original presented; orthe copy was prepared by an authority of the country where it was issued, if such authority is empowered to make certified copies and the competent Hungarian consulate officer has provided a confirmatory certification of the signature and seal of the authority.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>Beneficial owner is defined as:</p> <ol style="list-style-type: none">the natural person who directly or indirectly owns or controls at least 25% of the shares or voting rights in a legal person or business association lacking the legal status of a legal person, if that legal person or business association lacking the legal status of a legal person is not listed on a regulated market and is subject to disclosure requirements consistent with European Community legislation or subject to equivalent international standards;the natural person who has a dominant influence on a legal person or business association lacking the legal status of a legal person;the natural person on whose behalf a transaction is carried out;in case of foundations i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of twenty-five per cent or more of the property of the foundation; ii) where the individuals benefit from the foundation have yet to be determined, the natural person(s) in whose interest the foundation is set up or operates or iii) the natural person(s) who exercise control in the management of the foundation or exercise control over twenty-five per cent of the property of a foundation, or who is authorised to represent the foundation; orin lack of natural person listed above, the executive officer of the legal entity or company without legal entity. <p>When establishing a business relationship, the customer acting on behalf of the beneficial owner shall indicate in a written statement the details of the beneficial owner such as surname, forename, address and nationality. The service provider may request the customer to supply other details of the beneficial owner (e.g. number/type of identification document, place of residence in Hungary for foreign nationals, date of birth and mother's name) to prevent and combat money laundering and terrorist financing. Where there is any doubt concerning the identity of the beneficial owner, the service provider must take measures to check the beneficial owners' identification data in publicly available records and registers.</p>

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Simplified customer due diligence applies where the customer is:</p> <ol style="list-style-type: none">a service provider engaged in carrying out the activities defined in the law (financial services, investment services, insurance services, commodity exchange, postal financial intermediation services and voluntary mutual insurance fund services) in the territory of the European Union ("EU"), or a service provider that is engaged in these activities and situated in a third country which imposes requirements equivalent to those laid down in the Money Laundering Act;a listed company whose securities are traded on a regulated market in one or more member states, or a listed company from a third country that is subject to disclosure requirements consistent with European Community legislation; anda supervisory body mentioned in the law/central government body or a local authority/a body of the European Community. <p>Simplified customer due diligence also applies for: insurance policies with a low-level annual/single premium/insurance policies for pension schemes if there is no surrender clause and where the funds payable to the insured person cannot be used as collateral for any credit or loan arrangement. An insurance company shall not be required to apply customer due diligence measures for identifying a customer whose identity has already been established by an independent insurance intermediary for the same purpose.</p>
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Enhanced customer due diligence is applicable for:</p> <ol style="list-style-type: none">customers that have not been physically present for identification purposes or the verification of their identity;correspondent banking relationships;PEPs; andtransactions for the exchange of money involving a sum of EUR2,000 or more (HUF500,000 or more). <p>The service provider will record further information pertaining to the business relationship and the transaction order e.g. the type, subject matter and term of the contract of the business relationship and the subject matter and the value of the transaction order.</p>
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>Customers residing in another member state or in a third country are required to provide a statement as to whether they are considered politically exposed according to national law of their country. In respect of transactions or business relationships with PEPs residing in another member state or in a third country, approval from the management body, as defined in the organisational and operational regulations, is required.</p>
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Service providers engaged in the provision of financial services or in activities auxiliary to financial services are required, before establishing correspondent banking relationships with respondent institutions from third countries, to:</p> <ol style="list-style-type: none">assess, evaluate and analyse the respondent service providers anti-money laundering and anti-terrorist financing controls;be satisfied that the respondent service provider has verified the identity of and performed ongoing due diligence on the customers having direct access to accounts of the correspondent and that it is able to monitor access to the accounts of the correspondent on an ongoing basis; andbe satisfied that the respondent service provider is able to provide relevant customer due diligence data to the correspondent institution, upon request. <p>Approval from the management body must be obtained to engage in correspondent banking relationships.</p>
Q16.	Are relationships with shell banks specifically prohibited?
A16.	<p>Yes – service providers engaged in financial services activity or in activities auxiliary to financial services are prohibited to engage in or continue a correspondent banking relationship with a shell bank or with a service provider that is known to permit its accounts to be used by a shell bank.</p>
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>Reporting entities are required to consider the additional risk posed by non face-to-face business, in accordance with the risk based approach and procedures they have adopted. Service providers are required to record all data and particulars specified in the law, where the customer has not been physically present for identification purposes or for the verification of his identity.</p>

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Financial Intelligence Unit ("FIU") which is currently the Hungarian Customs and Finance Guard within the National Tax and Customs Authorisation. http://nav.gov.hu/nav/penzmosas/pei
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 7,608 SARs GDP (in current prices): 2012 – USD125.5billion (Source: data.worldbank.org*) This results in a ratio of 1 SAR for every USD16.4million of GDP.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – up to 2 years imprisonment for non-reporting.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Work needs to be ceased at reporting. Written information is required from the FIU in order to continue.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Service providers under the AML Act are required to incorporate details on their AML systems and controls in their internal AML policies. The policy are not subject to reporting but can be reviewed by FIU upon inspection.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

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Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: <ul style="list-style-type: none"> a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: <ul style="list-style-type: none"> a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Act 112 of 2011 on information governance and information freedom regulates the issues of personal data protection. <ul style="list-style-type: none"> a) Yes. Personal data is any data that can be connected to the individual, especially the name, any identification codes or numbers, or one or more information on the physical, physiological mental, economic, cultural or social identity, and further any consequences that can be drawn therefrom; b) The same rules apply as long as the corporate data contains any individuals personal data; otherwise, corporate data is not subject to any special protection; c) Sensitive data are called special data in Hungarian terms. These are any personal data that refer to race, nationality, political views, party connections, religion or other religious beliefs, any memberships, sexual life. Further, all personal data on health status and addictions and criminal records. These latter may only be controlled with the written consent of the individual.

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Within the boundaries of the EU, if data controlling rights are available, personal data can be transferred without any additional requirements (such transfer is considered as transfer within the territory of Hungary). To any other country personal data may only be transferred with the express consent of the individual or if otherwise the conditions for data controlling are met and the in the third country the level of protection of personal data is high (as per the Act, this is granted if the obligatory legal norm of the EU states so, or if there are multi-, or bi-lateral agreements in effect between the given third country and Hungary).

Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	The AML Act itself regulates the transfer of information.

Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Guernsey

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law was issued in 1999. It is supplemented by the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations 2007 ("the Regulations") and the Handbook for Financial Services Businesses on Countering Financial Crime and Terrorist Financing ("the Handbook").
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	AML legislation requiring customer due diligence procedures was introduced in 2002. The 2007 Regulations and Handbook represent an update to the 2002 requirements.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	Guernsey Financial Services Commission (www.gfsc.gg)
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes – the Handbook has specific guidance for financial services businesses on the application of AML requirements.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No – however verification procedures are required for such customers at appropriate times on a risk sensitive basis.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	<p>Yes - the Regulations and Handbook became effective on 15 December 2007 for regulated financial services businesses. The regulations were extended in September 2008 and October 2010 to cover certain services offered by lawyers, accountants and estate agents.</p> <p>The Handbook is not intended to provide an exhaustive list of appropriate and effective policies, procedures and controls to counter money laundering and the financing of terrorism. The structure of the Handbook is such that it permits a financial services business to adopt a risk-based approach appropriate to its particular circumstances. The financial services business should give consideration to additional measures that may be necessary to prevent its exploitation and that of its services/products and delivery channels by persons seeking to carry out money laundering or terrorist financing.</p> <p>A financial services business should be able to take such an approach to the risk of being used for the purposes of money laundering and terrorist financing and to ensure that its policies, procedures and controls are appropriately designed and implemented and are effectively operated to reduce the risk of the financial services business being used in connection with money laundering or terrorist financing.</p>
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes IMF Assessment in January 2011 - http://www.imf.org/external/pubs/ft/scr/2011/cr1112.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – one-off transactions (single or linked) under GBP10,000 do not require customer due diligence.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: name, residential address, date of birth, nationality, occupation, official personal identification number. No specific documents are mandatory, but local guidance dictates that evidence of identity should be obtained from documents issued by reputable sources, for example a passport or other national identity card. Separate verification of other details is also required. The Handbook provides suggestions for documents and evidence that can be obtained to verify identify.</p> <p>Legal Entities: Specific requirements vary depending on the risk profile of the applicant for business. Minimum evidence expected is one of:</p> <ul style="list-style-type: none">a) original or certified copy of the certificate of incorporation and memorandum and Articles of Association or equivalent constitution document;b) company registry search;c) latest audited financial statements;d) a copy of the Directors' Register;e) a copy of the shareholders' register;f) independent information sources, including electronic sources; org) a personal visit to the principle place of business. <p>In addition, identification and verification must be completed for individuals ultimately owning 25% or more of the legal entity and individuals (including directors and beneficial owners) with ultimate effective control over the assets of the legal entity.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Where non face- to-face identification and verification is carried out, a certified copy of the identification documentation is required. For certification to be effective, the certifier will need to have seen the original documentation and, where certifying evidence of identity containing a photograph, have met the individual in person. Where certified copy documents are accepted, the financial services business must satisfy itself, where possible, that the certifier is appropriate, for example, by satisfying itself that the certifier is not closely related to the person whose identity is being certified. A suitable certifier must certify that he has seen original documentation verifying identity. The certifier must also sign and date the copy identification data and provide adequate information so that contact can be made with the certifier in the event of a query.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Beneficial owners and controllers must be identified and verification documentation obtained, including, at a minimum, those holding 25% or more interest in the capital of the entity.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Reduced and simplified arrangements are available for identification and verification procedures of regulated institutions and publically traded companies. There is also some scope for reliance to be placed on procedures already conducted by intermediary regulated institutions.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced measures are required for those potential clients deemed to be of higher risk. This might take into account factors such as PEP risk, client not physically present for identification purposes, correspondent banking relationships, jurisdictional risk and types of activity.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Additional due diligence and enhanced scrutiny is required on all accounts that have links with PEPs, but particularly those with links to countries that are vulnerable to corruption.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Local requirements specifically identify correspondent banking relationships as a trigger for enhanced measures. Specific measures required include: <ul style="list-style-type: none">a) gathering sufficient information to understand the nature of the respondent's business;b) determining the reputation of the institution from publically available information;c) assessing the respondent institution's AML policies;d) obtaining senior management approval for taking on the client; ande) documenting the respective AML responsibilities of each institution.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	In relation to non-resident individual customers for example, additional measures are required for non face-to-face transactions and/or relationships. Examples of such measures are: <ul style="list-style-type: none">a) additional verification documentation;b) development of independent contact with the client;c) third party introduction; andd) requiring the first payment to be carried out through a bank account situated in an equivalent jurisdiction.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	GFIS – Guernsey Financial Intelligence Service as a division of the Guernsey Financial Investigation Unit. (www.guernseyfiu.gov.gg)

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2011 – 1,136 SARs GDP data is not available for this specific period.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Whilst there is no specific legal requirement, there is guidance for specific industries (for example, high value goods dealers) on unusual transactions, cash transactions, wire transfers etc. This is part of the AML Handbook.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – there are penalties for “Failure to report”, “Assisting” and “Tipping Off”.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes – authorisation is required to proceed if transactions are identified as suspicious.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	<p>Does the country have established data protection laws? If so:</p> <ol style="list-style-type: none">does the definition of "personal data" cover material likely to be held for KYC purposes?how do the laws apply to corporate data?does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>The Data Protection (Bailiwick of Guernsey) Law, 2001 ("the Law") is a close copy of the UK Data Protection Act 1998 and organisations that are compliant either with the Act or the Law can be assured that they are compliant with both.</p> <p>The Law and the legislative environment in the Bailiwick has been assessed by the European Commission as providing adequate protection for personal data transferred to the Bailiwick from any EU state, so there should be no Data Protection impediments to the export and processing of personal data locally.</p> <p>The Statutory Instruments giving effect to the Law were made by the Advisory and Finance Committee on 9th July 2002 and were laid before the States, enabling the Law to come into force on 1st August 2002. Subsequent secondary legislation and amendments to the Law may also be found on the Statutory Instruments page: http://www.gov.gg/statutoryinstruments</p> <ol style="list-style-type: none">According to the Law: "personal data" means data which relate to a living individual who can be identified:<ol style="list-style-type: none">from those data; orfrom those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.This would therefore include material likely to be held for KYC purposesNo provisions relating specifically to corporate data.According to the Law: "sensitive personal data" means personal data consisting of information as to:<ol style="list-style-type: none">the racial or ethnic origin of the data subject;his political opinions;his religious beliefs or other beliefs of a similar nature;whether he is a member of a labour organisation, such as a trade union;his physical or mental health or condition;his sexual life;the commission or alleged commission by him of any offence; orany proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings. <p>Sensitive personal data shall not be processed unless at least one of a number of specified conditions are met which include (but are not limited to):</p> <ol style="list-style-type: none">Explicit consent by the person concernedLegal right or obligation conferred on the data controller in connection with employmentIt is necessary to protect the vital interests of the data subject or another person where consent cannot be obtained or where data has been unreasonably withheldProcessing in the course of legitimate activities by not for profit bodies or associations that exist for political, philosophical, religious or trade union purposes subject certain additional preconditions and safeguardsInformation contained in personal data has been made public as a result of steps deliberately taken by the data subjectProcessing is necessary for legal proceedings, obtaining legal advice or establishing, protecting and defending legal rights.It is necessary for the purposes of the administration of justice.It is necessary for medical purposes and is undertaken by a health professional.

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	<p>Credit reports An individual is entitled to where the processing by automatic means of personal data of which that individual is the data subject for the purpose of evaluating matters relating to him such as, for example, his performance at work, his creditworthiness, his reliability or his conduct, has constituted or is likely to constitute the sole basis for any decision significantly affecting him, to be informed by the data controller of the logic involved in that decision-taking. A data controller is not obliged to supply this information unless he has received:</p> <ol style="list-style-type: none"> a request in writing; and except in prescribed cases, such fee (not exceeding the prescribed maximum) as he may require. <p>Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, he is not obliged to comply with the request unless:</p> <ol style="list-style-type: none"> the other individual has consented to the disclosure of the information to the person making the request; or it is reasonable in all the circumstances to comply with the request without the consent of the other individual. <p>Criminal records Personal data are exempt from the subject information provisions in respect of persons not ordinarily resident in the Bailiwick or any part of the Bailiwick (in this paragraph referred to as "non-resident subjects"), if they consist of records of criminal convictions or cautions of non-resident subjects to which those subjects are able to obtain access under and subject to the law of a jurisdiction other than that of the Bailiwick or any part of the Bailiwick.</p> <p>Medical data Data for medical purposes can only be processed by a health professional or a person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional. The term "medical purposes" includes the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services.</p>
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	<p>The Data Protection (Bailiwick of Guernsey) Law, 2001 ("the Law") is the primary legislation for Data Protection in Guernsey.</p> <p>There is no requirement for standard contractual clauses to be applied to the export of data to Guernsey.</p> <p>However, if a Guernsey organisation has personal data processed for them in the UK or elsewhere in the EEA it is recommended that they take the following actions:</p> <ol style="list-style-type: none"> Ensure that a contract or agreement exists between the Guernsey organisation and the UK/EEA based organisation that is processing the data and that it provides sufficient authority to show that they are processing the data on the Guernsey organisation's behalf; and Provide confirmation to the UK/EEA organisation processing the data, that the Guernsey organisation is in compliance with the Data Protection (Bailiwick of Guernsey) Law, 2001 and that the Bailiwick of Guernsey has been assessed as providing adequate protection by the European Commission. <p>All organisations located in the Bailiwick are reminded that it is an offence to process, or have processed on your behalf, personal data without having notified such processing unless a valid exemption applies.</p> <p>In general, provided that a data controller established in the Bailiwick has notified their processing to the Guernsey Data Protection Office, there should be no need to notify in the UK, unless they have a separately established business in the UK.</p>
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation?) If so, what data is subject to regulation?
A32.	Guernsey meets or exceeds all OECD, EU and UK standards on tax transparency and information exchange. It has no banking secrecy laws and automatically exchanges information under the EU Savings Tax Directive. Guernsey is a tax transparent, co-operative jurisdiction with an economic model that complements and enhances UK Plc tax competitiveness. Guernsey should be considered neither a "tax haven" nor a "secrecy jurisdiction".



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Greece

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1995 (main amendments in 2005, 2006 and 2008).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<p>The Regulators for the AML controls are the public authorities ("Competent Authorities") which supervise the compliance of obliged persons with the provisions of the Greek AML legislation.</p> <p>The Competent Authorities are:</p> <ul style="list-style-type: none">a) the Bank of Greece for: credit institutions; leasing companies; factoring companies; bureaux de change; intermediaries in funds transfers; credit companies; electronic money institutions and postal companies, only to the extent that they act as intermediaries in funds transfers. The Bank of Greece, in supervising these companies cooperates with the Ministry of Transport and Communications and the National Telecommunications and Post Commission; insurance companies; insurance intermediaries;b) the Hellenic Capital Market Commission for: portfolio investment companies in the form of a societe anonyme; management companies of mutual funds; management companies of mutual funds investing in real estate; management companies of mutual funds for venture capital; investment firms; investment intermediary firms; venture capital firms and companies providing business capital;c) the Accounting and Auditing Supervisory Commission for chartered accountants and audit firms;d) The Ministry of Economy and Finance (General Directorate of Tax Controls) for: tax consultants, tax experts and related firms; independent accountants and private auditors; real estate agents and related firms; auction houses; dealers in high value goods; auctioneers; and pawnbrokers;e) the Gambling Control Commission of law 3229/2004 (O.G.G. A 38) for: casino enterprises; casinos operating on ships flying the Greek flag; companies, organisations and other entities engaged in gambling activities; and betting outlets;f) the Ministry of Justice for notaries; lawyers;g) the Ministry of Development for the natural or legal persons providing services to companies and trusts (trust and companies service providers); andh) for branches in Greece of financial institutions which have their registered office abroad, the competent authority shall be the corresponding authority responsible for domestic financial institutions conducting activities similar to those of such foreign financial institutions.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The Competent Authorities have issued Interpretative Circulars, Decisions and Regulatory Acts, each one giving instructions and interpretations of the AML provision to the obligated persons under their supervision. The Competent Authorities through such decisions/Acts have the power to modify the obligations laid down in the Greek AML legislation for the Obligated Persons.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Greek AML legislation states that obligated persons may apply, at the appropriate time, risk-based due diligence measures not only to new but also to existing customers. Decisions of the competent authorities may determine the criteria and the method of application of due diligence to existing customers.

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Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes - http://www.fatf-gafi.org/countries/d-i/greece/documents/follow-upreporttothemutualevaluationreportofgreece.html

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – In principle, occasional (one-off) transactions below EUR15,000; a lower threshold of EUR1,000 per insurance contract per year (or of EUR2,500 in the case of a one-off payment). The law also caters for a lower threshold option in relation to electronic funds transfers depending on the decision and guidance provided by the respective regulatory authority.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: For identifying individuals, a police identity card or passport plus any other document that provides evidence of his/her residential and business address, as well as his/her profession and tax registration number.</p> <p>Legal Entities: Most recent legal documentation as defined by Greek law depending on the type of entity, identifying:</p> <ol style="list-style-type: none"> business name, address and purpose of the entity; representation and signing authorities of the entity; any changes and amendments on the statutes of the entity and/or its representatives; police identity cards or passports of the legal representative(s) of the entity as well as evidence of their current residence; Tax registration number; and Beneficial Owner(s). <p>Notwithstanding the above, and specifically for the Credit Institutions, the Bank of Greece Governor's Act No. 2652/29.2.2012 determined that the customer's income shall be verified through the customer's income tax clearance form or, in the case of legal persons, the income tax returns filed (including confirmation of their filing that includes the tax payable), with the exception of the cases where the customer is exempted from the obligation to file income tax returns in accordance with the relevant provisions of the Income Tax Code.</p>

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Copies of identification documents may be certified by a state authority, a notary public or a lawyer. Copies may also be certified by an authorised employee of a financial institution upon presentation of the originals.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>Beneficial owners are, in the case of corporate entities:</p> <ol style="list-style-type: none"> the natural person(s) who ultimately own(s) or control(s) a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings (other than a company listed on a regulated market that is subject to disclosure requirements consistent with community legislation or subject to equivalent international standards - a percentage of 25% plus one share shall be deemed sufficient to meet this criterion); or the natural person(s) who otherwise exercise(s) control over the management of a legal entity. <p>In the case of legal entities, such as foundations and legal arrangements, and trusts, which administer and distribute funds:</p> <ol style="list-style-type: none"> where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25% or more of the property of a legal arrangement or entity; where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates; or the natural person(s) who exercise(s) control over 25% or more of the property of a legal arrangement or entity.

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Under local legislation it is up to the discretion of the relevant party to decide not to perform identity checks (unless there is a suspicion of money laundering) for financial institutions or organisations (entities regulated by the Bank of Greece).</p> <p>In addition, there are reduced due diligence requirements (no verification requirement) for other types of entities such as:</p> <ol style="list-style-type: none"> listed companies whose securities are admitted to trading on a regulated market in one or more Member States and listed companies from other countries which are subject to disclosure requirements consistent with Community legislation; beneficial owners of pooled accounts held by notaries and other independent legal professionals from the Member States, or from other countries provided that they are subject to requirements to combat money laundering or terrorist financing consistent with international standards and are supervised for compliance with those requirements and provided that the information on the identity of the beneficial owner is available, on request, to the institutions that act as depository institutions for the pooled accounts; companies operating as undertakings for collective investment in transferable securities and companies that operate as undertakings for collective investment in transferable securities, are based in the European Union and operate in consistency with the provisions of Directive 85/611/EEC as currently in force; public law legal entities and state owned organisations of at least 51%; and public authorities which satisfy certain requirements. <p>Moreover there are reduced due diligence requirements (no verification requirement) for:</p> <ol style="list-style-type: none"> life insurance policies where the annual premium is no more than EUR1,000 or the single premium is no more than EUR2,500; a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme; insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral; and electronic money, where the maximum amount stored in the device is no more than EUR250, or where, if the device can be recharged, a limit of EUR2,500 is imposed on the total amount transacted in a calendar year, except when an amount of EUR1,000 or more is redeemed in that same calendar year by the bearer.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>On a risk-sensitive basis, enhanced customer due diligence measures are required, especially for:</p> <ol style="list-style-type: none"> transactions without the physical presence of the customer; cross border correspondent banking; and politically exposed persons. <p>Moreover, most of the Competent Authorities have issued guidance that the following type of customers should be considered as high risk for money laundering purposes and should be subjected to enhanced due diligence procedures:</p> <ol style="list-style-type: none"> companies with bearer shares; offshore companies; non-profit entities or organisations; persons from countries that do not adequately implement FATF recommendations; trust or similar Foreign Law Entities; Non-residents' accounts; Portfolio management accounts of important clients; and Business relationships and transactions that entail high risks related to tax evasion (this high risk category shall at least include: (i) Self-employed persons whose total income credited on their own accounts or on accounts of which they are the beneficial owners exceed EUR200,000 during the previous calendar year (ii) Legal persons whose total cash deposits or cash withdrawals exceed EUR300,000 during the previous calendar year).
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	In all circumstances where PEPs are acting either as customers of obliged persons or beneficial owners of such customers.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>In respect of cross-frontier correspondent banking relationships with respondent institutions from third countries, credit institutions shall:</p> <ol style="list-style-type: none"> gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision; assess the respondent institution's anti-money laundering and anti-terrorist financing controls; obtain approval from senior management before establishing new correspondent banking relationships; document the respective responsibilities of each institution; and with respect to payable-through accounts, be satisfied that the respondent credit institution has verified the identity of and performed ongoing due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer due diligence data to the correspondent institution.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

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Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>Additional due diligence is required to mitigate the higher risk profile associated with non face-to-face transactions. Where a customer approaches a firm remotely (by post, telephone or over the internet), the firm should have appropriate procedures to carry out non face-to-face verification, either electronically or by reference to documents, by having in place additional verification checks to manage the risk of identity fraud.</p> <p>In this respect, obligated persons should take specific and adequate measures to counter the higher risk in cases where the customer is not physically present for identification purposes, mainly by applying one or more of the following measures:</p> <ol style="list-style-type: none"> ensuring that the customer's identity is verified by additional documents, data or information; taking supplementary measures to verify or certify the documents supplied, or requiring confirmatory certification by a credit or financial institution based in the European Union; and ensuring that the first payment of the operations is carried out through an account opened in the customer's name with a credit institution based in the European Union. <p>Obligated persons should pay special attention to any product or transaction which might favour anonymity and which, by nature or by virtue of information about the profile of the characteristic features of the customer, may be associated with money laundering or terrorist financing and take appropriate measures to avert this risk.</p>

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Greek F.I.U. (Anti-Money Laundering, Counter Terrorist Financing and Source of Funds Investigation Authority) http://www.hellenic-fiu.gr/index.php?lang=en

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 – 3,923 SARs</p> <p>(Cases Closed: 3,191; Cases under Investigation: 732)</p> <p>GDP (in current prices): 2012 – USD249,099million (Source: data.worldbank.org¹)</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>There are Competent Authorities who have issued instructions to the obligated persons under their supervision for reporting, apart from suspicious transactions for money laundering and terrorist financing, criminal activities (predicate offences, especially those connected with tax evasion) as well as unusual transactions/activities.</p> <p>Moreover, the Compliance Officers of certain Obligated Persons (including credit and financial institutions) are required to prepare a report, on an annual/bi-annual basis, providing considerable input for the assessment of the obliged person's compliance with the AML/CF provisions/policy. Such reports are assessed by the obliged persons' management (e.g. Board of Directors) and are submitted to the relevant Competent Authority in electronic form or in a hard copy.</p> <p>Payment Institutions and Electronic Money Institutions which have obtained license for establishment and operation in Greece as well as foreign Payment Institutions and Electronic Money Institutions which provide payment services (carry out transfer of funds) through established Greek branches or agents) are required to submit to the Competent Authority (Bank of Greece) on a semi-annual basis, data for the total number and amount of cross border transfer of funds from and to abroad (inbound and outbound funds), per country of payer's establishment (for inbound funds) or beneficiary's (for outbound funds).</p> <p>In addition credit institutions are obliged (pursuant to article 82 paras 2 & 8 of L. 2238/994) to forward electronically to the Greek Ministry of Finance (General Secretariat of Information Systems) files with customer data having a financial and tax interest. This data mainly cover:</p> <ol style="list-style-type: none"> self-employed persons whose total income credited on their own accounts or on accounts of which they are the beneficial owners exceed the relevant amount set each time by Banking and Credit Committee Decision of the Bank of Greece (currently EUR200,000) during the previous calendar year; and legal persons whose total cash deposits or cash withdrawals exceed the relevant amount set each time by Banking and Credit Committee Decision of the Bank of Greece (currently EUR300,000) during the previous calendar year). <p>The above obligation relates to data concerning accounting year 2011 and onwards.</p>

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>An employee of an obligated legal entity or any other person obliged to report suspicious transactions shall be penalised with a term of imprisonment up to 2 years if he intentionally fails to report to the competent authorities suspicious or unusual transactions or activities or provides false or misleading data, in breach of the relevant legal, administrative or regulatory provisions and rules, provided that his act is not punishable with heavier criminal sanctions.</p> <p>Furthermore, the Competent Authorities have the power to impose on the obligated legal person a wide range of administrative sanctions if they fail to comply with their obligations under Greek AML legislation.</p>

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	<p>According to a Bank of Greece Governor's Act, Credit Institutions (and to some extent Financial Institutions) have the obligation to install adequate IT systems and effective procedures for continuously monitoring accounts and transactions, in order to detect, monitor and assess high-risk transactions and customers. IT systems should be capable of providing timely, reliable and necessary information for detecting, analysing and effectively monitoring customers' accounts and transactions. Accounts and transactions should be monitored in relation to the typology of transactions, the customer's profile, and the anticipated operation of the account in relation to the operation of other accounts in the same customer category. IT systems should be used for obtaining information on defective customer identification, the customer's profile and overall data on the Credit Institution's business relationship with the customer.</p>

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
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A24.	<p>The obligated persons must refrain from carrying out transactions, engaging in activities or providing any services, which they know or suspect to be related to money laundering and terrorist financing offences, unless refraining in such manner is impossible or likely to frustrate efforts to pursue the customers, the beneficial owners or the persons on behalf of whom the customers may be acting; in the latter case the obligated persons shall execute the aforementioned operations and simultaneously inform the Greek F.I.U.</p>
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Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	<p>Law provides that: "Money laundering shall be regarded as such even where the activities which generated the property to be laundered were carried out in the territory of another country, provided that would be a predicate offence if committed in Greece and are punishable according to the law of such other country."</p> <p>Furthermore the Greek F.I.U. have the power to request the obligated persons to provide all information required for the performance of their duties, including grouped information about certain categories of transactions or activities of domestic or foreign natural or legal persons or entities.</p>

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes. Such reporting is included in a relevant assessment report evaluating the adequacy of the bank's overall Internal Control Systems.

Q27.	<p>If an external report on the bank's AML systems and controls is required:</p> <ol style="list-style-type: none"> how frequently must the report be provided? to whom should the report be submitted? is it part of the financial statement audit?
A27.	The report is provided every 3 years by independent certified public accountants (other than the statutory ones) and is communicated to the bank and to the Bank of Greece (Department for the Supervision of Credit and Financial Institutions).

Q28.	<p>What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require:</p> <ol style="list-style-type: none"> sample testing of KYC files? sample testing of SAR reports? examination of risk assessments?
A28.	Pursuant to the Bank of Greece Governor's Act 2577/9.3.2006, the report should evaluate the adequacy of the bank's anti-money laundering and anti-terrorist financing procedures, in particular with respect to classification procedures in terms of ML risk of transactions and/or customers.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Greece has established data protection laws. The main piece of legislation is Law 2472/1997 which has implemented in all material respects the EU Directive 95/46. The definition of "personal data" in the data protection law covers material likely to be held for KYC purposes. Greek data protection law applies only to individuals and not to corporate data. There is a separate definition of "sensitive data" (art. 7 of law 2472/1997) which is in accordance with the definition/additional protections as set out by EU Directive 95/46 (article 8).
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes. However the Greek AML law permits the exchange of information between credit or financial institutions situated in Greece or in another Member State and belonging to the same group. This also applies to the exchange of information between credit or financial institutions situated in Greece and similar institutions of the same group which are situated in a third country that imposes requirements at least equivalent to those laid down in the Greek AML law and which are subject to supervision of their compliance with those requirements. In addition obligated persons (credit & financial institutions, audit firms, tax consultancy firms, notaries and lawyers) who are situated or conduct their business in Greece may exchange information with persons from the same professional category regarding the same customer and the same transactions or activities involving two or more of the above persons. The foregoing shall also apply to the exchange of information between resident obliged persons and natural or legal persons from the same professional category situated or conducting their business in another Member State or in a third country that imposes requirements at least equivalent to those laid down in the Greek AML law, provided that such persons are from the same professional category and are subject to at least equivalent obligations as regards professional secrecy and personal data protection. The information exchanged is used exclusively for the prevention and suppression of the offences of money laundering and terrorist financing.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	There are various secrecy/confidentiality laws; in relation to banks the most important piece of legislation is L.D 1059/1971, pursuant to the disclosure of information relating to the existence, nature and balance of bank deposits is prohibited. This special banking secrecy rule applies to all banks operating in Greece and their officers, directors, employees and agents.

¹ GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1996 (amended in 2005 and 2007).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	The Gibraltar Financial Services Commission ("FSC") - http://www.fsc.gi
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes, the Anti-Money Laundering and Terrorist Financing Guidance Notes - http://www.fsc.gi/amlgn/
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes – only for clients of Banks and Fiduciary service providers licensed by the FSC.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – amendments introduced and applicable from 15 December 2007.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – one-off transactions below EUR15,000.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: Physical identity (e.g. name, date of birth, registration number), address and the source of their income/wealth. Passports or identity cards should be used for verification of physical identity and utility bills or alternatives, such as checking the electoral register/telephone directory, should be used for verification of address.</p> <p>Companies: Copy of the latest report and accounts, board resolution to open the relationship and the empowering authority for those who will operate any account and certificate of incorporation/certificate of trade or equivalent. Also required are authorised signatories for the account/transaction, holders of powers of attorney to operate the account/transaction as well as ultimate beneficial owners (UBO) and shareholders if different from the UBO.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Where verification of identity is required, the documents should be independently verified by the institution itself. High risk customers should have their identification, address and source of income/wealth verified using at least two independent sources other than the document in question. Certified documents must be signed and dated by an external third party, such as a notary, lawyer, accountant etc.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	It is considered appropriate to verify the identity of beneficial owners holding 25% or more. Where a principal owner is another corporate entity or trust, the firm should take measures to look behind that entity and establish the identities of its beneficial owners or trustees, unless that company is publicly quoted. The firm will then judge which of the beneficial owners exercise effective control, and whose identities should therefore be verified.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	The level of documentation required should be adapted according to the risk profile of the customer, the level and nature of the business, the risk tolerance of the institution and any existing relationships with that customer. Local guidance requires that institutions have a methodology which classifies the different types of customers into risk categories and processes that adequately mitigate the risks posed by these.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Where an entity is known to be linked to a PEP, or to a jurisdiction assessed as carrying a higher money laundering/terrorist financing risk, or where the company is engaged in activities that are assessed to carry a higher money laundering risk, further verification and/or monitoring may be required.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	The systems of control that firms must adopt to reduce the risks associated with establishing and maintaining business relationships with PEPs include: a) establishing and documenting a clear policy and internal guidelines, procedures and controls regarding such business relationships; b) maintaining an appropriate risk management system to determine whether a potential customer or an existing customer is a PEP; c) ensuring that decisions to enter into business relationships with PEPs are only taken by senior management; and d) ensuring that business relationships which are known to be related to PEPs must be subject to proactive monitoring of the activity on such accounts.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	The following controls amongst others need to be implemented for correspondent banking relationships: a) a firm must gather sufficient information about a respondent institution to fully understand the nature of their business; b) senior management approval must be obtained prior to establishing new correspondent relationships; and c) the firm must assess the respondent institution's AML and terrorist financing controls.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

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Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>The additional controls required in respect of non face-to-face customers are:</p> <ul style="list-style-type: none">a) ensuring that the customer's identity is established by additional documents, data or information;b) supplementary measures to verify the documents supplied, or requiring an eligible introducer to certify the customer identification documents; andc) ensuring that the first payment of the operation is carried out through an account in the customer's name at a credit institution. <p>A common mechanism adopted by many firms is to permit the use of certified customer identification documents provided in lieu of having had sight of the originals.</p>

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Gibraltar Financial Intelligence Unit, which is a member of the Egmont Group.
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>There are three offences that could be committed by an individual:</p> <ul style="list-style-type: none">a) assistance;b) tipping off; andc) failure to file a SAR.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.

Does the country have established data protection laws? If so:

- a) does the definition of "personal data" cover material likely to be held for KYC purposes?
- b) how do the laws apply to corporate data?
- c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?

A29.

- a) Yes the relevant legislation is the Data Protection Act 2004.
- b) The definition of personal data as defined by the DPA is "any information relating to a data subject" and so does cover material likely to be held for KYC purposes. It does not however, apply to corporate data which is not personal data (e.g. financial data about a company).
- c) Yes, Sec 8(1) of the Act defines "Sensitive data" as:
 - a. data revealing racial or ethnic origin;
 - b. data revealing political opinions;
 - c. data revealing religious or philosophical beliefs;
 - d. data revealing trade-union membership;
 - e. data concerning health or sex life;
 - f. data concerning the commission or alleged commission of any
 - g. offence by the data subject;
 - h. data concerning any proceedings for any offence committed; or
 - i. alleged to have been committed by the data subject, the disposal of such proceedings or the sentence of any court in such proceedings.

The additional protection for the processing of sensitive personal is that processing sensitive personal data is prohibited save where sections 6 and 11 on data quality and data security are satisfied and at least one of the conditions in section 7(1) (criteria for making data processing legitimate) is met, and at least one of the following conditions is met--:

- a. the data subject has explicitly consented to the processing of the sensitive personal data;
- b. the processing is necessary for the purposes of carrying out any legal obligation or right which is conferred or imposed by law on the data controller in connection with employment and the right of data subjects to privacy is safeguarded;
- c. the processing is necessary to prevent injury or other damage to the health of the data subject or another person or serious loss in respect of, or damage to, property or otherwise to protect the vital interests of the data subject or of another person in a case where-- consent to the processing cannot be given by or on behalf of the data subject; or the data controller cannot reasonably be expected to obtain such consent, or the processing is necessary to prevent injury to, or damage to the health of, another person, or serious loss in respect of or damage to, the property of another person, in a case where such consent has been unreasonably withheld;
- d. processing is carried out in the course of the data controller's legitimate activities, in accordance with appropriate safeguards for the rights and freedoms of data subjects, and subject to such requirements as may be prescribed, by a non-profit-seeking body with a political, philosophical, religious or trade-union aim on condition that (i) the processing relates solely to the members of the body or to persons who have regular contact with it in connection with its purposes, and (ii) the sensitive data is not disclosed to third parties without the consent of the data subject;
- e. the information contained in the data has been made public as a result of steps deliberately taken by the data subject;
- f. the processing is necessary (i) for the administration of justice,(ii) for the performance of a function conferred on a person by or under an enactment, or (iii) for the performance of a function of the Government or a Minister of the Government;
- g. the processing-- (i) is required for the purpose of obtaining legal advice or for the purposes of, or in connection with, legal proceedings or prospective legal proceedings, or (ii) is otherwise necessary for the purposes of establishing, exercising or defending legal rights;
- h. the processing of the sensitive data is required for the purposes of preventive medicine, medical diagnosis, the provision of medical care or treatment, medical research or the management of health-care services, and the sensitive personal data are processed-- by a person registered under the Medical and Health Act 1989, who is under an enforceable obligation of professional secrecy, or by another person who, in the circumstances, owes a duty of confidentiality to the data subject ;
- i. the processing is necessary in order to obtain information for use, subject to and in accordance with the Statistics Act, only for statistical, compilations and analysis purposes;
- j. the processing is carried out by political parties, or candidates for election to, or holders of, elective political office in the course of electoral activities for the purpose of compiling data on people's political opinions on condition that the sensitive data is not disclosed to third parties, in a form which permits identification of the data subject, without the consent of the data subject;
- k. the processing is necessary for the purpose of the assessment, collection or payment of any tax, duty, levy or other moneys owed or payable to the Crown and the data has been provided by the data subject solely for that purpose;
- l. the processing is necessary for the purposes of determining entitlement to or control of, or any other purpose connected with the administration by the Crown of any benefit, pension, assistance, allowance, supplement or payment, or any non statutory social security scheme; or
- m. the processing is authorised by regulations that are made by the Minister and are made for reasons of substantial public interest.

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes relevant UK case law provides legal precedent.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.



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Last updated:

January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1993 (amended 2003, 2008, 2011 and 2013).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	According to section. 16 of the German Anti Money Laundering Act: a) German Banking Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, BaFin) www.bafin.de ; b) BaFin, Federal Ministry of Finance ("BMF"); and c) Decentralised regulation, communal supervision in each of the 16 states of Germany e.g. Hessen: http://www.hessen.de/irj/RPDA_Internet?cid=bed0fee03852d9e5286ceb90870b2356
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	There is guidance for the non financial services sector for example Hessen: http://www.hessen.de/irj/RPDA_Internet?cid=bed0fee03852d9e5286ceb90870b2356 Furthermore there is guidance for the banking industry: http://www.die-deutsche-kreditwirtschaft.de/die-deutsche-kreditwirtschaft/kontofuehrung/geldwaescheverhinderung.html
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	In accordance with Section 3 paragraph 1 number 4 of the German Anti Money Laundering Act all client files have to be actualised on the basis of a risk based approach. The files of high risk clients have to be actualised at least every second year, of medium risk clients every fifth year and of low risk clients every seventh year.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes – in 2010: http://www.fatf-gafi.org/topics/mutualevaluations/documents/mutualevaluationofgermany.html

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – one-off transactions below EUR15,000 (in total) and cash transactions in foreign coins and notes below EUR 2,500. (EC) No 1781/2006 must, however, still be observed (threshold EUR1,000).
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: Evidence of identity has to be provided by documentary evidence. The physical or electronic record of the individual should contain the full name, address, date and place of birth and nationality. Documentary evidence can be a valid identity card or a passport, diplomatic passports, passport replacement papers or resident permits.</p> <p>Corporates that are listed in a public register: The physical or electronic record of the institute should contain firm, legal form, register number, address, domicile and names of management. Evidence of identity has to be provided by a certificate of public registration.</p> <p>Corporates that are not listed in a public register (partnership): The physical or electronic record of the institute should contain firm, legal form, register number, address, domicile and names of management. Evidence of identity has to be provided by a partnership agreement. In addition, the partners have to be identified like individuals.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Individuals and Corporates: In general, the physical presence of the individual (identification document: passport including a photograph of the individual) or an authorised representative of the corporate (identification document: copy of the register) is required. For non face to face customers, the enhanced due diligence requirements of the Third EU Directive apply.</p> <p>In exceptional cases (e.g. for online banks), trusted third parties, including other banks, insurance companies, notaries or the German Mail, are allowed to conduct the identification. In addition, the individual or an authorised representative of the corporate is allowed to send a copy of the identification document certified by a notary public, church or public administrator but the first transaction has to be received from an account opened at another bank named in Directive 2005/60/EG or domiciled in a country with equivalent AML rules.</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>The beneficial owner is the individual who is owner or ultimately controls the contracting party (ownership of 25% or more) or on whose decision the transaction is ultimately initiated. In the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds or arrange for third parties to administer and distribute funds:</p> <ul style="list-style-type: none">a) the natural person(s) who exercises control over 25% or more of the property of a legal arrangement or entity;b) the natural person(s) who is the beneficiary of 25% or more of the property of a legal arrangement or entity;c) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates. <p>Documentary evidence has to be provided for the identification of a beneficial owner on the basis of a risk-based approach, at least the name of the beneficial owner must be identified and further identification is to be gathered depending on the level of risk of money laundering or terrorist financing in the individual case. Verification of the beneficial owner is risk-based.</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Reduced/simplified due diligence arrangements are possible where there is a reduced money laundering or terrorist financing risk. This applies to transactions with other financial institutions, listed companies, domestic and some foreign authorities.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Enhanced customer due diligence is required where there is a high risk of money laundering or terrorist financing. This generally applies to transactions with PEPs and in cases of non face-to-face customers/ transactions.</p> <p>Transactions and client relationships assessed as bearing a higher money laundering/terrorist financing risk, or where the company is engaged in activities that are assessed to bear a higher money laundering risk, will require further verification and/or monitoring. For example, those clients conducting complex transactions or clients in less transparent jurisdictions.</p>

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Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Enhanced customer due diligence is required for all PEPs, especially determining the source of wealth/ source of funds and having the business relationship approved by senior management.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	In the case of correspondent banks based in European Union ("EU") member states or member states of the Basel committee, it should be ensured that a licence for monetary transfers exists. In the case of correspondent banks based in other countries, additional information regarding the structure of management, ownership and the Articles of Association should be received.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Identification has to be carried out by so called 'trusted third parties' ("zuverlässiger Dritter") such as a bank that offers face-to-face transfers, a notary, a life insurance company or the German Post. The third party sends the documentation and a copy of the documentary evidence to the firm that does not offer face-to-face transactions. If this firm ensures that another trusted third party fulfils the German AML Regulations, the identification can be done by another trusted third party. In addition, the first transaction has to be received from an account opened at another bank named in guideline 2005/60/EG or domiciled in a country with equivalent AML rules.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	According to Section 10 and 11 of the German Anti Money Laundering Act: To the Criminal Investigation Department of the relevant state and to the central Criminal Investigation Department of Germany (Central Division for Suspicious Activity Reports of the Financial Intelligence Unit ("FIU"))
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 14,361 SARs (FIU) GDP (in current prices): 2012 – USD 3,399,558 million (Source: data.worldbank.org*) This results in a ratio of 1 SAR for every USD27.8 million of GDP.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Until January 2012, only suspicious transactions had to be reported. However due to the findings of the FATF the German Anti Money Laundering Act was updated in December 2011. The internal threshold to report an unusual transaction or behaviour is now lower ("reason to believe").

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Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – section. 17 I no. 8 of the German Anti Money Laundering Act outlines the penalties for not reporting, an incorrect report of an unusual transaction, an incomplete report or one not made in the correct timeframe.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Yes, according to sec. 25c II of the German Banking Act.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes, sec. 11 of the German Anti Money Laundering Act.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes, see sec. 29 II German Banking Act and sec. 20 and 21 PrüfV (German Audit Regulation) for details. AML is part of the annual audit and the report contains information on the MLRO, monitoring systems, risk assessments, SARs and CDD.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) Annually or bi-annual (depending on balance sheet total); b) The regulator (BaFin); c) Yes.
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	a) Yes; b) Yes; c) Yes.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	a) Yes; b) Focus of German Data Protection Act is mainly on individuals (natural persons); however in the German Telecommunication Act, certain information about certain legal persons (e.g. Plcs) is protected; and c) All personal data is considered sensitive data, additionally sensitive data is considered data about ethnic and racial origins, political opinion, religious or philosophical views, union affiliations, health and sex life.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	No explicit prohibitions exist, as AML has precedence, however all transferred information must be in line with the Data Protection Act. Criminal records e.g. will only be requested from a person applying for a job if that job is senior management or requires a special level of reliability as there needs to be a valid reason to request that sensitive information.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No express Banking Secrecy Act exists, but case law acknowledges the existence of banking secrecy and thus banks are only required to disclose information about their customers if not doing such would itself break the law. Obligations to confidentiality extend to other professions as well (e.g. lawyers or a notary public).

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:

December 2013

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Fully revised with the transposition of the 3 rd AML Directive dated 30 th January 2009.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<ul style="list-style-type: none">a) Autorité de Contrôle Prudentiel (ACP): http://acpr.banque-france.fr/lacpr.htmlb) Autorité des Marchés Financiers (AMF) (and ACP if the subsidiary of a bank): http://www.amf-france.org/c) Autorité de Régulation des Jeux en ligne (ARJEL): http://www.arjel.fr/ for online games, casinos etc.

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Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>Yes, guidelines have been provided by ACP on various topics:</p> <ul style="list-style-type: none"> a) business relationship and occasional customer b) beneficial ownership c) third party introduction d) exchange of information within a group and non-group e) reporting suspicious f) politically exposed persons g) wealth management h) equivalent third countries <p>Application principles have been published on the ACP website related to :</p> <ul style="list-style-type: none"> a) mutual funds b) correspondent banking c) transfer of funds <p>Guidelines have been provided by AMF for entities subject to its control (asset management companies and management companies, financial investment advisers, central security depositaries) :</p> <ul style="list-style-type: none"> a) obligation of vigilance in a risk based approach and conditions for implementation of obligation to report to Tracfin b) politically exposed persons c) conditions for implementing specific legislative and regulatory provisions d) beneficial ownership e) third party introduction <p>Sources of practical guidance includes:</p> <ul style="list-style-type: none"> a) http://www.acp.banque-france.fr/controle-prudentiel/lutte-contre-le-blanchiment-des-capitaux-et-le-financement-du-terrorisme.html b) http://www.amf-france.org/en_US/Reglementation/Doctrine/Doctrine-list/Doctrine.html?category=III+-+Providers&docId=workspace%3A%2F%2FSpacesStore%2Fc59ace50-a95b-4f9e-990f-6433f6405808&docVersion=1.3&langSwitch=true c) http://www.economie.gouv.fr/tracfin d) http://www.fbf.fr/fr/environnement-europeen-et-international/lutte-anti-blanchiment/ e) http://www.arjel.fr/-Textes-de-reference-.html <p>For information purposes, 2 important AML decrees have been released in 2013 on the following topics :</p> <ul style="list-style-type: none"> a) online payment services (28th February 2013) b) money transfers (7th May 2013)
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	No - each institution must implement a risk-based approach which defines the required due diligences depending on the money-laundering risks. Regulation provides examples of low and high risk customers, products, transactions and means of distribution but these lists are not exhaustive. Each institution must define its own risks mapping of customers, products, transactions and means of distribution and the associated due diligence required. This risk-based approach is not approved by the local regulator(s) but periodically examined during on site reviews.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>Yes, the anti-money laundering and countering the financing of terrorism (AML/CFT) measures in place in France have been evaluated by the FATF in 2010 (18 January - 2 February 2010)</p> <p>http://www.fatf-gafi.org/topics/mutualevaluations/documents/mutualevaluationoffrance.html</p>

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Yes -The identification of occasional customers and beneficial owners is not required for transaction under € 8,000 if the transaction is not deemed suspicious. However, this threshold is not applicable for money transfers, custody services and when the client is not physically present.</p> <p>The decree of 7th May 2013 provides that for money transfers, information concerning the customer and the beneficial owner must be reported to Tracfin (see A18) for transactions over € 1,000 or which cumulate over € 2,000 on a calendar month,.</p>
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: a government-issued document with a photograph (such as a valid passport or a valid photocard driving licence), supporting documents of home address at the date when the documents are collected, occupation, revenues or any other relevant documents which enable to assess the client's resources and his personal assets.</p> <p>Legal entities: original or certified copy of any deed or extract of an official register stating the company name, address, legal status and identity of the executives, annual reports of the last 3 years and auditors' reports.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Individuals: Original identification documentation must be provided. A bank's employee is required to make a copy of the original documentation and certify it true to the original.</p> <p>Legal entities: Except in the specific case of the presentation of a certified copy of a deed or extract of an official register stating the name, legal form and registered office, original documentation provided should provide and a copy shall be made and certified by the bank's employee.</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>The institution shall identify the effective beneficiary of the business relationship through any means it considers adequate and necessary. It should verify that this identity is based on the documents collected, according to the assessed level of money laundering risk and the documentation shall be kept on record.</p> <p>Guidelines have been provided by the ACP on the requirements around beneficial ownership. METTRE LE LIEN</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Due diligence may be reduced when the money laundering risks associated with a given customer and/or business relationships are considered as low.</p> <p>Low risk customers include :</p> <ul style="list-style-type: none">- financial institutions subject to equivalent AML regulation,- large corporates whose shares are listed on a regulated stock-exchange incorporated in an EU-country or an equivalent third-party country,- public administrative bodies or authorities of an EU country. <p>Low risk products include life insurance contracts with an annual premium under € 1,000 or with a unique premium under € 2,500.</p> <p>Furthermore, the decree of 28th February 2013 provides that under certain conditions, the identification of customer and beneficial owner may not be checked for online operations under € 250.</p>

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Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced customer due diligence measures are required in the following cases: a) when the client or his representative is not physically present for the account opening, b) when the client is a Politically Exposed Person ('PEP'), c) when the transaction or the financial instrument facilitates the anonymity of the client, d) when the transaction is carried out by individuals who live or corporates which are incorporated in non-cooperative countries, e) when the transaction is complex, of an unusual amount or without obvious justification.

Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Enhanced due diligence is systematically required for PEPs.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Institutions must : a) collect sufficient information on its correspondent banking relationships' activities and assess, based on publicly available information, its reputation, b) assess its anti-money laundering arrangements, c) ensure that the decision of establishing this relationship has been approved by an executive of the institution, d) include in the correspondent-banking agreement the requirements to provide the institution with information on demand, e) ensure that the correspondent-banking counterparty has checked the identity of its clients, when the institution has opened accounts which are directly used by the correspondent-banking clients for their own transactions. Guidelines have been provided by the ACP on the requirements around correspondent banking relationships. METTRE LE LIEN

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Regulation requires institutions to systematically conduct enhanced due diligence for non face-to-face transactions and/or relationships.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Tracfin (Traitement du renseignement et action contre les circuits financiers clandestins): http://www.tracfin.bercy.gouv.fr/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs in 2012: 26,011 SARs, divided as follows: - financial sector- 24,264, - non-financial sector- 1,747. (Source: Tracfin annual report) GDP in 2012 (in current prices): 2,613,000 million (Source: data.worldbank.org)

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes. a) Operations which are particularly complex, an amount which appears to be unusually high or does not appear to have any economic justification, where the bank is unable to establish the identity of the beneficiary or obtain sufficient information regarding the origin and destination fund, the commercial background or the legality of a transaction, b) Transactions for which the identity of the originator or the beneficiary could not be established. c) For money transfers, transactions over € 1,000 operations or which cumulate € 2,000 on a calendar month.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Yes, the decree of 28 th February 2013 provides that under certain conditions, the identification of customer and beneficial owner may not be checked for online operations under € 250.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	There is no explicit legal or regulatory requirement to use automated ST monitoring technology. Regulation only sets out that the bank shall implement the processes and the tools which it considers necessary to proceed with the AML/FT surveillance, considering its size, organisation, customers and transactions.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes – The transaction is on "hold" until Tracfin approval.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes - if it concerns a country of the European Union or a country which imposes equivalent rules to France with regard to the fight against Money Laundering and Terrorist Financing.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No but the 97-02 regulation relating to internal control provides that the AML policy should be described and communicated to the audit committee. In addition, a questionnaire is completed on an annual basis concerning AML internal control to the ACP.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	In France, personal data is protected by the law on data processing, data files and individual liberties dated 6th January 1978. a) Yes, b) Corporate data include personal data concerning individuals representing legal entities. The collection and processing of these data are provided in the French law. These data can be collected and transferred for AML purposes (e.g.: power of attorney, delegation of authority, identity of directors, officers and shareholders), c) Under French law, a sensitive data is a personal data that reveals directly or indirectly the racial or ethnic origins, political, philosophical or religious opinions, trade union membership or data related to individual health or sexual life. The collection of sensitive data is prohibited. By exception, sensitive data can be collected with the explicit consent of the person concerned or if the treatment of such data is required for public interest purposes.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Credit reports are protected by banking secrecy rules under French law. Credit reports may be transferred in the following circumstances: - Tax fraud, - AML/FT, - transmission of information to the French authorities (e.g. French financial market authority, Banque de France), - Exchange of information between regulated entities belonging to the same group. Criminal records are protected under French law and cannot be transferred. By exception, criminal records can be transferred to certain authorities listed by the French criminal Code (ministry of justice, military authorities etc.) Medical data is protected under French law and can be transferred only in particular circumstances provided by the law, for the interest of the patient or for public health purposes
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Under French law, the transfer of information is governed by: - The law on data processing, data files and individual liberties dated 6 th January 1978, - The rules related to banking and professional secrecy. These rules aim at protecting the transfer of information and limit it to specific cases.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation?) If so, what data is subject to regulation?
A32.	There is bank secrecy law in France. This law does not precisely list the data covered by banking secrecy. For example, information such as the bank account number or the amount of the loan is considered as confidential data whereas general information related to the solvency of a client is not.

*GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2008 (original 1998; amended 2003).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	In general, previous AML laws followed previous European Union ("EU") directives.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	a) Financial Supervisory Authority http://www.fin-fsa.fi b) Financial Supervisory Authority http://www.fin-fsa.fi c) Ministry of the Interior and Regional State Administrative agencies.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes guidance is provided by the Money Laundering Clearing House of Finland which operates within the National Bureau of Investigation ("NBI") - www.poliisi.fi/nbi
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes – based on a risk-based assessment.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes, please see link: http://www.fatf-gafi.org/topics/mutualevaluations/documents/mutualevaluationoffinland.html

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	There is no minimum Euro threshold for taking customer due diligence measures. Customer due diligence must be followed when transactions are unusual. Due diligence must take place if one of the following is true: a) if the reporting entity is planning to engage in a permanent business relationship with a customer; b) if the transaction or transactions related to the same business amounts to EUR15,000 or more and the relationship between the reporting entity and a customer is occasional; c) if the customer is a gambling service provider; d) if the transaction is suspicious or the reporting entity is suspecting that the money related to the transaction is used to finance terrorism; or e) if the reporting entity is questioning the reliability of the information previously used to identify the customer.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	The following information is required: Individuals: full name, date of birth, identification number (for foreign citizens: citizenship and passport number). Required documents for individuals: passport, driving licence or official identity card. Legal entities: name, business identification number, date of registration (and name of registration authority), field of activity as well as full name, date of birth and citizenship of members of the statutory bodies and the person(s) representing the legal entity. Required documents for legal entities: trade register extract or equivalent official extract from a relevant public register and relevant documents for the individuals previously mentioned.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	A certified copy signed by two qualified individuals is required. The qualified individual does not have to be a notary, lawyer or accountant.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The name, date of birth and identification number of the beneficial owner(s) (for foreign citizens: citizenship and passport number) must be verified.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Reduced/simplified due diligence arrangements are available if the risk of money laundering or financing terrorism connected to the customer, product, service or field of activity is low. For example, simplified due diligence arrangements are available to Finnish authorities; public companies listed on the Finnish or any other European Economic Area ("EEA") country exchange; credit institutions, financial institutions, investment firms, management companies/custodians and insurance companies with concession in Finland or another EEA country.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced due diligence measures are required if there is a high risk of money laundering or financing terrorism in connection to the customer, product, service or field of activity. Enhanced due diligence is also required if the transaction is connected to a state in which systems for preventing and clearing money laundering does not meet international standards.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Additional due diligence is required if the customer himself is a PEP or is related to a PEP, or is an individual who is known to be the business partner of a PEP.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Firstly, the management of the credit institution has to approve the correspondent banking relationship. Should it be approved, the credit institution has to collect sufficient information about the correspondent bank which includes evaluating the bank's reputation, the quality of its supervision and the correspondent bank's measures to prevent money laundering and financing terrorism.

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Q16.	Are relationships with shell banks specifically prohibited?
A16.	No.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Additional due diligence is always required if the customer is not physically present for identification.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Money Laundering Clearing House of Finland, which operates within the NBI.

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 - Suspicious transactions: 9,797 2012 - Suspicious money transfers: 43,511 Total: 53,308</p> <p>GDP (in current prices): 2012 - USD250.0 billion (Source: data.worldbank.org*)</p> <p>This results in a ratio of 1 SAR for every USD4.7 million of GDP.</p> <p>Please note that the statistics for 2012 are not comparable with those in the previous years because the new electronic Money Laundering Register was introduced at the beginning 2012.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	If customers do not provide the information required for performing customer due diligence or if parties subject to the reporting obligation consider that the information provided is not reliable, the parties must make a suspicious transaction report. A suspicious transaction report must also be made if legal persons cannot be identified or their beneficiaries cannot be established in a reliable way, or if enhanced identification of the person for whom a customer is acting is not possible.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes: <ul style="list-style-type: none">a) Violation of customer due diligence: fine, unless a more severe punishment for the act is provided elsewhere in the law;b) Registration violation: fine, unless a more severe punishment for the act is provided elsewhere in the law;c) Violation of the obligation to report money laundering: fine; ord) Payment service violation: fine, unless a more severe punishment for the act is provided elsewhere in the law.

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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	a) Yes, the definition of personal data covers any information on a private individual and any information on his/her personal characteristics or personal circumstances, where these are identifiable as concerning him/her or the members of his/her family or household; b) The definition of personal data also covers personal information in the corporate context; and c) Yes, "sensitive data" is defined as personal data related to intended to be related to for example race or ethnic origin, the social, political or religious affiliation or trade-union membership of a person, a criminal act, punishment or other criminal sanction, the state of health, illness or handicap of a person or the treatment or other comparable measures directed at a person, the sexual preferences or sex life of a person or the social welfare needs of a person or the benefits, support or other social welfare assistance received by the person. As a main rule, the processing of sensitive data is prohibited but Finnish law provides certain detailed derogations from the prohibition.

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes, there are prohibitions on the transfer of such personal data.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes, EU Data Protection Directive 95/46/EC and legislation based on the implementation of the said Directive apply when personal data is transferred from another EU country. If the information is transferred from outside of EU, local legislation may be applicable. Personal Data Act (523/1999) is applicable on personal data and as special legislation may be applicable, for example Act on the Protection of Privacy in Working Life (759/2004), Employment Contracts Act (55/2001), Act on Cooperation within Undertakings (725/1978), Occupational Safety and Health Act (738/2002) Credit Data Act (527/2007) and other legislation.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes, under the Credit Institutions Act. Bank secrecy protects private individuals, undertakings and other corporations and it applies to information that can be used for identifying a bank's customer. Example information related to customer's economic status or individual's personal circumstances concerning information such as family relations. Business or professional secrets are also subject to regulation.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2008 (initial legislation was adopted in 1999).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	The Estonian Financial Intelligence Unit is the main supervision unit: https://www.politsei.ee/en/organisatsioon/rahapesu-andmebuuro/ However, regulated entities such as banks, management companies, etc. are addition supervised by the Estonian Financial Supervision Authority.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Estonian Financial Intelligence Unit https://www.politsei.ee/en/organisatsioon/rahapesu-andmebuuro/fius-advisory-guidelines/ Estonian Financial Supervision Authority http://www.fi.ee/index.php?id=3375
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No. Estonia is a member of MONEYVAL. The EC MONEYVAL expert committee evaluation was scheduled for the second half of 2013; currently there is no information available as to whether it was carried out and what the results were. The last report was 2008: http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round3/MONEYVAL(2008)32Rep-EST3_en.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Due diligence measures are always required upon establishment of a business relationship and upon suspicion of money laundering or terrorist financing (regardless of any limits provided by law).</p> <p>Otherwise: there's a EUR15,000 threshold for transactions (regardless of whether one or several related payments); EUR6,400 threshold upon provision of currency exchange services; and EUR2,000 for organisers of games of chance, regarding all persons who pay or receive more than that in a single transaction or several related transactions.</p>
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: An obligated person shall identify a natural person and verify the person on the basis of an identity document. In addition to an identity document, the representative of a person participating in a transaction shall submit a document in the required format, certifying the right of representation.</p> <p>Legal entities: An obligated person shall identify a legal person and its passive legal capacity and verify the information obtained. Legal persons registered in Estonia and branches of foreign companies registered in Estonia shall be identified on the basis of an extract of a registry card of the relevant register and foreign legal persons shall be identified on the basis of an extract of the relevant register or a transcript of the registration certificate or an equal document, which has been issued by a competent authority or body not earlier than six months before submission thereof.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>A copy shall be made of the page of an identity document submitted for identification which contains the personal data and a photograph. In addition, upon identification and verification the following personal data shall be registered:</p> <ol style="list-style-type: none">the name and the representative's name;the personal identification code or, upon absence of a personal identification code, the date and place of birth;the name and number of the document used upon identification and verification of persons, and its date of issue and the name of the agency which issued the document;the name of the document used upon identification and verification of the right of representation, and its date of issue and the name of the issuer; andin certain cases the address of the place of residence and the profession or area of activity of the person shall be registered. <p>A representative of a legal person of a foreign country shall, at the request of an obligated person, submit a document certifying his or her powers, which has been notarised or authenticated pursuant to an equal procedure and legalised or authenticated by a certificate substituting for legalisation (apostille), unless otherwise prescribed by an international agreement.</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Identification of the beneficial owner is a part of due diligence measures, it includes gathering information about the ownership and control structure of a legal person, trust, civil law partnership or other contractual legal arrangement on the basis of information provided in pre-contractual negotiations or obtained from another reliable and independent source.

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>The simplified due diligence measures can be taken if a person participating in a transaction entered into it in economic or professional activities, or a person using a professional service or if a customer is:</p> <ol style="list-style-type: none">a legal person governed by public law founded in Estonia;a governmental authority or another authority performing public functions in Estonia or a contracting state of the EEA;an authority of the European Community;a company of a contracting state of the EEA or a third country, which is subject to requirements equal to those provided for in Estonian legislation and whose securities are traded in a regulated securities market in one or several contracting state of the EEA; ora credit institution or a financial institution located in a contracting state of the EEA or in a third country, where the country of location is subject to requirements equal to those provided for in Estonian legislation and the performance of which is subject to state supervision. <p>An obligated person may apply the simplified due diligence measures with regard to the beneficial owners of an official account opened by a notary public or enforcement officer of a contracting state of the EEA or third country, provided that the official account is subject to due diligence measures which are in compliance with the international standards for prevention of money laundering and terrorist financing, state supervision is exercised over adherence to these requirements and the notary public or enforcement officer has and preserves information about the identity of the beneficial owner.</p> <p>An insurer or insurance broker may take simplified due diligence measures if:</p> <ol style="list-style-type: none">a life assurance contract is made whereby the annual assurance premium does not exceed EUR1,000 or a single premium does not exceed EUR2,500;a pension insurance contract is made which does not provide for the right of withdrawal or cancellation and which cannot be used as loan collateral;a transaction is entered into in the framework of a superannuated pension scheme or another scheme allowing for such pension benefits whereby insurance premium is debited from wages and the terms and conditions of the pension scheme do not allow for assignment of the rights of a participant in the scheme. <p>An electronic money institution may take simplified due diligence measures if an electronic money device does not allow for reloading and the amount saved in one electronic money device does not exceed EUR250.</p> <p>The simplified due diligence measures may also applied in a transaction if all of the following conditions have been fulfilled:</p> <ol style="list-style-type: none">a written contract has been entered into with a customer for an indefinite period;a payment is made through the account of a customer or a person participating in a transaction, which has been opened in a credit institution or a branch of a foreign credit institution registered in the Estonian commercial register or in a credit institution which has been registered or has its place of business in a contracting state of the EEA or in a country where requirements equal to those provided for in Estonian legislation are in force;the obligated person has established, by rules of internal procedure beforehand, that the annual total value of performance of financial obligations arising from transactions of such type does not exceed the maximum limit of EUR15,000; andthe obligated person registers at least the data specified in A10 with regard to a customer. <p>Certain other criteria exist for applying simplified due diligence measures for public/state institutions (both local and foreign).</p>
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<ol style="list-style-type: none">If the nature of a situation involves a high risk of money laundering or terrorist financing;if a person participating in a transaction, in a professional operation, or using a professional service; or a customer has been identified and verified without being present at the same place as the person or customer;if upon identification or verification of a person suspicion arises regarding the truthfulness of the data or authenticity of the documents submitted or regarding the identification of the beneficial owner or beneficial owners; andif a subject is a politically exposed person of a contracting state of the European Economic Area or a third country or their family member or close associate.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Upon establishment of a business relationship with or entry into a transaction with or performance of a professional operation for or provision of a professional services.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>The regular due diligence measures shall be applied more frequently than usual, also the following requirements must be implemented:</p> <ol style="list-style-type: none">appropriate risk-based internal procedures for making a decision on establishment of a business relationship or entry into a transaction applied;the management board or a person or persons authorised by the management board shall decide on establishment of business relationships; andupon establishment of a business relationship and entry into a transaction, appropriate measures taken for identification of the origin of the money or other property used; <p>Also at least one of the following enhanced due diligence measures shall be taken:</p> <ol style="list-style-type: none">identification and verification of a person on the basis of additional documents, data or information, which originates from a reliable and independent source, or from a credit institution or a branch of a credit institution registered in the Estonian commercial register or from a credit institution, which has been registered or has its place of business in a contracting state of the EEA or in a country where requirements equal to the Estonian legislation are in force, and if in such credit institution the person has been identified while being present at the same place as the person;application of additional measures for the purpose of verifying the authenticity of documents and the data contained therein, among other things, demanding that they be notarised or officially authenticated or confirmation of the correctness of the data by the credit institution, which issued the document; andmaking the first payment relating to a transaction through an account opened in the name of a person or customer participating in the transaction in a credit institution which has its place of business in a contracting state of the EEA or in a country where requirements equal to those provided for in Estonian legislation are in force. <p>Also enhanced due diligence measures shall be taken upon opening a correspondent account with a credit institution of a third country and during the period of validity of the respective contract, thereby regularly assessing the following:</p> <ol style="list-style-type: none">based on public information, the nature of the economic activities and the trustworthiness and reputation of the credit institution of the third country and the effectiveness of supervision exercised over the credit institution; andthe control systems of the credit institution of the third country for prevention of money laundering and terrorist financing. <p>The contract serving as the basis for opening a correspondent account or the rules of procedure of the credit institution shall contain the obligations of the parties:</p> <ol style="list-style-type: none">upon application of due diligence measures for prevention of money laundering and terrorist financing, including with regard to a customer having access to a payable-through account or another similar account;upon submission, on the basis of a query, of data gathered in the course of identification of customers and verification of submitted information; andupon preservation of data and upon performance of the notification obligation and application of other measures for prevention of money laundering and terrorist financing. <p>Prior consent of the management board of the credit institution or financial institution or the person authorised by the management board is required for opening a correspondent account for a credit institution or a financial institution of a third country, or for opening a correspondent account in a third country credit institution or financial institution, or for signing the corresponding contract.</p> <p>Credit institutions and financial institutions are prohibited to open or hold a correspondent account in a credit institution, which meets at least one of the following conditions:</p> <ol style="list-style-type: none">the actual place of management or business of the credit institution is located outside its country of location and the credit institution is not part of the consolidation group or group of undertakings of a credit institution or financial institution that is subject to sufficient supervision;an account for a credit institution corresponding to the characteristics specified in clause a) has been opened in the credit institution; oraccording to international standards or the circumstances provided for in this section, which are to be used as a basis for assessment, deficiencies become evident in the trustworthiness of the executives of the credit institution and in assessment of measures for prevention of money laundering and terrorist financing.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	No. Estonian law does not regulate such situation. However, every person must take all necessary steps to avoid that money-laundering activities may take place.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Always, in case a person participating in a transaction, in a professional operation, or using a professional service; or a customer has been identified and verified without being present at the same place as the person or customer.

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	To the Estonian Financial Intelligence Unit: https://www.politsei.ee/en/organisatsioon/rahapesu-andmeburoo/
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 12,157 SARs GDP (in current prices) 2012 – USD21,854 million (Source: data.worldbank.org*) This results in a ratio of 1 SAR for every USD1.8 million of GDP.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	An obligated person, except a credit institution, shall immediately, but no later than within two working days of executing the transaction, notify the Financial Intelligence Unit of any transaction where the financial obligation exceeding EUR32,000 is performed in cash, regardless of whether the transaction is made in a single payment or several related payments. A credit institution shall immediately, but no later than within two working days of executing the transaction, notify the Financial Intelligence Unit of any currency exchange transaction exceeding EUR32,000 in cash, unless the credit institution has a business relationship with the person participating in the transaction.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Both failure to report suspicion of money laundering or terrorist financing and submission of incorrect information as well as unlawful notification of information submitted to Financial Intelligence Unit are offences punishable by a fine up to EUR1,200; detention (individuals); or up to EUR32,000 fine (legal persons).
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	The obligated person has the right to refuse to enter into such transaction, but he shall immediately, but no later than within two working days from identifying the act or circumstances, or from the rise of the suspicion, notify the Financial Intelligence Unit.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	External auditors must inform Estonian Financial Supervision Authority if they find out that a credit institution materially violates Estonian law.

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Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes: a) Yes; b) Corporate data is not protected under the data protection laws; c) Yes, sensitive personal data ("SPD") is: a. data revealing political opinions or religious or philosophical beliefs, except data relating to being a member of a legal person in private law registered pursuant to the procedure provided by law; b. data revealing ethnic or racial origin; c. data on the state of health or disability; d. data on genetic information; e. biometric data (above all fingerprints, palm prints, eye iris images and genetic data); f. information on sex life; g. information on trade union membership; and h. information concerning commission of an offence or falling victim to an offence before a public court hearing, or making of a decision in the matter of the offence or termination of the court proceeding in the matter. Additional protections for SPD include the following: a) written explicit consent has to be obtained from data subject; b) person responsible for protection of personal data needs to be appointed or the processing of sensitive personal data registered with the Data Protection Inspectorate; and c) processing SPD for communication to third persons for assessing the creditworthiness or other such purpose is not permitted.

Q30.	Are there any prohibitions on the (a) transfer of credit reports (for KYC and credit risk analysis purposes), (b) criminal records (for KYC and crime prevention purposes) and (c) medical data (for KYC and pension benefits purposes)?
A30.	There is a general principle that processing of personal data is permitted only with the consent of the data subject unless otherwise provided by law. The consent shall clearly determine the data for the processing of which permission is given, the purpose of the processing of the data and the persons to whom communication of the data is permitted, the conditions for communicating the data to third persons and the rights of the data subject concerning further processing of his or her personal data. Silence or inactivity shall not be deemed to be consent and consent may be partial and conditional. In such case the person communicating personal data has to establish the legitimate interest of the third person, verify the accuracy of the data to be communicated and register the data transmission. Written consent of the data subject needs to be obtained.

Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.

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Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	<p>Yes. Under Article 88 of the Credit Institution Act generally all data and assessments which are known to a credit institution concerning of the clients of the credit institution or other credit institutions are deemed to be information subject to banking secrecy.</p> <p>However, the following data are not deemed to be information subject to banking secrecy:</p> <ul style="list-style-type: none">a) data which are public or available from other sources to persons with a legitimate interest;b) consolidated data on the basis of which data relating to a single client or the identities of persons included in the set of persons referred to in the consolidated data cannot be ascertained;c) a list of the founders and shareholders or members of a credit institution and data relating to the sizes of their holdings in the share capital of the credit institution, regardless of whether or not they are clients of the credit institution; andd) information relating to the correctness of the performance of a client's obligations to a credit institution.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1993 (significant amendments in 2006, 2008, 2009, 2010, 2012 and 2013).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	a) The Danish FSA (http://www.finanstilsynet.dk); b) The Danish FSA (http://www.finanstilsynet.dk); and c) Business Registry Authority (http://www.erst.dk/), Lawyer: The Danish Bar and Law Society (http://www.advokatsamfundet.dk).
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	A Danish general guidance is issued by the Danish FSA. http://www.finanstilsynet.dk/da/Temaer/Hvidvask/Regler.aspx Furthermore, the Danish Business Authority has issued guidance for specific sectors e.g. accountancy sector, https://www.retsinformation.dk/Forms/R0710.aspx?id=146481
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes - but a company can postpone confirmation of the identification of customers using a risk based approach and based on any previous relationship with the customer.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	A risk based approach is allowed in accordance with law. However, the actual approach has to be approved as being consistent with the AML regulations.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	http://www.fatf-gafi.org/countries/d-i/denmark/documents/follow-upreporttothemutualevaluationofdenmark.html

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Customer due diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - one-off transactions below EUR6,700 (DKK50,000) using a risk based approach.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: name, address and social security number. Accepted evidence includes: passport, driving license, birth certificate, tax returns and tax code (including social security number). Electronic public keys will also be accepted. Corporates: name, address and company number. Accepted evidence includes: Registered information from the Danish Commerce and Companies Agency and Articles of Association.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	There are no mandatory requirements in the law, but it is stated in local guidance that copies of identification documentation are accepted. Copies of documentation can be certified by financial institutions according to the law.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Identification of the beneficial owner has to be performed. The group structure or ownership of a group has to be identified as well as shareholders who own more than 25% of a company.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Customer due diligence is reduced in three main areas: a) payments for life insurance or under pension agreements under specific circumstances e.g. payments of EUR1,000 or less for recurring fees and a one time fee of EUR2,500 or less; b) electronic money - if the device cannot be recharged and the maximum amount stored in the device is no more than EUR250, or where, if the device can be recharged, a limit of EUR2,500 is imposed on the total amount transacted in a calendar year, except when an amount of EUR1,000 or more is redeemed in that same calendar year; and c) specific transactions and products as described by the Danish Financial Services Agency (FSA) in order no. 712 of 2008.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Local guidance states four cases: a) customers who do not physically present themselves for identification purposes; b) cross-border correspondent banks; c) PEPs; and d) shell companies.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Legislation requires financial institutions to: a) have sufficient procedures to determine whether the customer is a PEP who is a resident of another country; b) obtain approvals from senior management on a daily basis for establishing business relationships with such customers; c) take reasonable measures to gather information about the sources of income and funds that are involved in the business relationship or transaction; and d) continuously monitor the business relationship.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	In cases of money transfers to or from a bank outside the European Union ('EU') where there is no official agreement of financial services with the EU, further proceedings have to be considered as stated in the local guidance. Before establishing new correspondent banking relationships, firms will be required to: a) gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine, from publicly available information, the reputation of the institution and the quality of supervision; b) assess the counterparty's AML and anti-terrorist-financing controls; and c) obtain daily approval from senior management.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	In the case of a customer who has not been physically present for identification purposes, legislation requires the taking of 'further measures to ascertain the customer's identity'. It sets out an illustrative list of measures that can be taken to ascertain the customer's identity in these situations, such as: ensuring that the customer's identity is established by additional documentation; checking or verifying the documents supplied, or requiring a confirmatory certification by another financial institution; and requiring that the first payment in connection with the transactions is carried out through an account opened in the customer's name with a bank.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Danish Money Laundering Secretariat hosted by the State Prosecutor for Serious Economic Crime http://www.rigsadvokaten.dk/?id=215

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 4,511 SARs GDP (in current prices): 2012 – USD314,242 billion (Source: data.worldbank.org*) This results in a ratio of 1 SAR for every USD69.7 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Any violation of money laundering or terrorist financing has to be reported immediately and the suspect can be punished by 1 year imprisonment.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Staff members are not required to have knowledge of what crimes can be in violation of the law and punishable by 1 year. Therefore staff members must report internally to a compliance officer, who afterwards decide whether to report to the State Prosecutor for Serious Economic Crime or not.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Any penalties will be handled by the State Prosecutor for Serious Economic Crime. In certain cases this can be up to 6 months imprisonment.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Companies must have administrative procedures in place. Financial companies are considered to be operating in a high risk sector and therefore automatic monitoring of transactions is required by the Danish FSA.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	The State Prosecutor for Serious Economic Crime has to report back by the end of the following banking day.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes: a) Please see link below; b) Please see link below; c) Please see link below. http://www.datatilsynet.dk/english/the-act-on-processing-of-personal-data/read-the-act-on-processing-of-personal-data/compiled-version-of-the-act-on-processing-of-personal-data/

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	This would have to be evaluated by a lawyer.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1996 (amended 2004, 2006 and 2008 - Act No. 253/2008 Coll. effective as of 1 September 2008) and last amended 2013 http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/legislativa-aml-cft
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	The key regulator for AML controls is: Ministry of Finance of the Czech Republic - Financial Analytical Department ("FAU") - http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/stanoviska-financniho-analytickeho-utvar Controls are also further performed also by (refer to Section 35 of the Act 253/2008 Coll.): a) Czech National Bank – www.cnb.cz , in accordance with Act No. 6/1993 Coll., on the Czech National Bank http://www.cnb.cz/miranda2/export/sites/www.cnb.cz/en/legislation/acts/download/act_on_cnb.pdf . The Czech National Bank is a supervisory authority of the financial market in the Czech Republic; and b) Czech Trade Inspectorate – www.coi.cz/en/ – administrative authorities supervising lotteries and other similar games, and holders of licences to operate betting games.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes – Guidelines for submitting AML notifications issued by the Ministry of Finance – http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/legislativa-aml-cft Guidelines also issued by Czech National Bank – http://www.cnb.cz/cs/dohled_financni_trh/legislativni_zakladna/legalizace_vynosu/metodiky_vyklady.html
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – the Czech National Bank stipulates in Guidance 281/2008, that financial and credit institutions should implement the risk based approach when assessing the risk of legitimisation of proceeds of crime and financing of terrorism. The institutions should take into consideration the best practices applied in this area. Furthermore, the Czech National Bank issued its official ruling on 26 May 2009 in which it specifies the respective AML standards: http://www.cnb.cz/miranda2/export/sites/www.cnb.cz/cs/legislativa/vestnik/2009/download/v_2009_08_21109560.pdf
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	MONEYVAL assessment – April 2011 – http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Czech_en.asp

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Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - any single transaction below EUR15,000 does not require any customer due diligence unless it is a: a) a suspicious transaction; b) an agreement to enter into a business relationship; c) an agreement to establish an account, to make a deposit into a deposit passbook or a deposit certificate, or to make any other type of deposit; d) an agreement to use a safety deposit box or an agreement on custody; e) a transaction with a Politically Exposed Person ('PEP'); and f) as part of the business relationship.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	The following information is required: Individuals: Name, surname, birth identification number or date of birth, place of birth, sex, address and citizenship. These would normally be verified by an identity card or passport. Individuals who conduct business: In addition to the above, full name of the business, place of business and identification number needs to be noted. Legal entities: the full name, residency/seat, identification (or similar identification received from foreign offices) showing evidence of the company's existence (i.e. certificate of incorporation, trade register statement or other). The same principles for individuals apply for the identification of individuals in the company's statutory body. If the company's statutory body or the owner is another legal entity, identification documentation must also be collected for that entity.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	These should be certified by an appropriate person e.g. a notary, local authorities etc. Specific rules apply to credit and financial institutions, where certain employees are authorised to verify these when opening account, concluding contract etc.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The shareholders of a legal entity (with more than 25% holding) must be ascertained. Identification requirements are the same as for the relevant legal entity.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Simplified due diligence is applicable for a transaction exceeding EUR1,000 unless it is a: a) suspicious transaction; b) an agreement to enter into a business relationship; c) an agreement to establish an account, to make a deposit into a deposit passbook or a deposit certificate, or to make any other type of deposit; d) an agreement to use a safety deposit box or an agreement on custody; e) a life insurance contract, should the customer have a right to pay extra premiums above the agreed limit of the one-off or regular premiums payments; f) a purchase or receipt of cultural heritage, items of cultural value, used goods or goods without a receipt of origin to further trade in such goods, or receipt of such items in pawn; or
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced customer due diligence is applicable for: a) a remote financial services agreement under the Civil Code; b) a transaction and business relationship with a 'PEP'; and c) a correspondent bank relationship with a foreign credit or similar institution ("Correspondent Institution").

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Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Legislation requires financial institutions to: a) have sufficient procedures to determine whether the customer is a PEP who is a resident of another country; b) obtain approvals from senior management on a daily basis for establishing business relationships with such customers; c) take reasonable measures to gather information about the sources of income and funds that are involved in the business relationship or transaction; and d) continuously monitor the business relationship.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	All transactions with PEPs are subject to due diligence including the provision of information and supporting documentation relating to: a) the purpose and intended nature of the transactions or business relationship; b) the beneficial owner, if the client is a legal entity; c) the information required for continuous monitoring of the business relationship; and d) a review of the income source.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	In the case of a remote financial services agreement under the Civil Code, the entity shall review the customer as follows: a) the first payment under this agreement shall be made via an account kept in the customer's name held at a credit institution or a foreign credit institution operating in the European Union ("EU") or the European Economic Area ("EEA"); and b) the customer shall submit to the entity a copy of a document verifying the existence of this account together with copies of the relevant parts of his identity card and at least one more identification document to validate the customer's identification data of this card i.e. the type, serial number, issuing country or institution and validity.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Ministry of Finance of the Czech Republic – Financial analytical department ("FAU") http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/stanoviska-financniho-analytickeho-utvar

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 2,191 SARs (Source: http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/vysledky-cinnosti-financniho-analytickeh/2013/zadej-nazev-nove-stranky-11484) GDP (in current prices): 2012 – USD196 billion (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD89.5million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Suspicious transactions are identified based on criteria such as unusual transactions, international wire transfers etc. However, no special report is required.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – penalties are described in detail in Section 43 to 53 of the Act No. 253/2008 Coll.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No, however, transaction monitoring should be performed by using adequate means which assumes use of some automated technology.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes – in general a transaction that is identified/reported as suspicious can be continued after 24 hours from the time when it has to be notified and received by the Ministry of Finance, unless the Ministry of Finance require to postpone the transaction.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	<p>No. However, if the external auditor during performance of the regular audit procedures finds out facts which indicate suspicion of committing economic crime, crime against property or crime of corruption, he is obliged to inform the FAU, statutory representatives and control body of the given bank thereof.</p> <p>The central bank is however authorised to ask the bank to appoint the auditor for review of their internal control system which might also include a review of the AML function if requested by the central bank.</p>
Q27.	<p>If an external report on the bank's AML systems and controls is required:</p> <ul style="list-style-type: none">a) how frequently must the report be provided?b) to whom should the report be submitted?c) is it part of the financial statement audit?
A27.	If such a request is made by the central bank, it covers a selected year of operations and the report is due by the end of February of the next year. The auditor provides this report to the bank and the bank delivers the report to the central bank. This review is done independently of the financial statement audit and might even be done by a different auditor.
Q28.	<p>What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require:</p> <ul style="list-style-type: none">a) sample testing of KYC files?b) sample testing of SAR reports?c) examination of risk assessments?
A28.	Such report is focused primarily on internal controls as defined by the Basel Committee on Banking Supervision best practice, however it would also include compliance review with the key legal requirements. No sample testing or risk assessment examination is required.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes. Czech Act No. 101/2000 Coll. on Data Protection ("Data Protection Act") governs the area of personal data protection. a) Yes; b) Corporate data, i.e. data that relate to legal entities, not the natural persons do not fall under the category "personal data" protected under the Data Protection Act; c) Yes, the Data Protection Act stipulates a separately protected category of personal data. It is forbidden to process personal data on racial or ethnic origin, political opinions, religious or philosophical beliefs, membership in political parties or political movements, trade union membership and data concerning health or sex life.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	No, there are no specific prohibitions.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Transfers of personal data outside EEA and EU and Safe Harbour Regime require requires approval of the Czech Personal Data Protection Office.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes, the general business secrecy is stipulated in the Act No. 513/1991 Coll., the Commercial Code as amended, and specific bank secrecy is stipulated in the Act No. 21/1992 Coll. on banks. Trade secrets are all facts with commercial, production or technical nature, related to the business, which have actual or at least potential material or immaterial value, which are not available in the relevant business circles, should be classified according to the will of the entrepreneur, and the entrepreneur adequately ensures their confidentiality. Bank secrecy means keeping confidential all the information and documents on matters relating to the client of the bank that is not publicly accessible. In particular, information on transactions, account balances and deposit balances. The bank is obliged to keep this information confidential and protected from disclosure, misuse, damage, destruction, loss or theft. Information and documents on matters that are protected by bank secrecy cannot be disclosed to third parties without the prior written consent of the client. There are also other types of confidentiality prescribed by the relevant laws, such as attorney-client confidentiality, medical confidentiality, auditor confidentiality.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1996.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	a) Banking: Central Bank of Cyprus www.centralbank.gov.cy b) Other Financial Services: CySEC – Cyprus Securities and Exchange Commission www.cysec.gov.cy c) Non-Financial Sector: Unit for Combating Money Laundering ("MOKAS") www.law.gov.cy/mokas/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The Institute of Certified Public Accountants of Cyprus ("ICPAC") has issued a Directive for the Prevention & Suppression of Money Laundering & Terrorist Financing Laws of 2007 and 2010 that serves as guidance to audit firms. The latest version was issued in September 2013.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last 3 years? If yes, please find a link to a relevant report (if publicly available).
A7.	Cyprus is being assessed by MoneyVal Council Of Europe. The latest report was released in September 2011.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes, occasional transactions under EUR15,000 whether the transaction is carried out in a single operation or in several operations which appear to be linked.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: should provide documentary evidence of their full name, date of birth, the address at which they can be located, their profession or occupation and specimen signature. An official document bearing a photograph of the person should be obtained. It is important that the current permanent address should be verified as it is an integral part of identity by requesting sight of a recent utility bill, local authority tax bill or bank or co-operative society statement, or making a credit reference agency search.</p> <p>Legal Entities: should provide documentary evidence of full name, registration address, a copy of the latest report and accounts, a copy of the certificate of incorporation/certificate of trade or equivalent, a copy of the company's Memorandum and Articles of Association and other certificates issued by the Registrar of Companies, a group structure to identify individuals who control over 10% of the entity's shares or voting rights, and the names of the directors. The identification of directors and beneficial shareholders is in line with the requirements for individual clients.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	The documents must be certified true copies of the originals.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Due diligence measures comprise identifying and verifying the identity of the beneficial owner owning or controlling more than 10% of the shares or voting rights of the client.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>According to paragraph 63-(1) of the Law: Simplified customer due diligence and identifications procedures can be used in respect of the following:</p> <ol style="list-style-type: none">Credit of Financial Institution covered by the EU Directive or those who are situated in a country outside the European Economic Area which (i) in accordance with a decision of the Advisory Authority for Combating Money Laundering and Terrorist Financing, imposes requirements equivalent to those laid down by the EU Directive and (ii) it is under supervision for compliance with those requirements;Listed companies whose securities are admitted to trading on a regulated market in a country of the European Economic Area or in a third country which is subject to disclosure requirements consistent with community legislation; andDomestic Public Authorities of countries of the European Economic Area.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>According to paragraph 64-(1) of the Law: Enhanced due diligence measures should be in place in respect of the following customers:</p> <ol style="list-style-type: none">Where the customer has not been physically present for identification purposes;In respect of cross-frontier correspondent banking relationships with current institutions to customers from third countries; andIn respect of transactions or business relationships with politically exposed persons ('PEPs') residing in a country within the European Economic Area or a third country. <p>According to paragraph 64-(2) of the Law: "Enhanced customer due diligence measures must be taken in all other instances which due to their nature entail a higher risk of money laundering or terrorist financing."</p>
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>According to paragraph 5.61 of the Directive, if the prospective client is a PEP, the firm should obtain senior management approval for establishing business relationship. In addition according to paragraph 4.55 of the Directive, the firm should establish the source of wealth and source of funds for PEPs and also conduct ongoing monitoring on the business relationship.</p> <p>Paragraph 5.62 of the Directive states that the firm should pay special attention when PEPs originate from a country which is widely known to face problems of bribery, corruption and financial irregularity and whose anti-money laundering laws and regulations are not equivalent to international standards. With regards to the issue of corruption, a useful source of information is the Transparency International Corruption Perceptions Index which ranks countries and territories based on how corrupt their public sector is perceived to be.</p>

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>According to 64 (b) of the Law, in respect of cross-frontier correspondent banking relationships with credit institutions to customers from third countries, it is required to:</p> <ol style="list-style-type: none"> Gather sufficient information about the credit institution customer to fully understand the nature of the business and the activities of the customer and to assess, from publicly available information, the reputation of the institution and the quality of its supervision; Assess the systems and procedures applied by the credit institution customer for the prevention of money laundering and terrorist financing; Obtain approval from senior management before entering into correspondent bank account relationships; Document the respective responsibilities of the person engaged in financial or other business activities and of the credit institution customer; and, With respect to payable-through accounts, it must be ensured that the credit institution-customer has verified the identity of its customers, and performed ongoing due diligence on the customers having direct access to the correspondent bank accounts and that it is able to provide relevant customers' due diligence data to the correspondent institution, upon request.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	If the client is a non-Cypriot resident who is not seen face-to-face, then a professional adviser in the client's home country could be used to confirm identity, or a copy of the passport authenticated by an attorney or consulate, or verification details covering true name, permanent address and verification of signature could be checked with a reputable credit or financial institution or professional advisor in the prospective client's home country.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	MOKAS: http://www.law.gov.cy/law/mokas/mokas.nsf/dttindex_gr/dttindex_gr?OpenDocument

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 – 610 SARs (MOKAS)</p> <p>GDP (in current prices): 2012 – USD22.98 billion (Source: data.worldbank.org[*])</p> <p>This results in a ratio of 1 SAR for every USD37.67 million of GDP.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	According to 6.05 of the Directive, any knowledge or suspicion of money laundering or terrorist financing should be promptly reported to MOKAS.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No, because according to paragraph 6.01 of the Directive for the Prevention & Suppression of Money Laundering & Terrorist Financing Laws of 2007 and 2010, the types of transactions which may be used by those exercising money laundering or terrorist financing are almost unlimited, it is difficult to define a suspicious transaction.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>According to the Law: "(27-(1)) A person who a) knows or reasonably suspects that another person is engaged in laundering or financing of terrorism offences; and b) the information on which that knowledge or reasonable suspicion is based, comes to his attention in the course of his trade, profession, business or employment shall commit an offence if he does not disclose the said information to the Unit as soon as is reasonably practicable after it comes to his attention.</p> <p>27-(3) No criminal proceedings shall be brought against a person for the commission of the offences referred to in subsection (1), without the expressed approval of the Attorney General.</p> <p>27-(4) An offence under this section shall be punishable by imprisonment not exceeding five years or by a pecuniary penalty not exceeding EUR5,000 or by both of these penalties."</p>

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No. According to the Directive for the Prevention & Suppression of Money Laundering & Terrorist Financing Laws of 2007, paragraph 6.04, a firm might also consider monitoring the types of transactions and circumstances that have given rise to suspicious transaction reports by staff, with a view to updating internal instructions and guidelines from time to time. However there is no requirement to use automated Suspicious Transaction monitoring.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	<p>According to paragraph 70 of the Law: "Persons engaged in financial and other business activities refrain from carrying out transactions which they know or suspect to be related with money laundering or terrorist financing before they inform the Unit of their suspicion. It is provided that, if it is impossible to refrain from carrying out the transaction or is likely to frustrate efforts to pursue the beneficiaries of a suspected money laundering or terrorist financing operation, the persons engaged in financial or other business activities, must inform the Unit immediately afterwards."</p>

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Local legislation does not cover monitoring transactions outside Cyprus.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	<p>In accordance with the Central Bank of Cyprus "Directive on a Framework of Principles of Operation and Criteria of Assessment of Banks' Organisational Structure, Internal Governance and Internal Control Systems of 2006 to 2012" ("the CBC Directive") banks should submit to the Central Bank of Cyprus a report prepared by external auditors/consultants every three years, on the assessment of the adequacy of the internal control System on an individual company as well as consolidated group basis.</p> <p>Under the CBC Directive, the external auditor/consultant assesses the internal control environment (including systems) with regard to the banks' management of the risk of money laundering and terrorism financing.</p>

Q27.	<p>If an external report on the bank's AML systems and controls is required:</p> <ol style="list-style-type: none"> how frequently must the report be provided? to whom should the report be submitted? is it part of the financial statement audit?
A27.	<ol style="list-style-type: none"> The report must be provided every 3 years. The report is submitted by the external auditor/consultant to the Bank. The Bank is subsequently responsible for its submission to the Central Bank of Cyprus. Under a financial statement audit, a bank's AML systems and controls are not explicitly reported on. <p>During a financial audit, "the procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation of financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control" (extract from the Independent Auditor's report as this has been approved by ICPAC).</p>

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Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	<p>Under the CBC Directive, it is not explicitly required for the external auditor/consultant to perform sample testing of KYC files and SAR reports, or to examine risk assessments.</p> <p>However, the external auditor/consultant may judge it necessary to perform such sample testing in the assessment of the Bank's internal control environment with regard to the management of the risk of money laundering and terrorism financing.</p>

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>a) Yes, the Processing of Personal Data (Protection of the Individual) Law of 2001 as amended in 2003;</p> <p>b) The data protection law does not apply to corporate data as the definition of data subject does not include a company. Corporate data may be protected contractually by confidentiality agreements;</p> <p>c) Yes there is a separate definition of "sensitive data". Sensitive data means data relating to racial or ethnic origin, political opinions, religious or philosophical beliefs, participation in, association and trade union membership, health, sex life and sexual orientation, as well as on criminal charges or convictions. The collection and processing of sensitive data is prohibited. Any collection or processing of sensitive data requires the consent of the data subject, e.g. in order to go through with a contract with the consent of the data subject e.g. in employment contracts, insurance contracts etc.</p>

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	<p>For KYC purposes: The Law provides that the processor can process personal and sensitive data with the consent of the data subject. Personal data can be processed without the consent of the data subject in case that the processing is necessary in order for the processor to be in compliance with a law or regulation of the EU and in case the processing is necessary for the performance of a contract to which party is the data subject or to take steps at the request of the data subject prior to entering an agreement (s 5.)</p> <p>In addition, according to the Anti-Money Laundering Law in terms of processing of data:</p> <p>a) Persons engaged in financial or other business must apply adequate and appropriate systems and procedures in relation to the identification and due diligence as to the customer in accordance with the provisions of this Law;</p> <p>b) Criminal records and medical data fall under the definition of sensitive data. As stated in question 29(c), the collections and processing of sensitive data is prohibited. However, under section 6(2) as mentioned above there are some exceptions to this prohibition. Those exceptions include medical data and criminal records.</p> <p>Section (6)(2)(f) Medical data: processing of medical data is allowed when the processing of that data related to medical data and is executed by a person whose profession is to provide health services and who is subject to a duty of confidentiality or other related codes of conduct, provided that such processing is necessary for medical prevention, diagnosis, cure or management of health.</p> <p>Section 6(2)(g) Criminal data: processing of criminal records is allowed when such processing is concerned with the detection of offences, criminal convictions, security measures and investigation of mass destruction and is necessary to serve national need and national security, to serve the needs of forensic or correctional policy of the Republic or organisation or institution that is authorised for that purpose by the Republic.</p>

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Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Transfer of personal data within the EU is free. For a transfer to a third country, a license must be obtained from the Commissioner of Protection of Personal Data.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	<p>The Data Protection Law applies here the same way as described above.</p> <p>The Banking Law 66(I)/1997 (as subsequently amended) allows a licensed credit institution to obtain information from their customers in order to open an account such as their identification i.e. name, identity number or passport number.</p> <p>All persons that work for the Central Bank and their representatives of the Central Bank auditors or experts are bound by the obligation of professional secrecy. The Central Bank may exchange information with the competent authorities of different Member States in accordance with this law and in accordance with other laws or instructions or regulation applicable to credit institutions by the EU like Article 31 and 35 of Regulation (EU) No 1093/2010.</p>

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Croatia

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	<p>Anti- Money Laundering and Terrorist Financing Act (Official Gazette No. 87/2008), based on the Third EU AML Directive, became effective on 1 January 2009. It replaced the previous Croatian AML legislation from 1997. It was amended by the Act on Amendments to the Act on Anti-Money Laundering and Terrorist Financing Act (Official Gazette 25/2012), however these amendments were of linguistic nature and did not bring any changes to the AML/TF procedures established by the original AML/TF Act.</p> <p>The new Criminal Code (Official Gazette 125/2011) came into force in January 2013 introducing new definitions of money laundering as a criminal offence (Article 265), terrorist financing and other related criminal offences (Articles 97 -103).</p>
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<ul style="list-style-type: none">a) The Croatian National Bank supervises banks and other credit institutions http://www.hnb.hr/novcan/pranje_novca_terorizam/e-pranje-novca-terorizam.htm ;b) The Croatian Financial Services Supervisory Agency, conducts supervision of other financial services capital markets participants, funds, insurance companies, leasing and factoring companies etc. http://www.hanfa.hr/ and the Financial Inspectorate of the Ministry of Finance regulates and supervises non-banking financial institutions such as exchange offices, money transfer services, etc. http://www.mfin.hr/en/financial-inspectoratec) The Financial Inspectorate of the Ministry of Finance supervises professional activities sector (lawyers, notaries public, accountants, auditors, tax advisers) http://www.mfin.hr/en/financial-inspectorate and the Tax Administration – organisers of games of chance and checking of domestic legal entities and individual's compliance with the prescribed limitation of cash payments in an amount exceeding HRK105,000.00, i.e. amount exceeding EUR15,000.00 in the arrangements with non-residents http://www.porezna-uprava.hr/en/Pages/default.aspx
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>Yes, there are several guidelines available:</p> <p>The Croatian National Bank's Guidelines for the implementation of the Anti -Money Laundering and Terrorist Financing Act with respect to credit institutions, credit unions and electronic money institutions: http://www.hnb.hr/novcan/pranje_novca_terorizam/e-smjernice-zakon-spnft-ki-en.pdf</p> <p>The Croatian Financial Services Supervisory Agency ("HANFA") Guidelines for the implementation of the Anti- Money Laundering and Terrorism Financing Act for obligated persons who fall within the supervisory scope of the Croatian Financial Services Supervisory Agency (Croatian version only) http://www.hanfa.hr/</p> <p>Ministry of Finance – Financial Inspectorate:</p> <ul style="list-style-type: none">a) General guidelines for the implementation of the Anti -Money Laundering and Terrorism Financing Act http://www.mfin.hr/adminmax/docs/Opce%20smjernice%20za%20prevodjenje%20ZSPNFT.pdf;b) Guidelines for the implementation of the Anti-Money Laundering and Terrorism Financing Act for audit firms, independent auditors, natural and legal persons who provide accounting and tax counselling services (Croatian version only) http://www.mfin.hr/adminmax/docs/Sektorske_smjernice_za_revizore_itd.pdf;c) Guidelines for the implementation of the Anti-Money Laundering and Terrorism Financing Act for lawyers and public notaries (Croatian version only) http://www.mfin.hr/adminmax/docs/Smjernice_ZSPNFT_odvjetnici_i_javni_bilježnici.pdf; andd) Guidelines of the Office for Money Laundering Prevention of the Ministry of Finance (Croatian version only) http://www.mfin.hr/hr/zakoni-i-pravilnici

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Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes, the current AML/TF Act contains provision which required customer due diligence to be conducted in relation to all existing customers where risk assessment indicated that ML/TF risk existed within one year after the effective date of Act i.e. until 1 January 2010. Every active customer has to be identified and the identity verified in accordance with the Act and related regulations.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>Croatia has not been subject of a FATF Mutual Evaluation or IMF assessment exercise in the last three years, however the assessment of the implementation of anti-money laundering and counter-terrorist financing (AML/CFT) measures in Croatia was conducted by MONEYVAL. Please see Evaluation Report on Croatia: http://www.coe.int/t/dghl/monitoring/moneyval/evaluations/round3/MONEYVAL(2008)03Rep-HR3_en.pdf, followed by the First Progress Report adopted on 18 March 2019 http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/progress%20reports/MONEYVAL(2009)6ProgRep-HRV_en.pdf and Second Progress report adopted on 13 April 2011 http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Progress%20reports%20y/MONEYVAL(2011)4-ProgRep2HRV_en.pdf.</p> <p>Most recent MONEYVAL evaluation was conducted though on site visit from 17-23 November 2012 and the evaluation report on the 4th assessment visit to Croatia was adopted in September 2013 http://www.coe.int/t/dghl/monitoring/moneyval/</p>

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Yes, one-off transactions below HRK105,000 (EUR15,000) in total, whether carried out as a single operation or several linked transactions reaching the prescribed threshold.</p> <p>In addition, electronic money institutions, electronic money institutions from another Member State and branches of third-country electronic money institutions may be exempt from the obligation to carry out customer due diligence measures in the following cases:</p> <ol style="list-style-type: none"> when issuing electronic money, if a single amount of a payment executed for the issuance of such money, on an electronic data carrier which may not be recharged, does not exceed the HRK equivalent of EUR150; and when issuing electronic money and dealing with electronic money, if the total amount of executed payments, stored on an electronic data carrier which may be recharged, does not exceed the HRK equivalent of EUR2,500 during a calendar year, except in the cases where the electronic money holder cashes the HRK equivalent of EUR1,000 or more during the same calendar year. <p>Credit institutions may be exempt from the obligation to carry out the customer due diligence measures in the case of other products or transactions associated with them, which pose negligible ML/TF risks, provided they meet the conditions prescribed by an ordinance of the Minister of Finance.</p> <p>Insurance companies licensed for the performance of life insurance business, insurance companies from member-states with a business unit in Croatia or authorised to directly perform life insurance business in Croatia, pension companies, as well as legal entities and individuals performing business or activity of insurance representation or intermediation for entering into life insurance agreements may be allowed not to carry out customer due diligence in the following cases:</p> <ol style="list-style-type: none"> contracting life insurance policies in which the individual premium instalment or several insurance premium instalments to be paid within one year does not exceed a total HRK equivalent amount of EUR1,000, or in cases when single premium payment does not exceed the HRK equivalent value of EUR2,500; and contracting pension insurances providing that types of insurance are being contracted whereby it is not possible to transfer the insurance policy to a third person or use it as collateral for a credit or loan, and a contract is entered into with a closed-end pension fund if the employer pays the contributions into the voluntary pension fund on behalf of the fund's members (no monetary threshold indicated). <p>Institutions and persons may not be exempt from the obligation to carry out customer due diligence measures when there are grounds for suspicion of ML/TF with respect to a customer, product or transaction.</p>

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Identification and verification of an individual's identity is done through examination of the original customer's personal identification documents in the customer's presence (e.g. an ID Card for residents and a passport for non-residents).</p> <p>The following data need to be obtained for individuals:</p> <ol style="list-style-type: none">full name and surname;permanent address;date of birth;place of birth;personal identification number; andname and number of the identification document, the name of the issuing authority. <p>Verification of legal entities' information is done through examining documentation from court or other public register. The following data should be collected and verified:</p> <ol style="list-style-type: none">registered name;registered seat (street and number, place and country);business registration number;<ol style="list-style-type: none">full name and surname, permanent address, date of birth place of birth, personal identification number, name and number of the identification document, the name of the issuing authority of a legal representative/person acting on behalf of a legal entity on the basis of Power of Attorney; andname and surname, permanent address, date of birth and place of birth of the beneficial owner. <p>If there is any suspicion during the course of identifying the legal person and verifying the legal person's identity as to the veracity of data collected or credibility of the documents and other business documentation from which data was collected, the institution or person performing identification and verification shall ask the legal representative or the person authorised by power of attorney to give a written statement prior to establishing a business relationship or executing a transaction.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Identification and verification of an individual's identity is done through examination of the original customer's personal identification documents in the customer's presence. In case of legal entities, identification and verification is performed by examining an original or a notarised copy of documentation from court or other public register presented by the legal person's legal representative or person authorised by power of attorney. At the time of submission, the originals or the notarised copies of the required documentation must not be more than three months old. The legal entity's identity can be also identified and verified by gathering the required data through a direct examination of court or other public register. The copy of the excerpt from the register examined directly must be endorsed i.e., the examiner must put date, time, his/her name and surname. While verifying customer's identity, the institutions and persons performing identification and verification must first check the nature of a register from which data for the identity verification purposes are obtained.</p> <p>Identification and verification of the legal representatives of legal entities, persons who act on behalf of a legal entity on the basis of the Power of Attorney and representatives of the trust, foundations or NGOs is done thorough the examination of original personal identification documents of those persons in their presence. If the documents are insufficient to collect all prescribed data, the missing data are collected from other valid public document submitted by those persons i.e. from those persons directly.</p> <p>Beneficial owner's identification and verification is done by examining the originals or notarised copies of documents from a court or other public register not more than three months old at the time of their submission. If those documents are insufficient for collecting data on beneficial ownership, then examination of the original or notarised documents and other business documentation supplied by the legal representative or person authorised by power of attorney is performed or data is collected directly from a written statement given by the customer's legal representative or the person authorised by power of attorney.</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>The Croatian AML/FT Act define beneficial owner as an individual who:</p> <ol style="list-style-type: none">ultimately owns or controls a legal entity through direct or indirect ownership or control of 25% plus one share a voting rights in that legal person, or otherwise exercises control over management of a legal person;with trust and foundations, a beneficial owner of 25% or more of the property rights of the legal transaction, or in whose main interest the transaction or legal person is set up or operates or who exercises control over 25% or more of the property rights of the legal transaction; orcontrols another natural person on whose behalf a transaction is being conducted or an activity performed. <p>These individuals must be identified, and risk-based and adequate measures must be taken to verify their identities.</p>

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Reduced/simplified due diligence arrangements are possible in respect of customers or products or transactions representing a low risk money laundering or terrorist financing risk except in instances when there are reasons for suspicion of money laundering or terrorist financing in relation to a customer or a transaction.</p> <p>This applies to relationships or transactions with the following:</p> <ul style="list-style-type: none">a) credit or financial institutions from the EU/EEA states or third countries considered as having equivalent AML/CFT systems to the EU (banks, savings bank, housing savings banks, Croatian Post, investment funds management companies, pension funds companies, financial instruments companies insurance companies who provide life insurance services);b) companies listed on a regulated market in the EU states or from the third countries which are subject to disclosure requirements consistent with the EU legislation;c) domestic public authorities and the public authorities of the EU; andd) persons who meet the conditions set forth by the Ordinance on the determination of conditions under which institutions and persons identify customers who pose a negligible risk in terms of money laundering or terrorist financing.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Enhanced customer due diligence measures and enhanced ongoing monitoring is required in any situation which due to the nature of the business relationship, the form and manner of transaction execution, business profile of the customer or other circumstances associated with the customer can present a greater risk of money laundering or terrorist financing.</p> <p>Three specific types of relationships where enhanced due diligence measures must be applied are:</p> <ul style="list-style-type: none">a) where the customer has not been physically present for identification and identity verification purposes;b) in respect of a correspondent banking relationship with respondents from non-EU/EEA states; orc) in respect of a business relationship with a PEP.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	In any transaction or business relationship with a PEP from the country other than Croatia ('a foreign PEP').
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Enhanced due diligence measures must be applied in respect to correspondent relationship with a bank or other credit institution from a third country (non-Member States of the EU/EEA) and the following additional data and documentation must be gathered in the process:</p> <ul style="list-style-type: none">a) The date of issuance and validity period of authorisation to provide banking services, and the name and seat of a competent third-country authority that issued the authorisation;b) A description of the implementation of internal procedures relating to ML/TF prevention and detection, particularly the procedures of customer identity verification, beneficial owner identification, reporting to the competent bodies on suspicious transactions and customers, record keeping, internal audit and other procedures that the bank or other credit institution adopted in relation to ML/TF prevention and detection;c) A description of systemic arrangements in the field of the ML/TF prevention and detection in effect in a third country in which the bank or other credit institution has its seat or in which it has been registered;d) A written statement confirming that the bank or other credit institution does not operate as a shell bank;e) A written statement confirming that the bank or other credit institution neither has business relationships with shell banks established, nor does it establish business relationships or conduct transactions with shell banks; andf) A written statement confirming that the bank or other credit institution falls under the scope of legal supervision in the country of its seat or registration, and that it is required to apply legal and other regulations in the field of the ML/TF prevention and detection in accordance with that country's effective laws. <p>In order to establish new correspondent banking relationships, a prior written approval of a credit institution's senior management must be sought.</p> <p>In the context of enhanced due diligence, credit institutions must obtain the following additional documentation:</p> <ul style="list-style-type: none">a) A written statement that the correspondent bank or other credit institution has verified the identity of a customer and that it conducts ongoing due diligence of customers who have direct access to payable-through accounts, andb) A written statement that the correspondent bank or other credit institution can provide, upon request, relevant data obtained on the basis of due diligence of customers having direct access to payable-through accounts.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes, they are specifically prohibited. Credit institutions are not allowed to establish or continue a correspondent relationship with a bank which operates or might operate as a shell bank or with another similar credit institution known to enter into agreements on opening and keeping accounts with shell banks.

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Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>Non face to face transactions and/or relationships are considered higher risk of ML/TF by the Croatian AML/TF Act and other relevant regulations. Where a customer has not been physically present for identification purposes, enhanced customer due diligence must always be performed. In such cases, institutions and persons covered by the Croatian AML/TF Act must apply one or more of the following supplementary enhanced due diligence measures:</p> <ol style="list-style-type: none">Obtain additional documents, data or information on the basis of which the customer's identity shall be verified;Additionally verify the submitted documents or additionally certify them by a foreign credit or financial institution;Apply a measure whereby the first payment within the business activity is carried out through an account opened in the customer's name with the given credit institution. <p>Establishing a business relationship without physical presence of the customer is not permitted, unless a reporting entity applied those additional measures.</p> <p>Pursuant to the Croatian AML/TF Act credit and financial institutions are obliged to pay special attention to any ML and/or TF risk which may stem from new technologies enabling anonymity (Internet banking, ATM use, tele-banking, etc.) and put policies in place and take measures aimed at preventing the use of new technologies for the ML/or TF purposes.</p> <p>They must have policies and procedures in place for risks attached with a business relationship or transactions with non face to face customers and to apply them at the establishment of a business relationship with a customer and during the course of conducting customer due diligence measures which include the supplementary measures described above.</p>

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	All suspicious activity reports should be sent to the Croatian Financial Intelligence Unit, Anti-Money Laundering Office: http://www.mfin.hr/en/anti-money-laundering-office
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 - 397 SARs</p> <p>GDP (in current prices): 2012 - USD56,442 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD142.17 million of GDP.</p>
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>Yes, besides an obligation to report suspicious transactions, there is an obligation to report to the Anti-Money Laundering Office on each transaction being conducted in cash totalling HRK200,000 and more immediately, and no later than within three days upon the execution of the transaction.</p> <p>The Act also mandates that a special attention is paid to all complex and unusually large transactions, as well as to each unusual transaction without an apparent economic or visible lawful purpose even when the reasons for suspicion of the ML/TF have not been detected. However if the reasons for suspicion are detected in relation to such transactions, they should be reported to the Office.</p>
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No, every suspicious transaction, irrespective of its value or execution manner must be reported.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, there are penalties prescribed by the AML/TF for failure to comply with reporting requirements ranging from HRK25,000 (EUR3,200) to HRK700,000 (EUR92,000) for legal entities. In addition, monetary fines ranging from HRK1,500 (EUR200) to HRK30,000 (EUR3,950) are envisaged for members of the management board or other legal persons responsible person for non-compliance with reporting requirements.

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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No. Although the AML/TF Act imposes an obligation on the institutions and persons to establish an information system adequate to their respective organisational schemes, in order to provide the Anti-Money Laundering Office with prompt, timely and complete information as to whether or not they maintain or have maintained a business relationship with an individual or a legal entity, as well as to the nature of such a relationship, there is no requirement to use a specific AML/TF monitoring technology such as automated Suspicious Transaction monitoring technology.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes. The institutions or persons are required to refrain from conducting of a suspicious transaction and to notify the AML Office of such a transaction without any undue delay before executing the transaction, indicating the reasons for suspicion of money laundering or terrorist financing as well as the deadline within which the transaction is to be conducted. Only in exceptional circumstances the reporting entity can proceed with a current/ongoing transaction before notifying the Office, if the Office could not be notified due to the nature of the transaction or due to the fact that the transaction was not executed or for other justified reasons. Nevertheless, the reporting entity is obliged to report the Office subsequently, and no later than the next business day following the execution of such transaction.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	There are no provisions on monitoring transactions outside Croatia in the relevant AML/TF legislation.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No. Only a regular internal AML audit is required by the law.
Q27.	If an external report on the bank's AML systems and controls is required: <ol style="list-style-type: none"> how frequently must the report be provided? to whom should the report be submitted? is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: <ol style="list-style-type: none"> sample testing of KYC files? sample testing of SAR reports? examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: <ol style="list-style-type: none"> does the definition of "personal data" cover material likely to be held for KYC purposes? how do the laws apply to corporate data? does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Croatia has data protection laws in place. <ol style="list-style-type: none"> Yes; No clear rules regarding corporate data; Yes; Sensitive data is defined as information covering the racial or ethnic origin of the data subject, political opinions, religious or other beliefs of a similar nature membership of trade unions, physical or mental health or condition, sexual life and personal data regarding criminal and misdemeanour proceedings. In principle, such data cannot be processed, and derogation is tolerated under very specific circumstances. These circumstances include the data subject's explicit consent to process sensitive data, carrying out legal obligations to which personal data filing system controller is subject, or if the data subject discloses such data on his/her own. Such data has to be specifically labelled and protected. Therefore, any information assets (information systems, computers) that store or process sensitive data are also assigned a high level of protection. The additional protections of sensitive data are set forth in the Regulation on the manner of storing and special measures of technical protection of the special categories of personal data (Official Gazette, No. 139/04).

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	There is no specific reference in the law to the transfer of these reports for KYC purposes. However, any transfer of credit reports, criminal records and medical data should be done with strict observation of processing conditions set forth in the Personal Data Protection Act and other relevant data protection regulations e.g. credit reports transfer for credit risk analysis purposes to other credit institutions or to an institution established to collect and disseminate information on the creditworthiness of legal entities and individuals is not considered a violation of and secrecy obligations. Personal data contained in criminal records can only be processed under supervision of the competent authority. Medical record data must not be collected, processed or used without a prior written consent from a patient and can only be used for an in accordance with the purpose for which they were collected.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	EU case law on data protection (ECJ cases) has applied to Croatia since 1 July 2013 (accession date) and may impact on the transfer of information.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes there is a bank secrecy section in the Credit Institutions Act and it is aimed at protecting the confidentiality of all information, facts and circumstances of which a credit institution becomes aware in the course of providing services to clients or in the course of business with individual clients. Banking secrecy obligations do not apply where confidential information is disclosed to the Anti-Money Laundering Office pursuant to the law governing the prevention of money laundering and terrorist financing.

¹ GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2009.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	State Investigation and Protection Agency: http://www.sipa.gov.ba/en/onama.php
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes - http://www.sipa.gov.ba/bs/kodeks/smjernicefoobo.pdf
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	For customers who existed before the current AML legislation was introduced, companies are obliged to collect missing documentation and data.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last 3 years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes - http://www.coe.int/t/dqhl/monitoring/moneyval/Evaluations/round3/MONEYVAL(2009)42Rep_BIH3_en.pdf

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Transactions less than approximately EUR15,339 are not reported to Financial Reporting Organisation.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Identification of the customer based on the documents, data and information obtained from relevant and objective resources (originals or verified copies of ID cards, excerpt from court registers, etc) in order to:</p> <ol style="list-style-type: none"> Determine the beneficial owner; Obtain information on the purposes and nature of the business relationship or transaction; and Perform continuous monitoring of business activities of the customers.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Copies of identification documents must be verified.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Identity of the beneficial owner of the legal entity is verified through the original or verified copy of the excerpt from court register or other public register. If this is not possible the controller shall gather all relevant information from the original or verified documentation and business records submitted by the agent of the beneficial owner.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Reduced/simplified due diligence arrangements are available if customers are institutions with public authority (authorities of Bosnia and Herzegovina, Federation Bosnia and Herzegovina, Republic of Srpska or Brcko District), banks, insurance companies and other physical person or legal entity which is acting as agent in sale of insurance policies, investment and retirement funds regardless of the legal form which have headquarters in Bosnia & Herzegovina, or in the territory of European Union, or in the countries which fulfil internationally accepted standards for prevention of money laundering and financing of the terrorist activities, based on the information obtained from Financial Reporting organisations, international organisations or other authorised international authorities, and which are approved by Ministers, and customers which are characterised as low risk clients by controllers.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced customer due diligence measures are required for banks or other financial institutions which have headquarters abroad, politically PEPs, in the event when customer was not present during the identification check, in other circumstances when, due to the business relationship with, type of transaction, business profile of the customer or other circumstances is characterised as high risk.
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Enhanced customer procedure are required for foreign PEPs and for every physical person who has or used to have exposed public function, their close family members and close assistants: president of the state, premiers, ministers, deputies of ministers, assistants of ministers, representatives of the legislators, judges of the supreme court, constitutional court or other courts, members of the audit department and board of governor of the Central Bank, ambassadors and officers of the military forces, members of the management or supervisory boards of the companies which are mainly owned by the state.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Enhanced customer due diligence procedures are prescribed for banks and other financial institutions which have headquarters abroad. Apart from identification and monitoring procedures, the company is obliged to:</p> <ol style="list-style-type: none"> gather information whether customer has approval, if yes for which period approval is granted, for providing banking services, name and headquarter of the authority which issued the approval; description of the internal procedures which relate to identification and prevention of money laundering and financing of the terrorist activities; description of the internal procedures for identification of the beneficial owner of the customer, which relate to reports on suspicious transactions to the relevant authorities; description of the internal procedures for keeping the reports, description of the internal controls and other procedures adopted by the bank for detection and prevention of the money laundering or financing terrorist activities; Description of the relevant legislation in the field of detection and prevention of money laundering and financing terrorist activities in the state where bank or similar financial institution is established or registered; Written statement that bank or other similar financial institution does not have any business relation with shell banks; Written statement that bank or other similar financial institution does not have legal relationship with shell banks; Written statement that bank or other similar financial institution is not under administrative supervision in the residence state and that, in accordance with legislation in the residence state, has obligation to adjust its business activities to be in line with legislation which relate to detection and prevention of money laundering and financing of terrorist activities; and Employee of the controller shall not enter into business relationship with foreign bank prior obtaining approval from his superior.

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Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	The following identification procedures are required for customers not physically present during the identification process: a) gather additional identification documents, data and information based on which the identity of the customer can be checked; b) perform additional checks of the identification documents submitted and obtain confirmation for those documents from another loan or financial institution; and c) apply measures by which first payment is performed via an account opened in the name of customer in another financial institution.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	SARs are made to State Investigation and Protection Agency - http://www.sipa.gov.ba/en/onama.php .

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 90 SARs GDP (in current prices): 2012 – USD17,048 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD190 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Transactions below approximately EUR15,339.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	AML legislation prescribes financial penalties for non compliance with reporting requirements for the legal entity, controllers, responsible persons in the legal entity and independent entrepreneurs.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	A transaction which is identified as suspicious is temporarily suspended based on the warrant of the Financial Reporting organisation up to a maximum of 5 days.

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Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Local legislation allows the Financial Reporting Organisation to request documentation and information from other authorities which are responsible for prevention of money laundering.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) Once a year; b) Shareholders; c) No.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	a) Yes; b) Yes, if applicable; c) Yes.

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	a) Yes; b) N/A; c) No.

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	<p>Personal data shall not be transferred from Bosnia and Herzegovina to a controller or processor abroad regardless of data medium or the manner of transfer unless the requirements specified in Article 4 hereof have not been fulfilled in the receiving country and provided that that the foreign controller shall comply with equal data protection principles for all data.</p> <p>Article 4: The controller shall be required to:</p> <ol style="list-style-type: none">process personal data fairly and lawfully;process personal data collected for special, explicit and lawful purposes in no manner contrary to the specified purpose;process personal data only to the extent and scope necessary for the fulfilment of the specified purpose;process only authentic and accurate personal data, and update such data when necessary;erase or correct personal data which are incorrect and incomplete, given the purpose for which the data are collected or further processed;process personal data only within the period of time necessary for the fulfilment of the purpose of their processing;keep personal data in the format that allows identification of the data subject for not longer than required for the purpose for which the data are collected or further processed; andensure that personal data that were obtained for various purposes are not combined or merged. <p>Exceptionally, the personal data may be transferred abroad if the data subject has consented to the transfer, where it is required for the purpose of fulfilling the contract or legal claim and when it is required for the protection of public interest.</p>

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Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.

Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The local law became effective in 1993. However, to incorporate the third AML Directive, it has been amended by the law of 18 January 2010.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	Since April 2011, the supervision of the Belgian financial sector has been organised according to the "Twin Peaks" model, with two autonomous supervisors, namely the National Bank of Belgium ("NBB") and the Financial Services and Markets Authority ("FSMA"), both of which are competent (depending on the licence, NBB or FSMA is competent) in the field of AML related matters to the financial sector. http://www.nbb.be http://www.fsma.be
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	There is specific guidance per sector on the website of the Belgian Financial Intelligence Processing Unit ("CTIF-CFI") for a risk-based approach. http://www.ctif-cfi.be/website/index.php?option=com_content&view=article&id=71&Itemid=99&lang=en
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No - however, the local law requires identification data to be updated in cases where there are doubts about the veracity or accuracy of previously obtained identification data or where the risk sensitivity of the client requires this. Moreover, the amendment by law on 18/01/2010, which implied a broader application field, obliges, in its transitional provisions, the institutions and persons to: a) identify and verify the place and date of birth of natural persons with whom they have a business relationship on 05/02/2010 (i.e. date of entry into force of the amending law) within a period that is to be determined depending on the risk, but no later than 05/02/2015; b) update, depending on the risk, the identification of the beneficial owners of the customers with whom they have a business relationship on 05/02/2010 ; this period is extended to five years for the identification of the date of birth and place of birth; and c) take adequate and specific risk based measures to identify Politically Exposed Persons (PEP's) (see A14) and to apply the specific measures on preventing the use of the financial system for purposes of money laundering and terrorist financing and the Code on Companies by 05/10/2011 at the latest.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Before the amendment of the local law by the law of 18/01/2010, the Banking Finance and Insurance Commission ("CBFA" - local supervisor) already recommended a risk based approach for financial institutions and insurance companies (providing life insurance services) in its circular guidelines (PPB 2005/5 jo. PPB 2004/8 and D.258 jo. D.250). With the amendment by the law of 18/01/2010, a risk based approach is implemented in local law in relation to specific topics.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	After the adoption of their Mutual Evaluation Report ("MER"), FATF member countries are required to provide information on the measures that have been implemented to deal with the deficiencies identified in the report. Belgium is subject to this process of providing a biennial update (i.e. every two years) to the FATF Plenary on any of the 40+9 Recommendations that are rated PC (Partially Compliant) or NC (Non Compliant). The third update was provided to the Plenary in June 2011 and is available on the website of CTIF-CFI (http://www.ctif-cfi.be/website/images/FR/eval_fatf/rapportsuivi3.pdf). In May 2013, the IMF Country Report N° 13/133 was published: Belgium: Detailed Assessment of Compliance with the Basel Core Principles for Effective Banking Supervision http://www.imf.org/external/pubs/ft/scr/2013/cr13133.pdf

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Yes - when the customer wishes to carry out a transaction outside the context of a business relationship:</p> <ol style="list-style-type: none"> a) for an amount below EUR10,000; b) consisting in a transfer of funds to a payee's account within Belgium for an amount of less than or equal to EUR1,000 on condition that: <ol style="list-style-type: none"> a. the transfer is a payment within the terms of an agreement for the provision of goods or services, concluded between the payer and the payee; b. the payee's account was opened to enable the payment for the provision of goods or services; c. the payment service provider of the payee is subject to the obligations set out in the AML laws; and d. this payment service provider is able, by means of a unique identifier, to trace the transaction via the payee back to the payer. c) concerns banks and financial institutions. <p>The above exceptions cannot apply where there is a suspicion of money laundering or terrorist financing or when there are doubts about the veracity or accuracy of previously obtained identification data regarding a customer who has already been identified.</p>

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals and institutions must identify clients and their agents.</p> <p>Identification of natural persons: surname, first name, date and place of birth and, whenever possible, relevant information on the address of the identified person.</p> <p>Identification for legal persons, trusts, fiduciaries and similar legal arrangements: corporate name, registered office and directors, and note must be taken of the provisions regarding the power to commit the legal person, trust, fiduciary or similar legal arrangement.</p> <p>The identification must be verified by means of a supporting document, of which a copy is made on paper or by electronic means. For natural persons, a copy of their identity card or passport is required and for legal person, a copy of their coordinated statutes.</p> <p>Together with the identification, information must be collected regarding the purpose and intended nature of the business relationship.</p>

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Clients must be identified by means of a supporting document, of which a copy is made on paper or by electronic means. Such documents need to be probative documents, admissible as evidence. There is no information about certification by external third parties in local legislation.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	For the beneficial owner, the identification must cover the surname, first name and, whenever possible, the date and place of birth. In addition, whenever possible, relevant information must be collected with regard to address details. Furthermore, appropriate risk based measures must be taken to verify these data sources. Beneficiaries of a life insurance contract must be identified before the actual remittance. The regulation therefore foresees the possibility of postponed identification.

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>The local regulation does foresee this possibility where:</p> <ol style="list-style-type: none">the customer or beneficial owner is a credit or financial institution as defined in art. 2 of the third AML Directive, established in Belgium or another country within the EEA, or an equivalent institution established in a third country that has foreseen requirements and controls similar to those in the third AML Directive and of which a specific list is to be drawn in a Royal Decree;the customer or beneficial owner is a listed company whose securities are admitted to trading on the regulated market within the meaning of Directive 2004/39/EC in a country of the EEA, or is a listed company from a third country, designated in a Royal Decree, and which is subject to disclosure requirements consistent with community legislation ;the beneficial owner of a pooled account held by notaries and other independent legal professionals established in Belgium or another country within the EEA or from third countries, designated in a Royal Decree, provided that they are subject to requirements to combat money laundering or terrorist financing consistent with international standards and are supervised for compliance with those requirements and provided that the information on the identity of the beneficial owner is available, on request, to the institutions that act as depository institutions for the pooled accounts. If the client would be bound by professional secrecy, and thus unable to provide the information on the identity of the beneficial owner, the client needs to confirm in writing or by electronic means to the depository institution that the beneficial owners of the pooled accounts involved are solely clients with whom the relationship consists in ascertaining their legal position or performing their task of defending or representing those clients in, or concerning judicial proceedings including giving advice on instituting or avoiding proceedings. the client or beneficial owner is a Belgian public authority;the client is a European public authority or institution, included on a list to be drawn in a Royal Decree; andthe client is a person or institution indicated in a specific list yet to be drawn in a Royal Decree. <p>In addition, by way of derogation, it is allowed not to apply customer or beneficial owner due diligence in respect of:</p> <ol style="list-style-type: none">life insurance policies where the annual premium is no more than EUR1,000 or the single premium is no more than EUR2,500;insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral;a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme;electronic money as defined in article 3, §1, 7° of the law of 22 March 1993 regarding the pursuit of and prudential supervision of credit institutions, where, if the device cannot be recharged, the maximum amount stored in the device is no more than EUR150, or where, if the device can be recharged, a limit of EUR2,500 is imposed on the total amount transacted in a calendar year, except when an amount of EUR1,000 or more is redeemed in the same calendar year by the bearer as referred to in article 5 of the law of 22 March 1993; andin respect of any other product or transaction representing a low risk of money laundering or terrorist financing which meets the criteria to be established in a royal decree.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Local regulation foresees enhanced customer due diligence measures on a risk sensitive basis in situations which by their nature can represent a higher risk of money laundering or terrorist financing, and at least in the following situations:</p> <ol style="list-style-type: none">establishing a business relationship with or carrying out a transaction for a customer that was not physically present for identification purposes (non face-to-face contact);establishing a business relationship or carrying out a transaction with or for a PEP (see A14 below); andengaging in cross-border correspondent banking relationships with respondent institutions from third countries (see A15 below).
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>Belgium has instituted a comprehensive set of measures applicable to PEPs. These measures include:</p> <ol style="list-style-type: none">applying appropriate risk based procedures to determine whether the customer or his beneficial owner is a PEP;obtaining approval from a sufficiently senior level of management before establishing business relations with such customers;taking appropriate risk-based measures to establish the source of wealth and funds that are involved in the business relationship or transaction; andconducting enhanced ongoing monitoring of the business relationship.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Belgium is in full compliance with the FATF recommendations regarding issues of correspondent banking. It is obliged to:</p> <ol style="list-style-type: none">gather sufficient information about the respondent institution in question to fully understand the nature of its business and to determine from publicly available information its reputation and the quality of the supervision to which it is subjected to;assess the respondent institution's anti-money laundering and anti-terrorist financing controls;obtain approval from a sufficiently senior level of management before establishing new relationships;document in writing the respective responsibilities of each institution; andwith respect to payable-through accounts, be satisfied that the respondent institution has verified the identity of and has performed ongoing due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request.

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Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	When entering into a business relationship with a client that is not physically present, specific and adequate measures need to be taken to deal with the increased risk of money laundering and terrorism financing that exist in such circumstances.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Belgian Financial Intelligence Processing Unit ("CTIF-CFI"), established by the Law of 11/011993, is a central part of the Belgian AML/CFT system. CTIF-CFI is an independent administrative authority with legal personality and is supervised by the Ministers of Justice and Finance. CTIF-CFI is in charge of processing suspicious financial facts and transactions linked to money laundering and terrorism financing and which are reported by institutions and individuals specified in the law. In December 2013 CTIF-CFI celebrated its twentieth anniversary. http://www.ctif-cfi.be/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 – 21,000 SARs</p> <p>GDP (in current prices): 2012 – USD483.7 billion (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD23.46 million of GDP.</p> <p>In accordance with the Law of 11/01/1993 on preventing use of the financial system for purposes of money laundering and terrorist financing, CTIF-CFI received a total of 21,000 disclosures in 2012, which is a 12.5 % increase compared to 2010.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>Article 14 §1: The institutions and persons as referred to in Articles 2 §1, 3 and 4 of the law, shall carefully examine any transaction or action they consider particularly likely, by its nature or its unusual character in view of the customer's activities, by the circumstantial elements or by the capacity of the persons involved, to be related to money laundering or terrorist financing.</p> <p>The following institutions and persons should report the following transactions:</p> <ol style="list-style-type: none"> Credit institutions and financial institutions referred to in article 2, §1: if the information provided about the payer of the transaction is insufficient, and if there is suspicion of the proliferation of mass destruction weapons concerning the restrictive measures towards Iran and Korea (EC REG 1781/2006, EC REG 423/2007, EC REG 329/2007); The sales price of real property may only be paid by means of a bank transfer or cheque, unless the amount does not exceed 10% of the sales price and as long as this amount is not higher than EUR5,000. The agreement and deed of sale must specify the number of the financial account from which the amount was or will be debited; The price of a sale by a merchant of one or more products, as well as the price of one or more provision of services supplied by a service provider, for an amount of EUR5,000 or more may not be paid in cash, unless the amount does not exceed 10% of the sale price and as long as this amount does not exceed EUR5,000 regardless of whether the sale or service takes place in a single or in several apparently related transactions. The price of a purchase by a merchant in precious metals of one or more products, for an amount of EUR5,000 or more may not be paid in cash, unless the amount does not exceed 10% of the purchase price and as long as this amount does not exceed EUR5,000 regardless of whether the purchase takes place in a single or in several apparently related transactions (as of 01/01/2014 this amount shall be reduced to EUR3,000); and All the companies and persons referred to in article 2, §1: in case of doubt about the veracity or accuracy of previously obtained identification data about a customer who has already been identified (discretionary), in case of a suspicion of money-laundering or terrorism financing, in case of international transactions related to persons or companies registered in a state with insufficient or contra productive legislation with regards to anti money laundering and terrorism financing and finally in case of the suspicion of serious and organised fiscal fraud.

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Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	See A20, restrictions on cash payments: cash transactions below EUR5,000, and as from 01/01/2014 below EUR3,000.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	According to article 40 of the AML law of 1993, non compliance with reporting requirements towards CTIF-CFI (articles 20 and articles 23 to 28) can result in the following sanctions imposed by the competent authority: <ul style="list-style-type: none"> a) Publication of adopted measures and decisions; and/or b) Imposing an administrative fine of not less than EUR250 and not more than EUR1.25m. The CTIF-CFI shall be informed by the competent authority of the final sanction imposed.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	According to article 32 of the regulation of the National Bank of Belgium, the secondary review system is required to react efficiently and rapidly. As a consequence, only an automated system could fulfil these requirements. Nevertheless, the Commission could accept the use of a non automated system, if the institution can prove that, considering the nature and the volume of the transactions, it is possible to conduct the necessary monitoring without an automated system.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	According to article 23 of the law, the CTIF-CFI may, should it deem such action necessary due to the seriousness or urgency of the matter, oppose execution of any suspected transaction of which it has been informed. The CTIF-CFI shall determine to which transactions and to which accounts the opposition shall apply and shall inform the institutions and persons referred to in article 2, §1 immediately. This opposition shall halt the execution of the transaction for a maximum of two working days starting from the time of notification. If the CTIF-CFI thinks the measure should be extended, it shall refer the matter to the Public Prosecutor, who will take the necessary decisions. In the absence of a decision within the abovementioned two days after notification, the said institutions and persons are free to execute the transaction.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	There is no specific restriction to monitor the transactions in another jurisdiction but the responsibility remains within the entity in Belgium. In particular, transactions of some branches of foreign banks are monitored by the parent company.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: <ul style="list-style-type: none"> a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: <ul style="list-style-type: none"> a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes, if you are processing personal data in Belgium, you are subject to the Belgian Privacy Act of 08/12/1992. a) 'personal data' means any information relating to an identified or identifiable natural person, hereinafter the 'data subject'; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity. (Article 1 §1.) Personal data covers any information relating to an identified or identifiable natural person, e.g. name, address bank account, education, images, GPS data, IP address, etc.; b) As mentioned, the scope of protection of this Act only covers natural persons (private individuals) not legal persons. Corporate data is therefore as such not protected under privacy law in Belgium, unless it relates to private individuals (e.g. HR data); c) By principle, the processing of sensitive data is forbidden (exceptions exist). Sensitive data relate to race, political opinions, religious or philosophical beliefs, trade-union membership, health, sex life, prosecutions or criminal or administrative convictions.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	From a privacy perspective, transfer of credit reports fall under the general requirements of personal data processing, to the extent these qualify as personal data.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	There exists specific privacy legislation for certain sectors e.g. public sector, telecom sector which apply in addition to the Privacy Act mentioned above.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	<p>There is no bank professional secrecy in Belgium (as regards section 458 of Penal Code) but only a discretion obligation policy for income taxation.</p> <p>With respect to the taxpayer himself, section 318 of the Belgian Income Tax Code ("BITC") provides that tax authorities are not authorised to gather information from the accounts, books and documents of a bank, exchange, credit and savings institutions established in Belgium with a view to taxing its clients.</p> <p>However, if in the course of an inquiry related to the institution's own tax situation, the tax authorities discover relevant information leading to a suspicion that a mechanism of tax fraud exists or is being prepared, then the tax authorities are allowed to examine the institution's records in order to determine the client's tax liability.</p> <p>With respect to third parties, section 322 BITC provides that tax authorities may, for a given taxpayer, gather written evidence, hear third persons, proceed to inquiries and require from natural persons or corporate bodies as well as companies and associations not having legal personality, to produce any information which it may deem necessary for the purpose of assuring the fair collection of tax.</p> <p>As regards to banks, the second paragraph of section 322 provides the tax authorities the possibility to obtain information from clients of the bank provided they first requested information to the taxpayer himself who refused to communicate information, and provided indications of tax fraud or greater wealth exist. Finally, note that a Central Point of Contact has recently been created towards which the banks are deemed to communicate names and accounts of their clients which could later be used by the tax authorities in case of indications of fraud.</p> <p>In case of indication of fraud, an exchange of information may also take place between Belgium and other countries (Member States of the EU, and countries which with Belgium has concluded a double taxation treaty or a treaty relating to exchange of information).</p>

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1994. The regulations relating to the prevention of money laundering and terrorist financing are contained within various regulations: a) Federal Banking Act ("Bankwesengesetz, BWG") last amended on 01 July 2010; b) Insurance Supervision Act ("Versicherungsaufsichtsgesetz, VAG"); c) Austrian Securities Supervision Act 2007 ("Wertpapieraufsichtsgesetz"; "WAG2007"); d) Payment Services Act ("Zahlungsdienstegesetz"; "ZaDiG"); e) Transparency-Regulation ("Transparenz-Verordnung"; "TransV"); f) Regulation on Money Laundering and Terrorist Financing Risk ("GTV"); g) Circulars on Money Laundering and Terrorist Financing; h) Austrian Finance Criminal Code (§ 38a and § 39 FinStrG) last amended on 01 January 2011; and i) Gambling Act
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A - The Austrian AML laws and regulations are now based on the Third EU Anti Money Laundering Directive.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	a) Austrian Financial Markets Authority ("FMA") – http://www.fma.gv.at/de/startseite.html b) FMA – http://www.fma.gv.at/de/startseite.html c) Relevant economic chamber – http://portal.wko.at/wk/startseite.wk
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	There are six different circulars in place regarding AML / CFT regulations for banking industry, other financial services and insurance companies, issued by the FMA, last amended on 24/04/2012. http://www.fma.gv.at/de/rechtliche-grundlagen/rundschreiben/geldwaescherei-terrorismusfinanzierung.html
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes - every active customer has to be identified as well as every client whose account has been closed since 1994.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - a 'circular on the risk-based approach' was published by the FMA on 23/12/2009, updated on 01/12/2011: http://www.fma.gv.at/typo3conf/ext/dam_download/secure.php?u=0&file=5912&t=1326279853&hash=c176490f3237d72c36f7a4e59bd1aa8e
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No, last assessment was conducted in June 2009 (FATF Mutual Evaluation Report Austria): http://www.fatf-gafi.org/dataoecd/22/50/44146250.pdf

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - one-off transactions below EUR15,000, if there is no AML or CFT suspicion.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Identification and verification is performed using official ID e.g. passport. Customers have to inform the institution if they act on their own account, or on a principal's account. If someone acts on behalf of another person (as a trustee), the identity of that person (the trustor) must also be clarified. The customer has to disclose the ultimate beneficial owner. The institution has to recheck the identity of the ultimate beneficial owner using a risk based approach.</p> <p>Individuals: the following has to be obtained:</p> <ul style="list-style-type: none">a) full name;b) date and place of birth;c) nationality;d) address; ande) signature. <p>As part of the verification process, the identity of the customer has to be verified by an independent source (documents of identification), e.g. a passport, identity card or an Austrian driving licence. The name of the state authority which issued the document and the date of issuance also have to be recorded.</p> <p>Legal entities: the following has to be obtained:</p> <ul style="list-style-type: none">a) registered name and domicile of the entity; andb) full name of the legal representatives of the entity. <p>This data has to be verified by 'appropriate documentation' e.g. an excerpt of the company register.</p>

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	The requirements are defined and are to be seen as a way to rely on the authenticity of the document – if there are any doubts and the identity of a person should be verified by other measures. In this case, a suspicious activity report has to be considered.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>The Austrian banking and insurance laws require the verification of the identity of beneficial owners holding more than 25% of the shares or voting rights of an entity or holding 25% or more of a trust or foundation. Where a principal owner is another corporate entity or trust, the institution has to take measures to establish the identity of the ultimate beneficial owners (who can only be natural persons) and/or, if applicable, the trustors. In case of a trust or foundation, the identity of the founder and the beneficiaries designated to receive 25% or more of the trust/foundation have to be disclosed by the client.</p> <p>Credit institutions, financial institutions and insurance companies must call upon the customer to reveal the identity of the customer's beneficial owner(s). The customer must comply with this request, and credit institutions, financial institutions and insurance companies must take risk-based and appropriate measures to verify the beneficial owner's identity so that the credit institution, financial institution or insurance company is satisfied that it knows who the beneficial owner is. In the case of legal persons or trusts, this also includes taking risk-based and appropriate measures in order to understand the ownership and control structure of the customer.</p>

Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Reduced due diligence arrangements are available for the following, but only if the AML/CFT risk is considered low:</p> <ul style="list-style-type: none">a) domestic public authorities and public authorities of the European Union ("EU");b) listed companies;c) credit and financial institutions situated in a third country which impose requirements equivalent to those defined in the third EU AML Directive and which are supervised in compliance with those requirements; andd) beneficial owners of pooled accounts held by notaries and other legal professionals from EU Member States.

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Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>For customers where a higher risk of money laundering or terrorist financing applies, for example:</p> <ol style="list-style-type: none">if the customer has not been physically present for identification ('distance business'/non-face-to-face-relationships');for cross-frontier correspondent banking relationships with correspondent banks from other countries or from the European Economic Area ("EEA") (the latter only if the AML/CFT risk is considered heightened); andfor Politically Exposed Persons ("PEPs") of other EU Member States and of third countries. <p>Furthermore, if the client or an authorised signatory, a person to whom the client has a significant business relationship, or the trustor or beneficial owner has his/her domicile or residence in one of the following states (see below), or the transaction is made via an account at a bank in one of the following states, then enhanced due diligence is required:</p> <ol style="list-style-type: none">Iran;Democratic People's Republic of Korea ("DPRK");Algeria;Ecuador;Ethiopia;Indonesia;Kenya;Myanmar;Pakistan;Syria;Tanzania;Turkey; andYemen. <p>(High-risk and non-cooperative jurisdictions, published by FATF (18 October 2013))</p>
Q14.	In what circumstances are additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	In any transaction or business relationship with a PEP of another EU Member State (except Austria) or another country.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Enhanced due diligence procedures to be performed for cross-border correspondent banking relationships with correspondent banks from third countries or from the EEA (the latter only if the AML/CFT risk is considered heightened) as follows:</p> <ol style="list-style-type: none">credit institutions and financial institutions must gather sufficient information about a correspondent bank to fully understand the nature of its business and be able to ascertain the reputation of the institution and the quality of supervision on the basis of publicly available information;credit institutions and financial institutions must satisfy themselves of the correspondent bank's anti-money laundering and anti-terrorist financing controls;credit institutions and financial institutions must obtain approval from senior management before establishing new correspondent banking relationships;credit institutions and financial institutions must document the respective responsibilities of each institution; andwith respect to payable-through accounts, credit institutions and financial institutions must be satisfied that the correspondent bank has verified the identity of and performed ongoing due diligence on the customers having direct access to accounts of the correspondent, and that it is able to provide relevant customer due diligence data to the correspondent bank upon request.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes - credit institutions are prohibited from entering into or continuing a correspondent banking relationship with a shell bank. Credit institutions have to take appropriate measures to ensure that they do not engage in or continue correspondent banking relationships with a bank that is known for permitting its accounts to be used by a shell bank.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>Non face-to-face relationships and transactions are considered heightened AML/CFT risk by the relevant Austrian AML laws and regulations. For this reason, additional due diligence is always required for non face-to-face relationships and transactions.</p> <p>Trustees must always be identified personally (obligation of personal presence) - non face-to-face relationships are not sufficient for purposes of identification of trustees.</p> <p>Furthermore, additional due diligence is always required (whether face-to-face or non-face-to-face) in the case of any doubts, indication or suspicion of money laundering or terrorist financing. In these cases, suspicious activity reports have to be considered.</p>

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Suspicious activity reports are to be reported to the Austrian Financial Intelligence Unit ("A-FIU"), so called "Geldwäschemeldestelle". http://www.bmi.gv.at/cms/BK/meldestellen/geldwaesche/start.aspx
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 2,305 SARs GDP (in current prices): 2012 – USD399,449 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD173,296 million of GDP.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Suspicious activities regarding money laundering and terrorist financing as well as the suspicion that a client might not properly have disclosed a trusteeship have to be reported.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No, every suspicion described in A20 has to be reported, regardless of the amount.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	No specific penalties prevail for non compliance with reporting requirements, but there are penalties for non compliance with AML and CFT regulations (e.g. § 99 (2) BWG, Austrian Banking Act). Non compliance with reporting requirements can be seen as non compliance with AML and CFT regulations.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No, there is no legal or regulatory requirement to use specific AML/CFT IT systems, but in practice, larger institutions will not be able to apply the risk based approach without any IT monitoring technology.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	In the course of suspicious activity reporting, the institution should ask the A-FIU, whether it can proceed with the transaction or not. The A-FIU has the right to stop ongoing transactions or to forbid future transactions, if there is a suspicion.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	There is no clear rule in place, but there is the legal requirement that Austrian institutions have to apply the same AML/CFT standards as in Austria to jurisdictions outside Austria where they conduct their business (e.g. in CEE (Central and Eastern Europe) and SEE (South Eastern Europe) countries where banks with headquarters in Austria also conduct business).

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes, according to the Federal banking act (§ 63 para 5 BWG), the bank's external auditors have to check the AML systems and controls.

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Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) Once a year; b) The audit report must be submitted to the FMA and Austrian National Bank ("OenB"); and c) Yes.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	a) Yes – see questions from the audit report (BGBL II 2005/305 - AP-VO Part 1 question 81,84,86, 88); b) Yes – see questions from the audit report (BGBL II 2005/305 - AP-VO Part 1 question 91); and c) Yes – see questions from the audit report (BGBL II 2005/305 - AP-VO Part 1 question 83).

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	The Data Protection Act 2000 ("DSG 2000"), Federal Law Gazette I No 165/1999 is the prevailing Austrian Data Protection Act. a) Yes; b) Yes corporate data falls also under the scope of the Austrian Data Protection Act; and c) Yes, "sensitive data" (or "particularly sensitive data"): data concerning individuals and their racial or ethnic origin, political opinion, trade union membership, religious or philosophical beliefs, health or sexual orientation. Additional protection is defined in Art 7 & 9 DSG.

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes, Art 38 BWG states that all data, records and reports regarding the relationship between the bank and the client are covered under the bank secrecy law. Exceptions are determined in Art 38 para 2 BWG.

Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes, European law (Data Protection Directive).

Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes, bank secrecy law is regulated in Art 38 BWG (Federal Banking Act). It specifically states that the institution or its employees are prohibited to reveal any data obtained in the course of a business relationship. However Art 38 para 2 specifies provisions relating to the exceptions on bank secrecy laws (e.g. criminal procedures).

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	<p>In 1970 the United States Congress passed the Currency and Foreign Transactions Reporting Act, commonly known as the Bank Secrecy Act ("BSA"). The BSA established specific requirements for record keeping and reporting by private individuals, banks and other financial institutions. Since the passing of the BSA, several other laws have enhanced and amended the BSA to provide additional tools to combat money laundering. The key laws are:</p> <ul style="list-style-type: none">a) Money Laundering Control Act (1986);b) Anti-Drug Abuse Act of 1988;c) Annunzio-Wylie Anti-Money Laundering Act (1992);d) Money Laundering Suppression Act (1994);e) Money Laundering and Financial Crimes Strategy Act (1998);f) Uniting and Strengthening America by Providing Appropriate Tools to Restrict, Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act);g) Intelligence Reform & Terrorism Prevention Act of 2004;h) Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010; andi) Iran Threat Reduction and Syria Human Rights Act of 2012. <p>The USA PATRIOT Act of 2001 is the most significant of the enhancements and amendments to the BSA.</p>
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	The previous regime was nearly identical. The new regulation from the 2012 Act further increased sanctions on Iran and Syria.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.)? Please include link to the regulator(s) website
A3.	<p>The Financial Crimes Enforcement Network ("FinCEN") of the US Treasury Department is the US regulator for AML regulations http://www.fincen.gov/. FinCEN relies on other US regulators to apply and examine for compliance with FinCEN's regulations. These other regulators are as follows:</p> <ul style="list-style-type: none">a) Banking: Depending upon the type of banking charter an institution has, and its membership in the Federal Reserve System, a bank's federal regulator will be one of the following:<ul style="list-style-type: none">a. Board of Governors of the Federal Reserve System ("Fed") http://www.federalreserve.gov/;b. Office of the Comptroller of the Currency of the US Treasury Department ("OCC") http://www.occ.treas.gov/; andc. Federal Deposit Insurance Corporation ("FDIC") http://www.fdic.gov/.b) Other Financial Services:<ul style="list-style-type: none">a. Credit Unions: National Credit Union Administration ("NCUA") http://www.ncua.gov/Pages/default.aspx;b. Broker Dealers: US Securities and Exchange Commission ("SEC") http://www.sec.gov/ and the Financial Industry Regulatory Authority ("FINRA") http://www.finra.org/index.htm;c. Registered Mutual Funds: US SEC http://www.sec.gov/;d. Commodity and Futures Firms: US Commodities Futures Trading Commission ("CFTC") http://www.cftc.gov/index.htm and the National Futures Association ("NFA") http://www.nfa.futures.org/;e. Money Services Businesses ("MSB"): FinCEN of the US Treasury Department http://www.fincen.gov/;f. Insurance Companies: The Internal Revenue Service ("IRS") of the US Treasury Department http://www.irs.gov/; andg. Non-bank residential mortgage lenders and originators as loan or finance companies: IRS of the US Treasury Department http://www.irs.gov/.c) Non-Financial sector: IRS of the US Treasury Department http://www.irs.gov/.

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Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<ul style="list-style-type: none"> a) Banking: Federal Financial Institutions Examination Council ("FFIEC"): http://www.ffiec.gov/bsa_aml_infobase/default.htm; b) Broker Dealers: http://www.sec.gov/spotlight/moneylaundering.htm and http://www.finra.org/Industry/Issues/AML/ ; c) Registered Mutual Funds: http://www.sec.gov/spotlight/moneylaundering.htm; and d) Commodity and Futures Firms: http://www.cftc.gov/IndustryOversight/AntiMoneyLaundering/index.htm and http://www.nfa.futures.org/NFA-compliance/NFA-futures-commission-merchants/anti-money-laundering.HTML

Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.

Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – a risk based approach to AML is expected by US regulators. BSA/AML US regulatory guidance is provided in the FFIEC BSA/AML Examination Manual (April 2010).

Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No - basic due diligence is required for all accounts/customers regardless of transaction amounts.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>At a minimum, a financial institution must obtain the following identifying information from each customer before opening an account:</p> <ul style="list-style-type: none"> a) name; b) address; c) date of birth (for individuals); d) identification number (e.g. Taxpayer Identification Number ("TIN") or passport number). <p>The identity of the customer must be verified within a reasonable amount of time after the account is opened; however, generally the identity is verified before an account is opened. The identity is verified by either the use of document verification (see examples below), or through the use of non-documentary methods (such as by comparing information provided by the customer to public databases/credit bureaus, and using third party vendors which do comparisons) or a combination of both.</p>

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	The requirements for document verification and authentication should be commensurate with the level of AML risk, and as such requirements can differ based upon the account/customer type and assigned risk rating. US regulations do not specify independent verification or authentication of identification. However, many financial institutions will use a combination of documentary and non-documentary methods to verify the identity. The non-documentary methods would provide independent validation of identity information provided by the customer. For individuals, the original government issued photo identification should be seen and when not possible, the identification should be certified by a notary public.

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Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>Financial institutions are required to take reasonable steps to obtain and retain information on the beneficial owners of a customer entity and are required to perform an appropriate level of due diligence on the beneficial owners for any account opened or maintained in the US. The level of ownership in a customer entity that triggers beneficial owner identification and due diligence should be determined by the AML risk profile of the customer. It is generally considered that at a minimum any beneficial owner holding >25% interest in the customer entity should be subject to due diligence. The percentage of ownership that triggers due diligence should be lower as the AML risk of the customer/account increases.</p> <p>For identified beneficial owners, the KYC and identification requirements must be followed.</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	The basic due diligence noted in A9 is required for all accounts/customers opened or maintained in the US that meet the definition of a customer.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>The USA PATRIOT Act requires financial institutions to increase their due diligence standards when dealing with foreign private banking and foreign correspondent accounts. In addition, customers classified as high risk according to the institution's customer risk rating methodology generally are subject to enhanced due diligence. Factors that would be considered in determining a customer's risk rating would include at a minimum: geography, nature of business/employment, products and services used. Local guidance also has information on products, services, customers and entities that pose higher risks and enhanced due diligence for high risk customers, such as:</p> <ul style="list-style-type: none">a) account activity that is substantially cash-intensive;b) an entity whose account activity consists primarily of questionable funds transfers, especially to/from high-risk jurisdictions;c) a business entity whose bearer shares are not under bank or trusted third party control;d) an entity that uses a wide range of bank services, particularly foreign private banking and correspondent services;e) an entity owned or controlled by off-shore, non-public business entities; orf) private investment companies or trust accounts; <p>The KYC program should also include periodic risk based monitoring of the customer information to determine if there are any substantive changes to the original customer information. High risk customer relationships are generally reviewed annually.</p>
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	The USA PATRIOT Act requires financial institutions to conduct enhanced scrutiny of private banking accounts requested or maintained by or on behalf of senior foreign political figures. Risk factors that may require additional due diligence for PEPs include geographic location, individual's position or authority, products and services used, and complexity of the account relationships.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Enhanced due diligence should be performed for the owners of any foreign bank whose shares are not publicly traded. The identity of each of the owners of the foreign bank, and the nature and extent of the ownership interest of each owner should be determined. Enhanced scrutiny of the transactions associated with any correspondent accounts should be performed to guard against the increased risk of money laundering, in order to identify and report any suspicious transactions as required by US regulations and law. The level of enhanced scrutiny of any account should be supported by the institution's annual AML risk assessment and the customer's risk rating.</p> <p>In addition to the normal due diligence requirements, enhanced due diligence should include:</p> <ul style="list-style-type: none">a) obtaining information relating to the foreign bank's AML program to assess the risk of money laundering presented by the correspondent account;b) monitoring transactions to, from, or through the correspondent account in a manner reasonably designed to detect money laundering and suspicious activity;c) obtaining information from the foreign bank about the identity of any person with authority to direct transactions through any correspondent account that is a payable through account and about the sources and the beneficial owner of funds or other assets in the payable through accounts; andd) determining whether the foreign bank for which the correspondent account is maintained in turn maintains correspondent accounts for other foreign banks that use the foreign bank's correspondent account and if so, take reasonable steps to obtain information relevant to assess and mitigate any money laundering risks associated with the foreign bank's correspondent accounts for other foreign banks.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

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Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Financial institutions should take account of money laundering risks inherent to non face-to-face customer relationships. Where a customer approaches an institution remotely, the institution should deploy additional monitoring controls against transactions originating in these higher risk accounts. Local guidance includes examples of non-documentary verification methods that a financial institution may use, including: <ul style="list-style-type: none"> a) contacting a customer after the account is opened; b) requiring identification documentation to be notarised; and c) comparing the identifying information against fraud and negative check databases, etc.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	FinCEN of the US Treasury Department: http://www.fincen.gov/forms/bsa_forms/index.html#SAR

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 1,582,879 SARs http://www.fincen.gov/news_room/rp/files/btn18/sar_by_numb_18.pdf GDP (in current prices): 2012 – USD15,684,800 million This results in a ratio of approximately 1 SAR for every USD9.91 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes. Additional reporting includes: <ul style="list-style-type: none"> a) Currency Transactions Reports ("CTR") b) Report of International Transportation of Currency or Monetary Instruments ("CMIR") http://www.fincen.gov/forms/files/fin105_cmir.pdf c) Foreign Bank Account Report ("FBAR") http://www.fincen.gov/forms/files/f9022-1_fbar.pdf ; and d) Record keeping for certain funds transfers (the Travel Rule).

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Yes, depending upon the type of transaction for various reporting: <ul style="list-style-type: none"> a) SARs transactions aggregating below USD5,000 b) CTRs transactions aggregating USD10,000 or less c) CMIRs transactions aggregating USD10,000 or less d) FBARs when the aggregate value of the foreign financial accounts are USD10,000 or less during the calendar year e) Recordkeeping for transmittal orders for funds transfers (the Travel Rule) below USD3,000.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes. Penalties for non-compliance are noted in the Bank Secrecy Act, as amended, at http://www.fincen.gov/statutes_regs/bsa/ as well as in the regulations of FinCEN at http://www.fincen.gov/ .

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No. While there are no legal or regulatory requirements to use an automated system, the sophistication of monitoring systems should be dictated by the institution's risk profile, with particular emphasis on the composition of higher-risk products, services, customers, entities, and geographies.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

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Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes, but the financial institution should determine which transactions can be monitored outside its jurisdiction on a risk adjusted basis.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes. One of the legal requirements of the USA PATRIOT Act is for an independent review of the bank's AML program (i.e. systems and controls). This review does not need to be done by the bank's external auditor.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) Annually; b) The report is usually provided to the bank's regulatory examiner, when requested, at the time of the bank's examination; c) No.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	a) Yes; b) Yes; c) Yes. The independent review requires review and testing of a bank's entire AML program, as well as its Sanctions program. This will include review and testing all policies, procedures, controls and processes, whether manual or automated, of the AML and Sanctions program. The review will cover the program's design and effectiveness, noting any gaps or findings to regulatory requirements and expectations, as well as to bank documented policies and procedures.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>In contrast to the EU, the US does not have any comprehensive personal data protection or privacy laws that apply across all industries. Rather, the US has taken a sectoral approach, in which laws are generally targeted at specific industries or specific types of data. In addition, certain industries are subject only to self-regulation and voluntary guidelines.</p> <p>In the banking industry, the significant data privacy laws are encompassed in the Graham Leach Bliley Act ("GLBA") in the section known as "Regulation P" [12 CFR 1016]. This section calls out numerous specific policies, procedures and actions a financial institution must have in place with respect to consumer privacy notices, choice management and other privacy related matters.</p> <p>In addition, there are financial privacy requirements in the Fair Credit Reporting Act ("FCRA") [Regulation V, 15 USC 1681] with respect to choice management as well as dispute resolution. The Telephone Consumer Protection Act (TCPA [47 CFR Part 64] as well as the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 [CAN-SPAM Act of 2003] have privacy related impacts to financial institutions.</p> <p>The key non-bank secrecy privacy laws are the following:</p> <ul style="list-style-type: none">a) Electronic Communications Privacy Act of 1986;b) Health Insurance Portability and Accountability Act of 1996;c) Fair Credit Reporting Act of 1970, which was amended by the Fair and Accurate Credit Transactions Act of 2003; andd) The Children's Online Privacy Protection Act of 1998. <p>In 2000, the Department of Commerce entered into a "Safe Harbour" framework with the European Union to enable American companies voluntarily to adopt the European Union's Data Protection Directive and voluntarily submit to US enforcement action by the Federal Trade Commission ("FTC") in case of violation of their voluntary privacy commitments. To participate in the program, a US company self-certifies to the US Department of Commerce that it will follow the Safe Harbour Privacy Principles which mirror the core requirements of the EU Data Protection Directive. With limited exception, US based financial firms are generally not eligible to participate in the Safe Harbour program for client or customer data and must make use of binding or contractual methods to comply with EEA data movement regulations.</p> <p>For those firms which GLBA applies, "sensitive customer information means a customer's name, address, or telephone number in conjunction with the customer's social security number, credit or debit card number, or a personal identification number or password that would permit access to the customer's account. Sensitive customer information also includes any combination of components of customer information that would allow someone to log onto or access the customer's account, such as user name and password or password and account number."</p>
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	<p>On 23/11/2010, the Department of Treasury's FinCEN issued guidance, effective 03/01/2011, interpreting binding regulations, regarding the sharing of SARs, by US banks. The guidance provides that a US bank may share a SAR or any information that would reveal the existence of a SAR, with an affiliate, provided the affiliate is subject to a SAR regulation. The guidance defines "affiliate" of a bank to mean any company under common control with, or controlled by, that depository institution.</p> <p>The guidance also provides that a US bank that has filed a SAR may not share the SAR, or any information that would reveal the existence of a SAR, with its foreign branches.</p>

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Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Any firm contemplating the transfer of data from a non-US jurisdiction into the US may contemplate that financial records within the US are subject to examination by a wide array of US regulatory and law enforcement bodies.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	<p>GLBA generally prohibits a bank from disclosing non-public client data to a non-affiliated third party unless it:</p> <ol style="list-style-type: none">provides the client with a notice of its policies and procedures regarding its disclosure of and protection of non-public personal client data; andprovides the client with an opportunity to prevent a bank from sharing his or her non-public client data with non-affiliated third parties. <p>Thus, in contrast to EU banks secrecy laws, most of GLBA's restrictions on the transfer of personal data do not apply unless a client chooses to have them apply. In addition, GLBA does not restrict a bank's ability to share non-public personal client data. Each of the regulators charged with implementing GLBA has issued regulations. The regulations issued by the Office of the Comptroller of the Currency ("OCC") are at 12 CFR 30 App. B and 12 CFR 40.</p> <p>The Right to Financial Privacy Act (1978) does not apply to cross-border transfers of data.</p> <p>The Fair Credit Reporting Act (1970) does not apply to cross-border transfers of data.</p> <p>The Bank Secrecy Act of 1970 ("BSA") Despite the name, this law governs the detection and protection of money laundering rather than the protection of client data. Please note that these laws are the primary federal laws. State laws may also apply. Due to a change made to the pre-emption standard applicable to national banks by the Dodd-Frank Wall Street Reform and Consumer Protection Act, signed into law 21/07/10, national banks may soon be subject to additional state privacy laws. See Public Law No: 111-203 § 1044 ("State Law Pre-emption Standards for National Banks and Subsidiaries Clarified").</p>

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
 January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	<p>a) 2009 – Law No. 18.494 – introduced several modifications to Law 17.835;</p> <p>b) 2004 – Law No. 17.835 – system controls and prevention of money laundering and financing of terrorism; and</p> <p>c) 1998 – Law No. 17.016 – standards with regard to the misuse of public power (corruption).</p> <p>Previously, Uruguayan AML Laws focused on the illicit traffic of narcotic drugs but have been gradually extended to other crimes</p>
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	<p>Uruguayan Central Bank ("UCB") - http://www.bcu.gub.uy/</p> <p>Internal Audit of the Nation - http://www.ain.gub.uy/</p>
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>Yes – the Unit of Financial Information and Analysis ("UIAF") of the UCB has issued guidance with regard to suspicious or unusual transactions in order to assist the parties required to report these transactions in the detection of unusual or suspicious patterns in customer behaviour.</p> <p>Although the published guidelines are not exhaustive, they constitute a collection of types or patterns of transactions that could be linked to money laundering operations from criminal activities or terrorist financing.</p> <p>Uruguayan Central Bank - http://www.bcu.gub.uy/</p>
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes – the UCB, supervisor of the financial system, established the requirement to periodically update information on existing clients, especially in the case of 'high risk' customers.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – the UCB has established that the supervision process must be proactive and integrity orientated, focused on risks and performed on a consolidated basis. The Corporate Governance and Internal Control System Regulations which are in force (UCB Circular 1987) establish that institutions must have a risk framework according to the nature, size and complexity of their transactions. An AML framework is specifically required.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The country has not been subject to review in the last three years. The UIAF participate in Grupo de Acción Financiera de Sudamérica ("GAFISUD") and in the Egmont Group.

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – customer due diligence is not required on transactions below USD3,000 with occasional customers.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>The institutions must identify their customers in compliance with the UCB requirements when they open accounts or when they process transactions, with the exception of transactions with occasional customers below USD3,000. The UCB regulations establish the minimum identification requirements for individuals and legal entities.</p> <p>Individuals:</p> <ul style="list-style-type: none">a) name and surname;b) date and place of birth;c) identification document;d) marital status;e) address and telephone number;f) main activity or occupation; andg) volume of income (salary and other earnings). <p>It should be ascertained whether the customer is acting on their own or on behalf of a third party. In the latter case, the ultimate beneficiary should be identified. The same information should be obtained on all owners, agents, representatives and those authorised to operate on behalf of individual clients. It should be ascertained whether the information on level of incomes of these customers constitutes the source of income of the account.</p> <p>Legal Entities:</p> <ul style="list-style-type: none">a) company name;b) established date;c) address and telephone number;d) tax identification number;e) bylaws and other information on the entity as registry number etc.;f) main activity;g) volume of income (on financial statements); andh) shareholders and ultimate beneficial owners. <p>The above mentioned data required for individuals must be obtained for those listed as corporate managers and representatives, agents and those authorised to act on the company's behalf. It should be ascertained whether the information on level of incomes of these customers constitutes the source of income of the account.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Notary certification and signature verification are required to certify the validity of the documents provided. Each institution also has its own policies and procedures to verify the documents and its copies.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Financial institutions must implement procedures in order to identify the ultimate beneficial owner of each transaction, verify their identity and register their names.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Reduced/simplified due diligence arrangements are available to 'occasional customers'. The UCB regulation defines 'occasional customers' as those who do not demand transactions on a permanent basis and whose total amount of transactions with the institution is less than USD30,000 on an annual basis.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced customer due diligence measures are required for 'permanent customers'. Institutions must analyse each customer and classify them according to their activity, residence and risk profile. Institutions must obtain, evaluate and register additional information about the financial situation, in order to justify the customer's transactions and the origin of funds for those customers classified as 'high risk' and those with transactions over a certain limit.

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Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Financial institutions should apply additional due diligence procedures in the case of PEPs, their relatives and their associates. Financial institutions should: a) rely on procedures that allow them to determine whether a client is a PEP; b) get senior management approval upon establishing a new relationship with this type of client; c) take reasonable measures in order to determine the origin of the funds; and d) carry out a special and permanent assessment of the customer's transactions.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	For correspondent banking relationships, local institutions must obtain the following information in relation to foreign institutions: a) the nature of their business; b) management details; c) reputation; d) principal activities and location of the premises; e) account purpose; f) regulation and supervision in their country; g) political context; and h) procedures applied in order to prevent being used for laundering of assets or financing of terrorism.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes – it is not permitted to perform any type of business with financial institutions established in jurisdictions that do not require physical presence. It is also not permitted to establish a relationship with foreign institutions which allow shell banks to open accounts.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Financial institutions must implement special procedures to verify the relevant identity and to control non face-to-face transactions such as non-resident or e-banking transactions.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Reports are made to the UIAF, which was established by Resolution of the Board of Uruguayan Central Bank: http://www.bcu.gub.uy/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 237 SARs (Uruguayan Central Bank) GDP (in current prices): 2012 – USD49,060 million (Source: data.worldbank.org*) This results in a ratio of 1 SAR for every USD207 million of GDP.

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>By the above mentioned Circular No. 1722 of UCB dated 21/12/2000, transactions considered suspicious can be conducted on a periodic basis or isolated and that according to the customs of the activity concerned, are unusual, with no apparent economic or legal justification, or of unusual or unjustified complexity.</p> <p>Subjects required to report must immediately inform the UIAF regarding transactions covered by this where there is evidence or suspicion of involvement in the legitimisation of assets derived from criminal activities.</p> <p>In addition, financial intermediation institutions must notify the UCB and provide information regarding physical or legal persons carrying out the following transactions:</p> <ol style="list-style-type: none"> operations consisting of coins, currency conversion, foreign cheques, precious metals, bank deposits, shares or other securities which are easy to redeem, for amounts in excess of USD10,000 or its equivalent in other currencies; receiving and sending of money orders and transfers (including international transfers) for amounts in excess of USD1,000 or its equivalent in other currencies, regardless of the mode of operation used for execution. Transfers and money orders are exempted from the obligation to be reported if they are made between bank accounts in cases where both the account of origin and destination are based in local financial intermediaries; and purchase or sale, exchange or arbitration of foreign currency or precious metals for an amount over USD10,000 or its equivalent in other currencies, where the counterpart is made in cash.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	See A20 above.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – fines and penalties from Uruguayan Central Bank and National Internal Audit Office.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Yes.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	After a certain time, if there is no a response from UCB regarding the reported transaction, the institution should consider if it is appropriate to proceed with the transaction with the customer.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	The Communication 2010/254 issued by the CBU on 21 December 2010 defined that banks must have an audit report referring to the consideration of reasonable assurance regarding the design and operations of policies, procedures and monitoring mechanisms adopted to prevent the bank from being used for money laundering and terrorist financing.

Q27.	<p>If an external report on the bank's AML systems and controls is required:</p> <ol style="list-style-type: none"> how frequently must the report be provided? to whom should the report be submitted? is it part of the financial statement audit?
A27.	<ol style="list-style-type: none"> Annually; Directors and shareholders of the Bank; No.

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Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: <ul style="list-style-type: none"> a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	<ul style="list-style-type: none"> a) Yes; b) Yes; c) Yes. <p>The procedures to be performed include:</p> <ul style="list-style-type: none"> a) inquiry corroborating the description of policies, procedures and control mechanisms established by the Bank; and b) verification that the policies, procedures and control mechanisms are in accordance with the provisions of the regulation and its effective implementation by the auditor's judgment samples.

Data Privacy

Q29.	Does the country have established data protection laws? If so: <ul style="list-style-type: none"> a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	In Uruguay there is a specific data protection Law (No. 18331). The definition of "personal data" is included in it. The Law is applicable to corporate data also. The country has a separate definition of "sensitive data", defined as: the data and personal information referring to origin, ethnic, politic, religion, health and sexual life and preference.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	The response is affirmative; there are credit reports, banking information, and criminal information (only local Authorities and Interpol) that are prohibited from being transferred. Medical information is protected by secrecy.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes, the international transfer of data is regulated by Law and limited upon requirements (e.g. consent, adequate protection, International law regulation, etc.) and it is controlled by the public authorities.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	In Uruguay there are secrecy regulation laws, such as banking secrecy, professional secrecy, court data, and other specific regulations.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	<p>The AML was included in the Peruvian Criminal Code, article 293 B, by Legislative Decree 736 on 1991.</p> <p>However, in 2002, the following regulations became effective:</p> <ul style="list-style-type: none">a) The Law 27765, Anti Money Laundering Criminal Law, which replaced the AML regulation on Peruvian Criminal Law. This law is not in force since April 2012;b) The Law 27693, Law that creates the Peruvian Financial Intelligence Unit (AML supervisor, its acronym in Spanish is "UIF-Peru"). Then, this law was modified by Law 28009 and 28306;c) The Supreme Decree 163-2002-EF, Rules of the UIF-Peru, which was modified by Supreme Decree 018-2006-JUS in 2006. <p>Note that on April 2012, Peru enforced the Legislative Decree 1106, Law against Money Laundering, Illegal Mining and Organized Crime, which has replaced the Law 27765 and its modifications.</p>
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	The previous AML regime only considered a Money Laundering Crime where the money is obtained by drug trafficking, terrorism, abduction or human trafficking.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	Banking, Insurance and Private Pension Fund Manager Superintendence (its acronym in Spanish is "SBS") through UIF-Peru is in the Peruvian regulator for all AML controls and is the AML / CFT National Coordinator at GAFISUD.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	SBS Training: http://www.sbs.gob.pe/0/modulos/JER/JER_Interna.aspx?ARE=0&PFL=2&JER=464
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	The Legislative Decree 1106 includes additional control mechanisms related to criminal law. The requirement is to verify the identity of customers who are regulated on Supreme Decree 018-2006-JUS,.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Under the legal framework mentioned in A1, the local regulator may issue additional regulations in order to control AML/CFT practices, such as SBS Resolution 5709-2012, in which the Notary Public must report any suspicious or unusual operation to the UIF-Peru.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Last Mutual Report FATF/GAFI was executed on July 2005: http://www.fatf-gafi.org/countries/n-r/peru/

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	According to Supreme Decree 018-2006-JUS, the supervised entities must report to UIF-Peru the following situations: a) Client operations which amounts to USD10,000 (or its equivalent in PEN) or any other higher amount. In the case of fund transfer companies, casinos, lottery companies, bingo companies, among others, the supervised entity must report any transaction which amounts to USD2,500 (or its equivalent in PEN) or any other higher amount; b) Operations executed in one or more offices of the supervised entity in favour of the same person, which amounts to USD50,000 (or its equivalent in PEN) or any other higher amount. In case of fund transfer companies, casinos, lottery companies, bingo companies, among others, the supervised entity must report any transaction which amounts to USD10,000 (or its equivalent in PEN) or any other higher amount.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: Complete surname and name, birth date, identification document, profession or occupation and domicile. Legal entities: name, taxpayer registration number, purpose, and legal representative information (complete surname and name, birth date, identification document, profession or occupation and domicile).
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	The supervised entity must report to the UIF-Peru the following: a) Description of the operations executed, including dates, amounts, currency, place of the operation and other supporting documentation (bank statements, credit/debit notes, deposit or withdraw certificates, documents used in funds transfer, copy of checks, cashier's check among others); b) Aspects in order to consider the operation as suspicious; or c) Other relevant information or documentation.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	There are the same high level requirements mentioned in A10.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	In accordance to SBS Resolution 838-2008, article 9.1, reduced/simplified due diligence measures are applicable in cases where the products, services and distribution channels mitigate the risks by limiting the amounts transacted and the type of available transactions, among other special mechanisms. In order to apply for the reduced/simplified due diligence arrangements, the supervised entity must apply for an authorisation from the SBS, including the following documentation: a) information relating to the product characteristics; b) report in which is defined the commercial and operative design of the product, including distribution channels; or c) risk Management Program applicable to the product.
Q13.	In what circumstances are enhanced customer due diligence measures required?

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Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>In accordance to SBS Resolution 838-2008, article 9.2, enhanced due diligence measures are applicable to the following customers:</p> <ul style="list-style-type: none">a) National and foreign clients, non domiciled;b) Trusts;c) Non domiciled companies;d) PEPs;e) Correspondent banking operations with foreign legal entities, especially the ones incorporated in tax havens or in countries without banking supervision;f) Clients that receive fund transfers from countries considered non cooperative countries by GAFI, with money laundering risks and/or financing terrorism, with scarce banking supervision or countries under OFAC sanctions;g) Legal entities in which a PEP is the owner of the amount equal to or more than 5% of the capital stock, contribution or participation and has a high risk of money laundering or financing terrorism;h) Partners, shareholders or associates and administrators of legal entities in which a PEP is the owner of a percentage equal to or more than 5% of the capital stock of the referred legal entity;i) Clients under investigation of money laundering, precedent crimes and/or financing terrorism;j) Clients related to individuals or legal entities under investigation or judicial procedures related to money laundering, precedent crimes and/or financing terrorism;k) Clients with bank accounts in Foreign Currency according to the amounts mentioned in A8;l) Legal entities in which their shareholders, partner or associates that have directly or indirectly, more than the 5% of its capital stock, contribution or participation, are individuals or legal entities; orm) Other customers with unusual or suspicious operations.

Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>According to SBS Resolution 838-2008, article 9.2., the supervised entities are entitled to carry out an enhanced regime procedure for PEPs. They must identify and register the PEPs in case they execute transactional patterns that do not belong to their profile. PEPs are also supervised by the Contraloría General de la República, which is the Peruvian agency in charge of the supervision of Public Official functions.</p> <p>Note that the partners, shareholders or associates and administrators of legal entities in which a PEP is the owner of a percentage equal to or more than 5% of the capital stock of the referred legal entity, are also supervised under the enhanced regime procedure.</p>

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>According to SBS Resolution 838-2008, article 11, corporations under Financial System Regulations, as well as Credit Unions, must execute policies and procedures related to the prevention or detection of unusual and suspicious operations carried out between national or foreign legal entities. In this case, the supervised entities under the Peruvian AML Legal Framework must identify the risk exposure for correspondent banking relationships and must know the nature and the scope of the correspondent bank's operations, and must evaluate the quality of the AML/CFT System in the correspondent bank and the compliance of UIF-Peru regulations, especially in correspondent banks domiciled in countries with strict regulations or tax havens.</p>

Q16.	Are relationships with shell banks specifically prohibited?
A16.	<p>According to SBS Resolution 838-2008, article 11, the local legal entities must have policies and procedures related to operations with correspondent banking relationships with shell banks and must obtain a certificate in which is stipulated that the foreign correspondent bank (to which the local entity maintain correspondent banking relationships) does not allow shell banks to use its accounts.</p>

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>There are no additional due diligence required for non face-to-face transactions and/or relationships.</p>

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	<p>UIF-Peru of the SBS: http://www.sbs.gob.pe</p>

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: January to October 2012 – 2,543 SARs (http://www.sbs.gob.pe/repositorioaps/0/2/jer/esta_transparenciaoperativa/2012/octubre_2012.pdf)</p> <p>Comparative GDP data is not available for this specific period.</p>

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Law 27693, article 9 stipulates the operations to be reported according to the amounts mentioned in A8. Moreover, Law 27693, article 11 stipulates the definition of suspicious and unusual transactions.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Yes. Please see A8. However, in case the transaction is suspicious or unusual, it must be reported.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Penalties for non compliance with Law 29038 requirements are detailed on SBS Resolution 8930-2012.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Article 1 of SBS Resolution 9810-2011, stipulates that regulated entities are requested to use automated Suspicious Transaction Monitoring Technology (its acronym in Spanish is ROSEL) to report suspicious transactions.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	There are no limitations related to this aspect. Once the transaction is executed, the supervised entity must report the operation and the customers' information.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	There are no local regulations related to this matter.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	According to SBS Resolution 17026 -2010, article 9 and 12, the external report on the bank's AML must comply with the following: <ul style="list-style-type: none"> a) The auditors shall submit the conclusions of report on the bank's AML directly to the SBS, it may request a copy of the report to the audit firm or the Bank; and b) The report shall be made by a different auditing firm or a completely different team from that issued the opinion on the fairness of the financial statements.

Q27.	If an external report on the bank's AML systems and controls is required: <ul style="list-style-type: none"> a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	<ul style="list-style-type: none"> a) Yearly. Article 24 of SBS Resolution N° 17026 -2010; b) The report is submitted to the Bank, and the conclusions of the report are presented to the SBS. Article 9 of SBS Resolution N° 17026 -2010; c) No. Please see A26.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: <ul style="list-style-type: none"> a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	<ul style="list-style-type: none"> a) Yes. Article 25 (c) and (d) of SBS Resolution N° 17026 -2010; b) Yes. Article 25 (e) and (f) of SBS Resolution N° 17026 -2010; c) There are no local regulations related to this matter.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: <ol style="list-style-type: none"> a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<ol style="list-style-type: none"> a) No. According to Personal Data Protection Act, Law 29733, the definition of "personal data" is not directly related for KYC purposes; b) There is no specific regulation on the matter. However, the Peruvian Constitutional Court through an interpretation of Article 2.6 of the Political Constitution of Peru, protects the right to privacy of the companies, also Peruvian law provides protection to information in the following field: <ol style="list-style-type: none"> a. Article 34 of the Law on the Securities Market, Supreme Decree No. 093 -2002- EF, states that an event or ongoing negotiation can be classified in nature, when its premature disclosure might cause harm to the issuer. The agreement shall be adopted by not less than three-fourths (¾) of the members of the board of the Company; b. Article 17.2 of the Law on Transparency and Access to Public Information, Law 27806 provides that information protected by bank secrecy, taxation, commercial, industrial, technological and market is confidential to state-owned companies. c) According to Article 3 of Personal Data Protection Act, Law 29733, the "sensitive data" have a separate definition of "personal data" Sensitive data is defined as personal data consisting of biometric data, data concerning the racial and ethnic origin; political; religious; philosophical or moral opinions or convictions, personal habits, union membership and information related to health or sexual life. Article 2 of Law 29733. The additional protections of "sensitive data" are that the consent must be given in writing, through handwritten signature, a digital signature or other authentication mechanism that guarantees the unequivocal consent by owner" Article 14 of Law 29733.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	In general, according to Law 29733 (Art. 3) and its Regulation (Art. 19), there is no prohibition for the transfer of personal data related to credit reports and medical data. To transfer data into or out of the country requires the owner's consent. With regard to criminal records, not part of the scope of Law 29733, Article 3, and concerning transfer of criminal records, there are no local regulations related to this matter.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	The legislation relating to transfer of information is as follows: <ol style="list-style-type: none"> a) Political Constitution of Peru 1993, article 2. 6; b) Personal Data Protection Act, Law 29733; c) Rules of Personal Data Protection Act, Supreme Decree 003-2013-JUS; and d) Law of Transparency and Access to Public Information, Law 27806.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	According to General Law of the Financial and Insurance Systems and the Organic Law, Ley 26702, article 140, regulates banking secrecy that forbids financial companies, and their directors and employees, provide any information on debit transactions with their customers. Also, Peruvian law requires other data referred to confidential information, such as: <ol style="list-style-type: none"> a) Reserve Tax. Article 85 of the Peruvian Tax Code, Supreme Decree 133-2013-EF; b) Market Reserve. Article 45 of the Peruvian Securities Market Act, Supreme Decree 093-2002-EF.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:

January 2013

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1997.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	Secretaría de Prevención de Lavado de Dinero (SEPRELAT) www.seprelad.gov.py/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	No.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	No.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last 3 years? If yes, please find a link to a relevant report (if publicly available).
A7.	No.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - Due diligence procedures are not required on transactions below USD10,000.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>The law and its procedures define minimum requirements to identify customers:</p> <p>Individuals: birth date; nationality; National Identification number (cédula de identidad) or passport number; Registro Unico de Contribuyente (RUC) if applicable, which is the Taxpayers Identification Number; marital status and spouse's name (if applicable); home and business address; telephone number; profession; occupation; and commercial references.</p> <p>Legal entities: Entity name; activity; Registro Unico de Contribuyente (RUC), which is the Taxpayers Identification Number; business address; telephone number; shareholders list; executives list; commercial references; and entity constitutive documents.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	According to law, financial institutions should always verify original identification documents. However, for legal entities, there are some documents that can be provided as copies, if those copies are certified by a notary public officer.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>The following three situations require financial institutions to collect additional information about beneficial ownership:</p> <ul style="list-style-type: none">a) when the client informs the institutions that the final beneficiary is another person or entity;b) when the financial institution has doubts about the final beneficiary; orc) when the customer engages in commercial, financial or industrial transactions in a location where they have no operations. <p>No requirements are established around verification of this data.</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	No specific procedures or guidance exist on this situation, only that documents are not required for operations below USD10,000.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced due diligence arrangements are required for transactions above the USD10,000 threshold.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	There are specific requirements to classify the customer as high risk - its operations must be approved by the highest authority of institutions to establish due diligence procedures to apply, including spouses, relatives and relatives up to fourth degree of consanguinity, second degree of affinity. Nonprofit organisations are also included.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	The correspondent must be approved by the highest authority of the institution; it must know the nature of the activities of the correspondent, and evaluate the policies and procedures to prevent money laundering and terrorist financing implemented by the correspondent. On account transfers have correspondent evidence that preventative measures have been implemented and due diligence procedures performed on transfers.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	No.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	The entity must develop policies and procedures relating to prevention to avoid the use of technological devices to perform operations related to ML and TF, as well as keeping up to date computer platforms.

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Secretaría de Prevención de Lavado de Dinero ("SEPRELAT") www.seprelad.gov.py
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Institutions must also report suspicious transactions, fund transfer operations to and from other countries (transfers, exchanges, cash checks, or any other payment method), as well as physical remittance of money.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Yes. Anything below USD10,000.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Yes.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	There are different laws that apply to the financial sector and the issue dates of each General Provisions vary – please contact Martin Montealegre for further details.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	<p>There are different standards for each type of financial institution. Some AML regulations became effective in the last two years, mainly to regulate the activity of the Multiple Purpose Financial Societies ("SOFOMs") and Credit Unions. In addition, in October 2012 Mexican authorities issued the new Federal Law for the Prevention and Identification of Operations with Illegal Resources to regulate Designated non-Financial Businesses and Professions which came into effect this year (17/06/2013).</p> <p>Prior to 2011 SOFOMs were not subject to AML regulations. In the case of the Credit Unions, they previously were subject to the general provisions of The General Organizations with Auxiliary Credit Activity.</p>

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Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	<p>In Mexico, various organisations regulate AML controls, depending on the type of financial institution.</p> <p>Regulator 1: Comisión Nacional Bancaria y de Valores ("CNBV", National Banking and Securities Commission) Regulated Institutions</p> <ul style="list-style-type: none"> a) Commercial banks; b) Development Banking Institutions; c) Limited Purpose Financial Society ("SOFOL"); d) Broker Houses; e) Society's Managing Mutual Funds (Sociedades Operadoras de Sociedades de Inversión); f) Distribution Society's of Mutual Fund Shares; g) Financial Lessor; h) Financial Factoring companies; i) General Deposit Warehouses; j) Credit Unions; k) Society's for Saving and Loans; l) Foreign Exchange Houses; m) Multiple Purpose Financial Society ("SOFOM"); n) Entity of Saving and Popular Credits; o) Foreign Exchange Centers; and p) Money transmitters. <p>Regulator 2: Comisión Nacional de Seguros y Fianzas (CNSF, National Insurance and Surety Institution) Regulated Institutions</p> <ul style="list-style-type: none"> a) Insurance Institutions; and b) Surety Institutions. <p>Regulator 3: Comisión Nacional de Sistemas de Ahorro para el Retiro (CONSAR, National Retirement Savings System Commission) Regulated Institution</p> <ul style="list-style-type: none"> a) Retirement Fund Managers. <p>Regulator 4: Secretaría de Hacienda y Crédito Público (SHCP, Secretary of Finance and Public Credit); Actividades vulnerable (Designated non-Financial Businesses and Professions)</p> <ul style="list-style-type: none"> a) Contests, sweepstakes or gambling games; b) Issuance and marketing of service cards, credit or prepaid cards and travelers checks; c) Granting loans; d) Buying and selling of precious metals and stones, jewelry watches and art; e) Sale or lease of aircraft, marine or terrestrial vehicles; f) Transfer or custody of money or securities; g) Armor-plating services; h) Professional service, in a independent manner, when preparing and performing on behalf of a third person any of the following operations; i) Purchase or sell of real estate; j) Management of securities or assets; k) Management of bank accounts, savings or assets; and l) Constitution, de merge, merge, operation and management of corporations: <ul style="list-style-type: none"> a. Public Notaries; b. Forwarding agent; c. Non Profit Organisations; and d. Leasing of real estate.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>The Ministry of Finance and Public Credit (Secretaria de Hacienda y Credito Publico, "SHCP"), via the Official Journal of the Federation publishes practical guidance to firms regarding AML requirements and best practices for AML prevention.</p> <p>Ministry of Finance and Public Credit (Secretaria de Hacienda y Credito Publico, "SHCP") The SHCP has a section of FAQ's aimed at fomenting a culture of AML prevention in financial institutions as well as non-financial institutions: http://www.shcp.gob.mx/INTELIGENCIA_FINANCIERA/Paginas/Preguntas_Frecuentes.aspx</p> <p>National Banking and Securities Commission (Comisión Nacional Bancaria y de Valores, "CNBV") Taking into account that the prevention of crime starts with educating and diffusing a culture of prevention, the CNBV created the present section with the purpose of educating the public in a practical way, about different aspects related to AML/CFT: http://www.cnbv.gob.mx/PrevencionDeLavadoDeDinero/Paginas/Cultura-PLDFT.aspx</p>

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Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	The financial sector has historically applied KYC policies, but under an internal controls approach rather than for the purpose of anti-money laundering prevention.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	There is not an official risk approach model established by the authority, but the general provisions require the entity to integrate a model based on parameters which classifies their clients depending on the risk they represent, establishing at least two levels of risk: low and high risk customers.
Q7.	Has the country been the subject of a FATF (of FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>Mexico was initially evaluated by the GAFI in 2008, since then GAFI and GAFISUD have issued Interim Follow Up reports in 2009, 2010, 2011 and 2012:</p> <ul style="list-style-type: none"> a) Mutual Evaluation Report of Mexico by GAFI; <ul style="list-style-type: none"> a. 2008; b) Interim Follow Up report by GAFI; <ul style="list-style-type: none"> a. October 2010; b. October 2011; c. October 2012; c) Monitoring report by GAFISUD; <ul style="list-style-type: none"> a. June 2009; b. December 2009; c. June 2010; d. December 2010; e. June 2011; f. December 2011; g. June 2012; d) IMF Assessment; <ul style="list-style-type: none"> a. November 2013.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Each of the different entities that are subject to AML general provisions as mentioned in A3 consider different transaction thresholds, depending on the type of products and services that they each provide.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Requirements for customer identification information may vary according to financial entities, but in general they include:</p> <p>Individuals:</p> <ul style="list-style-type: none"> a) Full name; b) Date of birth; c) Nationality; d) Employment information; e) Code of Taxpayer registration ("RFC"); f) Serial number of Advanced Electronic Signature; g) Proof of address; h) Telephone number; and i) E-mail. <p>Corporations:</p> <ul style="list-style-type: none"> a) Corporate name; b) Economic activity or social activity; c) Nationality; d) Code of taxpayer registration ("RFC"); e) Serial number of Advanced Electronic Signature; f) Proof of address; g) Telephone number; h) E-mail; and i) Date of constitution.

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Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Copies of identification documentation are provided at the initial stage of the commercial relationship, at the time the Client File is created. While there is no legal requirement around independent verification or authentication of identification documentation, some institutions are implementing authenticity measures, some of which include black lights and special training courses for detecting false identification.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Requirements for the identification of the beneficiary may vary depending on the type of client and the institution that requires them, but in general they include: a) Full name; b) Date of birth; c) Proof of address; d) Same documents required by client; and e) If a document presents scraps or has been repaired the entity should ask for this other information: 2 bank references or commercial references that contain the aforementioned data.

Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	When the client is a company, department or entity regulated by the National Banking and Securities Commission and is considered as a low risk client.

Q13.	In what circumstances is enhanced-customer due diligence measures required?
A13.	Enhanced due diligence should be carried out when the customer is rated as a high risk. To determinate the risk rating and whether they should be considered PEPs, each one of the entities must consider the background of the customer, their profession, activity or course of business, source and destination of the funds, customer residence and other circumstances determined by the Institution.

Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	When the PEP has been rated as high risk.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Mexican regulation does not require that enhanced due diligence be performed for correspondent banking relationships. Each entity establishes its own criteria and mechanisms of control and prevention. Generally entities that respond to a foreign corporate base have stricter AML controls.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes, according to AML General Provisions.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Depending on the amount of the transaction, some institutions require additional information to support that transaction.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Reports are sent to the Secretaría de Hacienda y Crédito Público ("SHCP") via the respective regulatory bodies of each entity (see A3).

Questions and Answers:

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Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 – 57,663 Unusual Transaction reports (Source: UIF)</p> <p>GDP (in current prices): 2012: USD1,177,956 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD20.43 million of GDP.</p>
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>In most financial entities, there are thresholds for relevant operations, cash transaction, international fund transfers and US dollar transactions above which a suspicious activity report must be filed. For further details, please contact Martin Montealegre.</p> <p>In addition, a transaction is to be considered suspicious in the following circumstances:</p> <ol style="list-style-type: none">When a manager, officer, employee or agent of the entity, maintains a standard of living well above that would correspond, according to the earnings of the person in question;When, without reasonable cause a director, officer, employee or agent of the entity has repeatedly participated in operations that have been reported as unusual transactions; andWhen, without reasonable cause there is a gap between the functions that a manager, officer, employee or agent should do, and the activity the person in question actually carries out.
Q21.	Are there any minimum thresholds below which transactions do not need to be reported?
A21.	In most financial entities, there are thresholds for relevant operations, cash transaction, international fund transfers and USD transactions, below which a suspicious activity report does not need to be filed. For further information, please contact Martin Montealegre.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, according to AML General Provisions and there are different penalties depending on each case.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	<p>Entities must have automated systems which must have the following functions:</p> <ol style="list-style-type: none">Maintain and update data to allow consultation of the records;Generate, encode, encrypt and securely transmit to the secretary, through the commission, information on significant transactions reports, unusual operation, and international transfers;Classify types of operations or financial products offered by entities to their customers or users;Detect and monitor the operations performed by a client or by the same user from those indicated;Run warning systems that contribute to the detection and monitoring of suspicious activity analysis;Group on a consolidated basis of the different contracts to the same client;Maintain historical records of possible worrisome internal operations and Unusual Operations;Serve as a means for the agency staff so they can report to internal areas that they determine, in a safe, confidential and auditable way;Maintain security schemes of information processed; andRun an alert system on operations that intend to carry out with people linked to terrorism or its financing, or other illegal activities.

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Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes, according to General provisions.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes, according to General provisions.

Q27.	If an external report on the bank's AML systems and controls is required: a) How frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) Auditors need to submit an annually report; b) Auditors need to submit a report to the National Banking and Securities Commission; c) No.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	a) Yes, a sample of KYC files is required according to General provisions; b) Yes, a sample test of SAR reports is required according to General provisions; c) Yes, an examination of the risk assessment is required according to General provisions.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	a) Yes; b) A notice of privacy is signed by the customer to let the corporation use their personal data; c) Yes, some data are considered sensitive personal data such as those who can reveal aspects as origin racial or ethnic health present and future, genetic information, religious, philosophical and moral beliefs, union membership, political opinions, sexual preference.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	There is no prohibition for data transfer as long as it is not specified in the notice of privacy.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	The Personal Data Protection Law is the only law that regulates the Personal data transfer; however other federal laws can impact to this law indirectly.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	The "Financial Institution Law", in their article 117th that regulates the bank secrecy, protect the following data: a) Bank deposits; b) Bank operations; c) Bank services; and d) Loans.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Money Laundering Act 1996 which was subsequently repealed by The Proceeds of Crime Act 2007 which came into effect in May 2007, The Proceeds of Crime (Money Laundering Prevention) Regulations 2007 and the Proceeds of Crime Regulations 2007.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	2013 saw the passage of considerable amendments to existing money laundering legislation including the Financial Investigations Division (Amendment) Act which was passed in July 2013, the Proceeds of Crime (Amendment) Act 2013 which includes amendments to the Proceeds of Crime (Money Laundering) Regulations and the Terrorism Prevention (Amendment) Act 2013.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	<ul style="list-style-type: none">a) Bank of Jamaica is responsible for supervising commercial banks, merchant banks, building societies and credit unions www.boj.org.jmb) Foreign exchange traders, bureaux de change and remittance companies are supervised by the Bank of Jamaica www.boj.org.jm and the Financial Services Commission is responsible for supervising firms and individuals in the securities and insurance industry: www.fscjamaica.orgc) The Minister of National Security has designated attorneys, accountants, real estate dealers, casinos and gaming lounges as designated non-financial businesses and professions (DNFBPs) and therefore subject to the framework of supervision contained in section 91A of the Proceeds of Crime (Amendment) Act 2013. The changes will take effect for those categories from 1 April 2014 and for attorneys from 1 June 2014. Trust and company service providers and dealers in precious metals and stones have not been designated as DNFBPs.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>The Bank of Jamaica published AML/CFT policy which was most recently revised in September 2010 and can be accessed here: http://www.boj.org.jm/pdf/BOJ%20AML%20POLICY%20Final.pdf and Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing Activities for commercial banks, merchant banks, building societies, credit Unions, cambios, bureau de change and money transfer and remittance agents and agencies which was most recently revised in March 2009 and can be accessed here: http://www.boj.org.jm/pdf/AMLCFT%20GN%20Mar%2009%20published.pdf</p> <p>The Financial Services Commission provides guidance on AML (revised March 30 2007).</p>
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Paragraph 46 of the Bank of Jamaica's AML/CFT Guidance Notes provides that where no comprehensive review has been conducted of existing client identification records since the coming into effect of the Money Laundering Act, Regulations and the Bank of Jamaica's Guidance Notes then the institution should immediately implement a retrospective review of all pre-existing accounts/customers to ensure that full KYC identification details are on file.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Paragraph 75 of the Bank of Jamaica's Guidance Notes encourages the adoption of a risk based approach to the obtaining of KYC information.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>The last CFATF Mutual Evaluation Report on Jamaica was published in October 2005. It found Jamaica to be partially or non-compliant with 18 recommendations. The Ninth Follow-Up Report on Jamaica was published on 3 January 2014 and can be accessed here https://www.cfatf-gafic.org/index.php?option=com_docman&task=cat_view&qid=309&Itemid=417&lang=en It recommended that Jamaica be taken out of enhanced and placed in regular (expedited) follow up.</p> <p>The last Financial System Stability Assessment done by the IMF on Jamaica was in April 2012: https://www.cfatf-gafic.org/index.php?option=com_docman&task=cat_view&qid=309&Itemid=417&lang=en</p>

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Article 8 of the Proceeds of Crime (Money Laundering Prevention) Regulations 2007 provides for de minimis amounts which do not require the application of client due diligence. In the case of transactions of a value of USD 250 or less in either USD or any other currency, unless the nature of the transaction is suspicious. The exemption however does not apply to a money transfer and remittance agent or agency.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: True name and names used, correct permanent address including postal address (if different from permanent address), date and place of birth, nationality, contact numbers, date and place of birth, taxpayer registration number, at least 2 referees and source of funds and wealth where considered appropriate. Identification should be verified from documents issued by reputable sources which includes a valid driver's licence bearing a photograph, current valid passport, current valid voter's identification card with a photograph, signed employer identity card bearing a photograph and signature or taxpayer registration number in addition to any one of the other identification documents listed.</p> <p>Legal persons: Entity's full name, description of the business conducted by the entity, country or jurisdiction of incorporation or establishment, taxpayer registration number, registered office or place of business, date on which the entity began to hold and ceased to hold the account, full name, date of birth, most recent and previous addresses of any person who is a signatory to the account. The following documentation should be obtained: Certificate of incorporation or registration, articles of incorporation or partnership deed, director's resolution authorising company's management to engage in transactions, financial institutions mandate, signed application form or an account opening authority containing specimen signatures, a financial statement of the business (audited except in the case of companies incorporated and in operation for less than 18 months), a description of the company's principal line of business and suppliers (if applicable) list of names, addresses and nationalities of principal owners, directors, beneficiaries and management officers including directors, beneficiaries and management officers including evidence of the identity of natural persons, Group/Corporate structure where applicable, tax compliance certificate and a copy of the licence to operate where the principal line of business is one that falls under a regulatory/supervisory body and determine and document the source of funds and wealth.</p>

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	The name and permanent address and employment details or a customer should be verified by an independent source, other than those provided by the customer, such as by requesting sight of a current utility bill for the customer's place of residence, checking a local telephone directory, checking the voters list, home visits, confirming the customer's place of employment independently, cross checking KYC details provided with other affiliated companies or other financial institutions.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	There is no specific information in local guidance which deals specifically with beneficial ownership. However, firms should carry out verification in respect of the parties operating the account. Where there are underlying principals, the true nature of the relationship between the principals and the account signatories must also be established. Appropriate enquiries should be performed on the principals, especially if the signatories are accustomed to acting on their instructions. In this context "principals" should be understood in its widest sense to include, for example, beneficial owners, settlers, controlling shareholders, directors, major beneficiaries etc.

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Verification of the institution is not needed for five types of eligible institutions, including a licensed bank, a financial institution licensed under the Financial Institutions Act, a building society registered under the Building Societies Act, a society registered under the Co-operative Societies Act and an insurance company registered under the Insurance Act.</p> <p>Paragraph 50 of the Bank of Jamaica's Guidance Notes provides that KYC due diligence requirements for corporate customers can be satisfied if the corporate customer has established that it is listed on the Jamaica Stock Exchange's public listing of companies and is of good standing.</p>
Q13.	In what circumstances are enhanced customers due diligence measures required?
A13.	<ul style="list-style-type: none">a) Institutions that offer private banking services for high net worth individuals must ensure that enhanced due diligence policies and procedures are developed and documented. Senior management should ensure that the personal circumstances, income sources and wealth of private banking clients are known and verified as far as possible and must provide approval for such relationships;b) Where accounts are transferred from another financial institution, enhanced KYC standards should be applied especially if the licensee has any reason to believe that the account holder has been refused banking facilities by the other financial institution;c) PEPsd) Non face-to-face customers; ande) Correspondent banking.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>Financial institutions are required to implement enhanced due diligence for business relationships involving foreign and domestic PEPs as follows:</p> <ul style="list-style-type: none">a) Investigation and determination of the income sources prior to opening an account. Reference to income sources includes source of funds, source of wealth and asset holdings, confirmation of the general salary and entitlements for public positions.b) Senior management approval of the decision to open an account for a PEP;c) Ongoing monitoring of PEP accounts; andd) Regular reviews to ensure KYC information remains up to date.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>The following enhanced due diligence should be performed by correspondent banks:</p> <ul style="list-style-type: none">a) Obtaining authenticated/certified copies of certificates of incorporation and articles of association,b) Obtaining authenticated/certified copies of banking licenses or similar authorisation documents, as well as any additional licences in respect of foreign exchange;c) Determining the supervisory authority which has oversight responsibility for the respondent bank;d) Determining the ownership of the financial institution;e) Obtaining details of the respondent bank's board and management composition;f) Determining the location and major activities of the financial institution;g) Obtaining details regarding the group structure within which the respondent bank operates, as well as any subsidiaries it may have;h) Obtaining proof off its years of operation, along with access to its audited financial statements;i) Information as to its external auditors;j) Ascertaining whether the bank has established and implemented sound CDD, AML/CFT policies and strategies and appointed a Compliance Officer;k) Ascertaining whether the respondent bank has been the subject or is currently the subject of any regulatory action or investigation;l) Establishing the purpose of the account;m) Documenting the respective responsibilities of each institution in the operation of the account;n) Identifying any third party that may have access to the account; ando) Ensuring senior management approval is obtained.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Financial institutions are encouraged to avoid the practice of opening new accounts for non face-to-face customers unless higher standards of scrutiny are applied. This requires more rigorous identification and verification standards including independent verification by a reputable third party.

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Financial Investigations Division. In Jamaica, such reports are referred to as suspicious transactions reports ("STRs"). http://www.mof.gov.jm/fid
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs are not publicly available.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>Yes, cash transactions over a certain threshold should be reported to the Financial Investigations Division. Article 3 of the Proceeds of Crime (Money Laundering Prevention) Regulations 2007 provides that the following cash transactions must be reported:</p> <ul style="list-style-type: none"> a) A money transfer and remittance agent or agency of USD 5,000 or more; b) Cambios and bureaux de change of USD 8,000 or more; and c) Any other financial institution USD 15,000 or more <p>Transactions conducted by the Central Bank of Jamaica, a ministry, department or agency of government, a statutory body or authority, a company registered in which the Government or an agency of the government is in a position to influence the policy of the company, any embassy, high commission or consular office is exempt from the requirement.</p> <p>The duty to report extends beyond transactions being conducted with customers to transactions that another person has engaged in which may constitute money laundering.</p> <p>Section 101 of the Proceeds of Crime Act 2007 requires banks to make a report where cash, which includes negotiable instruments, exceeds USD 10,000 or the equivalent amount in any currency being taken in or out of Jamaica.</p> <p>Paragraph 102 of the Bank of Jamaica's AML/CFT Guidance Notes indicates that STRs should be filed in cases where the suspicion is that funds are being diverted to avoid the payment of taxes or to otherwise deprive the government of revenues.</p>
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No, all suspicious transactions should be reported.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Section 94 of the Proceeds of Crime Act 2007 criminalises the failure to make the requisite disclosure within the stipulated timeframe of 15 days. Failure to file suspicious transaction reports with the designated authority will attract up to 1 year imprisonment jail or JMD1 million (Resident Magistrate, RM Court). Failure to file a threshold transaction report attracts a fine of up to JMD400,000 (RM Court). In respect to tipping off a company can be fined up to JMD600,000 (RM Court). Section 97 of the Proceeds of Crime Act 2007 criminalises tipping off.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes, those making reports are required to adhere to the 'appropriate consent' procedure contained in section 91 and 99 of the Proceeds of Crime Act 2007.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How it defined and what are the additional protections?
A29.	Jamaica is in the process of amending its data protection laws.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	N/A – See A29.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	N/A – See A29.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	N/A – See A29.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1996. Financial institutions had to comply with the Integral System for the Prevention of Assets Laundering ("SIPLA") regulation by reporting financial transactions over defined limits. In 2008, the Superintendent of Finance of Colombia issued External Circular No. 022 2007, regarding the implementation of the System for Preventing Assets Laundering and Terrorism Financing ("SARLAFT") with a risk based approach. The 2009 regulation incorporates some new reporting standards that must be adhered to when reporting to the Regulator.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	The main features of the SIPLA regulation included implementing adequate KYC procedures, monitoring transactions, investigating unusual transactions and reporting any suspicious transactions to the relevant authorities.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	SARLAFT requirements are issued by the regulator, the Superintendence of Finance of Colombia. Entities have to report to the Financial Information and Analysis Unit ("UIAF") of Colombia http://www.superfinanciera.gov.co/Normativa/NormasyReqlamentaciones/cir007/cap11lavadodeactivos.doc
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The regulation provides specific details of how the SARLAFT should be considered by financial institutions. Although the segmentation methodologies and activities related to risk management and transactional monitoring should be designed by each individual entity. http://www.superfinanciera.gov.co/Normativa/NormasyReqlamentaciones/cir007/cap11lavadodeactivos.doc
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes – new regulation establishes the parameters for KYC procedures which incorporate the requirement to update a customers' information.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – new regulation has a risk based approach regarding AML.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No. Colombia is a member of the Financial Action Task Force on Money Laundering in South America ("GAFISUD").

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - there are various thresholds depending on the type of transaction, including no customer due diligence for electronic funds transfer or foreign currency exchange transactions less than USD5,000, and if a signed signature card for an account with the institution also exists for such transactions over USD5,000. No due diligence is required for cash transactions of less than USD5,000 (other than when two or more transactions totalling more than USD5,000 are believed to be linked).
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: The regulator has defined the basic form each customer should fill out. The requirements surrounding independent verification or authentication vary according to each customer. Individuals should provide identification, tax payment copy or yearly income certificate and other relevant financial information. Legal entities: The regulator has defined the basic form that legal entities should fill out. Legal entities should provide Chamber of Commerce registration, details of partners with shares greater than 5% and tax payments certificate and other relevant financial information.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	There is no need for copies to be certified by a notary (this was a requirement previously). Banks compare the copy with the original identification when the customer brings in the required documentation.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Customers should be able to demonstrate the source of income and ownership by way of a copy of a tax payment or income certificate. Banks should monitor changes in income or properties of their clients, where information is available.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Banks should comply with the minimum requirements of the regulations, which include special additional tasks for PEPs. Reduced requirements apply to persons or companies that operate with significant cash amounts as a result of the business they are in. The bank should perform detailed due diligence so future controls can be omitted. There are some cases which customers do not need to fill out the form e.g. special insurance types, multilateral organisms, retirement fund managers and deposit accounts with a simplified process.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced due diligence is required for PEPs. In Colombia, this includes not only politically-related people but also publicly recognised people. This also includes due diligence of deposit accounts which will be used by political parties and during political campaigns.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	There are regulatory requirements in relation to PEPs. In Colombia, a PEP is defined as a publicly relevant person (not only politicians). Each time a PEP is identified, additional due diligence has to be performed, especially when the client manages public resources.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	For correspondent banking relationships, every international transaction should be reported to the authorities. Each report requires information on the origin of the money i.e. client, address, telephone number, activity and reason for sending the wire and beneficiary.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	No.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Entities must define special procedures in order to perform KYC for non face-to-face interviews. They must also implement follow up procedures for clients' transactions.

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	UIAF of Colombia - www.uiaf.gov.co
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 7098 SARs (UIAF) GDP (in current prices): 2012 – USD369,789 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD52.1 million of GDP.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes, financial institutions should report individual cash transactions above USD5,000, total monthly cash transactions above USD25,000 and unusual transactions.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	See A20.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Special requirements and an investigation from the regulator shall be performed at an institution that does not report required periodical AML information.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No, each entity is free to develop or use their specific methodology to perform transaction monitoring according to the KYC policies.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No, each entity shall define if a suspicious transaction shall be continued or not, although it has to be reported to the UIAF.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Entities monitor all transactions regardless of the entity's jurisdiction.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes, the financial Colombian regulation defines that the external auditor must perform audits to the AML risk management system quarterly. Additionally, the internal auditor must perform an audit annually.

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Q27.	If an external report on the bank's AML systems and controls is required: <ol style="list-style-type: none"> how frequently must the report be provided? to whom should the report be submitted? is it part of the financial statement audit?
A27.	The external auditor performs an audit quarterly, the results are reported to the board of directors and the final opinion is part of the financial statement audit.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: <ol style="list-style-type: none"> sample testing of KYC files? sample testing of SAR reports? examination of risk assessments?
A28.	The external and internal auditors must evaluate that the risk management system is operating according to all requirements of the regulation. The audit is performed in accordance with the auditor judgement who designs the tests necessary to assure that the entity is complying with the regulation.

Data Privacy

Q29.	Does the country have established data protection laws? If so: <ol style="list-style-type: none"> does the definition of "personal data" cover material likely to be held for KYC purposes? how do the laws apply to corporate data? does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	In Colombia, the regulation for personal data protection stipulates that all individuals have the right to know about and update personal information that has been gathered about them by public or private entities and prohibits the processing of any individual's sensitive information without the prior, explicit, and informed consent of that individual. Sensitive data is expressly protected. The law has a reinforced protection for so-called sensitive data, which is information that deserves special protection because of the high risk posed by its processing to citizen's rights and freedoms. The incorrect use of this sensitive data might cause discrimination. Sensitive data includes people's racial and ethnic origins; colour and sexuality; their political, religious, philosophical, or other beliefs; their participation in a given association; or their membership in a trade union, among others.

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	In Colombian legislation, banking secrecy and the right to privacy are not considered valid arguments to reject banking information requests issued by judges of the republic or anti money laundering authorities, within the limits established by article 15 of the Constitution and 105 of Decree 663 of 1993, also known as Organic Statute of the Financial ("EOSF"). The banking secrecy includes the financial and personal information in custody of the financial entities.

Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	See A30.

Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	See A30.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1996. However the Proceeds of Crime Law, enacted into legislation in September 2008, repealed the previous Anti Money Laundering Law (the Proceeds of Criminal Conduct) in order to bring harmonisation with all other laws that could encompass money laundering. Additionally, and as a result of the introduction of the Proceeds of Crime Law, the Money Laundering Regulations (2009 revision) and the Guidance Notes ('Guidance Notes') on the Prevention & Detection of Money Laundering in the Cayman Islands (March 2010 revision) were also amended.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	The regulator for AML controls is the Cayman Islands Monetary Authority ("CIMA"), the link to CIMA's website is as follows: http://www.cimoney.com.ky
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes, CIMA has issued the Guidance Notes which can be found at: http://www.cimoney.com.ky/AML_CFT/aml_cft.aspx?id=144
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - a risk based approach is facilitated both by way of certain exemptions for particular products, and explanation within the Guidance Notes that a risk based, rather than a 'tick box' approach, should be adopted.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The country was subject to an IMF inspection in 2009, the results of the inspection can be found at: http://www.cimoney.com.ky/ext_coop_assess/eca.aspx?id=180

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – customer due diligence is not required for one-off transactions of less than KYD15,000.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: certified photo identification (usually passport); verification of residential address (driving licence or utility bill etc.); source of funds and understanding of source of wealth. Corporates: must identify the company, its directors and beneficial owners of 10% or more of the company's holdings. Company items such as Memorandum and Articles of Association, Certificate of Incorporation, register of members, directors and officers, authorised signatory lists, financial statements etc. are required on acceptance of new business. Further, due diligence on at least two directors and due diligence on beneficial owners of greater than 10% as described for individuals or 'natural persons' as above.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Documents must be originals, notarised or certified copies. Examples of suitable certifiers are lawyers, accountants, notary publics or civil servants.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	All beneficial owners of 10% or greater of a company's holdings must be identified/verified. Beneficial owners below 10% should be identified if the entity appears structured to avoid this requirement. Note that certain entities are exempt, such as those listed on a recognised stock exchange.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Reduced/simplified due diligence requirements exist for the following scenarios. Key exemptions include: <ul style="list-style-type: none"> a) non paying accounts, effectively covering mutual fund investments if the funds can only be returned to the beneficial owner from which they came; b) regulated financial institutions in certain jurisdictions listed in Schedule III of the Regulations; c) potentially any circumstance in which a full eligible introducers form is used (and the party relying on the eligible introducer form remains liable for any failure of the person making the introduction to obtain and record satisfactory evidence of the identity of the third party); d) listed institutions on certain specified exchanges and their subsidiaries (evidence must be provided for use of exemption); and e) certain other bodies, for example governmental bodies and pension funds for professional associations.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Local guidance includes information on enhanced due diligence for PEPs, high risk countries or other higher risk businesses, such as not for profit associations (including charities).
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Local guidance requires senior management approval, reasonable measures to establish source of wealth and funds and enhanced ongoing monitoring.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	No enhanced due diligence measures required for regulated correspondent banking relationships (see also response to A16 below).
Q16.	Are relationships with shell banks specifically prohibited?
A16.	The Money Laundering Regulations (2009) have been amended to state that no person conducting relevant financial business should form a business relationship or carry out a one-off transaction, with any institution that has no physical presence in the territory in which it is incorporated or in which it is carrying on such business and is unaffiliated with a regulated financial group that is subject to consolidated supervision. Further clarification on correspondent banking relationships with shell banks is provided in the Money Laundering Guidance Notes.

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Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	In response to a recommendation from the CFATF ("Caribbean Financial Action Task Force") during their 2007 evaluation of the Cayman Islands' money laundering regime, the Guidance Notes on Money Laundering have been amended to indicate that financial institutions should have policies and procedures in place to address any specific risks associated with non-face-to-face business relationships or transactions.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Money Laundering Regulations require that Suspicious Activity Reports are made to the Financial Reporting Authority (the "FRA"): http://www.fra.gov.ky

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2011 – 406 SARs (FRA) GDP data is not available for this specific period.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Other than SARs, payment service providers are required to report to the FRA if they restrict or terminate business relationships with its payee service providers due to the payee service provider regularly supplying insufficient information on the payee.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	See response A8.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, per section 139 of the Proceeds of Crime Law, a person is guilty of an offence if they know or suspect that a report is about to, or has been made and discloses to any other person information which is likely to prejudice an investigation punishable under the law by a maximum prison term of 5 years, an unlimited fine or both.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	While the use of automated mechanisms to monitor suspicious transactions is suggested by the Guidance Notes as best practice, it is recognised that this may not be cost effective for all companies. As such there is no legal or regulatory requirement to use automated suspicious transaction monitoring technology.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	There is no requirement to obtain authorisation from the FRA to proceed with a current/ongoing transaction that is identified as suspicious unless criminal proceedings have commenced and the matter becomes subject to the Attorney General's direction and a resulting freeze order. In that case, direction would be required from the Attorney General prior to proceeding with the transaction.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	There is no explicit direction in local legislation on monitoring transactions outside the jurisdiction. However the Guidance Notes do recognise parent/subsidiary relations and also customer transactions for their own account and makes allowance for minimised KYC procedures when such transactions occur in countries with equivalent legislation as the Cayman Islands (also known as Schedule 3 countries).

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	There is no legal requirement for the bank's external auditor or any other external organisation to report on the bank's AML systems and controls. However, per Section 13 (1) (e) (iii) of the Banks and Trust Companies Law (2013 Revision) if an auditor, in the course of carrying out an audit on the accounts of a licensee, obtains or suspects that the licensee is carrying on or attempting to carry on business without compliance with the Money Laundering Regulations (2013 Revision), the auditor shall give the Authority written notice of his information or suspicion and in the case of suspicion, his reason for that suspicion.
Q27.	If an external report on the bank's AML systems and controls is required: <ul style="list-style-type: none"> a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: <ul style="list-style-type: none"> a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: <ul style="list-style-type: none"> a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes, data protection specifically is covered by the Electronic Transactions Law 2000 and more broadly by the Confidential Relationships (Preservation) Law ("CRPL") (2009 Revision) which is covered in more detail in A32 below: <ul style="list-style-type: none"> a) The definition of personal data per the Electronic Transactions Law is defined as data which relate to a person who can be identified from those data; or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller. Thus the definition covers all data related to a person which infers coverage of KYC material. b) The above Law does not specifically address corporate data, however Section 26 (1) b states that information which relates to the private affairs of any individual or to any particular business shall be deemed to be confidential information for the purpose of the CRPL. c) No separate definition of sensitive data exists.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes, the CRPL was originally enacted in 1976 to protect business dealings and impose strict penalties on those disclosing confidential information unlawfully. The CRPL defines confidential information as including information concerning any property which the recipient thereof is not, other than in the normal course of business, authorised by the principal to divulge. Property includes every present, contingent and future interest or claim direct or indirect, legal or equitable, positive or negative, in any money, money's worth, real estate etc. and all documents and things evidencing or relating thereto. Therefore, pursuant to the CRPL, divulging any confidential information otherwise than as expressly permitted by the Law is a criminal offence.

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Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	<p>There are several cases in the Cayman Islands on the application of CRPL, namely:</p> <ul style="list-style-type: none">a) Gippetti v Cayman National Bank 2006 CILR Note 32;b) Ansbacher (Cayman) Limited (Grand Court) 2001 CILR 214; andc) Corporacion Nacional Del Cobre de Chile (In re Codelco) 1999 CILR 42. <p>Further, the Cayman Islands has entered into various Tax Information Exchange Agreements ("TIEAs") with 31 governments, therefore it is possible that in instances where there are no TIEAs in place between a country and the Cayman Islands, this may impact transfer of information.</p>
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	<p>Yes, the CRPL as stated above codifies the common law duty of confidentiality owed by a bank to its customers and extends it to other professional relationships. Further, certain information in relation to companies under the Companies Law is confidential in the Cayman Islands. Exempted companies are required by Section 44 of the Companies Law to maintain a register of members at the registered office of the company, but this is not open to public inspection.</p>



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Last updated:
January 2014

Re3gulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Proceeds of Crime (Money Laundering) and Terrorist Financing Act ("PCMLTFA") was passed in 2000, and amended 2001, 2006, 2008, 2010 and 2013.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<p>In 2001, the Financial Transactions Reports Analysis Centre of Canada ("FINTRAC") was established under the PCMLTFA to serve as Canada's financial intelligence unit. FINTRAC is responsible for ensuring compliance with AML/AFT requirements by all Reporting Entities, including financial entities (banks, trust companies, credit unions, etc.), life insurance companies, securities dealers (including asset managers/investment advisers), casinos, dealers in precious metals and stones, real estate agents and certain developers, accountants and notaries public based in the province of British Columbia.</p> <p>The Office of the Superintendent of Financial Institutions ("OSFI"), established in 1987, is the federal agency responsible for the supervision and regulation of all federally incorporated or registered banks, life insurance companies, property and casualty insurance companies, and federally regulated private pension plans.</p> <p>The Canadian Securities Administrators ("CSA") is an umbrella organisation comprised of 13 provincial and territorial securities regulatory authorities, The CSA serves as a forum for coordinating and harmonising the regulation of Canadian capital markets. Securities regulators also delegate certain aspects of securities regulation to self-regulatory organisations including the Investment Industry Regulatory Organisation of Canada ("IIROC").</p> <p>FINTRAC and OSFI report to the federal Minister of Finance.</p> <p>FINTRAC has in place MOUs ("Memoranda of Understanding") with both OSFI and IIROC, but does not delegate its supervisory role through MOUs to other regulators. Information obtained by other regulators through their own supervisory activities, including examinations, is provided to FINTRAC under the MOU and is taken into consideration by FINTRAC during its risk assessment process. In addition to the audits and examinations performed by the regulators under their own supervisory framework, the results of which, with respect to AML/CFT relevant issues are provided to FINTRAC, FINTRAC conducts examinations in each sector, whether or not it is covered by an MOU. In fact, FINTRAC has conducted examinations in every sector covered by the PCMLTFA with the exception of financial institutions supervised by OSFI since FINTRAC fully relies on OSFI to conduct AML/AFT compliance initiatives.</p> <p>http://www.fintrac.gc.ca/ http://www.iiroc.ca/Pages/default.aspx http://www.osfi-bsif.gc.ca/osfi/index_e.aspx?ArticleID=3</p>
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>FINTRAC has published plain language interpretations and guidelines as well as interpretation notices http://www.fintrac.gc.ca/publications/pub-eng.asp and http://www.fintrac.gc.ca/publications/guide/guide-eng.asp</p> <p>OSFI Guideline B-8: Deterring and Detecting Money Laundering was issued in December 2008 - http://www.osfi-bsif.gc.ca/app/DocRepository/1/eng/guidelines/sound/guidelines/b8_e.pdf</p> <p>IIROC issued Anti-Money Laundering Compliance Guidance in October 2010 - http://docs.iiroc.ca/DisplayDocument.aspx?DocumentID=6279890DECD84244A8E38F8A23E80E4A&Language=en</p>

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Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No, however pursuant to the adoption of a Risk Based Approach to ML/TF governance, customers considered to be a higher ML/TF risk are required to be identified.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - firms are required to assess and document the risk related to money laundering and terrorist activity financing in their business. This assessment must be tailored and should consider factors such as customers and business relationships, products, delivery channels and geographic areas where business is conducted, as well as other relevant factors.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	FATF released its third evaluation of Canada in February 2008: http://www.fatf-gafi.org/dataoecd/5/3/40323928.pdf

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Customer identification is not required for: <ul style="list-style-type: none"> a) Electronic Funds Transfer ("EFT") transactions less than CAD1,000 or foreign currency exchange transactions less than CAD3,000. This exception also holds true in the case where a signed signature card for an account with the institution also exists for transactions over these thresholds. b) Cash transactions less than CAD10, 000 (other than when two or more transactions aggregate to more than CAD10,000 and are believed to be related).
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: Reporting Entities must obtain, verify and maintain the following records of an individual's identity: customer name, date of birth, address, the nature of the customer's principal business or occupation and intended use of the account. Regulations state that the identity of a person should be ascertained by referring to a birth certificate, driving licence, provincial health insurance card, passport or any similar record.</p> <p>Legal entities: a reporting entity must confirm the existence of any legal entity for which it opens a business account by obtaining such legal documentation as Articles of Incorporation, Articles of Association, Partnership Agreement or other similar record. The record used to confirm the corporation's existence can be in paper or electronic format. If the record is an electronic version, firms must keep a record of the corporation's registration number, the type and source of the record. Furthermore, depending on legal entity type, additional documentation may be required. For example, in the case of a corporation, the name of the corporation's directors and the name, address and principal occupation of all individuals who directly or indirectly own or control 25% of more of the shares of the corporation, must also be obtained, The identity of up to 3 individuals authorised to transact on behalf of the legal entity must also be verified as well as evidence to support those individuals' authorisation to transact on behalf of the legal entity.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>It is acceptable for a reporting entity to rely on the customer identification records of an affiliate or co-member when the customer is not physically present. In this case, the reporting entity must obtain the name, address and date of birth of the individual from the affiliate.</p> <p>Customer identification through attestation is also permitted, in which case confirmation must be obtained to demonstrate that the customer's ID has been certified to be true and correct by a commissioner of oaths or a guarantor. The attestation method requires that the document is a legible photocopy and contains the name, profession, address and signature of the commissioner of oaths or the guarantor, and the type and number of the identifying document. This method can only be used in conjunction with other prescribed methods of customer identification, including referring to an independent and reliable identification product or cleared cheque or deposit account.</p> <p>In order for a document to be acceptable for identification purposes, it must be valid (i.e. not expired), have a unique identifier number and issued by a provincial, territorial or federal government.</p>

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Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	When a firm has to identify an entity, it must take reasonable measures to obtain and keep a record of information relating to the entity's beneficial ownership. For a corporation, this includes the name and occupation of all directors and the name, address and occupation of all individuals who own or control 25% or more of the shares of the corporation. If the information cannot be obtained, a record must be maintained explaining why beneficial ownership could not be determined.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	s.62 of the PCMLTF Regulations provides certain exemptions allowing for reduced/simplified due diligence. These include: a) public bodies; b) corporations (and any consolidated subsidiaries) with minimum net assets of CAD75 million on its last audited balance sheet and whose shares are traded on a Canadian stock exchange or a stock exchange that is prescribed by section 3201 of the Income Tax Regulations and operates in a country that is a member of the Financial Action Task Force; c) regulated entities such as pension funds, financial entities, securities dealers, investment funds and life insurance companies; and d) simplified due diligence is also permitted with respect to certain products/services, including credit card accounts, and in the purchase of registered annuity policies or income funds.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	<p>A firm's compliance program must include the development and application of policies and procedures to assess the risk of a money laundering offence or a terrorist activity financing offence. Special measures should be taken in high risk situations for identifying customers and monitoring transactions. When a risk assessment determines that risk is high for money laundering or terrorist financing, policies and procedures to keep customer identification information up to date must be developed. For a financial entity, a securities dealer, a life insurance company, broker or agent, or a money services business, this also applies to keeping beneficial ownership information up to date. This information should be reviewed at a minimum at least every two years.</p> <p>OSFI Guidance states that federally regulated firms that conduct business in offshore jurisdictions or that have customers that operate in those jurisdictions, need to be especially vigilant. Certain customers may merit additional due diligence, and examples given include businesses that handle large amounts of cash or those that hold important public positions.</p>
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	When dealing with PEPs, the following additional due diligence measures must be taken: a) enhanced account monitoring; b) senior management approval to maintain the account or senior management review of transaction within 14 days of account activation or EFT transaction; and c) reasonable measures to obtain source of funds.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	The following due diligence requirements are required for correspondent banking relationships: a) obtaining personal information about the foreign entity and its activities; b) ensuring that the foreign entity is not a shell bank; c) obtaining the approval of senior management; and d) setting out in writing the firm's obligations and those of the foreign entity in respect of the correspondent banking services.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Recent amendments have introduced a broader and more flexible set of identification requirements related to non-face-to-face transactions. The new requirements set out the following two options for identification of individuals not physically present: a) Confirmation from an affiliated entity and verification of the name, address, telephone number and date of birth record; or b) Combination of two of the following methods: referring to an independent identification product or, with the individual's permission, referring to a credit file; obtaining an attestation concerning an identification document for the individual from a Commissioner of Oaths or a guarantor; confirming that a cheque drawn on a deposit account with a financial entity (other than one that is exempt from identification requirements) has cleared; and confirming that the individual has a deposit account with a financial entity (other than one that is exempt from identification requirements).

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Suspicious transaction reports ("STRs") are filed with FINTRAC: http://www.fintrac.gc.ca/intro-eng.asp
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: Between 2007 and 2011, 407,835 STRs, EFTRs, LCTRs, and other reports were received by FINTRAC. Thirty-three percent (approximately 134,586) of those reports were STRs (FINTRAC Typologies and Trends Reports – April 2012) http://www.fintrac-canafe.gc.ca/publications/typologies/2012-04-eng.pdf</p> <p>GDP (in current prices): Sum of GDP for 2007-2011 inclusive – USD7,557,412 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 STR for every USD56.2 million of GDP.</p>
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>Yes. Under the PCMLTFA, all reporting entities are required to report to FINTRAC transactions for which they have reasonable grounds to suspect that the transactions are related to money laundering or terrorist financing (this includes attempted suspicious transactions). In addition, all reporting entities must report the following transactions to FINTRAC, unless stated otherwise:</p> <ol style="list-style-type: none">Large Cash Transactions – receipt of an amount of CAD10,000 or more in the course of a single transaction, or multiple transactions over a 24 hour time period;Electronic Funds Transfers – international ingoing and outgoing EFTs valued at CAD10,000 or more in the course of a single transaction, or multiple transactions in a 24 hour time period by or on behalf of the same individual or entity. This requirement applies to financial entities, MSBs (Money Service Business) and casinos;Terrorist Property– a report must be submitted to FINTRAC if a reporting entity has property in its control or possession that is owned or controlled by or on behalf of a terrorist, a terrorist group, or listed person (nil reports must also be filed monthly either to FINTRAC or their principal regulator such as OSFI or IIROC); andCasino Disbursements – a casino must file a report when it makes a disbursement valued at CAD10,000 or more in the course of a single transaction, or over the course of multiple transactions in a 24 hour time period.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No. All suspicious transactions and attempted suspicious transactions need to be reported. However, s.50 of the Regulations allows for exceptions to reporting Large Cash Transactions (>USD10,000) for businesses in industries identified in certain sectors of the North American Industry Classification System.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>Yes. There are criminal or administrative penalties associated with non-compliance with reporting requirements, including tipping off. Both criminal and administrative monetary penalties (AMPs) cannot be issued against the same instance of non-compliance. AMPs violations are classified by the PCMLTF Regulations as "Minor", "Serious" or "Very Serious", and carry maximum penalties of CAD1,000, CAD100,000 and CAD500,000 respectively.</p> <p>FINTRAC may disclose cases of non-compliance to law enforcement when there is extensive non-compliance or little expectation of immediate or future compliance. Criminal penalties may include the following:</p> <ol style="list-style-type: none">Failure to report suspicious transactions: up to CAD2m and/or 5 years imprisonment;Failure to report a large cash transaction or an electronic funds transfer: up to CAD500,000 for the first offence, CAD1m for subsequent offences;Failure to meet record keeping requirements: up to CAD500,000 and/or 5 years imprisonment;Failure to provide assistance or provide information during compliance examination: up to CAD500,000 and/or 5 years imprisonment; andDisclosing the fact that a suspicious transaction report was made, or disclosing the contents of such a report, with the intent to prejudice a criminal investigation: up to 2 years imprisonment.

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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Regulations do not specify from/to where transactions must be monitored.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes. a) Yes; b) Does not apply – only personally identifiable information is covered under Canada's Privacy laws; c) Not explicitly defined, however examples are provided in the Schedule 1 PIPEDA (Canada's Privacy Law). Sensitivity of information is considered, in some cases, to be dependent on the situation.

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Prohibited unless the customer allows the transfer of this information based on the premise of informed consent.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	N/A

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1998 (Law 9.613) amended 2002 by Law No. 12,683 of July 9, 2012, is expanding its impact. The new law expands the range of illicit activities. Only drug trafficking, terrorism, weapons smuggling, kidnapping, crimes committed by criminal organisations, and crimes against the public administration and the financial system were previously listed.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	Conselho de Controle de Atividades Financeiras ("COAF") https://www.coaf.fazenda.gov.br/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes - https://www.coaf.fazenda.gov.br/
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes - Resolution 2025 of 2003 establishes the mandatory requirements relating to client identification when opening a deposit account. Also, the Circular Nr. 3,461 detailed how financial institutions should put these "policies" and "internal controls" into practice, as follows: a) AML prevention policies must: a. specify the responsibilities at each level of the institution; b. arrange for timely collection of information on customers; c. set clear-cut criteria for staff selection and monitoring; d. order the prior review of new banking products and services; and e. provide for full in-house disclosure of such policies; b) internal controls must comprise prior measures aimed at: a. confirming record data of customers and end beneficiaries; and b. identifying a customer's status as PEP; among other issues.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	No.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>The FATF published an executive summary of the mutual evaluation report which summarises the AML/CFT measures in place in the Federative Republic of Brazil (hereinafter Brazil) as of the time of the on-site visit (26 October to 7 November 2009), and shortly thereafter: http://www.fatf-gafi.org/topics/mutualevaluations/documents/mutualevaluationreportofbrazil.html</p> <p>On March 12/03/2012, the Central Bank amended the rules applicable to procedures that must be adopted by financial institutions in the prevention and combat of money laundering and terrorism financing, as a response to the recommendations of FATF. The main measures include:</p> <ol style="list-style-type: none"> a) enactment of Circular No. 3,583, which sets forth that: <ol style="list-style-type: none"> a. financial institutions shall not initiate any relationship with clients, or proceed with existing relationships, if it is not possible to fully identify such clients; and b. anti-money laundering procedures are also applicable to agencies and subsidiaries of Brazilian financial institutions located abroad. b) enactment of Circular No. 3,584, establishing that the institutions authorised to operate in the Brazilian foreign exchange market with financial institutions located abroad must verify if the other party is physically present in the country where it was organised and licensed or is object of effective supervision; and c) enactment of Letter 17 Circular No. 3,542 ("Letter Circular No. 3,542"), which increases the list of examples of transactions and situations which may characterise evidence of occurrence of money laundering, tending to improve the communication between financial institutions and the COAF.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Suspected activities or transactions must be reported to the Brazilian financial intelligence unit, COAF, in a manner yet to be detailed by the Central Bank. Suspected activities include, among others:</p> <ol style="list-style-type: none"> a) actual or proposed issuance or recharge of one or more stored value cards totaling BRL100,000 in a given calendar month; b) actual or proposed cash transactions exceeding BRL100,000; c) suspected transactions above BRL10,000 thousand (i.e., those involving suspicious parties or values, or without economic reasons, etc.); d) transactions apparently intended to sidestep identification mechanisms or controls; and e) actions suspected of financing terrorist activity. <p>Further, the financial institution must designate to the Central Bank an officer who will be in charge of reports to COAF as well as of compliance with the measures set out in Circular 3,461.</p> <p>The Central Bank may mete out the following penalties on non-compliant financial institutions and on their senior management, depending on the severity of the offense:</p> <ol style="list-style-type: none"> a) warning; b) fine; c) temporary prohibition from holding a senior management office in financial institutions; and d) cancellation of authorisation or license to operate.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: full name, nationality, date and place of birth, address, Identification (type, number, date of emission and emitting institution), number of inscription on the Cadastro de Pessoa Física ("CPF") etc. Full name is to be verified against a local identification document.</p> <p>Corporations: full name, type and date of constitution, address, documents containing the same information required for individuals who qualify and authorise the representatives to use the account, number of inscription on the Cadastro Nacional de Pessoa Jurídica ("CNPJ") etc. Names of legal entities are verified against the Register of Certification (there are also other detailed requirements).</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	When clients provide copies of identification documentation, they also have to provide the original documents so that the institution can certify that those copies are valid. There is no information in the regulations or guidance on third party certification.

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Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	For insurance entities, the identification information required for beneficial ownership (not required to go up to level of ultimate beneficial owners) should contain, at a minimum, the information/documentation specified for both individuals and legal entities.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	The same information is required for all clients, in accordance with the requirements of the Central Bank.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	None stated in local regulations or guidance.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Circular 3,461 from Brazilian Central Bank detailed how financial institutions should put these "policies" and "internal controls" into practice, as follows: <ul style="list-style-type: none">a) AML prevention policies must:<ul style="list-style-type: none">a. specify the responsibilities at each level of the institution;b. arrange for timely collection of information on customers;c. set clear-cut criteria for staff selection and monitoring;d. order the prior review of new banking products and services; ande. provide for full in-house disclosure of such policies;b) internal controls must comprise prior measures aimed at:<ul style="list-style-type: none">a. confirming record data of customers and end beneficiaries; andb. identifying a customer's status as PEP; among other issues.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	The main measures include: <ul style="list-style-type: none">a) enactment of Circular No. 3,583, which sets forth that:<ul style="list-style-type: none">a. financial institutions shall not initiate any relationship with clients, or proceed with existing relationships, if it is not possible to fully identify such clients; andb. anti-money laundering procedures are also applicable to agencies and subsidiaries of Brazilian financial institutions located abroad;b) enactment of Circular No. 3,584, establishing that the institutions authorised to operate in the Brazilian foreign exchange market with financial institutions located abroad must verify if the other party is physically present in the country where it was organised and licensed or is object of effective supervision, andc) enactment of Letter 17 Circular No. 3,542 ("Letter Circular No. 3,542"), which increases the list of examples of transactions and situations which may characterise evidence of occurrence of money laundering, tending to improve the communication between financial institutions and the COAF.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	No - although they are not prohibited, they are closely monitored.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	None stated in local regulations or guidance.

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	COAF – Conselho de Controle de Atividades Financeiras – www.coaf.fazenda.gov.br
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARS: 2012 - 1,587,450 SARs GDP (in current prices): 2012: USD2,252,664 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD1.41 million of GDP.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes. All suspicious activities must be reported to COAF.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Yes, for activities below BRL5,000 (approx USD3,000).
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes - the area of Supervision of the Central Bank of Brazil reviews and monitors compliance with very closely.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes in some cases, the COAF requests the Bank does not terminate the account or relationship with the client so that the COAF can best investigate the transactions of a particular customer. In this case all monitoring between the COAF and the Bank is documented.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	The bank secrecy law prevents a client's activities being monitored or reported outside the country.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No. However, there is a legal requirement (Resolution CFC 1445/13) which requires external auditors to communicate COAF if suspected operations exist in their clients. The main objective of the Resolution is to protect the activities of external auditors.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>There is not yet a specific statutory regulation governing data transfers in Brazil, nor is there yet a specific data protection authority. Nevertheless, several laws, as well as the Brazilian Constitution provide Brazilians with some rights with regard to data collection. There are also laws governing protection in specific areas (e.g bank secrecy, medical ethics, consumer protection, credit, and telecommunications).</p> <p>Article 5 of the Brazilian Constitution provides that the "privacy, private life, honor and image of persons are inviolable, and the right to compensation for property or moral damages is ensured." Article 5 also grants habeas data. It guarantees the right of privacy and ensures consumers have the right to know what data are held about them and they have the right to correct that data. However, these rights of knowledge and correction under the Constitution currently exist only with respect to records or databases of government agencies or agencies of a public character.</p> <p>The Consumer Protection Law of 1990 regulates consumer databases held by banks, credit agencies, and other companies. "Consumer" is defined broadly under the Law as "any individual or body corporate who acquires or uses any product or service as an end user." The law requires that any consumer data stored in a database should files be truthful, objective, and easily understood, and prohibits not contain the same piece of the storage of any negative information about a consumer for more than five years. If the consumer did not request that his or her information be stored, the collector must notify the consumer in writing of the inclusion of his or her name in a database. Additionally, consumers are given the right to correct information about themselves. Article 43 of the Consumer Protection Law grants consumers free access of any of their own information stored in a database. It also gives consumers the right to request the prompt correction of an inaccuracy in his information, and requires that the requested correction must be made within five days.</p> <p>The Constitution and the Civil Code apply to all individuals and legal entities. The Consumer Protection Code applies to relationships between consumers and service/product providers, including those performed on the internet.</p>

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	<p>The Credit Information Law ("CIL") of 2011 imposes several requirements on the creation and access to databases related to credit information. The law forbids the processing of data that is unnecessary in deciding whether to grant credit. This prohibition specifically applies to sensitive data such as political, religious, sexual, and health information. Data subjects have the right to access, rectify, and erase data and be informed of the database manager's identity and the identity of third parties that will have access to the data. Lastly, the law imposes data quality obligations on the data processors. The CIL regulates <i>"the creation and the access to databases related to credit information of citizens and companies"</i>. We highlight that this legal instrument enacts principles and rules related to data quality as objectivity, clearness, truthfulness and comprehensibility of data. It forbids the processing of excessive information (data not necessary to credit granting or other banking services) and sensitive information (understood as related to social and ethnic origins, health, genetics, sexuality, and political, religious and philosophical convictions) (Article 3 °). It covers the purpose principle and rights to the data subjects, so the right to access, the right of rectification and erasure of data, the right to know the criteria used by the banks in order to evaluate the credit's risk, the right to be informed previously about the existence of the data storage, the data base manager's identity and about the identity of the third parties that will have access to data, finally the right to be informed about the purpose of the processing and to have a second analysis of a decision based on automatic means (Articles 5° and 7°). Database managers are obliged to inform citizens about all the stored or obtained personal information as well as about the sources through which this information was obtained, to provide information about third parties that have access to personal data and to provide information about citizens' rights (Article 6°). Last point, CIL also imposes data quality obligations to processors (Article 8°).</p> <p>Medical data may be protected by patient-doctor confidentiality, as well as by individual privacy and personal rights set out in the Constitution.</p> <p>Employment law regulates the use of information collected in background checks (concerning criminal convictions, political beliefs, sexual preferences, and so on). The use of this information may be illegal if used for discriminatory purposes.</p>
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	There are no restrictions on the international transfer of data, provided the subject consented to the initial gathering and processing. It is advisable, when consent is obtained, for the data subject to be informed that data could eventually be transferred.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes. Any personal data submitted by, or obtained from, a data subject may be regulated under the general provisions of the Constitution, Civil Code and Consumer Protection Code (see A29), including: name, personal address, identification number, income, bank account, credit card number and any personal communication exchanged without any intent to go public (such as personal e-mails, internet logs and messaging).

^{*} GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Bolivia

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1997.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	For the Financial Sector, the Financial System Authority ("ASFI") is responsible for analysing suspicious financial activities: https://www.asfi.gob.bo/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes – the ASFI provides guidance for external auditors to perform the AML review.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	No – every financial institution is an independent organisation. Their methodology used to determine whether a risk based approach is used or not, is their responsibility.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - all transactions below USD10,000 do not require customer due diligence measures. Customers who engage in transactions above this limit must provide information relating to the transaction to the regulatory body ("UIF" – Unidad de Investigaciones Financieras).

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>The law and its procedures define minimum requirements to identify customers:</p> <p>Individuals: birth date, nationality, National Identification number (carné de identidad) or passport number, Número de Identificación Tributaria ("NIT") (if applicable, which is the Taxpayers Identification Number), marital status and spouse name (if applicable), home and business address, telephone number, profession, occupation and commercial references.</p> <p>Legal entities: Entity name, activity, NIT, business address, telephone number, shareholders list, executives list, commercial references and entity constitution documents.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	According to law, financial institutions should always verify original identification documents. However, for legal entities, there are some documents that can be provided as copies, if those copies are certified by a notary public office.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>The following situations require financial institutions to collect additional information about beneficial ownership:</p> <ol style="list-style-type: none">when the client informs the institutions that the final beneficiary is another person or entity;when the financial institution has doubts about the final beneficiary;when the customer engages in commercial, financial or industrial transactions in a location where they have no operations;when transactions are greater than USD10,000 or its equivalent in local currency in current accounts, saving accounts, long term deposits, money exchange, among others; orwhen the total of multiple linked transactions is an amount greater than USD10,000, or its equivalent in local currency.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Simplified due diligence arrangements are available for transactions below the USD10,000 threshold.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced due diligence arrangements are required for transactions above the USD10,000 threshold.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	None stated in local regulations or guidance.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	None stated in local regulations or guidance.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	No.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	None stated in local regulations or guidance.
Reporting	
Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Banks and financial institutions prepare periodic reports for the UIF (AML) at the ASFI: https://www.asfi.gob.bo/ .

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Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No, except for all transactions above USD10,000.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Yes, below USD10,000.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	The regulator establishes the appropriate penalties to be charged according to the degree of non compliance.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	The regulator establishes the appropriate procedure for suspicious activities.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	For any transaction (remittances, drafts, etc.) above USD10,000 the form PCC01 will need to be completed that details origin, reason and destination for the transaction. In addition, the financial institutions must adhere to the requirements of correspondent banks in cross-border relationships. However the regulation is silent on whether transactions can be monitored outside the country.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	This type of information is usually included in the external auditor's review.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	It is generally part of the financial statements review.

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Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	It requires sample testing, controls identification and walkthroughs.

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	The country has established data protection laws.

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Information cannot be transferred unless it is authorised by a competitive institution.

Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Case law must be treated with sensitivity and confidentiality, and properly authorised by a competitive institution.

Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	There are bank secrecy and law obligations for information confidentiality.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1996.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	Unidad de Información Financiera ("UIF") for a), b) and c) www.uif.gov.ar . Also for banking a) the Central Bank of Argentina ("BCRA") have additional requirements. www.bcra.gov.ar .
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	On the website www.uif.gov.ar there is information and guides. e.g. http://www.uif.gov.ar/uif/index.php/es/sobre-el-lavado-de-activos .
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - although local regulators require certain procedures to be performed without taking into account the risk profile of the transaction or customer.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes http://www.fatf-gafi.org/topics/mutualevaluations/documents/mutualevaluationofargentina.html .

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	The law established two types of customers: 'permanent' and 'not frequent'. For each type of customer specific documentation is required, which varies from a simple identification to a tax declaration. Names are verified against original documents for both individuals and entities. 'Not frequent' customers who are individuals need to provide: full name, birth place and date, citizenship, etc. Entities must provide: name, identification number, Tax identification number, Constitution Act and date, etc. Legal officers and shareholders must provide the same information. 'Permanent' customers in addition need to provide: information on sources of income and financial information of accounts/investments in other financial entities. All information must be supported by proper documentation.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	There is no information on independent verification of documentation in local guidance. This is because original documents must be seen by financial institutions.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The same as 'permanent' clients, therefore beneficial ownership must be identified.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Firms are not allowed to avoid the identification requirements in connection with the KYC regulations. For 'not frequent' customers a reduced level of due diligence is allowed.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced due diligence procedures are required for transactions over USD10,000 and some additional information is required for 'permanent' customers (see A9 above).
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	The banking regulation has a specific paragraph on PEPs, requiring special attention to be taken in such cases. For all individuals considered to be PEPs the KYC regulations apply, including enhanced due diligence regarding volumes and in accordance with the client's profile.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	None stated in local regulations or guidance.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	No.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Based on regulations issued by the Unidad Informacion Financiera, additional due diligence for non face-to-face transactions and/or relationships is required. Clients must provide information verified by other entities (for example credit card companies and other banks).

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	UIF: www.uif.gov.ar

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Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 - 35,705 (Source: http://www.uif.gov.ar/uif/images/links/informe_uif_2012_castellano.pdf) GDP (in current prices): 2012 – USD470,533 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD13.18 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes, in certain circumstances dependent on the industry, there are monthly reports of normal transactions.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	AR\$50,000 (approximately USD10,000).

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	It is suggested in the regulations but not mandatory.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes: An external auditor must audit the AML process and make a report in a quarterly basis for the BCRA regulator. The report is for the bank and for internal use. Is not a public report.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) Quarterly basis; b) Bank internal use as part of the statement audit; c) Yes.

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Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? No b) sample testing of SAR reports? No c) examination of risk assessments? no
A28.	a) No; b) No; c) No.

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	The personal data protection law is Ley 25.536 a) No; b) It is a comprehensive protection of personal information recorded in files, records, databases, databanks or other technical means of data treatment, either public or private for purposes of providing reports, in order to guarantee the right of individuals to their honour and privacy; c) No, this law includes personal data, sensitive data, Datafile, register, database or databank.

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes.

Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes Law 25326.

Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes- Financial Institution Law 21.526 includes bank secrecy obligations.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2013

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2001 (Prohibition & Prevention of Money Laundering Act), 2010 (Prohibition & Prevention of Money Laundering (Amendment) Act # 44 2004 (Bank of Zambia Anti-Money Laundering Directives) and the Financial Intelligence Centre Act 2010.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	Bank of Zambia - http://www.boz.zm/ Pensions and Insurance Authority – www.pia.org.zm
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	No.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	http://www.imf.org/external/pubs/ft/scr/2010/cr1017.pdf

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	There are no minimum transaction thresholds, under which customer due diligence is not required.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: A Zambian national has to present a national registration card or a valid passport or driving licence. In the case of a foreign national, a national registration card and a valid passport (and where applicable, an issued visa).</p> <p>Legal entities: Verify the identity of the directors, beneficial owners and management i.e. obtain Certificate of Incorporation or equivalent and details of the registered office/place of business; details of the nature of their business; the reason for the account being opened; indication of the expected turnover; the source of funds and a copy of the last available accounts where applicable.</p> <p>The Financial Intelligence Centre Act stipulates that:</p> <p>A reporting entity shall, with respect to each customer obtain and verify the following:</p> <ol style="list-style-type: none">For a natural person, the full name and address and date of birth and place of birth;For a legal entity, the corporate name, the head office address, identities of directors, proof of incorporation or similar evidence of legal status and legal form, provisions of governing the authority to bind the legal person, and such information as is necessary to understand the ownership and the control of the legal person;For legal arrangement, the name address of the trustees, the settler and the beneficiary of express trusts, and any other parties with the authority to manage, vary or otherwise control the arrangement;In addition to the identity of a customer, the identity of any person acting on behalf of the customer, including evidence that such person is properly authorised to act in that capacity;Information on the intended purpose and nature of each business relationship; andSufficient information about the nature and business of the customer to permit the reporting entity to fulfil its obligations under the Act.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Certification of relevant identification copies by a Commissioner of Oaths.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>Regulated institutions should identify the beneficial owner of an account (regardless of whether it is a corporate body or trust opening the account) and if it fails to ascertain the identity of the said owner or person, it should make a report to the AML Investigations Unit.</p> <p>The Financial Intelligence Centre Act stipulates that a reporting entity shall identify the beneficial owner and shall take reasonable measures to verify the identity of the beneficial owner unless the Minister prescribes the circumstances, such as the ownership of publicly held corporations, in which such identification and verification is not necessary.</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	For regulated institutions, the circumstances are to be determined by the regulated institution and approved by Bank of Zambia.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>In the case of trusts and internet banking. Also in circumstances of suspicion as stated below:</p> <ol style="list-style-type: none">suspicious customer behaviour;suspicious customer identification circumstances;suspicious cash transactions;suspicious wire transfer transactions;suspicious safe deposit area activity;suspicious activity in credit transactions;suspicious commercial account activity;suspicious trade financing transactions;suspicious investment activity; andsuspicious deposits.

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Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	The circumstances are to be determined by the regulated institution and approved by Bank of Zambia.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	A financial institution shall require its foreign branches and majority owned subsidiaries to implement the requirements to the extent that the domestic applicable laws of the host country so permit. Where the laws of the country in which its branch or majority owned subsidiary is situated prevent compliance with the obligations stipulated, institutions must advise its supervisory authority, which may take such steps as it believes to be appropriate to accomplish purposes of the Act.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes, the Financial Intelligence Centre Act stipulates that a shell bank shall not be established or permitted to operate in or through the territory of Zambia.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>The standard due diligence procedure of identification and verification applies for non face-to-face transactions and/or relationships.</p> <p>Financial Intelligence Centre Act states that where any business relationship or execution of transactions is made with a customer that is not physically present, the following is required for purposes of identification:</p> <ul style="list-style-type: none">a) Take adequate measures to address the specific risk of money laundering, financing of terrorism and any other serious offence;b) Ensure that the due diligence conducted is no less effective than where the customer appears in person; andc) Require additional documentary evidence or supplementary measures to verify or certify the documents supplied by the customer, or confirmatory certification from financial institutions or other documentary evidence or measure may be prescribed.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Suspicious Activity reports are made to the Anti Money Laundering Investigations Unit and for financial institutions the Financial Intelligence Centre.
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>No there is no obligation to report anything more than suspicious transactions – please see response to A13.</p> <p>Financial institutions are obliged to report where there is suspicion or reasonable grounds to suspect that any property is the proceeds of crime, or is related to or linked to, or is to be used for terrorism, terrorist acts or by terrorist organisations or persons who financed terrorism.</p>
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>Any person who knows or suspects that an investigation into money laundering has been, is being or is about to be conducted, without lawful authority, divulges that fact or information to another person, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding one hundred and thirty-nine thousand penalty units (approximately ZMK25,020,000) or to imprisonment for a term not exceeding five years or to both.</p> <p>Financial Intelligence Centre act states that the penalties for tipping off upon convictions shall be liable to a fine not exceeding five hundred thousand penalty units (approximately ZMK90,000,000) or to imprisonment for a period not exceeding five years, or to both.</p> <p>A person who intentionally fails to submit a report to the Centre commits an offence and is liable, upon conviction to a fine not exceeding seven hundred thousand penalty units (approx ZMK126,000,000) or to imprisonment for a period not exceeding seven years, or to both.</p>
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	<p>The regulated institution shall report to the AML Investigations Unit where the identity of the persons involved, the circumstances of any business transaction or where any cash transaction, gives any officer or employee of the regulated institution reasonable grounds to believe that a money laundering offence is being, has been or is about to be committed.</p> <p>Per the Financial Intelligence Centre acts – a financial institution shall refrain from carrying out a transaction which it suspects to be related to the money laundering, financing of terrorism or any other serious offence.</p>
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Although the local legislation does not specify this, one of the mandates of the Anti Money Laundering Investigations Unit is to cooperate with law enforcement agencies and institutions in other jurisdictions responsible for investigation and prosecution of money laundering offences.



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South Africa

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	<p><u>AML laws</u> The Prevention of Organised Crime Act No. 121 of 1998. The Financial Intelligence Centre Act, 38 of 2001 ("FICA") was enacted in 2001. The Financial Intelligence Centre Amendment Act, 2008 (Act No. 11 of 2008) was released in August 2008 and became effective on 1 December 2010. Section 28 and Section 51 of FICA – the cash threshold reporting provisions - came into operation in October 2010.</p> <p><u>Regulations</u> The Money Laundering and Terrorist Financing Control regulations were published in December 2002 and have been amended on various occasions, the most recent being in November 2010.</p> <p><u>Guidance Notes</u> Guidance Notes issued by the Centre have since March 2013 been declared as authoritative in nature, guidance must be applied or demonstrate an equivalent level of compliance. Failure to follow guidance issued by the Centre may result in enforcement action. There are at present 5 Guidance Notes that have been issued by the Centre these include:</p> <ol style="list-style-type: none"> a) Guidance Note 1 - General Guidance Note Concerning Identification of Clients – (not dated); b) Guidance Note 2 - Guidance to Financial Services Industries regulated by the Financial Services Board concerning the meaning of the word "Transaction" – 18 June 2004; c) Guidance Note 3 - Guidance for banks on customer identification and verification and related matters – 18 July 2005; d) Guidance Note 3A (replaced Guidance Note 3) - Guidance for accountable institutions on client identification and verification and related matters – 28 March 2013; e) Guidance Note 4 – Guidance on Suspicious Transaction Reporting – 14 March 2008; and f) Guidance Note 5 – Guidance on Cash transaction Reporting - (not dated).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	The main amendments to FICA do not detract from the original AML requirements but rather clarify areas in the law. The purpose of the amendments are <i>inter alia</i> to clarify the roles and responsibilities of supervisory bodies; authorise the Financial Intelligence Centre and supervisory bodies to conduct inspections; to provide for administrative sanctions and to make further provision for offences. Guidance Note 3A, issued in March 2013; rendered Guidance notes authoritative in nature, thus ensuring that accountable institutions adopt a risk based approach and take heed of High Risk clients and enhanced due diligence requirements for these.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	<p>The Financial Intelligence Centre (www.fic.gov.za) fulfils an overarching regulatory role for combating money laundering and terrorist financing. Industry regulators and supervisory bodies provide oversight within the various industries:</p> <ol style="list-style-type: none"> a) South African Reserve Bank - www.resbank.co.za/ ; b) Financial Services Board - www.fsb.co.za ; and c) Casinos - National Gambling Board - www.ngb.org.za/ Real Estate - Estate Agency Affairs Board - www.eaab.org.za/ Attorneys - Law Society - www.lssa.org.za/ .
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The Financial Intelligence Centre Act has issued various guidance notes with regards to AML requirements. These can be at https://www.fic.gov.za/SiteContent/ContentPage.aspx?id=15

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Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes - banks and other accountable institutions were required to retrospectively identify and verify the identity and other information of all clients that held accounts with them at the time that the law became operational. An accountable institution that had an established business relationship with a client before the FIC Act took effect, may not conclude a transaction in the course of that business relationship, unless it has taken the prescribed steps to establish and verify the identity of the client.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – although the FIC Act, 38 of 2001 and the regulations do not expressly make reference to a risk-based approach, it is covered in Guidance Note 1 issued by the FIC in April 2004 and reinforced by Guidance Note 3A issued in March 2013. Guidance Notes were declared to be authoritative in nature at this date and therefore accountable institutions are expected to apply a risk-based approach <i>inter alia</i> in respect of customer relationships.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The last Mutual Evaluation conducted on South Africa was finalised in 2008. The applicable report was published on 02/03/2008. http://www.fatf-gafi.org/topics/mutualevaluations/documents/mutualevaluationofsouthafrica.html

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No - Due diligence is always required for all client relationships and single transactions, irrespective of the value involved. However the law does make provision for certain exemptions where a reduced level of due diligence is permitted. These exemptions form part of the FIC Act regulations and affect various industries.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals (SA residents) - an accountable institution must verify the full name, date of birth and identity number of a natural person to an identification document of that person. The residential address must be compared to information that can be used for verification purposes (e.g. a utility bill stating the residential address of the individual). Legal entities – the registered name, registration number, registered address, trading name and the address of the entity as well as the identity of the board of directors of the company; and each authorised person. The FIC Act regulations contain the detail of other requirements pertaining to these as well as other persons/entities (foreign nationals, agents, foreign companies, trusts, partnerships and close corporations).
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Although the FIC Act stipulates that a record must be kept of the identity document, it does not specify the requirements pertaining to authentication. In terms of the guidance notes and best practices, it would be sufficient to review the original identity document and to obtain a copy of a document which is either certified by a Commissioner of Oaths; or where the original has been sighted by an employee of the accountable institution, and an indication of such is made on the copy. Guidance is also provided on non face-to-face verification by the FIC. Where non face-to-face verification is accepted as a means, the verification methods used must be as effective as those that are applied to customers who are available for an interview.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The FIC Act stipulates, <i>inter alia</i> , that the identity of the client, or if the client is acting on behalf of another person or if another person is acting on behalf of the client, must be established and verified. The regulations have put in place measures to determine beneficial owners in respect of entities. For example, the particulars of every member and every representative of a close corporation must be obtained. In respect of a company the particulars of its manager and representatives must be provided as well as the particulars of its major shareholders who are able to exercise more than 25% of the votes at a general meeting of the company. In respect of trusts, the identity of the founder, beneficiaries and trustees must be established.

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Depending on the risk profile, the level of due diligence is simplified for low risk clients or in respect of existing clients who are applying for different products. The exemptions, which form part of the FIC Act regulations, contain detail of the circumstances under which reduced or simplified due diligence may be applied. Simplified due diligence applies <i>inter alia</i> to companies listed on approved stock exchanges (exemption 6) and banking products issued to customers subject to particular conditions and thresholds (exemption 17).
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	The FICA Guidance note 3A states that accountable institutions should follow a risk-based approach to customer due-diligence. Clients are given a risk-rating based on various risk factors. High-risk client types, high risk transactions and services warrant enhanced due diligence procedures. Enhanced due diligence is also recommended when the client is identified as a PEP; when non-face-to-face verification is done, if the client is a correspondent bank, money service business, intermediary or an employee account.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Guidance from the FIC defining PEPs stipulates that the bank should conduct enhanced due diligence specifically on PEPs, persons acting on their behalf as well as their families and close associates. The Wolfsberg principles as well as the FATF recommendations are referred to for additional guidance on how to recognise and deal with a PEP. In addition to performing customer due diligence measures, banks should put in place appropriate risk management systems to determine whether a customer, a potential customer or the beneficial owner is a PEP.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	The FIC guidance notes provide that banks should pay particular attention when continuing relationships with correspondent banks located in jurisdictions that have poor KYC standards or have been identified by FATF as being "non co-operative". The Wolfsberg principles are referred to which set out the following risk indicators that a Bank shall consider, to ascertain the level of due diligence it will undertake, namely the correspondent banking client's domicile, ownership and management structures and business and customer base.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	The FIC guidance notes provide that banks should refuse to enter into or continue a correspondent banking relationship with a bank incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a regulated financial group (i.e. shell banks).
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	The FICA Regulations and guidance notes provide for instances in which client information is obtained in a non face-to-face situation. In such cases, banks "must take reasonable steps" to confirm the existence of the client and to verify the identity of the natural person involved, for example, receipt of faxes. In accepting business from non face-to-face customers banks should apply customer identification procedures to non face-to-face customers that are as effective as those that were applied to customers who were available for interview; and there must be specific and adequate measures to mitigate the higher risk. Decisions concerning the additional steps to be taken in cases of a non face-to-face situation should be based on a bank's risk framework.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Suspicious Activity Reports are referred to as STRs (Suspicious Transaction Reporting) and submitted to the Financial Intelligence Centre ("FIC"). https://www.fic.gov.za/Secure/Reports.aspx
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 53,506 STR's (FIC Annual report 2011/ 2012) GDP (in current prices): 2012 – USD384,313 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD7.2 million of GDP.

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes, the Financial Intelligence Centre Act has additional reporting requirements as contained within its Regulations. These are: a) Regulation 22A: Information to be reported concerning property associated with terrorist and related activities; and b) Regulation 22B: Cash threshold reporting

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Cash transactions below ZAR24,999 need not be reported in terms of Regulation 22B; Suspicious transactions do not have de-minimis thresholds. The FIC Act makes provision for conveyance of cash to or from the Republic (section 30) and for electronic transfers of money to and from the Republic, these amounts have however not as of yet come into effect.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Not reporting within the required time period may lead to a maximum imprisonment of 6 months and/or ZAR100,000 fine. Penalties for not reporting a suspicion or tipping off may lead to a maximum 15 years imprisonment and/or ZAR10 million fine. These can be imposed on an individual within an accountable institution.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Once a suspicious transaction has been reported, section 33 of the Financial Intelligence Centre Act allows an accountable institution to continue with the relationship/transaction unless directed otherwise by the Financial Intelligence Centre. This is confirmed by Guidance Note 4 on Suspicious Transaction Reporting, issued by the Financial Intelligence Centre on the 14 th of March 2008.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No. South African law only applies within the borders of the country.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No such requirement is in place.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	The Protection of Personal Information Bill ("POPI") is in draft before parliament and is expected to be established soon. a) Yes, POPI is intended to protect the integrity and sensitivity of private information. In response, entities operating in sectors that request personal particulars – such as financial services or telecommunications – will be required to carefully manage the data capture and storage process; b) Entities operating in sectors that request personal particulars – such as financial services or telecommunications – will be required to carefully manage the data capture and storage process; c) No.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	There are prohibitions on the transfer of certain information outside the Republic with a few exceptions e.g. the data subject consents to the transfer; the recipient of the information is subject to a law, binding code of conduct or contract, etc. Section 25 prohibits the processing of information related to a: a) child who is subject to parental control in terms of the law; or b) data subject's religious or philosophical beliefs, race or ethnic origin, trade union membership, political opinions, health, sexual life or criminal behaviour.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	There are prohibitions on the transfer of certain information outside the Republic, but none we are aware of in respect of transfer of information into the republic.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No. However in terms of case law the confidentiality of customer information is considered a qualified legal right that can be overridden by greater public interest.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2010. The Proceeds of Crime and Anti-Money Laundering Act 2009 ("POCAMLA") was enacted on 11 December 2009, and came into effect on 28 June 2010.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	There was no AML regime per se in existence previously. However, the 1994 Narcotic Drugs and Psychotropic Substances Control Act prohibits concealing or transferring the proceeds of drug trafficking.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	<ul style="list-style-type: none"> a) The Financial Reporting Centre ("FRC") is designated as the competent authority for supervising financial institutions for compliance with AML obligations. The FRC became operational in April 2012. http://frc.go.ke/ b) Insurance Regulatory Authority regulates the insurance industry; c) The FRC is designated as the competent authority for designated non-financial businesses and professions: Casinos, real estate agencies, dealers in precious stones and metals and accountants are designated as DNFBPs under POCAMLA. Lawyers, notaries and trust and company service providers are not subject to the requirements under POCAMLA.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>The Central Bank of Kenya issued a Guideline on Proceeds of Crime and Money Laundering Prevention which became effective on 01/01/2006. The Central Bank also issued Foreign Exchange Bureau Guidelines which in part addresses AML requirements, which became effective on 01/01/2007: www.centralbank.go.ke.</p> <p>The FRC is empowered to develop regulations on anti-money laundering and to provide guidance to support the implementation of POCAMLA. The FRC website also includes guidance on AML issues: http://frc.go.ke/</p> <p>The Insurance Regulatory Authority issued guidelines to the insurance industry on implementation of POCAMLA in June 2011. The purpose of the guidelines is to provide guidance on detection, deterrence and reporting incidences of possible crimes related to proceeds of crime and money laundering by the insurance industry: http://ira.go.ke/attachments/article/63/Anti-Money%20Laundering%20Guidelines1.pdf</p>
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	No.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	A Mutual Evaluation Report on Kenya was undertaken by the Eastern and Southern Africa Anti-Money Laundering Group ("ESAAMLG") and published in September 2011. The report can be accessed here: http://www.esaamlg.org/userfiles/Kenya_Mutual_Evaluation_Detail_Report(2).pdf . The FATF's Public Statement of 18/10/2013 identified Kenya as a jurisdiction with strategic AML/CFT deficiencies that has not made sufficient progress in implementing its action plan within the agreed timelines. The Statement can be accessed here: http://www.fatf-gafi.org/countries/j-m/kenya/documents/fatf-public-statement-oct-2013.html#kenya

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - for telegraphic transfers and travellers cheques. A foreign exchange bureau should not sell foreign currency or travellers cheques in excess or equal to the equivalent of USD10,000 per customer per day without seeing and recording a valid identification document.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals</p> <ul style="list-style-type: none"> a) An official record such as passport, birth certificate, identity card or driving licence; b) Address verified by a referee or utility bill; c) Source of income; and d) Written confirmation from the customer's previous bank attesting to their identity and account relationship history (bank referee). <p>Corporates / Firms</p> <ul style="list-style-type: none"> a) Certificate of Registration, Certificate of Incorporation, Partnership Deed, Memorandum and Articles of Association; b) Board Resolution stating authority to open accounts and designating persons having signatory authority; c) identity the address of the chairman, managing director, or the general partner and at least one limited partner for partnerships, or the principal owner for sole traders; d) Audited financial statements for corporations; and e) Where applicable, references from the customer's previous bank.

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Independent means of verifying these details includes requesting sight of a recent utility bill, local authority tax bill or institution statement (care should be taken to check that the documents offered are originals in order to guard against forged or counterfeit documents.); checking a local telephone directory (for businesses); making telephone contact with the applicant on an independently verified home or business number; verifying salary details appearing on a recent bank account statement; or with the customer's consent, calling their employer's personnel department to confirm employment etc. Documents must be certified by suitable third parties and confirmation from the previous bank obtained where possible. Suitable third parties include advocates, notaries public, commissioners for oaths, judges, magistrates and certain government officials.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Local guidance requires institutions to have full disclosure of beneficial owners or controlling persons behind nominee accounts.

Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	None stated in POCAMLA or guidance.

Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	None stated in POCAMLA or guidance.

Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	None stated in POCAMLA or guidance.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	None stated in POCAMLA or guidance.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	No.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	As with face-to-face verification, the procedures to check identity must ensure that a person bearing the name of the applicant exists and lives at the address provided; and the applicant is that person he claims he is. Local guidance requires the following due diligence: requesting sight of a recent utility bill, local authority tax bill, institution statement or checking a local telephone directory (for businesses). In addition, satisfactory evidence of personal identity can be obtained by a number of means, including telephone contact with the applicant on an independently verified home or business number, employer's personnel department confirming employment by verbal confirmation on a listed number (with the customer's consent), and salary details appearing on a recent bank or building society statement.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Act requires that SARs are made to the Financial Reporting Center: http://www.frc.go.ke/contact-us . Alternatively, SARs can be made to the Central Bank of Kenya: www.centralbank.go.ke
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	The Act requires monitoring on an ongoing basis all complex, unusual, suspicious, large or other transactions, and upon suspicion, it should be reported accordingly.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Section 5 of POCAMLA makes it an offence to willfully fail to report a suspicion regarding the proceeds of crime. Section 8 of POCAMLA makes tipping off an offence. Section 16 of POCAMLA provides that contravention of either section 5 or 8 is on conviction liable in the case of a natural person to imprisonment for a term not exceeding 7 years, or a fine not exceeding KES2.5 million, or to both and in the case of body corporate to a fine not exceeding KES10 million or the amount of the value of the property involved in the offence, whichever is the higher.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No. However, the reporting institution is required to keep all records relating to that transaction and ensure that its reporting obligations under the Act are discharged.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	No. The Data Protection Bill 2012 is yet to be enacted into law. The bill seeks to give effect to Article 31(c) and (d) of the Kenya Constitution; to regulate the collection, retrieval, processing, storing, use and disclosure of personal data and for connected purposes.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	POCAMLA prohibits the disclosure of confidential information without the written permission of the Attorney-General unless to a court of law or for the purpose of performing functions stipulated in the Act.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No. A bank is under an obligation of secrecy under the Banking Contract regarding its customers' affairs. This obligation is a legal obligation arising out of the contract.



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Questions and Answers:

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Country by country comparison of high level Know Your Customer and Anti-Money Laundering information

Ghana

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2008. The Anti-Money Laundering Act of 2008 (Act 749), and the Anti-Money Laundering Regulations 2008 (LI 1925).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	Banks were to comply with the Bank of Ghana and/or parent bank's KYC policies/procedures. No financial intelligence centre reporting requirements. Bank of Ghana Supervision Department (and also Security agencies and Serious Fraud Office) played the quasi-role of a centre investigating "suspicious" transactions.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	Financial Intelligence Centre: http://www.fic.gov.gh/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes. http://www.fic.gov.gh/
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No – however, banks are encouraged to ensure that due diligence on customers is a continuous exercise.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The Inter Governmental Action Group against Money Laundering in West Africa ("GIABA") performed an assessment in 2009 http://web.giaba.org/reports/mutual-evaluation/Ghana.html

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – equivalent of USD10,000.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: Information required for individuals includes: legal name and other names, location of client, telephone, fax numbers, mailing address, date and place of birth, nationality, hometown, occupation, position held and employer's name, identity documents, nature of the business relationship and signature. Legal entities: They require a registered name, location address, head office, mailing address, contact phone and fax numbers, original or certified copy of regulations, certificate of business registration and commencement of business, copy of latest auditor's report and accounts, annual report filed with the Registrar General and names, location and mailing addresses of directors.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Identity shall be verified whenever a business relationship is to be established, on account opening or during one-off transaction or when series of linked transactions take place.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	When one person is acting on behalf of another, the obligation is to obtain sufficient evidence of the identities of the two persons involved. In consortium lending, the lead manager/agent shall supply a confirmation letter as evidence that he has obtained the required identity.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	None.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Enhanced customer due diligence is required when dealing with PEPs.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Additional due diligence is required for PEPs. Senior management approval must be sought before establishing a relationship with such a person. It is also a requirement to establish the PEP's source of wealth/source of funds and the beneficial owners.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	If the broker or other introducer is a regulated person or institution (including an overseas branch or subsidiary) from a country with equivalent legislation and financial sector procedures, and the broker or introducer is subject to anti-money laundering rules or regulations, then a written assurance can be taken from the broker that he/she has obtained and recorded evidence of identity of any principal and underlying beneficial owner that is introduced.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	No.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	The specific requirements are in process of being formalised by the Bank of Ghana.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Financial Intelligence Centre (http://www.fic.gov.gh/).

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Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes – reporting should not be limited to Suspicious Transaction Reports (“STRs”) alone.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.
AML Audits	
Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	The Act requires the Bank to report such acts to the Financial Intelligence Centre and their External Auditors
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) As soon as a transaction is noted; b) Financial Intelligence Centre primarily; c) This is reported in the “long form” report to the Bank of Ghana.
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	a) The External Auditors are required to review the “Accounts Opening Procedures” used by the bank; b) All reports sent to the Financial Intelligence Centre are reviewed; c) Yes.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	No.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes. They can only be obtained by a court order.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Not aware of any such laws.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Not aware of any such laws.



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Gabon

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	AML law and regulations became effective in 2005 and are only applicable for banks.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include a link to the regulator(s) website
A3.	a) Banking Commission. www.beac.int b) None; c) None.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	No.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes – an update of the customer database is required.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	No – there is no risk based approach approved by the local regulator.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes – the country has been subjected to a FATF evaluation, but the report is not publicly available.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No – there are no minimum transaction thresholds under which customer due diligence is not required.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	The requirements are: a) verification of the identity and address of the customer by reference to official identity papers; b) for legal entities, the verification of legal documents and legal representatives is required; c) public officials require a heightened scrutiny; and d) the bank must collect information to cover the following: anticipated account activity, source of wealth and sources of funds.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	None in practice. Copies of identification documentation are only made by the bank after a visual check. Independent verification is not required.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The requirements are: a) Obtain information on the beneficial owner; and b) Verification of the identification and the address of the professional intermediary.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Customer due diligence arrangements are reduced for low value transactions.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Customer due diligence is enhanced for unusual or suspicious activities/transactions.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	For a PEP, the bank's senior management may give authorisation before opening an account. The transactions in their accounts require heightened scrutiny.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Banks must acquire information on the compliance of their correspondent with Anti Money Laundering regulations. The relationship must not be established if the correspondent is not compliant with AML regulations.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	For a non face-to-face relationship, a bank must consider the need to perform independent verification.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The suspicious activity report is addressed to the National Agency for financial investigation ("ANIF").
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	There is an obligation to report on transactions where the identity of the beneficiary or the originator is suspicious.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	No.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	No.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.



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Egypt

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Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2002.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	<ul style="list-style-type: none">a) Banking: CBE (Central Bank of Egypt): www.cbe.org.eg/b) Other financial Services: It depends on the nature of the financial services (e.g. Insurance companies are regulated by the EISA (Egyptian Insurance Supervisory Authority). However, all of the "non-banking" financial services providers are governed and regulated by the EFSA (Egyptian Financial Supervisory Authority);c) Non financial sector: Governed by the "Anti Money Laundering Law"- Law # 80 for year 2002.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	There is only the "Anti Money Laundering Law" - Law # 80 for year 2002.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	No.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: should obtain name, address and date of birth, ideally from government-issued documents such as government identification, passport and weapon licence that includes the customer's full name and photograph, and either address or date of birth. Corporates: should obtain full name, Commercial Register copy, business address, and additionally for private companies, names of all directors and beneficial owners. This should be clearly noted in the Commercial Register of the company and also show the authorised signatories of the company. If the company is regulated (e.g. insurance or capital markets) it should provide confirmation of the company's listing on the regulated market or a copy of the company's Certificate of Incorporation.

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Copies of documents should be authenticated by a banks' senior staff after reviewing and verifying the original documents. Only copies certified and stamped by governmental bodies/authorities can be relied upon by banks. Authenticated copies from attorneys or other third parties are not accepted unless original copies are obtained.

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Each natural or legal person having a real interest in any of the activities of financial institutions, even if the transaction is conducted via another natural or legal person acting as a trustee, a proxy or under any other capacity, should provide documentation to verify identity.

Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	None stated in local regulations or guidance.

Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	None stated in local regulations or guidance.

Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Yes – the law states that financial institutions and the other entities shall take special customer due diligence measures when dealing with customers, those who act on their behalf and the real beneficiary, who are identified as PEPs.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	None stated in local regulations or guidance.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	No.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	None stated in local regulations or guidance.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	SARs are made directly to regulators as specified in A3 above.

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes as per AML Egyptian Law there is such obligation.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – as stated in the Egyptian AML Law (Anti Money Laundering Law - Law # 80 for year 2002).
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes – as stated in the Egyptian AML Law (Anti Money Laundering Law - Law # 80 for year 2002).
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Egypt does not have a law which regulates protection of personal data. However, there are some piecemeal provisions in connection with data protection in different laws and regulations in Egypt. Constitutional principles concerning individuals' right to privacy under the Egyptian Constitution as well as general principles on compensation for unlawful acts under the Egyptian Civil Code govern the collection, use and processing of personal data.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	This is only applicable on banks as enforced by the Laws of the Central Bank of Egypt.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	The Egyptian Penal Code no. 58/1937 imposes criminal punishment for unlawful collection of images or recordings for individuals in private places. Some other laws provide for protection and confidentiality on certain data, such as the Egyptian Labour Law no. 12/2003 (confidentiality of the employee's file information including punishment and assessment) and the Egyptian Banking Law no. 88/2003 (confidentiality of client and account information). Egyptian Civil Status Law no. 143/1994 provides for the confidentiality of citizens' civil status data. The Executive Regulations of Mortgage Finance Law no. 148/2001 issued by virtue of Cabinet Decree no. 1/2001 as amended by Prime Minister Decree no. 465/2005 has a similar clause which provides for the confidentiality of the data of the clients of mortgage finance companies. The Mentally Disordered Care Law no. 71/2009 has the same clause on confidentiality of the patient's data. The New Constitution has been promulgated in December 2012 and has replaced all the previous Constitutional Declarations issued by the Armed Forces Supreme Council and the President of the Arab Republic of Egypt. The New Constitution has not defined data protection. However, it referred to the legislative authority to regulate the communication of data in a manner that does not encroach upon the privacy of citizens, their rights and National Security.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation?) If so, what data is subject to regulation?
A32.	N/A



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	AML law and regulations became effective in 2007 and are only applicable for banks.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	a) Banking Commission www.bceao.int b) None; c) None.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	No.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes – an update of the customer database is required.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	No – there is no risk based approach approved by the local regulator.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes - the country has been subjected to a FATF evaluation, but the report is not publicly available.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No - there are no minimum transaction thresholds under which customer due diligence is not required.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	The requirements are: a) verification of the identity and address of the customer by reference to official identity papers; b) for legal entities, the verification of legal documents and legal representatives is required; c) public officials require heightened scrutiny; and d) the bank must collect information to cover the following: anticipated account activity, source of wealth and sources of funds.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	None in practice. Copies of identification documentation are only made by the bank after a visual check. Independent verification is not required.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The requirements are: a) Obtain information on the beneficial owner; and b) Verification of the identification and the address of the professional intermediary.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Customer due diligence arrangements are reduced for low value transactions.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Customer due diligence is enhanced for unusual or suspicious activities/transactions.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	For a PEP, the bank's senior management may give authorisation before opening an account. The transactions in their accounts require heightened scrutiny.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Banks must acquire information on the compliance of their correspondent with Anti Money laundering regulation. The relationship must not be established if the correspondent is not compliant with AML regulation.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	For a non face-to-face relationship, a bank must consider the need to perform independent verification.
Reporting	
Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	National Centre for Processing of Financial Information ("CENTIF") www.centif.ci

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Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2010 – 56 SARs</p> <p>GDP (in current prices): 2010 – USD22,780 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD406.8 million of GDP.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	There is an obligation to report on transactions where the identity of the beneficiary or the originator is suspicious.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	No.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	No.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:

January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	AML law and regulations became effective in 2005 and are only applicable for banks.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	a) The Banking Commission www.beac.int ; b) None; c) None.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	No.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes – an update of the customer database is required.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	No – there is no risk based approach approved by the local regulator.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes the country has been subjected to a FATF evaluation, but the report is not publicly available.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No - there are no minimum transaction thresholds under which customer due diligence is not required.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<ul style="list-style-type: none">a) verification of the identity and address of the customer by reference to official identity papers;b) for legal entities, the verification of legal documents and legal representatives is required;c) public officials require heightened scrutiny; andd) the bank must collect information to cover the following: anticipated account activity, source of wealth and sources of funds.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	None in practice. Copies of identification documentation are only made by the bank after a visual check. An independent verification is not required.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<ul style="list-style-type: none">a) Obtain information on the beneficial owner; andb) Verification of the identification and the address of the professional intermediary.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Customer due diligence arrangements are reduced for low value transactions.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Customer due diligence is enhanced for unusual or suspicious activities/transactions.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	For a PEP, the bank's senior management must give authorisation before an account opening. The transactions in their accounts require heightened scrutiny.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Banks must acquire information on the compliance of their correspondent with Anti Money laundering regulation. The relationship must not be established if the correspondent is not compliant with AML regulation.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	For a non face-to-face relationship, a bank must consider the need to perform independent verification.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	National Agency for financial investigation ("ANIF"). www.anif.cm

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Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2010 – 124 SARs</p> <p>GDP (in current prices): 2010 – USD22,394 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD180.6 million of GDP.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	There is an obligation to report on transactions where the identity of the beneficiary or the originator is suspicious.

Q21.	Are there any de minimis thresholds below which transactions do not need to be reported?
A21.	No.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	No.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	No.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2011. Law n.º 34/11 was issued on 12/12/2011 and Aviso N° 22/2012
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	Law 12/10.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	The regulator for AML controls are: a) Banco Nacional de Angola - www.bna.ao b) Direcção Nacional de Investigação e Inspeção das Actividades Económicas do Comando Geral da Policia Nacional - http://www.policiaeconomica.gv.ao/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	No.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Law n° 34/11 does not make any reference to requirements to retrospectively verify of the identity of customers before the date the new AML regime was introduced. This may be clarified in Regulation expected to be issued in the near future.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Law n° 34/11, provides that, in compliance with identification and diligence requirements, financial institutions can adapt the nature and scope of verification and diligence procedures, taking into account the risk associated with the type of customer, the business relationship, the product, the type of transaction and the origin or the purpose of the funds.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Angola has not been the subject of a FATF Mutual Evaluation. However, in February 2013, FATF published a Global AML/ CFT Compliance publication where Angola's AML regime is briefly analysed. The links to this publication is http://www.fatf-gafi.org/documents/documents/improvingglobalamlcftcomplianceon-goingprocess-22february2013.html The last IMF Country Report was published in May 2012. The report is the sixth country review under the stand-by agreement. The report's link is http://www.imf.org/external/pubs/cat/longres.aspx?sk=25888.0 The country page (Angola and IMF) is http://www.imf.org/external/country/ago/index.htm

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - occasional transactions under USD15,000 (or equivalent in local currency).
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals - should provide a valid document with: full name, signature, address, profession and work place (when applicable), birth date, nationality, funds provenience and tax identification number (optional). Corporates - should provide a valid document with their deeds of incorporation or valid licence (certification should be made through the card Cartão de Identificação de Pessoa Colectiva or Certidão do Registo Comercial), the headquarters address, tax identification number, shareholder identification if more than 20% of the voting rights, and board of directors identification.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	The copies of documentation must be certified.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Management Board and shareholder identification must occur if more than 20% of the voting rights are held. Identification and verification requirements for beneficial owners are the same as those for individuals or companies listed above.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	a) where the customer is a State or a Public Sector Entity (at country, regional or local level); b) where the customer is a Governmental Authority or Public Institute subject to transparent accounting practices and supervision.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	Entities shall apply enhanced due diligence measures in respect of customers and transactions which by their nature or characteristics can present a higher risk of money laundering or terrorist financing. Those measures are always required when operations are carried out with non face-to-face customers; with PEPs; a resident outside the national territory; in the case of correspondent banking transactions with credit institutions established in third countries; those designated by the competent supervisory authorities and Private Banking.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	A PEP relationship requires additional due diligence. When establishing a relationship with a non resident PEP, the entities should have appropriate risk based procedures to determine whether the customer is a PEP; have approval from senior management before establishing business relationships with such customers; take adequate measures to establish the source of wealth and funds involved in the business relationship or occasional transactions; and conduct enhanced ongoing monitoring of the business relationship.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	When establishing a relationship through correspondence with third country banks, this relationship must take into consideration the bank's country and its AML risk, the analysis of the bank's internal procedures regarding the international laws of anti-money laundering, the guarantee of information accuracy and the bank's reputation. In addition, the financial institution should guarantee that the due diligence duty was observed.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Non face-to-face relationships (especially those that can favour anonymity) require additional due diligence. In such relationships, the institution should either ask for legal documentation as additional documentation to verify/ certify the documentation provided by the customer. This may be provided by another financial institution or it can be requested that the first payment is made through an account opened in the name of the customer with another financial institution.

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The SARs are made to Banco Nacional de Angola - www.bna.ao – and Direcção Nacional de Investigação e Inspeção das Actividades Económicas do Comando Geral da Policia Nacional - http://www.policiaeconomica.gv.ao/
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	No.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	a) Yes; b) N/A; c) Yes.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	No.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	N/A
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	With effect from 2000, the Central Bank of UAE issued the initial AML regulations under Circular 24/2000 ("the Regulations"). The Dubai Financial Services Authority ("DFSA") AML Module became effective from 2004 onwards. In July 2013, the DFSA AML Module was revised to the Anti-Money Laundering, Counter Terrorist Financing and Sanctions Module ("AML Rules").
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<p>The regulator for AML controls in respect of UAE is the UAE Central Bank ("CBUAE") and in respect of the Dubai International Financial Centre ("DIFC") free-zone, it is the DFSA. The CBUAE licenses and regulates all banks, moneychangers, finance companies and other financial institutions operating in the United Arab Emirates. The DFSA is the regulator of Authorised Firms, which include banks, insurance companies, investment banks, asset managers and fund administrators, providing financial services in the DIFC. Additionally, the DFSA regulates Authorised Market Institutions and Designated Non-Financial Businesses and Professions (in respect of AML controls only)</p> <p>The links to the respective websites are as follows: http://www.centralbank.ae/en/index.php?option=com_content&view=article&id=75&Itemid=95 http://www.dfsa.ae/Pages/DoingBusinesswithDFSA/Anti-MoneyLaundering/Anti_MoneyLaundering.aspx</p>
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	There is no such practical guidance provided.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	An addendum to the CBUAE regulations ("the Addendum") states that where accounts have been opened prior to the year 2000, customer due diligence procedures must be undertaken to ensure that there are no risks in continuing such relationships.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	<p>The UAE authorities do not appear to apply a risk based approach to the application of the preventive measures, and no sectors have been specifically exempted from the provisions under the AML/CFT legislation and regulations. In addition, the CBUAE regulations have not been structured so as to recognise the possibility of a risk-based approach to the implementation of the preventive measures at an institutional level.</p> <p>This is in contrast to the approach adopted by the DFSA, which applies an overriding principle that institutions should have systems and controls that recognise and mitigate their specific risks. The AML Rules place greater emphasis on firms adopting a Risk Based Approach ("RBA") to AML compliance. Firms now have to undertake a risk assessment of its business and of every customer, and assign a risk rating proportionate to the money laundering risk, which will dictate the extent of Customer Due Diligence ("CDD") required. The higher the risk of money laundering, firms are required to conduct Enhanced CDD. Alternatively, where the money laundering risks are deemed low, firms are permitted to adopt Simplified CDD measures.</p>

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The country had been subject to the mutual evaluation by IMF followed by a discussion with the MENA FATF and FATF in 2008. The report can be accessed via the link below: http://www.menafatf.org/TopicList.asp?cType=train

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – payment of cash for transfers and drafts above AED2,000 (USD544) for money changers and AED3,500 (USD952) for banks, and also for receipt of transfers and drafts above AED40,000 (USD10,884) to be paid in cash or in the form of travellers cheques. A circular issued by the UAE Ministry of Economy and Commerce sets out thresholds for insurance transactions.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Banks and financial institutions: The regulations require a bank to obtain full identification details of customers wishing to open a bank account, including full name of the account holder, current address, place of work, evidence of physical verification of the individual's passport including retention of a copy, trade licences in respect of judicial persons, name and addresses of shareholders whose shareholding in public companies exceed 5% and, in respect of societies, original certificates issued by the Ministry of Labour and Social Affairs. Information for transactions exceeding a certain limit is also included.</p> <p>Individuals: The standard customer identification information specified in the regulations includes the name, address and place of work. In the case of natural persons, institutions are required to check the applicant's passport and retain a copy, which must be annotated by the account officer as a true copy. Passports are considered a universal and reliable form of verification in the UAE.</p> <p>Corporates: The regulations specify that the institution must take the name and address of the entity and, in the case of a partnership, must record similar information for each of the partners. In addition, it must "obtain all information and documents with regard to juridical persons", but specifies, in particular, the government-issued trade licence required by all businesses registered in the UAE. Institutions have typically interpreted "all documents" to mean the Memorandum and Articles of Association (or equivalent) and any documents that support the legal status of the company to conduct business in the jurisdiction.</p> <p>The AML Rules require all entities to establish and verify the identity of the customers and any beneficial owners on the basis of original or properly certified documents, data or information issued by or obtained from a reliable and independent source. In addition to the above requirements for individuals and corporate, the AML Rules require all entities to understand the customer's source of wealth or income and undertake on-going due diligence of the customer business relationship.</p>

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>For individuals, a copy of the passport, and for corporates, a copy of the trade licence, stamped and initialled by the concerned employee as "a true copy of the original" is required. There is no information in the regulations or guidance issued by the CBUAE as to whether copies can be certified by external third parties such as notaries, lawyers and accountants.</p> <p>However, the AML Rules provide guidance for the identification documents to be certified as true copy by the specified authorities such as registered lawyer, notary, chartered accountant, government ministry, post office, police officer, embassy or consulate.</p>

Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>The addendum states that, when opening accounts or remitting money, banks or financial institutions must obtain satisfactory evidence of the identities of the beneficial owners of companies and businesses and clearly understand the ownership and control structure of all legal entities.</p> <p>In addition to the above, the regulations state that, when opening an account for a public shareholding company, a bank must obtain the name and address of the shareholders with holdings of 5% or more.</p> <p>The AML Rules require establishing and verifying the identity of the beneficial owners and obtaining sufficient and satisfactory evidence of their identities, which includes verifying information on the source of funds and wealth. In addition, the enhanced CDD measures requires the firm to update more regularly the customer CDD information which it holds on the customer and any beneficial owners, increase the degree and nature of monitoring of the business relationship in order to determine whether the customer's transactions or activities appear unusual or suspicious and obtain the approval of the senior management to commence a business relationship with a customer. However, in certain cases, the AML Rules permit a firm to decide not to verify the beneficial owners and apply simplified CDD measures.</p>

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>The one exception by the CBUAE for simplified due diligence relates to transactions falling below the cash transaction thresholds specified for banks (AED40,000 or AED3,500 – see A8) and money changers (AED2,000).</p> <p>The AML Rules permit simplified CDD measures where the customer is rated as “low risk”. Under the AML Rules, examples of “Prescribed Low Risk Customers” include:</p> <ul style="list-style-type: none"> a) an Authorised Firm; b) an Authorised Market Institution; c) a Financial Institution whose entire operations are subject to regulation, including AML, by a Financial Services Regulator or other competent authority in a jurisdiction with AML regulations which are equivalent to the standards set out in the FATF Recommendations and it is supervised for compliance with such regulations; d) a Subsidiary of a Financial Institution referred to in c), provided that the law that applies to the parent company ensures that the Subsidiary also observes the same AML standards as its Parent; e) a law firm, notary firm, or other independent legal business or an equivalent person in another jurisdiction whose entire operations are subject to AML regulation and supervision by a competent authority in a jurisdiction with AML regulations which are equivalent to the standards set out in the FATF Recommendations; f) an accounting firm, Auditor or other audit firm or insolvency firm or an equivalent person in another jurisdiction whose entire operations are subject to AML regulation and supervision by a competent authority in a jurisdiction with AML regulations which are equivalent to the standards set out in the FATF Recommendations; g) a company whose Securities are listed on a Regulated Exchange and which is subject to disclosure obligations broadly equivalent to those set out in the Markets Rules; and h) a government body or a non-commercial government entity in the UAE or a FATF member country.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>The addendum states that enhanced due diligence processes should be applied with respect to high risk customers which includes foreign PEPs, correspondent banks and specific businesses and individuals dealing in precious metals and stones, real estate, luxury goods, auction houses, private banking customers and non-resident account holders.</p> <p>In addition to the above, the indicators provided in Articles 8 to 14 of the regulations make reference to certain high risk scenarios (e.g. customers from drug producing countries or from countries that do not adequately apply the FATF standards), that should be considered as at high risk of money laundering.</p> <p>The AML Rules require enhanced CDD measures in respect of any customer the firm has assigned a rating of “high risk”. Examples of such customers include:</p> <ul style="list-style-type: none"> a) business relationships conducted in unusual circumstances; b) legal persons or arrangements that are personal investment vehicles; c) companies that have nominee shareholders or directors or shares in bearer form; d) businesses that are cash-intensive; e) the ownership structure of the legal person that appears unusual or excessively complex given the nature of the legal person's business or activities; f) countries identified by credible sources, such as mutual evaluation or detailed assessment reports or published follow-up reports, as not having adequate AML systems; g) countries subject to sanctions, embargos or similar measures issued by, for example, the United Nations Security Council or identified by credible sources as having significant levels of corruption or other criminal activity; h) countries or geographic areas identified by credible sources as providing funding or support for terrorist activities, or that have designated terrorist organisations operating within their country; i) a person not meeting the definition of a PEP but whose high profile or influence poses an elevated risk of corruption; j) anonymous transactions (which may include cash); and k) non-face-to-face business relationships or transactions.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>The addendum requires banks and financial institutions to have systems and controls in place to identify whether a potential or existing customer or a beneficial owner is a foreign PEP. Banks and financial institutions are required to obtain written approval from senior management to open accounts for a foreign PEP.</p> <p>The AML Rules provide detailed guidance on PEPs. A customer falling into this category is considered “high risk” and therefore, enhanced CDD measures are applicable.</p>
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>The addendum and the AML Rules require banks, exchange houses and other financial institutions to carry out due diligence measures when entering into a cross-border correspondent banking relationship. In addition, research must be conducted from publicly available information on the correspondent bank's business activities, their reputation and the quality of supervision and whether the institution has been subject to any regulatory action. Senior management written approval is required to be obtained prior to such relationships being established.</p>

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Q16.	Are relationships with shell banks specifically prohibited?
A16.	The addendum and the AML Rules strictly prohibit any relationship, directly or indirectly, with institutions that have no physical presence (shell banks and companies).

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>Article 3.1 of the regulations requires institutions to take possession of the passport at the time of opening an account. This is understood by institutions (and reinforced by the UAE Central Bank) to mean that the process must be completed in the presence of the customer and that non-face-to-face account opening is not permitted in any circumstances.</p> <p>Investors in securities can place their orders through a broker by telephone or in person, but the majority of orders are currently placed by telephone. Trading on the Dubai Financial Market ("DFM") and Abu Dhabi Securities Market ("ADSM") occurs on an electronic trading system, which automatically lists, matches, and executes trades. Securities brokers in the UAE provide investors with direct access to several trading platforms. There are no specific requirements in the AML rules that seek to address the risks posed in this area.</p> <p>The guidance to the AML Rules specifies non face-to-face transactions and/or relationships as "high risk". For such business relationships, firms should adopt the enhanced CDD measures to AML compliance.</p>

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Suspicious Transactions Reports ("STRs") are required to be reported to the Anti-Money Laundering and Suspicious Cases Unit ("AMLSCU") of the UAE Central Bank and a copy to the DFSA (for entities regulated by the DFSA). Refer to the link below: http://www.dfsa.ae/Pages/DoingBusinesswithDFSA/Anti-MoneyLaundering/STR.aspx

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes, UAE Central Bank and the DFSA stipulate an obligation to report unusual transactions. Fines are imposed in case of non-compliance of these requirements.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	As per the regulation 26/1/2002 issued by the Central Bank regarding declaration when importing cash money into the UAE, any amount not exceeding AED40,000 (USD10,884) can be brought into the country without declaration.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, Article 16 of UAE Federal Law No 4 of 2002 sets out the penalties for failure to report any act related to Money Laundering offence.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	There is no such mandatory requirement for use of automated monitoring technology.

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Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	In case a transaction is identified as suspicious, the AMLSCU of the UAE Central Bank shall give instructions to the institutions on how to proceed with the transaction. In this case, the customer in question expresses his wish to proceed with the transaction before the institution receives the instruction from the AMLSCU, the institution shall immediately contact the AMLSCU for further instructions.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	There is no specific guidance on monitoring transactions outside UAE. However, Article 21 and 22 of Federal Law No 4 of 2002 issued by the CBUAE permits cooperation with countries with which the UAE has a ratified treaty.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	There is no specific legal requirement for an external auditor to provide a report on the bank's AML systems and controls. However, the AML Rules require a firm to undertake regular reviews and assessment of the effectiveness of its money laundering policies, procedures, systems and controls including compliance with its obligations under the AML Rules. The review and assessment may be undertaken by the firm's internal audit function or by a competent firm of independent auditors or compliance professionals.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>The UAE does not have specific federal laws on data privacy, but various pieces of legislation may have an impact on businesses that engage in data processing activities. These include Federal Law No. 9 of 1987 as amended (Penal Code) which is the primary source of criminal law in the UAE. Specifically, Articles 378 and 379 set out statutory offences and punishment for publication of private matters or the unauthorised disclosure of private information.</p> <p>However, data privacy provisions do exist in the DIFC under the Data Protection Law 2007 ("the Law").</p> <ol style="list-style-type: none">To the extent that "personal data" is defined essentially as "any data referring to an identifiable natural person", this is likely to cover material held for KYC purposes;The Law does not apply to corporate data;Yes. Sensitive personal data is defined in the Law as personal data revealing or concerning (directly or indirectly) racial or ethnic origin, communal origin, political affiliations or opinions, religious or philosophical beliefs, criminal record, trade union membership and health or sex life. The additional protections are captured under Article 10 of the Law with respect to "processing of sensitive personal data": <p>http://www.difc.ae/data-protection</p>

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	There are prohibitions on processing sensitive personal data pursuant to Article 10 of the Law: http://www.difc.ae/data-protection
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2010.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	The Qatar Financial Centre Regulatory Authority (www.qfcra.com) , Qatar Financial Markets Authority (www.qfma.org.qa) and The Qatar Central Bank (www.qcb.gov.qa) are the financial services regulators in Qatar.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes. The Combatting Money Laundering and Terrorism Law No (4) of 2010 provides guidance on the relevant rules to firms in Qatar http://www.qfcra.com/en-us/legislation/Laws/Anti-Money%20Laundering%20Law%20No.%20(4)%20of%202010.pdf Additionally, the Qatar Financial Centre Regulatory Authority has a rulebook giving practical AML/CFT guidance to firms within its jurisdiction. http://www.complinet.com/net_file_store/new_rulebooks/qf/QFCRA_6883.pdf Firms regulated by the Qatar Financial Markets Authority are subject to the following rules: http://www.qfma.org.qa/EnglishPdf/rul1.pdf
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes- http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Qatar.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Article 24 of the Combatting Money Laundering and Terrorism Law No (4) of 2010 (see link at A4 above) states the following :</p> <p><i>“For the purposes of implementation of the requirements provided for in the preceding article, identification of natural persons and verification of their identity shall include the full name, as well as national identification number for Qatari citizens and residents and the passport number for expatriates. Identification of legal persons shall include obtaining and verifying information concerning the corporate name, registered office business address, proof of incorporation or similar evidence of their legal status, legal form, the names of executives, and articles of association, as well as verifying that the person purporting to act on behalf of the customer is so authorised, and to identify and verify the identity of that person. Identification of legal arrangements that are express trusts shall include identifying and verifying the identities of the trustees, the settlers, and major beneficiaries.”</i></p> <p>Further detailed requirements can be found in Article 4.6.6 of the Qatar Financial Centre Regulatory Authority rules and Article 4.4.6 of the Qatar Financial Markets Authority rules.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	There are no explicitly stated requirements for independent verification.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>Guidance on the requirements for identification and verification of beneficial ownership are included within the following :</p> <ul style="list-style-type: none">a) Articles 22,23, 26 and 34 of the Combatting Money Laundering and Terrorism Law No (4) of 2010;b) Article 4.1.2 of the Qatar Financial Centre Regulatory Authority rules; andc) Article 4.1.2 of the Qatar Financial Markets Authority rules.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Detailed guidance on reduced and simplified CDD is contained within the relevant regulations as follows:</p> <ul style="list-style-type: none">a) Articles 25 and 31 of the Combatting Money Laundering and Terrorism Law No (4) of 2010;b) Section 4.5 of the Qatar Financial Centre Regulatory Authority rules; andc) Section 4.6 of the Qatar Financial Markets Authority rules.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Details on enhanced CDD is contained within the relevant regulations as follows:</p> <ul style="list-style-type: none">a) Section 4.4 of the Qatar Financial Centre Regulatory Authority rules; andb) Section 4.5 of the Qatar Financial Markets Authority rules.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>The following sections of the legislation and rules provide guidance on PEPs:</p> <ul style="list-style-type: none">a) Article 26 of the Combatting Money Laundering and Terrorism Law No (4) of 2010;b) Article 3.2.5 of the Qatar Financial Centre Regulatory Authority rules; andc) Article 3.2.5 of the Qatar Financial Markets Authority rules.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>The due diligence requirements for correspondent banks can be found in the following:</p> <ul style="list-style-type: none">a) Article 27 of the Combatting Money Laundering and Terrorism Law No (4) of 2010; andb) Article 3.3.5 of the Qatar Financial Centre Regulatory Authority rules.

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Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes. This is stated in Article 3 of the Combatting Money Laundering and Terrorism Law No (4) of 2010. Article 3.36 of the Qatar Financial Centre Regulatory Authority rules also states that relationships with shells bank are prohibited. Additionally, Article 3.3.6 of the Qatar Financial Markets Authority rules also states the same.

Q17.	In what circumstances is additional due diligence required for non-face-to-face transactions and/or relationships?
A17.	Article 3.4.A of the Qatar Financial Centre Regulatory Authority rules state that <i>"policies, procedures, systems and controls must include measures. To manage any specific risks associated with non-face to face business relationships or transactions."</i> The text in Article 3.4.2, of the Qatar Financial Market Authority, which pertains to non-face-to face relationships, is identical to that cited above.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Qatar Financial Information Unit (www.qfiu.gov.qa)

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 248 SARs (QFIU Annual report 2012, http://www.qfiu.gov.qa/files/QFIU_Annual_ENG_2012.pdf) Comparative GDP data for this period is not available.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	In the event of non compliance with the reporting requirements, Article 44 of the Combatting Money Laundering and Terrorism Law No (4) shall apply: <i>"A supervisory authority, in case of a violation of the obligations established under this law by a financial institution, NPO, or DNFP, made intentionally or by gross negligence, is evidenced, may impose one or more of the following measures and sanctions:</i> <ul style="list-style-type: none"> a) <i>requesting regular reports on measures it is undertaking;</i> b) <i>requesting compliance with specific instructions;</i> c) <i>sending written warnings;</i> d) <i>replacing or restricting the powers of managers, board members, or controlling owners, including the appointing of an ad hoc administrator;</i> e) <i>barring individuals from employment within a business, profession or activity, either permanently or for a provisional period;</i> f) <i>imposing supervision, suspending license, restricting or withdrawing any other form of permission and prohibiting the continuation of a business, profession or activity;</i> g) <i>imposing financial penalty in an amount no greater than QAR10m; and</i> h) <i>any other measures."</i> <p><i>The supervisory authority shall inform the Unit of the measures and sanctions imposed."</i></p>

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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	<p>The Financial Information Unit Guide to Money Laundering and Terrorist Financing Suspicious Transaction Reporting (http://www.qfcra.com/en-us/legislation/Guides/FIU%20STR%20Guide.pdf) states the following under the section Impact on Reported Transactions <i>"The law does not stipulate any provisions requiring Reporting Entities who have filed an STR to end or terminate their financial relationships with the reported entity or person. Reporting Entities should be aware that the decision to continue the business relationship after filing a STR should be based on commercial or risk containment reasons. However, a decision to terminate the business relationship must also ensure that the customer is not alerted to the filing of the STR which would constitute the offence of tipping off under Article (39) AML/CFT Law. It is recommended that in circumstances where Reporting Entities decide to terminate a business relationship, the Reporting Entity liaise directly with the FIU to ensure the termination does not tip off the entity or person or prejudice an investigation in any way. However, it is preferable that the Reporting Entity acts in coordination with the FIU, upon deciding to terminate its relationship with the suspected entity or person."</i></p> <p>Article 5.1.9 of both the Qatar Financial Centre Regulatory Authority rules and the Qatar Financial Markets Authority rules state that regulated entities can terminate relationships with customers for which they have issued SARs, however, regulated entities must ensure that restricting or terminating the business relationship does not inadvertently result in tipping off the customer.</p>

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	The laws and regulations do not expressly state that transactions should be monitored outside Qatar for regulated entities.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	<p>Article 35 of the Combatting Money Laundering and Terrorism Law No (4) of 2010 states that financial institutions should implement programs for the prevention of money laundering and terrorism. One of the programs listed in the aforesaid article of the Law is "audit arrangements to check compliance with and effectiveness of the measures taken to apply this law."</p> <p>Additionally, Articles 2.1.1 of the rules issued by the Qatar Financial Centre Regulatory Authority and the Qatar Financial Markets Authority, state that <i>"an adequately resourced and independent audit function to test compliance with the licensed party's AML/CFT policies,</i></p>

Q27.	<p>If an external report on the bank's AML systems and controls is required:</p> <ol style="list-style-type: none"> how frequently must the report be provided? to whom should the report be submitted? is it part of the financial statement audit?
A27.	N/A

Q28.	<p>What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require:</p> <ol style="list-style-type: none"> sample testing of KYC files? sample testing of SAR reports? examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: <ul style="list-style-type: none"> a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>There are a number of laws which contain provisions relating to data privacy in Qatar such as the Constitution of Qatar (http://portal.www.gov.qa/wps/wcm/connect/5a5512804665e3afa54fb5fd2b4ab27a/Constitution+of+Qatar+EN.pdf?MOD=AJPERES), Law Number 13 of 2012 (the Qatar Central Bank Law) and the Qatar Financial Centre Data Protection Regulations 2005 (http://www.complinet.com/net_file_store/new_rulebooks/qf/QFCRA_1559_VER1.pdf).</p> <ul style="list-style-type: none"> a) Yes; b) Corporate data is regarded as confidential information and it is generally prohibited for this information to be shared except without the consent of the customer. <p>Article 25 of the Qatar Financial Centre Data Protection Regulations 2005 states that the data protection regulations cover "references to a person includes any natural or legal person, Body Corporate, or body unincorporate, including a branch, company, partnership, unincorporated association, government or state"</p> <p>Additionally, we understand from publications by lawyers based in Qatar that Law Number 13 of 2012 (the Qatar Central Bank Law contains provisions stating that corporate data is confidential. The aforementioned law has not been published in the English language yet;</p> <ul style="list-style-type: none"> c) The Qatar Financial Centre Data Protection Regulations 2005 define sensitive data as "Personal Data revealing or relating to racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership and health or sex life." Furthermore, Article 37 of the Qatari Constitution states that "the sanctity of human privacy shall be inviolable, and therefore interference into privacy of a person, family affairs, home of residence, correspondence, or any other act of interference that may demean or defame a person may not be allowed".
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	<p>We understand that there are restrictions on the transfer of the above mentioned information.</p> <p>The Qatar Financial Centre Data Protection Regulations 2005 state that "A Data Controller may only Process Personal Data if: (1) the Data Subject has unambiguously given his consent;". The definition of processing data in the aforementioned regulations is "any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction."</p> <p>Additionally, our understanding of Law Number 13 of 2012 (the Qatar Central Bank Law), based on the publications issued by lawyers reviewing the Arabic text of the Law, is that customer data cannot be transferred, except with the consent of the customer.</p> <p>Article 37 of the Qatari Constitution (quoted above) indicates that it is imperative that the confidentiality of private information is maintained.</p>
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	<p>We understand that the following will apply to information transferred within Qatar:</p> <ul style="list-style-type: none"> a) The Constitution of Qatar; b) Law Number 13 of 2012 (the Qatar Central Bank Law); and c) Qatar Financial Centre Data Protection Regulations 2005.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Law Number 13 of 2012 (the Qatar Central Bank Law) states that it is not permissible to disclose customer information to third parties, without the prior consent of the customers. Customer information includes personal data provided by the customer for KYC purposes and the information on the value of the customer's assets.



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Last updated:
January 2013

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	<p>The first AML law in Oman "Law of Money Laundering" was issued through a Royal Decree No. 34/2002 and published in the Official Gazette No. 716 dated 1 April 2002. The law was notified by CBO circular BM 936 dated 7 April 2002.</p> <p>Executive regulations for the law were issued in 2004 through Royal Decree No.72/2004.</p> <p>Royal Decree 79/2010 issued on 28 June 2010 promulgated Law of Combating Money Laundering and Terrorism Financing. The earlier law is still effective until the time the Executive Regulation under the new law will be issued.</p>
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<p>Central Bank of Oman ("CBO") is the primary regulator for AML controls for Banking and other financial institutions (http://www.cbo-oman.org/).</p> <p>The Financial Intelligence Unit ("FIU"), an independent unit under Royal Oman Police and Capital Market Authority, is also the regulator for AML controls (http://www.fiu.gov.om/, http://www.cma.gov.om/english/pages/default.aspx).</p>
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>Practical guidance in the form of the Manual of Suspicious Transactions Reports is available on the website of FIU-ROP. (http://www.fiu.gov.om/files/English.pdf).</p>
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	The executive regulations describe transactions that may pose a potential threat for money laundering. These follow a risk based approach by focusing on customers and transactions that pose a larger money laundering threat to financial institutions.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	FATF evaluation in 2011 (http://www.fatf-gafi.org/dataoecd/13/28/48503164.pdf).

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	The regulations do not define any such threshold. However, each company/bank, as a matter of policy, has defined its own threshold.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individuals: <ul style="list-style-type: none">a) customer name (as per identity card, resident card and passport);b) nationality;c) identification documents e.g. residence card/labour card, passport etc.; andd) detailed information on the customer relating to i) postal address and ii) work address. Corporate customers: <ul style="list-style-type: none">a) Articles of Association;b) copies of identification of authorised signatories;c) verification of signatures of authorised signatories through independent sources;d) Ministry of Commerce & Industry certificates; ande) other identification documents as deemed necessary.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	There is no compulsory requirement with regard to independent verification.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The high level requirements for beneficial ownership are similar to those required for any customer.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	PEP, NRI & privileged customers are high risk clients and exposed to high due diligence as compared to normal individuals. Each customer is subject to similar customer due diligence requirements.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	High risk customers and suspicious transactions require enhanced due diligence.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Additional due diligence is always required. For PEPs, approval is required from senior management.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	AML questionnaire developed by each bank is sent to the correspondent bank before entering into relationship. Licenses are requested and efforts are made to ensure they are not shell companies.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Non face-to-face transactions are avoided in most cases. Enhanced due diligence is always required for such relationships.

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	SARs are reported directly to FIU-ROP Financial Intelligence Unit - Royal Oman Police. Website: http://www.fiu.gov.om/
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2011 – 209 SARs (FIU-ROP) 2010 – 103 SARs (FIU-ROP) GDP data is not available for this specific period.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No however, FIU-ROP can investigate any transaction based on its discretion.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Non-compliance in relation to AML regulation may result in a penalty from CBO. FIU-ROP can also investigate the case and impose a penalty.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	AML regulations require companies to use AML software.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Law 318 Fighting Money Laundering became effective in 2001 and was amended to criminalise terrorist financing in 2003.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	Banks and financial institutions are regulated by the Central Bank of Lebanon: www.bdl.gov.lb In 2001, the Special Investigation Commission ("SIC") was established <i>inter alia</i> to monitor compliance with the rules and procedures stipulated by Law 318. As for the non-financial sector, there is no defined regulator. Banks are required to monitor these clients closely and identify any potential suspicious transactions.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The Central Bank has issued a number of circulars which can be accessed here: http://www.bdl.gov.lb/circulars/index/5/33/0/Basic-Circulars.html And it should be noted that periodically the Central Bank of Lebanon issues intermediary circulars updating the basic circular and adding new requirements. Of particular relevance in respect of AML is Basic Circular no.83. The SIC also issue circulars. http://www.sic.gov.lb
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes as required by Article 6 of Basic Circular no.83.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes. Article 9 of Basic Circular no.83 requires the adoption of a risk based approach.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Lebanon was subject to a Mutual Evaluation conducted by MENA FATF. The report was issued in November 2009. The report can be accessed here: http://www.menafatf.org/MER/MutualEvaluationReportoftheLebaneseRepublic-English.pdf

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No due diligence is required for cash transactions below USD10,000 or equivalent in a foreign currency. However, it should be noted that any new client opening an account in any bank is required to submit a detailed KYC form.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: a copy of a passport, identity card, individual civil registration or residence permit and KYC form showing residential/work addresses, profession and average income/month.</p> <p>Legal entities: Articles of incorporation, certificate of registration at the Chamber of Commerce, ownership structure, a list showing the stocks or shares, a list of the authorised signatories, in addition to a copy of the identify of its legal representative and the directors and persons who hold, whether directly or indirectly a percentage of shares enabling them to have effective control of the company. In the case of an authorised agent, the power of attorney or a certified copy of the power of attorney in addition to documents regarding the identity of the agent.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Copies should be compared to original source documents and should be certified by notaries if necessary.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The customer should fill out a form detailing the identity of the beneficial owner by providing the individual(s) name, family name, residential address, profession and information about his financial situation.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Article 4 of Basic Circular no.83 provides an exemption in the case of cashier's operations below USD 10,000 or its equivalent in foreign currency. Cashier's operations include cash payments made by the customer at the bank's counters such as the deposit of funds, exchange of currencies, purchase of precious metals, purchase of financial instruments in cash, cash subscription to vouchers at the counter, purchase of cheques in cash and traveller's checks.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Enhanced due diligence measures are required if customers are classified as high risk as per the Central Bank's guidelines. Article 9 of Basic Circular no.83 identifies the following customer risk factors but falls short of classifying these as high risk:</p> <ul style="list-style-type: none"> a) Customers whose occupation relies mainly on cash (money exchange, gold and precious stones dealers, restaurants and night clubs, real estate agents and car dealers; b) Foreign PEPs, their family members and close associates; c) Offshore companies; d) Companies established in countries known to be tax havens; e) Non face-to-face customers; f) Customers dealing only through intermediaries; g) Customers dealing through fiduciary contracts or trusts; h) Companies with a capital totally or partly constituted of bearer shares; and i) Customers who are nationals or resident in countries that do not or insufficiently apply the FATF recommendations.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>Article 9 of Basic Circular no.83 requires the establishment of an adequate system in order to determine whether a foreign customer is a politically exposed person and the adoption of risk based controls to include:</p> <ul style="list-style-type: none"> a) Obtaining more detailed information about customers, notably the source of their wealth; b) Obtaining, according to risk levels, the necessary administrative approvals, in order to deal or continue to deal with customers and to execute operations; c) Periodically review the relationship; and d) Continuous peer comparisons.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Article 2 of Basic Circular no. 83 provides that when establishing a relationship with a foreign correspondent bank the bank ascertain the following: a) The respondent bank is not a shell bank and that it actually exists based on submitted documentary evidence; b) It does not deal with shell banks; c) It has a good reputation and is subject to effective controls; d) It implements sufficient and effective procedures to fight money laundering and terrorist financing; e) The nature of the respondent bank's business; f) The approval of senior executive management must be obtained; and g) Determine the responsibility of both parties particularly for payable through accounts and make sure that the respondent is capable of providing relevant customer identification data if requested.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Transactions in writing: The Bank should verify the client's identity and the authenticity of the signature. Transactions done via an agent: The Bank should obtain an official procuration and the identity cards of the agent and the client.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Bank should report suspicious activities to the Governor of the Central Bank in his capacity as chairman of the SIC.. The link is as follows: http://www.sic.gov.lb

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 284 SARs (SIC Annual Report 2012) http://www.sic.gov.lb/downloads/SIC%20Annual%20report%20English%202012.pdf GDP (in current prices): 2012 – USD42,945 million (Source: data.worldbank.org*) This results in a ratio of 1 SAR for every USD151.2 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No unless it is specifically requested by the Central Bank of Lebanon.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No. All suspicious transactions regardless of materiality need to be reported.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Any person who does not comply with the reporting requirements could be imprisoned and subject to a fine in accordance with Law 318.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	As stipulated by basic circular no. 83, banks are required to use specialised software to monitor accounts and transactions for any of the mentioned risk indicators.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	The bank should inform SIC of suspicious transactions and is permitted to process the transactions unless requested not to do so by the SIC. However if the client account was frozen at the request of the Central Bank of Lebanon, banks are not allowed to process any transaction unless they get approval. In addition, suspicious accounts cannot be closed before consulting with SIC.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	The law is silent in this regard.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	As stipulated by the Central Bank of Lebanon basic circular no. 83, external auditors are required to issue a report in that regard.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	External auditors are required to report on yearly basis. The report should be addressed to the following parties: The Governor of the Central Bank, the SIC and management of the bank.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	There are various requirements as follows: a) A sample of KYC files; b) A sample of SAR reports; and c) Risk indicators set by the bank to identify suspicious transactions and whether all the indicators as identified by the Central Bank of Lebanon were covered by the bank.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes, in Lebanon we operate under the Banking Secrecy Law. Accordingly any information pertaining to any depositor cannot be revealed to any party except the SIC, or if the client is subject to a court case. As for clients who have facilities with banks, their information can be shared between banks and this is done to help banks better assess the credit risk of facilities provided or to be provided.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Please refer to answer A28
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes. The Banking Secrecy Law was promulgated on 03/09/1956. Article 2 provides that managers and employees of banking establishments are bound to absolute secrecy in favour of the bank's clients and may not disclose to anyone, whether a private individual or an administrative, military or judicial authority, the names of clients, their assets and facts concerning them; Banks are authorized to open code number deposit accounts for their clients. The following exceptions apply: Banking secrecy terminates in the case of bankruptcy or in the case of debtor accounts, SIC is exempt so as to provide for the lifting of confidentiality in favour of competent judicial authorities where it has reason to suspect suspicious activity and additionally, records are required to be kept by financial institutions of cash transactions that exceed USD 10,000 which are not subject to the Bank Secrecy Law.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The Anti Money Laundering and Counter Terrorist Financing Law ("AMLCTFL") came into force in 2007. The date the law became effective is different across the industry. For further information see: http://www.amlu.gov.jo/Public/English.aspx?Lang=2&Page_Id=3401&Menu_Parent_ID=49&type=R
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	<ul style="list-style-type: none">a) Central Bank of Jordan: http://www.cbj.gov.jo/b) Jordan Securities Commission regulates financial services companies, custodians, mutual investment companies, mutual funds and has issued the Anti Money Laundering Instructions In Securities Activities For The Year 2008: http://www.jsc.gov.jo/Public/English.aspx?Lang=3&Page_ID=1784 Jordan Insurance Commission regulates the insurance sector: http://www.irc.gov.jo/home.asp Central Bank of Jordan supervises money exchange companies; Company Control Department of the Ministry of Industry and Trade control financial leasing companies save for those affiliated to banks which come within the purview of the Central Bank of Jordan;c) While real estate companies and dealers in precious metals and stones are subject to the AMLCTFL and instructions have been issued, monitoring of compliance with implementation has to date required their accountants to verify the extent of adequacy of relevant policies and procedures and include information in the annual report. There are no casinos in Jordan.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes - please refer to the following links: <ul style="list-style-type: none">a) Law - http://www.amlu.gov.jo/Public/English.aspx?Lang=2&Page_Id=2721&Menu_Parent_ID=49&type=Rb) Regulations - http://www.amlu.gov.jo/Public/English.aspx?Lang=2&Page_Id=3047&Menu_Parent_ID=49&type=Rc) Instructions and Guidelines - http://www.amlu.gov.jo/Public/English.aspx?Lang=2&Page_Id=3401&Menu_Parent_ID=49&type=Rd) Instructions Issued Pursuant to the Law and Regulations - http://www.amlu.gov.jo/Public/English.aspx?Lang=2&Page_Id=3400&Menu_Parent_ID=49&type=R
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Guidance issued by the Central Bank approves the adoption of a risk based approach to customer due diligence.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	As a result of the MENA FATF Mutual Evaluation Report on Jordan published on 19/05/2009 Jordan was placed under the regular follow-up process. The report can be accessed here: http://www.menafatf.org/images/UploadFiles/MER_Hashemite_Kingdom_of_Jordan.pdf Most recently the Third Follow-Up Report for Jordan was published on 30/04/2013 and can be accessed here: http://www.menafatf.org/MER/JordanFUR3_E.pdf

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes, if the value of a transaction does not exceed (JOD10,000) or the equivalent in foreign currency.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Banking</p> <p>Individuals: Identification data shall include the full name of the customer, nationality, permanent address, phone number, work address, type of activity, purpose of business relationship and its intended nature, names and nationalities of persons authorised to manage the account and any information the bank deems necessary. With regard to legally unqualified persons, such as minors, documents of their legal representatives who manage such accounts shall be obtained and in case a person deals with the bank on behalf of the customer, a notarised power of attorney or a bank authorisation shall be obtained and kept in addition to verifying the identity of the proxy.</p> <p>Legal persons: Identification data shall include the name of the legal person, legal status, name of owners and their shares, the authorised signatories, domicile of the legal person, line of business, capital, registration date and number, tax number, national identity number of the organisation, names and nationalities of signatories authorised to run the account, phone numbers, purpose of the business relationship and its nature so the bank is aware of the ownership structure and the provisions governing the powers to take binding decisions for the legal person and any information the bank deems necessary. The bank should obtain the required documents indicating an authorisation by the legal person to natural persons to run the account as well as identifying the authorised persons. Public shareholding companies are excluded for the request for names of owners and their shares; instead it is adequate to obtain a list of shareholders whose shares exceed 10% of the capital.</p> <p>Insurance</p> <p>Natural persons: Identification data shall include the full name of the customer, nationality, date and place of birth, national number for Jordanian nationals and the passport number for non-nationals, current permanent residential address, purpose of the business relationship and its nature and any other information the company considers necessary. Regarding persons without mental capacity, the company shall have the documents relating to them and to the persons who represent them legally, as the case may be.</p> <p>Legal persons: Identity data shall include the name of the legal person, legal status, location address, type of activity, capital, date and number of registration with the competent entities including tax number, phone numbers, purpose of the business relationship and its nature, names and addresses of owners and their shares, the authorised signatories, binding authority of the legal person or legal arrangement so that the company is aware of the ownership structure and the provisions governing the powers to take binding decisions for the legal person and any other information the company deems necessary. Companies should obtain the required documents indicating an authorisation by the legal person to the natural persons to represent it, the nature of their relation with the legal person, and identify their identity and their activities according to the procedures of identifying the identity and the activities of the customer. The company shall be sure that there is no legal bar that prevents transacting with them and obtain their signatures.</p> <p>For other industries please refer to the attached documents at the following links: http://www.amlu.gov.jo/Public/English.aspx?Lang=2&Page_Id=2721&Menu_Parent_ID=49&type=R http://www.amlu.gov.jo/Public/English.aspx?Lang=2&Page_Id=3047&Menu_Parent_ID=49&type=R http://www.amlu.gov.jo/Public/English.aspx?Lang=2&Page_Id=3401&Menu_Parent_ID=49&type=R http://www.amlu.gov.jo/Public/English.aspx?Lang=2&Page_Id=3400&Menu_Parent_ID=49&type=R</p>

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Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Banking: A bank shall preview the official identification documents of the customer and obtain a copy of the same documents signed by a competent employee declaring that it is an original copy and take the necessary procedures to verify the validity of the information and data obtained from the customer from reliable and neutral sources, including contacting the competent entities that issued such official documents, and refer to the database of the Civil Status which is available to the banks and the website of the Companies Control Department.</p> <p>In the case of legal persons, the existence, legal form, names of the owners and the authorised signatories of the legal person shall be verified by virtue of necessary documents and information contained therein, such as, memorandum and articles of association, and the certificates issued by the Ministry of Industry and Trade and certificates issued by the commercial and industrial chambers in addition to obtaining the required official certificate from the competent authority in case the company is registered abroad.</p> <p>Insurance sector: Verify the existence of the legal person and its legal form, as well as the names of owners and signatories of the legal person through the necessary documents and the information they include, such as memorandum of association, articles of association, and certificates issued by the Ministry of Industry and Trade, Chambers of Industry and Trade and Company Control Department, in addition to the necessity to obtain a registration certificate of the legal person at the competent authorities in case the company is registered outside of Jordan. The company shall view the official documents to identify the customer and their activities and have a copy of this documentation signed by the competent company employee or authorised person declaring that it is an original copy. The validity of the information should be verified using neutral and reliable sources, including contacting the competent entities that issued the official documents, and referring to the website of the Company Control Department.</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>Banking</p> <p>Banks are required to request each customer to provide a written declaration in which he/she determines the identity of the beneficial owner of the intended transaction. Such declarations shall contain the identification data of the customer. The bank shall verify the identity of the beneficial owner by using data or information obtained from official documents to verify the identity of the beneficial owner. Where the beneficial owner is a legal person, reasonable procedures shall be taken to verify the ownership structure and the controlling management of the legal person by using data or information obtained from official documents to verify the identity of the beneficial owner.</p> <p>Insurance</p> <p>Procedures for identifying the identity of the beneficial owner shall take into consideration the following:</p> <ol style="list-style-type: none">Taking appropriate procedures for verifying the identity of the beneficial owner and this include viewing data and information obtained from official documents and data until the company is satisfied that it knows who the beneficial owner is;Requesting the customer to submit a written declaration to specify the identity of the beneficial owner. Such declaration shall contain at least the identification data of the customer identity; andObtaining information about provisions regulating the business of the legal person including its ownership structure and the controlling management of it.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Banking</p> <p>The Central Bank of Jordan has the right to determine the transactions or customers who may be subject to simplified customer due diligence procedures when identifying and verifying the identity of the customer and the beneficiary owner. This should be limited by international standards, recommendations and best practices that determines customers or transactions of low risks and any international controls or local requirements in this respect and simplified customer due diligence procedures are prohibited whenever there are suspicions of money laundering or terrorist financing transactions, or whenever high risk circumstances occur.</p> <p>Insurance</p> <p>The company may simplify the procedures of identifying and verifying the customer, his activity and the beneficial owner in the following cases:</p> <ol style="list-style-type: none">Dealing with financial institutions which are subject to certain procedures for anti-money laundering and counter terrorist financing similar to the procedures mentioned in these Instructions and the decisions issued by virtue thereof, including FATF recommendations, where implementation is subject to supervision;Dealing with public shareholding companies that are subject to regulatory disclosure requirements;Dealing with ministries and government departments and institutions;Dealing with customers residing in another country if such country is sufficiently applying the international standards for anti money laundering and counter terrorist financing, including the FATF recommendations;Insurance policies for pension schemes if the policy cannot be used as collateral and there is no surrender clause.Life insurance policies where the annual premium is no more than JOD1,000 or a single premium of no more than JOD2,000; andGeneral insurance business which single premium or total annual premiums do not exceed the amount of JOD3,000.

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Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>Banking</p> <ul style="list-style-type: none">a) Customers that are considered high risk, which includes politically exposed persons, non-resident customers, private banking customers and customers who are associated with countries that do not apply or insufficiently apply the FATF recommendations;b) Correspondent banking relationships;c) Non-face-to-face relationships;d) Unusual transactionse) Requesting facilities against deposits;f) Leasing safe deposit boxes; andg) Depositing cash amounts or travellers cheques in an existing account by a person(s) that does not represent the owner of the account under a power of attorney or authorisation approved by the bank. <p>Insurance</p> <p>The company shall apply enhanced procedures for identifying the customer and his activity in the following cases:</p> <ul style="list-style-type: none">a) Large insurance transactions and those which have no apparent economic or visible lawful purpose; the company shall put the necessary procedures to examine the background and surrounding circumstances of such transactions and their purposes, and shall keep the results of such examination in its records;b) Insurance transactions with persons residing in or coming from countries which do not have appropriate anti money laundering and counter terrorist financing systems or which do not apply or insufficiently apply the international standards related to anti money laundering and counter terrorist financing, including the FATF recommendations;c) Any transaction that the company believes by its own estimation forms a high level of money laundering and terrorist financing risks; andd) Dealing with politically exposed persons.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>Banking</p> <p>In the case of PEPs the following enhanced due diligence should be performed:</p> <ul style="list-style-type: none">a) The approval of the bank's general manager, regional manager, or the person authorised thereby shall be obtained when commencing a relationship with these customers. Such approval shall also be obtained when a customer or a beneficiary owner is discovered to be a PEP;b) The bank shall take all necessary procedures to verify the sources of the wealth of customers and beneficial owners; andc) The bank shall accurately and continuously monitor the transactions with such customers and give special attention to business relationships and transactions that occur with any of them. <p>Insurance</p> <p>The company shall do the following when dealing with politically exposed persons:</p> <ul style="list-style-type: none">a) The approval of the company general manager, authorised manger, or the person authorised thereby shall be obtained when commencing a relation with these customers. Such approval shall also be obtained when a customer or a beneficiary owner is discovered to be a PEP;b) Take sufficient procedures to identify the source of wealth of customers and beneficial owners who fall under such categories; andc) Conduct enhanced ongoing monitoring on the company's dealings with politically exposed persons.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>When establishing correspondent banking relationships the correspondent bank shall:</p> <ul style="list-style-type: none">a) Verify the nature of the external bank's business activity and reputation thereof in the field of anti money laundering and counter terrorist financing transactions;b) Obtain the approval of the bank's general manager or regional manager shall be obtained before the commencement of the relationship;c) Ensure that the external bank is subject to effective supervision by a supervisory authority in the bank's home country;d) Anti-money laundering and counter terrorist financing systems shall be verified by the bank and applied by the respondent bank; ande) Ensure that the respondent bank has exerted due diligence regarding its customers who have authority to use (payable-through accounts) and that the respondent bank is able to provide information related to such customers and transactions made to such accounts when needed.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	The bank shall apply the necessary policies and procedures to avoid risks related to non face-to-face dealing with customers taking into consideration the instructions of the Central Bank.

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The Anti Money Laundering & Counter Terrorist Financing Unit: http://www.amlu.gov.io/public/Main_english.aspx?Lang=2&Site_Id=1&Page_Id=1936&M=1
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 168 SARs (by entities obliged to report) and 17 notifications (SARs) received from supervisory authorities GDP (in current prices): 2012 – USD 31,243 million (Source: data.worldbank.org*) This results in a ratio of 1 SAR for every USD168.8 million of GDP.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes. Article 15 of the Anti Money Laundering and Countering Terrorist Financing Law 2007 prohibits tipping off.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes. They should be reported to the Anti Money Laundering and Counter Terrorist Financing Unit which will recommend whether to proceed or not.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	The law is not explicit in this regard.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes.

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Q27.	If an external report on the bank's AML systems and controls is required: <ul style="list-style-type: none"> a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	<ul style="list-style-type: none"> a) Annually; b) The Anti Money Laundering and Terrorist Financing Unit in Jordan; and c) Yes.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: <ul style="list-style-type: none"> a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	<ul style="list-style-type: none"> a) Yes; b) Yes; and c) Yes.

Data Privacy

Q29.	Does the country have established data protection laws? If so: <ul style="list-style-type: none"> a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Jordan has no Data Protection Laws. However the Jordanian Constitution specifically recognises a limited right to privacy but these rights must be circumscribed by laws to be claimable. Furthermore, there are a number of laws which already provide some level of privacy protection such as the Law of Securing Information Obtaining Rights.

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	See A29.

Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	See A29.

Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	See A29.

¹ GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2002.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	a) Banking – Bank of Israel - http://www.bankisrael.gov.il/ ; b) Other financial services: a. Israel securities authority - http://www.isa.gov.il/ ; b. Ministry of finance - http://ozar.mof.gov.il/ ; and c) Ministry of communication - http://www.moc.gov.il/130-en/MOC.aspx
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes, IMPA (the Israeli Financial Intelligence Unit ("FIU")) - http://www.justice.gov.il/MOJEng/Halbanat+Hon
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes, Israel was reviewed in August 2008 by Moneyval. This report is available at : http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Israel_en.asp Also, a MONEYVAL team of evaluators visited Israel from 10 to 15 March 2013 in order to prepare a 4th evaluation round report. The report is available at: http://www.coe.int/t/dghl/monitoring/moneyval/Publications/Archive_MONEYVAL_en.asp

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: should obtain name, address, identification number, date of birth and gender. Passports and identity cards are suitable for verification purposes.</p> <p>Corporates: should obtain name, address, identification number, date of incorporation. For controlling shareholders the same information as for individuals should be obtained. Memorandum and Articles of Association and Certificates of Incorporation are suitable for verification purposes.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Document copies should be certified by an appropriate person, for example a notary, lawyer or accountant. In addition, verification in accordance with the Population Registry should be performed.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Banks should require the applicants to declare whether they are acting for themselves or on behalf of another. If an applicant declares that he/she is acting on behalf of another, the declaration should include the particulars as set out in the guidance notes in respect of each of the beneficiaries.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Reduced/simplified due diligence arrangements apply for financial institutions which provide financial services, want to open a new account for their beneficial use only and when the institution has an account in the banking corporation.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	The law provides information about customers and distinguishes between Israeli citizens and non Israeli citizens. For non citizens there are legal demands for ensuring all the activities are globally accepted. When opening a correspondent account for a corporation incorporated in a country that is not a member of the OECD, the banking corporation shall also obtain documents detailing the local guidance, and shall retain them for at least seven years after the account is closed. The decision for undertaking enhanced due diligence should be taken and documented in accordance with the risk based approach.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Foreign PEPs are automatically considered high risk clients and are subject to additional procedures.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>The banking corporation should obtain the following:</p> <ol style="list-style-type: none">name;name of the country and supervisory authority;general information (this is the address and telephone number of the corporation and names of persons to contact, according to the Banking Order);name and address of all shareholders above 20%; andlast annual report and 'request letter' (letter requesting the opening of an account to be retained for at least 7 years after the account closed). <p>When the correspondent is not from the OECD, the bank should obtain a licence from the supervisory authority, the incorporation documents and letters of reference from banks in OECD member countries that manage accounts of the corporation wishing to open an account. In addition Israeli banks should examine the efforts taken by the correspondent bank to defend against money laundering and terrorist financing.</p>

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Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes – however, where a correspondent bank is related to a supervised banking corporation, engagements are allowed.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Where a customer approaches a firm by post, telephone or over the internet, it should carry out non face-to-face verification, either electronically or by reference to documents.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	IMPA - the Israeli FIU - http://www.justice.gov.il/MOJEng/Halbanat+Hon

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information of the volume of SARs reported is not publicly available.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes, financial institutions are obliged to report cases such as unusual transactions, cash transactions above ILS50,000, international wire transfers to high risk countries, withdrawal of money which is not in line with usual pattern of business etc. There is a list published by the regulators which provides examples of what suspicious behaviour might look like.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	At most financial institutions transactions under ILS50,000 do not need to be reported.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, the regulators can fine the controlled institutions. The maximum fine that controlled/supervised institutions can face is ILS2,260,000 for each violation.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No, although several institutions use automated suspicious transaction monitoring technology.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	The regulators only require that monitored institutions report the transaction to the FIU – there is no requirement to wait for the authority to proceed.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes. Israel established Privacy Law (from 1981). a) Yes – the definition include financial data and other personal data; b) Unknown; c) There are 2 definitions: a. "Information" - Data on personality, personal status, intimate affairs, state of health, economic, professional qualifications, opinions and beliefs; b. "Sensitive information" - Data on the personality, intimate affairs, state of health, economic, opinions and beliefs.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	a) Credit reports are used for credit risk analysis. Banks are allowed to pass credit related information to 2 authorised service providers, and search for such info for credit risk management, as applicable; b) Criminal records are allowed to transfer by the person himself; c) Medical data transfer is prohibited.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Unknown.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	See above.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Iraqi AML law became effective in 2004.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	a) Central Bank of Iraq http://www.cbi.iq ; b) N/A; and c) Real estate agents, accountants, lawyers, notaries and trust and company service providers are not subject to the AML law. While the AML Law applies to dealers in precious metals, stones and jewels no supervision of this sector exists.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	N/A
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Article 15(5) of the AML Law requires financial institutions to apply CDD/KYC measures to accounts which existed prior to effectiveness of the AML Law, "unless the financial institution reasonably believes that it knows the true identity of the customer." This provision allows application of a risk based approach to accounts which existed prior to enactment of the AML Law.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Article 15 of the AML Law permits a financial institution to determine the extent of due diligence obtained on a risk sensitive basis depending on the type of customer, business relationship or transaction.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise since 2003? If yes, please find a link to a relevant report (if publicly available).
A7.	Iraq was subject to a MENAFATF Mutual Evaluation Report published on 28/11/2012 which can be accessed here: http://www.menafatf.org/MER/MER_Iraq_English.pdf In October 2013, Iraq made a high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies. Iraq will work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing; (2) establishing and implementing an adequate legal framework for identifying, tracing and freezing terrorist assets; (3) establishing effective customer due diligence measures; (4) establishing a fully operational and effectively functioning Financial Intelligence Unit; (5) establishing suspicious transaction reporting requirements; and (6) establishing and implementing an adequate AML/CFT supervisory and oversight programme for all financial sectors. The FATF Public Statement issued on 18/10/2013 can be accessed here: http://www.fatf-gafi.org/countries/d-i/iraq/documents/fatf-compliance-oct-2013.html#Iraq

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Transactions below IQD5 million for non-account holders only require the collection and verification of customer name and address unless the transaction is deemed suspicious in which case the dispensation does not apply.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Article 15 of the AML Law requires a financial institution to obtain the following information when opening an account for a customer:</p> <p>Individuals: Legal name and any other names used, correct permanent address including the full street address, telephone number, fax number, email address, date and place of birth; and</p> <p>Corporates: Charter or other establishing document, nationality, occupation, public position held and/or name of employer, an official personal identification number or other unique identified contained in an unexpired official document (e.g. passport, identification card, residence permit, driving license) that bears a photograph of the individual customer, type of account and nature of the business relationship and signature. All information that is obtained should be verified.</p> <p>The requirement to understand the purpose and intended nature of the business relationship only arises if there is reason to suspect money laundering.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Article 15 of the AML Law requires that all information obtained is verified.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>Article 17 of the AML Law obligates financial institutions to "undertake such verification as is necessary in order to form a reasonable belief that it knows the true identity of the customer and/or any beneficial owner of the funds." It further requires financial institutions to have procedures in place "including escalation protocols" to resolve discrepancies and decline or cease to do business with a customer when it cannot form a reasonable belief that it knows the true identity of the customer and/or beneficial owner of the funds. There is, however, no requirement that financial institutions understand the ownership or control structure of the customer or determine who are the natural persons that ultimately own, control or exercise ultimate effective control over the legal person or arrangement or control the customer. Financial institutions should require from customers a statement of ownership when it is clear the client is not the beneficial owner.</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Article 15(2) of the AML Law allows for simplified CDD measures when a transaction is being executed by a non-account holder and the value of the transactions is (or a series of transactions are) less than IQD5 million
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	N/A
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	There is no requirement to conduct enhanced due diligence measures in respect of PEPs or to designate those accounts as high risk.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>There are no laws, regulation or prudential requirements which require financial institutions to implement AML/CFT controls in regard to correspondent relationships, nor gather information about any respondent businesses to determine the reputation, quality of supervision or whether it has been subject to a money laundering or terrorist financing investigation or regulatory action. There are no requirements in law, regulation or other enforceable means requiring that financial institutions obtain a copy of any respondent institution's internal AML/CFT controls or assess them for effectiveness. There are no requirements in law, regulation or other enforceable means requiring internal management approval prior to the establishment of new correspondent relationships.</p> <p>Cross border transactions above IQD15 million require the submission of a report to the Money Laundering Reporting Office and/or Iraq Customs Services. The report shall contain:</p> <ol style="list-style-type: none"> The legal capacity of the person filing the report; The origin, destination and route of the currency; The amount and type of monetary instruments; and Any other additional information.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	The Law is silent in this regard.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	N/A

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	SARs should be made to the Money Laundering Reporting Office at CBI: www.cbi.iq

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>Yes. Article 20 of the AML Law provides that the CBI may be regulation require each financial institution to file a report with the MLRO of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through or to such financial institution which involves a transaction in currency or other monetary instrument of more than IQD15 million.</p> <p>Article 21 of the AML Law provides that the CIB is authorised to require all persons to submit a report of currency and monetary instruments with the Money Laundering Reporting Office when transporting currency or other monetary instruments greater than IQD15 million from a place within Iraq to a place outside of Iraq or from a place outside Iraq to a place within Iraq. The report should contain the following information to the extent prescribed by the MLRO:</p> <ol style="list-style-type: none"> The legal capacity in which the person filing the report is acting; The origin, destination, and route of the currency and/or monetary instrument; The amount and kind of monetary instruments and/or currency transported; and Other additional information as required.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	The obligation to report suspicious transactions only applies to transactions above IQD4 million. Article 19 of the AML Law provides that where a financial institution has reason to know that a suspicious transaction has occurred, whether effected by a customer or other person, where the total value of the transaction or series of potentially related transactions is equal to or greater than IQD4 million the financial institution must notify the MLRO. However, in the case of suspected structuring transactions for the purpose of circumventing reporting requirements, a financial institution should report such transactions irrespective of the amount.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	The CBI may impose the following if a financial institution violates the law: a) Issue an order to cease the activity resulting in the violation; b) Assess a monetary penalty; c) Publish the results of any enforcement action; or d) Issue an order to prohibit the violating party from being involved in the affairs of financial institution either permanently or temporary.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	The Law is silent in this regard.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	The Law is silent in this regard.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No there is not but Article 8 of the AML Law states that the CBI is authorized to request from Banks' auditors all information and documents needed for the performance of the CBI's duties.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	No, but Article 22 of AML Law states that all financial institutions have to maintain all records related to AML for a period 5 years, and that this data has to be protected and well preserved.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Not to our knowledge.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Not to our knowledge.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Bank information secrecy is mentioned in the Iraqi Banks Law number 94 of year 2004 (Section 8 of the Law – articles 49,50,51 and 52).



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2001 (amended 2006). The Anti Money Laundering & Terrorist Financing Unit ("AMLTFU") was established in July 2002, under the direct control of the Ministry of the Interior. The AMLTFU is the money laundering enforcement unit in the Kingdom of Bahrain responsible for receiving, requesting, analysing and disseminating disclosures of financial information to the investigatory and supervisory authorities concerning suspected proceeds of crime and alleged money laundering.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	Central Bank of Bahrain ("CBB") is responsible for enforcing AML controls for CBB licensed institutions including banks and other institutions in the financial services sector. The Ministry of Industry and Commerce is responsible for enforcing AML controls for the non financial sector. http://www.cbb.gov.bh
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes. CBB website for information on AML & Combating the Financing of Terrorism ("CFT"): http://www.cbb.gov.bh/page.php?p=aml_cft The Ministerial Order No. 23 of 2002.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes, the CBB uses a risk based approach to customer due diligence and ongoing monitoring through its rulebooks. The CBB requires banks to have effective anti-money laundering policies and procedures in addition to measures for combating the financing of terrorism.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No, Bahrain's compliance with international AML/CFT standards was assessed by the International Monetary Fund in 2005, as part of a financial sector assessment programme review of the Kingdom. The report was approved by the IMF in January 2006. The same report was subsequently discussed and endorsed by the MENA-FATF in November 2006.

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Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Yes.</p> <p>Financial institutions: The Financial Crime module of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) states that a bank must implement customer due diligence measures when:</p> <ol style="list-style-type: none">Establishing business relations with a new or existing customer;A change to the signatory or beneficiary of an existing account or business relationship is made;A significant transaction takes place;There is a material change in the way that the bank account is operated or in the manner in which the business relationship is conducted;Customer documentation standards change substantially;The bank has doubts about the veracity or adequacy of previously obtained customer due diligence information;Carrying-out one-off or occasional transactions above BHD6,000, or where several smaller transactions that appear to be linked fall above this threshold;Carrying out wire transfers irrespective of amount; orThere is a suspicion of money laundering or terrorist financing. <p>Non financial institutions: Article 4 of Ministerial Order No.23 of 2002 exempts the following transactions from customer due diligence:</p> <ol style="list-style-type: none">the transaction or transactions which total less than BHD10,000;transactions related to life insurance if the premiums are paid through an account opened for the customer in a local bank; andtransactions related to a retirement scheme if they arise from the Insured's occupation or contract of employment or if the amount of subscriptions is paid through an account opened for the customer in a local bank.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Financial institutions: The Financial Crime module (FC – 1.2) of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) states that banks must obtain and record the following information, where applicable:</p> <p>In the case of natural person: Full legal name and any other names used/Full permanent address/Date and place of birth/Nationality/Passport number/CPR or residency number/Telephone/fax number/email address/Occupation or public position held/Employer's name and address (if self-employed, the nature of the self-employment)/Type of account and nature and volume of anticipated business dealings with the conventional bank licensee/Signature of the customer(s)/Source of funds.</p> <p>In the case of legal entities: The entity's full name and other trading names used/Registration number (or equivalent)/Legal form/Registered address and trading address/Type of business activity/Date and place of incorporation or establishment/Telephone, fax number and email address/Regulatory body or listing body (for regulated activities such as financial services and listed companies)/Name of external auditor/Type of account, and nature and volume of anticipated business dealings with conventional bank licensees/Source of funds.</p> <p>The information obtained must be verified in accordance with CBB requirements as per FC – 1.2.4 to FC – 1.2.6 and FC – 1.2.8.</p> <p>Non financial institutions: Article 4 of Ministerial Order No.23 of 2002 identifies details to be established and kept on record for non financial institutions where applicable:</p> <p>In the case of natural persons: Customer's full name/Date of birth/Nationality/Full details of the identity card or passport/Central Population Register (CPR) Card number (if any)/Occupation/Usual residence address/Employer's name and address.</p> <p>In the case of a corporate client: Customer's full name/Legal status/Registration number and place/Address of the head office and branches (if any)/Names of board members/Legal representative of the corporate person and his identification. The Memorandum and Articles of Association and the Power of Attorney must also be verified for incorporated activities.</p>

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Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Financial institutions: The Financial Crime module (FC – 1.2.4 and FC - 1.2.5) of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) states that an authorised official of the licensee must certify copy documents, by viewing the original and writing on the copy the words 'original sighted', together with the date and a signature. Equivalent measures must be taken for electronic copies. Identification documents which are not obtained by an authorised official of the licensee in original form must instead be certified by one of the following from a Gulf Cooperation Council ("GCC") or FATF member state: a lawyer; a notary; a chartered/certified accountant; an official of a government ministry; an official of an embassy or consulate; or an official of another licensed financial institution or of an associate company of the licensee.</p> <p>Non financial institutions: Article 4 of Ministerial Order No.23 of 2002 details that before establishing any business relationship, registered persons shall establish the identities of their customers, representatives and beneficiaries from the transaction by using all the reasonable methods and adopt all the possible precautions to ascertain the validity of documents or details concerning their identities.</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>Financial institutions: The Financial Crime module (FC – 1.1.5 to FC - 1.1.7 and FC - 1.6.1) of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) states that banks must obtain a signed statement from all new customers confirming whether or not the customer is acting on their own behalf. This undertaking must be obtained prior to conducting any transactions with the customer concerned.</p> <p>Where a customer is acting on behalf of a third party, the bank must also obtain a signed statement from the third party, confirming they have given authority to the customer to act on their behalf. Where the third party is a legal person, the bank must have sight of the original board resolution (or other applicable document) authorising the customer to act on the third party's behalf, and retain a certified copy. Banks must establish and verify the identity of the customer and (where applicable) the party/parties on whose behalf the customer is acting, including the beneficial owner of the funds.</p> <p>Financial services must not be provided to charitable funds and religious, sporting, social, cooperative and professional societies, until an original certificate authenticated by the relevant Ministry confirming the identities of those purporting to act on their behalf (and authorising them to obtain the said service) has been obtained.</p> <p>Non financial institutions: Ministerial Order No.7 of 2001 (requires each institution to verify a customer's identity and his source of funds and obtain proof that:</p> <ol style="list-style-type: none">Establishes the customer's identity;Establishes that the source of funds is as claimed by the customer; andDetermines the customer's address, date of birth and nationality. If the customer is an agent of a business or firm subject to the supervision of a controlling authority and resides in a country that has similar laws for prohibition and combating money laundering, it may be sufficient evidence to receive written confirmation from the customer of the availability of proof of the principal's identity, its registration and maintenance thereof.

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Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Financial institutions: The Financial Crime module (FC – 1.11) of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) states that banks may apply simplified due diligence if the customer is:</p> <ol style="list-style-type: none">The customer is the CBB, the Bahrain Stock Exchange ("BSE") or a licensee of the CBB;The customer is a Ministry of a GCC or FATF member state government, a company in which a GCC or FATF government is a majority shareholder, or a company established by decree in the GCC;The customer is a company listed on a GCC or FATF member state stock exchange (where the FATF state stock exchange has equivalent disclosure standards to those of the BSE);The customer is a financial institution whose entire operations are subject to AML/CFT requirements consistent with the FATF recommendations/special recommendations and it is supervised by a financial services supervisor in a FATF or GCC member state for compliance with those requirements;The customer is a financial institution which is a subsidiary of a financial institution located in a FATF or GCC member state, and the AML/CFT requirements applied to its parent also apply to the subsidiary;The customer is a borrower in a syndicated transaction where the agent bank is a financial institution whose entire operations are subject to AML/CFT requirements consistent with the FATF recommendations/special recommendations and it is supervised by a financial services supervisor in a FATF or GCC member state for compliance with those requirements; andThe transaction is a one-off or occasional transaction not exceeding BHD6,000 (or equivalent in other currencies), or one of a number of transactions which are related and, when taken together, do not exceed BHD6,000 per year (or equivalent in other currencies). <p>Non financial institutions: Article 4.7 of Ministerial Order No.7 of 2001 specifies that procedures for proving a customer's identity and sources of funds of the following shall not be applicable if:</p> <ol style="list-style-type: none">The customer is an organisation affiliated to or under the supervision of the Ministry of Commerce and Industry, the Bahrain Stock Exchange, the Ministry of Justice or if it is a company in which the government has a majority stake, or if it is a company incorporated by virtue of a law or decree;The subject matter of the transaction is the payment of sums by the customer or on his behalf through another organisation;A separate significant transaction takes place with or for the account of a third party with the intervention of a person who is subject to a supervisory authority, who has provided confirmation that the identity of the third party has been established and registered according to the custody procedures of such person; andThe customer purchases a stake in a collective investment venture.
Q13.	In what circumstances are enhanced customer due diligence measures required?
A13.	<p>The CBB Rulebook Volume 1, Financial Crime module FC – 1.3 to FC 1.8 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) states that enhanced customer due diligence must be performed on those customers identified as having a higher risk profile and additional enquiries made or information obtained in respect of those customers. Specific conditions that give rise to a higher risk profile include: Instances where there is non-face-to-face business; dealing with PEPs; dealing with charities, clubs and other societies; dealing with a professional intermediary who manages pooled funds; and dealing with a correspondent bank.</p>
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	<p>The Financial Crime module (FC – 1.5) of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) states that Banks must have appropriate risk management systems to determine whether a customer is a PEP, both at the time of establishing business relations and thereafter on a periodic basis. Banks must utilise publicly available databases and information to establish whether a customer is a PEP.</p> <p>Banks must establish a client acceptance policy with regard to PEPs, taking into account the reputational and other risks involved. Senior management approval must be obtained before a PEP is accepted as a customer. Where an existing customer is a PEP, or subsequently becomes a PEP, enhanced monitoring and customer due diligence measures must include:</p> <ol style="list-style-type: none">analysis of complex financial structures, including trusts, foundations or international business corporations;a written record in the customer file to evidence that reasonable measures have been taken to establish both the source of wealth and the source of funds;development of a profile of anticipated customer activity, to be used in ongoing monitoring;approval of senior management for allowing the customer relationship to continue; andon-going account monitoring of the PEP's account by senior management such as the MLRO.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>The Financial Crime module (FC – 1.8) of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) states that Banks must implement the following additional measures, prior to opening a correspondent banking relationship:</p> <ol style="list-style-type: none"> a) Complete a signed statement that outlines the respective responsibilities of each institution in relation to money laundering detection and monitoring responsibilities; and b) Ensure that the correspondent banking relationship has the approval of senior management. <p>Banks which intend to act as correspondent banks must gather sufficient additional information (e.g. through a questionnaire) about their respondent banks to understand the nature of the respondent's business. Factors to consider include:</p> <ol style="list-style-type: none"> a) Information about the respondent bank's ownership, structure and management; b) Major business activities of the respondent and its location (i.e. whether it is located in a FATF compliant jurisdiction) as well as the location of its parent (where applicable); c) Where the customers of the respondent bank are located; d) The respondent's AML and CFT controls; e) The purpose for which the account will be opened; f) Confirmation that the respondent bank has verified the identity of any third party entities that will have direct access to the correspondent banking services without reference to the respondent bank; g) The extent to which the respondent bank performs on-going due diligence on customers with direct access to the account, and the condition of bank regulation and supervision in the respondent's country (e.g. from published FATF reports). Banks should take into account the country where the respondent bank is located and whether that country abides by the FATF 40+ 9 recommendations when establishing correspondent relationships with foreign banks. Banks should obtain where possible copies of the relevant laws and regulations concerning AML/CFT and satisfy themselves that respondent banks have effective customer due diligence measures consistent with the FATF 40+ 9 recommendations; h) Confirmation that the respondent bank is able to provide relevant customer identification data on request to the correspondent bank; and i) Whether the respondent bank has been subject to a money laundering or terrorist financing investigation.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	<p>Yes. The Financial Crime module (FC – 1.10) of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) states that Banks must not establish business relations with banks which have no physical presence or 'mind and management' in the jurisdiction in which they are licensed and which is unaffiliated with a regulated financial group. Banks must not knowingly establish relations with banks that have relations with shell banks.</p>

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>The Financial Crime module (FC – 1.4) of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) states that where no face-to-face contact takes place, banks must take additional measures in order to mitigate the potentially higher risk associated with such business. In particular, banks must take measures to ensure that the customer is the person they claim to be and that the address provided is genuinely the customer's. There are a number of checks that can provide a bank with a reasonable degree of assurance as to the authenticity of the applicant:</p> <ol style="list-style-type: none"> a) Telephone contact with the applicant on an independently verified home or business number; b) With the customer's consent, contacting an employer to confirm employment, via phone through a listed number or in writing; and c) Salary details appearing on recent bank statements.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	<p>For licensees registered under the CBB, SARs must be simultaneously sent to both the CBB (www.cbb.gov.bh) and the AMLTFU.</p> <p>For licensees registered under the Ministry of Industry and Commerce, SARs must be simultaneously sent to both the MOIC (http://www.moic.gov.bh/Moic/En/Legal) and the AMLTFU.</p>
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>Financial Institutions: The Financial Crime module (FC – 5.1.1) of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) specifies that banks must implement procedures to ensure that staff who handle customer business (or are managerially responsible for such staff) make a report promptly to the MLRO if they know or suspect that a customer (or a person on whose behalf a customer may be acting) is engaged in money laundering or terrorism financing, or if the transaction or the customer's conduct otherwise appears unusual or suspicious. These procedures must include arrangements for disciplining any member of staff who fails, without reasonable excuse, to make such a report.</p> <p>Non financial institutions: Ministerial Order No.7 of 2001 Article 4.9 specifies that all institutions shall report to the Anti Money Laundering Unit any suspicious or extraordinary transactions regardless of the value of amounts subject to the transaction.</p>
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	A transaction needs to be reported if it is above BHD6,000 or where several smaller transactions that appear to be linked fall above this threshold. If the transactions fall below this threshold, they do not need to be reported.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>Article 3.4 and Article 3.5 of Law No. (4) of 2001 (http://cbb.complinet.com/file_store/pdf/rulebooks/AppendixFC1.pdf) specifies that:</p> <ol style="list-style-type: none"> Any person who commits any of the offences related to money laundering shall be liable to imprisonment for a period not exceeding two years and/or a fine not exceeding BHD50,000 or both. Any person who contravenes the provisions of Regulations and Ministerial Regulations issued under this law shall be liable to imprisonment for a period not exceeding three months or a fine not exceeding BHD20,000 or both.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	<p>The Financial Crime module (FC – 2.1 and FC – 2.2) of CBB Rulebook Volume 1 (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=5272) specifies that banks must take reasonable care to establish and maintain appropriate systems and controls to limit their vulnerability to financial crime. These systems and controls must be documented, and approved and reviewed annually by the Board of the bank. The documentation and the Board's review and approval, must be made available upon request to the CBB.</p> <p>Banks must develop risk-based monitoring systems appropriate to the complexity of their business, their number of clients and types of transactions. These systems must be configured to identify significant or abnormal transactions or patterns of activity. Such systems must include limits on the number, types or size of transactions undertaken outside expected norms; and must include limits for cash and non-cash transactions.</p> <p>The banks' risk-based monitoring systems should therefore be configured to help identify:</p> <ol style="list-style-type: none"> Transactions which do not appear to have a clear purpose or which make no obvious economic sense; Significant or large transactions not consistent with the normal or expected behaviour of a customer; and Unusual patterns of activity (relative to other customers of the same profile or of similar types of transactions, for instance because of differences in terms of volumes, transaction type, or flows to or from certain countries), or activity outside the expected or regular pattern of a customer's account activity. <p>Banks must consider the need to include automated transaction monitoring as part of their risk-based monitoring systems to spot abnormal or unusual flows of funds. In the absence of automated transaction monitoring systems, all transactions above BHD6,000 must be viewed as significant and be captured in a daily transactions report for monitoring by the MLRO or a relevant delegated official, and records to be retained by the bank for five years after the date of the transaction.</p>
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No, unless the bank is specifically requested by the CBB to do so.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Article 8 of Law No. (4) of 2001 (http://cbb.complinet.com/file_store/pdf/rulebooks/AppendixFC1.pdf) states that where a foreign state makes a request for specific information relating to suspicious transactions, persons and corporations involved in those transactions or the investigation or prosecution of a money laundering offence, the AMLTFU shall execute the request or inform the foreign state of any delay in or the reason for not executing the request.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes. The licensee must instruct their external auditors to produce the report referred to in Paragraph FC-4.3.1(d). (http://www.complinet.com/cbb/display/display_viewall.html?rbid=1820&element_id=3371)
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) At least once each calendar year. b) The report must be submitted to Bahrain Monetary Agency ("BMA") by the 30 April of the following year. c) It is a separate report and not part of the financial statement audit.
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	The scope of the review must include: a) a report, containing the number of internal reports made in accordance with Section FC-5.1, a breakdown of all the results of those internal reports and their outcomes for each segment of the licensee's business, and an analysis of whether controls or training need to be enhanced; b) a report, indicating the number of external reports made in accordance with Section FC-5.2 and, where a licensee has made an internal report but not made an external report, noting why no external report was made; c) a sample test of compliance with this Module's customer due diligence requirements; and d) a report as to the quality of the licensee's anti-money laundering procedures, systems and controls, and compliance with the AML Law and this Module. (http://www.complinet.com/cbb/display/display_viewall.html?rbid=1820&element_id=3371)

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	In accordance with Article 117 of the CBB Law, banks must not publish or release information to third parties concerning the accounts or activities of their individual customers, unless: a) Such information is requested by the CBB or by an order from the Courts; b) The release of such information is approved by the customer concerned; or c) It is in compliance with the provision of the law or any international agreements to which the Kingdom is a signatory. (http://cbb.complinet.com/cbb/display/display.html?rbid=1820)

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Licensee's must refuse to enter into or continue a correspondent banking relationship with a bank incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a regulated financial group (i.e. 'shell banks', see Section FC-1.10). Banks must pay particular attention when entering into or continuing relationships with respondent banks located in jurisdictions that have poor KYC standards or have been identified by the FATF as being 'non-cooperative' in the fight against money laundering/terrorist financing. (http://cbb.complinet.com/cbb/display/display.html?rbid=1820&record_id=5507&element_id=5358&highlight=KYC#r5507)
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	In accordance with Article (1) of Law (7) of the Year 2003 on The Trade Secrets, any natural or legal person is prohibited from disclosing information in his possession if such an information contains the features hereunder: a) If the information is confidential. Confidentiality is thereto fulfilled if the information in its final form or its specifics are unknown nor circulated and is not accessible for those who usually deal with such type of information; b) If it was of a commercial value due to its confidentiality; and c) If its confidentiality was dependable on the effective measures undertaken by its legal holder to preserve it. (http://www.wipo.int/wipolex/en/text.jsp?file_id=198907)
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	In accordance with Article (2) of Law No. (7) for the Year 2003 on The Trade Secrets, disclosure prohibition of the previously prescribed trade secrets in the above Article extends to include confidential tests and data that were the outcome of notable efforts, and which are submitted to the competent authorities at their request for approval of promoting pharmaceutical or agrichemical products in which new chemical components are used. The competent authorities shall be obliged not to disclose received data or tests of those mentioned in the previous Paragraph until the same is no longer confidential, and prohibit unfair commercial use of the said data or tests by means of not permitting any person without the consent of the owner from depending on it to market his own products or pharmaceutical products until after five years consecutive to the date of marketing approval in the Kingdom of Bahrain. (http://www.wipo.int/wipolex/en/text.jsp?file_id=198907)



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Vietnam

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Criminal Law issued in 1999 (effective on 1 July 2000) Law No. 37/2009/QH12 amending and supplementing some articles of the Criminal Law issued in 1999 issued in 2009 (effective on 1 January 2010) Law on Credit Institutions issued in 2010 (effective on 1 January 2011) Law on anti-money laundering No. 07/2012/QH13 issued in 2012 (effective on 1 January 2013) Decree 116/2013/ND/CP issued on 4 October 2013
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A. It is the first time regulations on anti-money laundering have been issued in the form of a law.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	Anti-Money Laundering Information Centre under the State Bank of Vietnam ("SBV"): http://www.sbv.gov.vn
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The new Decree 116/2013 provides some guidance regarding AML requirements (such as e.g. on customer identification, reporting). Homepage of SBV: http://www.sbv.gov.vn
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No. The Law on anti-money laundering however requests clients' information must be updated regularly.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The assessment body 'APG' performed an assessment in 2009 - http://www.apgml.org/documents/default.aspx?DocumentCategoryID=17 .

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Financial institutions must verify clients' information in certain circumstances such as: when clients open accounts, make transactions of high value, make suspicious transactions or if there is any doubt regarding the client's identification information. Certain non-financial institutions are required to identify customers: a) Casino/gaming businesses; b) Real estate management or property services companies, if brokerage services in relation to purchase, sale and management of properties is provided; c) Organisations trading in precious metals and gemstones if they carry out transactions in relation to purchase/sale of precious metals/gemstones with large value of cash; d) Notaries, accounting and legal services companies, if they carry out certain transactions, such as e.g. if they act on their customers behalf to make transactions, such as transfer of land use rights, or management of customer's bank accounts; and e) Organisations providing trust services if they carry out certain transactions, such as providing services such as establishment of companies.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Article 9 of the Law on anti-money laundering stipulates that the clients' information must include: a) For individual Vietnamese clients: full name, date of birth, nationality, occupation, position; phone number, identity card number or passport number, date and place of issue and permanent/current address; b) For individual foreign clients: full name, date of birth, nationality, occupation, position; passport number, date and place of issue, visa, overseas/Vietnam address; c) For corporate clients: full and abbreviated trading name, address of head office, phone number, fax number, areas of operations and business, information on the founder and representatives; and d) Information regarding beneficiary. In case of corporate beneficiary: information regarding ownership and control rights.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Article 11 of the Law on anti-money laundering allows engagement of other organisations to conduct the verification.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Under Article 9.2 of the Law on anti-money laundering, it is required to verify the beneficial ownership and apply necessary measures in order to know and update information of beneficial ownership. For corporate clients, it is required to collect information on ownership and control structure to determine the individual with the controlling interest and who has the control of the corporate.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	None stated in local regulations or guidance.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	None stated in local regulations or guidance.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Article 13 of the Law on anti-money laundering requests financial/specified non-financial institutions to have internal systems to control account opening/transactions with foreign PEPs (including their related persons) and to take measures to identify sources of clients' assets and to enhance monitoring business relationship/transactions with clients.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Article 14 of the Law on anti-money laundering requests the following measures upon establishment of agent bank relationships: a) Collecting information about the banking partner to identify the nature of business, the partner bank's reputation and ensure the partner bank is subject to supervision and management of the foreign competent management agencies; b) Assessing the implementation of measures on prevention of money laundering at the partner bank; c) Must be approved by the General Director (Director) or authorised persons before setting up the agent bank relationship; and d) In case the partner bank's clients can make payment through the partner bank's accounts opened at the institution, the institution must ensure the partner bank has fully implemented the identification process, updated the client information and that they are able to provide client identification information as required by the institutions.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Not stated in local regulations.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Not specifically mentioned in the regulations. However the Law on anti-money laundering refers in Article 17 to business through "introduction" by a third party.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	SBV: http://www.sbv.gov.vn/portal/faces/vi/vim/vipages_trangchu

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Under the Law on anti-money laundering, in addition to suspicious transactions, the following transactions should be reported: a) high value transactions (level of value to be stipulated by the Prime Minister); b) electronic money transfer with value exceeding the threshold stated by the SBV; and c) individuals bring currency/gemstones/valuable papers exceeding the threshold stated by the SBV. Based on the Prime Minister's Decision 20/2013/QĐ-TTg dated 18/04/2013, the value of high value transactions subject to reporting is VND300 million (approximately USD14,000).

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Yes, values below the stipulated values as set out in A20.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, there are penalties for administrative violations.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No. The Law on anti-money laundering however requires the reporting entity to exercise special supervision of certain transactions, such as transactions with high value or transactions with individuals in countries or territories included in the list published by FATF.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No. The Law on anti-money laundering requests the related institutions to delay the suspicious transaction and reports immediately to the authorities.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No legal requirements. However, within the auditors' responsibility, the auditors may report any material AML issues in the management letter which is mandatory reported to the SBV by the bank.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Vietnam has regulations on "personal data protection", but not "corporate data protection". There is no clear definition of "personal data" as well as no definition of "sensitive data".
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	The Civil Code provides that the use of a personal image and information/data of a person by an organisation(s)/other individual(s) must be agreed by such person in advance. An organisation that unlawfully discloses such image/information as referred above may be taken to court and may be required to pay compensation to the complainant. However, there are no criminal sanctions in this case.

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Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.



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Last updated:

January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The AML Act was first enacted in 1999. It was subsequently amended in 2008, 2009 and more recently in 2013 to meet international standards e.g. setting requirements on conducting CDD, adding predicate offences.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.)? Please include link to the regulator(s) website
A3.	The Anti-Money Laundering Office ("AMLO"). Please refer to the following website: http://www.amlo.go.th/amlofarm/farm/en/index.php?lang=en
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes, please refer to the following document links from AMLO website i.e. http://www.amlo.go.th/amlofarm/farm/en/files/MR_1(1).pdf and http://www.amlo.go.th/amlofarm/farm/en/files/MR_2(2).pdf
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes. There is requirement to conduct CDD on existing customers where a relationship was established before the CDD regulation was stipulated and the relationship still exists (refer to item 26 of the revised Ministerial Regulation on CDD dated 11 July 2013). The AMLO issued more detailed guidelines on how to conduct CDD for existing clients (Refer to AMLO notification dated 11 October 2013 and effective from 9 November 2013).
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes. It's a principle that the bank shall take into account risk factors from the client and the area/country, in order to assess the ML risk.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes. Full assessment was conducted in 2007. The subsequent report was issued on 24 July 2007 and available online at the following links: http://www.amlo.go.th/amlofarm/farm/en/files/DAR_thai.pdf ; http://www.apgml.org/documents/default.aspx?s=date&c=5&pcPage=5 and http://www.imf.org/external/np/pp/eng/2011/051111.pdf In April 2013, FATF conducted assessment by interviewing the authorities and some banks, in order to assess improvement of AML Law in order to comply more with international standards after Thailand issued the Counter Terrorism Financing Act and amended the AML Act in February 2013.

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Yes. There is a minimum threshold for temporary transactions (Refer to Section 18 of the Ministerial Regulation on CDD dated 11/07/2013)</p> <ul style="list-style-type: none">a) One-off transactions or many transactions with an aggregate amount below THB700,000.b) Electronic payment transactions valued under THB50,000 <p>This applies to financial institutions and designated non-financial businesses in Section 16(1) and 16(9) as mentioned in the AML Act.</p>
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: Institutions should verify the original version of all identification documents; e.g. identity card, passport, household registration book, full name.</p> <p>Legal entities: Institutions should obtain company registration documents as well as examining the type of business, the sources of high value transactions or unusual characteristics or those that are not related to the business of customers. Institutions shall examine and verify the following identification information and evidence of the following persons associated with such juristic person or legal arrangement: (1) the person authorised to establish a business relationship; (2) the director authorised to conduct a transaction on behalf of the juristic person or legal arrangement; and (3) the ultimate beneficial owner of the juristic person or legal arrangement (per Ministerial Regulation Prescribing Rules and Procedures for Customer Due Diligence B.E. 2555 (2012) effective from 22/08/2012).</p> <p>The institution should maintain copies of verified identification documents for a period of five years.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Financial institutions and designated non-financial businesses and professions shall verify customer identification during the first transaction and periodically perform reviews until the account is closed or the relationship is terminated. The verification shall be completed with professional care, good faith and without gross negligence. Using an alias is not permitted.</p> <p>In general, where copies of identification documents are provided, such copies shall normally be verified as true and correct by the owner of the document and/or by verification against the original. Where foreign documents are provided, certification by a public notary and authentication by the embassy of the country that the document is originally issued, may be required.</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Identify and verify the real ultimate beneficial owners with reliable sources/methods.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Financial institutions and non-financial businesses in Section 16(1) and 16(9) can simplify CDD measures for low risk customers.</p> <p>Please see item 16 of Ministerial regulation on CDD dated 11/07/2013, (http://www.amlo.go.th/amlofarm/farm/web/files/MR%20CDD%202013.pdf)</p> <p>Article 16 subject to Article 14, financial institutions and persons engaging in professions under section 16 (1) and (9) may apply simplified CDD measures for low-risk customers. These measures may include, but are not limited to:</p> <ul style="list-style-type: none">a) reducing the requirements of identification information, taking into consideration types of customers, types of transactions or financial products, transaction size and movements of transactions or business relationships;b) reducing the requirements of examination and review of movements of transactions or business relationships; andc) reducing the requirements of verification of the customer's current information. <p>Factors in considering customers as low-risk customers under paragraph one shall be set out in a Notification issued by the Secretary-General.</p> <p>Also, the AMLO notification regarding guidelines on factors and characteristics for low risk customers, dated 11/10/2013 can be referred to (only available in Thai at this time).</p>

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Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	<p>This comes under item 14 of the revised Ministerial regulation on CDD dated 11/07/2013, which states that enhanced CDD must be conducted for high risk customers, by considering the following risk factors. (http://www.amlo.go.th/amlofarm/farm/web/files/MR%20CDD%202013.pdf)</p> <p>Article 14 Financial institutions and persons engaging in professions under section 16 (1) and (9), while conducting money laundering and terrorist financing risk management in accordance with Articles 4 and 5, shall have regard to money laundering and terrorist financing risks that shall include the following risks factors:</p> <p>Customer risk factors include the following:</p> <ul style="list-style-type: none">a) Where information or results of identification of the customer or the beneficial owner indicate that the customer or the beneficial owner has one or more of the following attributes:<ul style="list-style-type: none">a. having a shareholding structure which is unusual or more complex than the normal business conduct;b. matching the information of persons the Office notifies as subject to being designated as high-risk customers who deserve a close watch;c. engaging in a high-risk profession as prescribed by the Secretary General;d. being a politically exposed person; ore. being otherwise considered as posing a high money laundering or terrorist financing risk.b) Where it is found that the business relationship or the customer's transactions are conducted in unusual circumstances. <p>Country or geographic risk factors exist where a customer resides either temporarily or permanently; engages in an occupation; has an income source from or conducts transactions in a geographical area or country which has been notified by the Secretary General as an area or country with a high risk of money laundering and terrorist financing.</p>
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Client or ultimate beneficiary owner is PEP.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Request policy and guidelines on AML/CFT, as well as consider credibility of correspondent banks, prior to creating a relationship.</p> <p>Please see details in items 42-46 of Ministerial regulation on CDD dated 11/07/2013 (http://www.amlo.go.th/amlofarm/farm/web/files/MR%20CDD%202013.pdf)</p> <p>Article 42: Financial institutions shall refuse to enter into a correspondent banking relationship or to conduct a transaction and shall end a business relationship with respondent financial institutions with any one of the following attributes:</p> <ul style="list-style-type: none">a) established with authorisation but without real management located within the authorising country or with real management located within the authorising country but conducting no business within that country and not in a position to be supervised; orb) having entered into a correspondent banking relationship with, or providing financial services for, or holding an account with a financial institution under b). <p>Article 43: Where a financial institution enters into a business relationship with a respondent financial institution, whether such relationship is established for securities transactions or electronic fund transfers, whether for a cross-border financial institution as principal or for its customer, the financial institution shall identify and obtain information of that respondent financial institution in accordance with Article 19 (1), (2) and (3) and shall verify the trustworthiness of the respondent financial institution as well as considering the reliability of the agencies responsible for its anti-money laundering and counter financing of terrorism supervision.</p> <p>Article 44: When establishing a business relationship with a respondent financial institution with respect to 'payable-through accounts', a financial institution shall conduct risk management and CDD on the customers having direct access to accounts of the correspondent financial institution, and it shall be able to provide relevant risk management and CDD information upon request to the correspondent financial institution.</p> <p>Article 45: Where a respondent financial institution is located in an area or country with money laundering and terrorist financing risk, a financial institution shall obtain information regarding its anti-money laundering and countering the financing of terrorism policy and action guidelines and shall verify the trustworthiness of such respondent financial institution.</p> <p>A financial institution shall consider refusing to enter into a business relationship, or to conduct a transaction and ending the business relationship if a respondent financial institution does not have in place effective anti-money laundering and countering the financing of terrorism policy or measures, or if that respondent financial institution or its ultimate beneficial owner(s) are involved in money laundering or terrorist financing.</p> <p>Article 46: Where a financial institution has a business relationship with a respondent financial institution located in an area or country with money laundering and terrorist financing risk, the financial institution shall take caution in conducting the business relationship and shall regularly verify information on the respondent financial institution and shall consider immediately ending the business relationship if it finds that the respondent financial institution is involved with money laundering or terrorist financing.</p>

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Q16.	Are relationships with shell banks specifically prohibited?
A16.	<p>Yes. Please see details in item 42 of the Ministerial regulation on CDD dated 11/07/2013 (http://www.amlo.go.th/amlofarm/farm/web/files/MR%20CDD%202013.pdf)</p> <p>Article 42: Financial institutions shall refuse to enter into a correspondent banking relationship or to conduct a transaction and shall end a business relationship with respondent financial institutions with any one of the following attributes:</p> <ol style="list-style-type: none"> established with authorisation but without real management located within the authorising country or with real management located within the authorising country but conducting no business within that country and not in a position to be supervised; or having entered into a correspondent banking relationship with, or providing financial services for, or holding an account with a financial institution under b).

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>Institutions should establish risk mitigating procedures and measures for account openings for non face-to-face customers and should have effective monitoring procedures as stringent as those for customers who are physically present.</p> <p>Please see details in item 42 of the Ministerial regulation on CDD dated 11/07/2013 (http://www.amlo.go.th/amlofarm/farm/web/files/MR%20CDD%202013.pdf)</p> <p>Article 47 Financial institutions and persons engaging in professions under section 16 (1) and (9) may rely on third parties in verifying the customer identification in accordance with Article 19 (1), (2), (3) and (4), Article 20 and Article 22 or to introduce business provided that the following criteria are met:</p> <ol style="list-style-type: none"> it obtains the necessary information relating to the requirements under Article 19 (1), (2), (3) and (4), Article 20 and Article 22 from the third party; copies of documents or identification information and other relevant documentation and information of customers relating to the requirements under Article 19 (1), (2), (3) and (4), Article 20 and Article 22 shall be made available from the third party upon request without delay; the third party is under proper supervision and monitoring, and has measures in place for compliance with CDD and record keeping requirements in accordance with the rules and procedures set out in this Ministerial Regulation; and in the case of a third party being subject to rules of many countries, consideration is given to the reliability of those countries based on their level of money laundering and terrorist financing risk. <p>In the case where a third party is a financial institution and persons engaging in professions under section 16 (1) and (9) that is part of the same financial group and such financial institution and persons engaging in professions under section 16 (1) and (9) apply CDD measures and record-keeping requirements, and act in line with Article 49, Article 50 and Article 51, and where the effective implementation of those requirements is supervised by a competent authority, it shall be deemed that the financial institution and persons engaging in professions under section 16 (1) and (9) apply measures under (3) and (4) above through its group programme.</p> <p>The above provisions do not apply to an outsourcing or agency relationship.</p> <p>Reliance on third parties means reliance (on the third party) for performing the requirements under paragraph one and record-keeping requirements under this Ministerial Regulation under the supervision and monitoring of the competent authority. The third party may have an existing business relationship with the customer, which is independent from the relationship to be formed by the customer with the relying institution, and would apply its own procedures to perform the CDD measures. This reliance on a third party is contrasted with an outsourcing/agency relationship, in which the outsourced entity applies the CDD measures on behalf of the delegating financial institution, in accordance with its procedures, and is subject to the delegating financial institution's control.</p> <p>Financial institutions and persons engaging in professions under section 16 (1) and (9) shall be held responsible where a third party fails to apply CDD procedures or recordkeeping requirements, or fails to fully comply with these procedures.</p> <p>A third party shall be a financial institution or person engaging in professions under section 16 (1) and (9) under the supervision of the competent authority.</p>

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	AMLO http://www.amlo.go.th/amlofarm/farm/en/index.php?lang=en
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 – 110,835 SARs</p> <p>GDP (in current prices): 2012 – USD365,966 million (Source: data.worldbank.org*)</p> <p>This results in a ratio of 1 SAR for every USD3.30 million of GDP.</p>

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>Yes. The financial institution has a duty to report the transaction to the Office when it appears that such a transaction is:</p> <ul style="list-style-type: none"> a) a transaction funded by an amount of cash equal or more than THB2 million. Except in the case of an electronic fund transfer transaction, the financial institution shall have the duty to report if the transaction is equal or more than THB100,000; b) a transaction connected with the property worth equal or more than THB5 million. Except in the case of movable property involving electronic fund transfer or payments, the financial institution shall have the duty to report if the transaction is equal or more than THB700,000; or c) a suspicious transaction; whether or not it is a transaction under a) or b). <p>The following designated non-financial businesses and professions shall have the duty to report the transaction to the Office when it appears that such transaction is funded by an amount of cash equal or more than THB2 million:</p> <ul style="list-style-type: none"> a) trader that is not a financial institution, engaging in the business involving the operation of or the consultancy or the provision of advisory services in a transaction relating to the investment or mobilisation of capital under the law on securities and stock exchange; b) trader dealing in the business of gems, diamonds, coloured stones, gold, or ornaments decorated with gems, diamonds, coloured stones, gold; c) trader dealing in the business of selling or leasing of cars; d) trader dealing in the business of immovable property broker or agent; e) trader dealing in the business of antiques traded under the law on Control of Sale by Auction and Antique Trade; or f) trader dealing in the business of credit cards that is not a financial institution under the Notification of the Ministry of Finance determining on credit cards or the law on financial institution business. <p>The following designated non-financial businesses shall have a duty to report a transaction to the Office when it appears that such transaction is funded by an amount of cash equal or more than THB500,000:</p> <ul style="list-style-type: none"> a) trader dealing in the business of personal loan under supervision for businesses that is not a financial institution under the Notification of the Ministry of Finance determining on Personal Loan Businesses under Supervision or under the law on financial institution business. <p>The following designated non-financial businesses shall have the duty to report a transaction to the Office when it appears that such transaction is funded by an amount of cash equal or more than THB100,000:</p> <ul style="list-style-type: none"> a) trader dealing in the business of electronic money cards that is not a financial institution under the Notification of the Ministry of Finance determining on electronic money cards or the law on financial institution business; or b) trader dealing in the business of electronic payment service under the law on the supervision of electronic payment service business.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Yes, see A20 above.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>Yes, any person who violates or does not comply with the AMLA regarding reporting and client identification shall be liable to a fine not exceeding THB500,000 and a daily fine not exceeding THB5,000 through the period of violation or until acting in accordance.</p> <p>Any person who reports or makes a notification by presenting false statements of fact or concealing the facts required to be revealed to the competent official shall be liable to imprisonment for a term not exceeding two years or to a fine of THB50,000 to THB500,000 or to both.</p>
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes, subject to approval from the Bank of Thailand as lead regulator under outsourcing notifications (for commercial banks under BOT supervision).

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	No specific Data Protection Law. For banks under supervision of the Bank of Thailand, Section 154 of the Financial Institutions Business Act prohibits the disclosure of customer information from financial institutions except under some specific circumstances.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes. Please see A29. For credit information that is obtained from the National Credit Bureau ("NCB"), database, financial institutions that are a member of the NCB can only use such credit information for the purpose of credit analysis and reviewing of credit, according to the Credit Information Protection Act. Hence, the transfer of such credit information is prohibited for other impermissible purposes.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Please see A29 and A30.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Other than normal clauses in the AML Act, please see obligations as mentioned in A29 and A30.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Taiwan's anti-money laundering legislation is embodied in The Money Laundering Control Act, 1996 (amended in 2003, 2006, 2007, 2008, and 2009). In 2012, the Executive Yuan made a publication to announce that the "Financial Supervisory Commission of Executive Yuan", which is responsible for the matters listed in Paragraph 2, Article 10 of the Money Laundering Control Act, shall be changed into "Financial Supervisory Commission". The major provisions of the Money Laundering Control Act include a list of predicate offences for money laundering, customer identification and record keeping requirements, disclosure of suspicious transactions, international cooperation, and the creation of a financial intelligence unit, the Anti-Money Laundering Division, Investigation Bureau, Ministry of Justice.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	There is no single unified rule-making, supervisory and enforcement government AML body in Taiwan. Different aspects of AML are handled by different authorities, such as: <ul style="list-style-type: none"> a) The Financial Supervisory Commission is in charge of adopting AML rules for financial institutions and for ongoing supervision; b) For AML issues concerning wire transfers, the Central Bank of Taiwan serves as a co-rule-making body along with the Financial Supervisory Commission; c) The Anti-Money Laundering Prevent Center of the Ministry of Justice, which serves as the financial intelligence unit of Taiwan, is in charge of receiving and compiling money laundering reports; and d) The prosecutors and courts are responsible for the prosecution of money laundering crimes.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Practical guidance is provided to financial institutions, including banks, credit cooperative associations, credit departments of farmers' (fishermen's) associations, securities brokers, life insurance companies and futures brokers. The website of the practical guidance is at http://www.mjib.gov.tw/mlpc/notice.htm
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No – however, financial institutions are required to re-validate a customer's identification, after the customer has opened an account, if one of the following conditions is met: <ul style="list-style-type: none"> a) the account is opened upon request for a third party; b) the financial institution becomes suspicious about the activities of the customer; or c) the customer opened the account by mail.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Taiwan has not been the subject of a FATF Mutual Evaluation since 2008. With respect to the IMF assessment, Taiwan was the subject of the "IMF Working Paper - A Quantitative Assessment of Financial Conditions in Asia" dated July 2011 (http://www.imf.org/external/pubs/ft/wp/2011/wp11170.pdf).

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Before a financial institution accepts a request of opening account, the financial institution is required to obtain two types of identification and to keep copies irrespective of transaction amounts.</p> <p>However, with respect to currency transactions carried out after the account is opened, the financial institutions referred to in the Money Laundering Control Act shall ascertain the identity of customer and keep the transaction records as evidence, and submit the financial transaction, the customer's identity and the transaction records to the Investigation Bureau, Ministry of Justice, for any currency transaction exceeding a certain amount of money (the "Minimum Transaction Threshold").</p> <p>The Minimum Transaction Threshold and the scope of the financial transaction, the procedures for ascertaining the identity of the customer, and the method and length of time for keeping the transaction records as evidence shall all be established by the central competent authorities governing target business in consultation with the Ministry of Justice and the Central Bank of the Republic of China. For banks, credit cooperative associations, credit departments of farmers' (fishermen's) associations, securities brokers and life insurance companies, the Minimum Transaction Threshold is TWD500,000 (or the equivalent in foreign currency).</p>
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: Where an individual applies to open an account, the teller shall, other than his/her identity card, obtain other document(s) which could verify his/her identity e.g. National Health Insurance Card, passport, driving license, student identity card, household registry book or household registry certificate. The teller should, at the same time, check with the Joint Credit Information Centre ("JCIC") or conduct an enquiry through the bank's own database on whether the individual is a politically exposed person in other countries. If yes, the teller should enforce proper control measures and conduct regular reviews on the account.</p> <p>Legal entities: Where a non-individual applies to open an account, the teller shall obtain certificates verifying incorporation registration, official documents or other supporting certificates and shall, in addition, obtain the minutes of its Board of Directors meeting, Articles of Incorporation or financial statements before approving the application to open an account. The registration license for incorporation of the company, if any, may serve to be the non-individual account representative's (or responsible person's) secondary identification certificates. In the case of opening an account for a company, if the company's registration license has been collected and the search and recording of the company's registration has been conducted by a financial organisation, it is not necessary to request the minutes of directors' meetings or other documents.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Original forms of identification are necessary as photocopies are not accepted.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	Financial institutions are required to exercise extraordinary diligence if the transaction of a customer meets, among other things, the situations where the end beneficiary or transaction counterparty is found to be a terrorist individual or entity as advised by a foreign government via the Financial Supervisory Commission, deemed by an international AML institution, or based on reasonable doubts.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>While customer identification verification and record-keeping are still required, banks are exempted from the requirement to report to the Investigation Bureau, Ministry of Justice for the following transactions (even if the amount is TWD500,000 or larger). However, the identity of customer shall still be ascertained and the transaction records shall still be kept as evidence:</p> <ol style="list-style-type: none"> a transaction (whether receivable or payable) conducted by a government entity, government corporation, an entity that exercises government power (within the consigned scope), a public/private school or a public utility and the funds prove to comply with the laws and regulations concerned of the government; an inter-bank transaction and fund arrangement: In the event a client of a fellow bank yields a payable amount through an inter-bank deposit account e.g. honouring a cheque issued by a fellow bank, the case shall still be handled as required if the transaction of a same client amounts to over the specific amount; the amounts paid by a national lottery dealer; transaction as payment collected for a third party (excluding the transaction in deposit of stock money for an earmarked account) where the payment note already expressly bears the name, identity card number (including the code which enables the search of the identity of the transaction counterpart), category and amount of the transaction. In such a case, a duplicate copy of the payment note shall be archived to verify the transaction; and in cases of non-individual accounts such as a department store, megastore, supermarket chain, gas station, hospital, clinic, transportation entity, hotel, restaurant, which must deposit cash amounting to over the specific amount regularly or routinely in line with business needs, the bank, while verifying the de facto needs, shall submit the name to the Investigation Bureau, Ministry of Justice for information. Declaration on a case-by-case basis may be dispensed with for such accounts unless the Investigation Bureau, Ministry of Justice responds on the contrary within ten days from receipt of the name list.

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Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	<ul style="list-style-type: none">a) for any currency transaction exceeding TWD500,000, financial institutions shall ascertain the identity of the customer, keep the transaction records as evidence and submit the financial transaction, the customer's identity and the transaction records to the Investigation Bureau and the Ministry of Justice.b) financial institutions are required to conduct enhanced due diligence measures where there is suspicion of money laundering or other illegal activities and in the case of wealth management customers.

Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	No specific requirements are necessary for PEPs.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Banks are required to: <ul style="list-style-type: none">a) gather sufficient information about a respondent institution to fully understand the nature of the respondent's business and to determine, from publicly available information, the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action;b) assess the respondent institution's AML controls, and ascertain that they are adequate and effective;c) obtain approval from senior management before establishing new correspondent relationships;d) document the respective AML responsibilities of each institution; ande) where a correspondent relationship involves the maintenance of 'payable-through accounts', it is necessary to identify the correspondent bank has strictly identified the customer's identity and be able to provide the relevant identity information if necessary.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Banks are prohibited from establishing a correspondent relationship with any shell banks or any foreign financial organisations permitting any shell banks to use their account.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Banks are required to implement procedures that allow them to verify customer identity on non-face-face transactions just as effectively as they do on transactions conducted in person.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Financial Intelligence Unit ("FIU"), the Anti-Money Laundering Division, Investigation Bureau, Ministry of Justice: http://www.mjib.gov.tw/mlpc/download-1.htm .

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 6,137 SARs (reported by financial institutions to the Investigation Bureau, Ministry of Justice) GDP (in current prices): 2012 - USD473.97 billion (http://www.tradingeconomics.com/taiwan/gdp) This results in a ratio of 1 SAR for every USD77.2 million of GDP.

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>Yes. The items other than suspicious transactions required to be reported are as follows:</p> <ul style="list-style-type: none"> a) any currency transaction exceeding a certain amount of money (the "Threshold"). For banks, credit cooperative associations, credit departments of farmers' (fishermen's) associations, securities brokers and life insurance companies, the Threshold is TWD500,000 (or the equivalent in foreign currency); and b) passengers or service crew on board who cross the border with the carrier and carry the following items shall make declarations to customs: <ul style="list-style-type: none"> a. Cash of foreign currency with total amount exceeding a certain amount (USD10,000); b. Negotiable securities with a face value exceeding a certain amount (USD10,000). <p>Customs shall report subsequently to the Investigation Bureau, Ministry of Justice.</p>

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Yes. Any non-suspicious currency transaction below TWD500,000.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>Yes.</p> <ul style="list-style-type: none"> a) Any financial institution not reporting any currency transaction exceeding TWD500,000, as required by relevant laws and regulations, shall be punished by a fine between TWD200,000 and TWD1 million; b) Any financial institution not reporting any suspicious transaction shall be punished by a fine between TWD200,000 dollars and TWD1 million. However, if the violating financial institution is able to prove that the cause of such violation is not attributable to the intentional act or negligent act of its employee(s), no fine shall be imposed.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	In respect of the internal controls of a financial institution, any suspicious transaction shall be reported to vice-CEO or the same level personnel.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Taiwan is a member of the Egmont Group and The Asia/Pacific Group on Money Laundering. Taiwan has cooperated with some countries to investigate AML matters.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	<p>If an external report on the bank's AML systems and controls is required:</p> <ul style="list-style-type: none"> a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	<p>What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require:</p> <ul style="list-style-type: none"> a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: <ol style="list-style-type: none"> does the definition of "personal data" cover material likely to be held for KYC purposes? how do the laws apply to corporate data? does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Personal Information Protection Act was amended on May 26, 2010 in Taiwan. <ol style="list-style-type: none"> Yes. For example, name, ID card number, passport number, criminal records, financial condition, and medical data; The Act only regulates personal data. Thus, corporate data is not applicable; No.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	<p>Criminal records and medical data shall not be used with the exceptions of the following:</p> <ol style="list-style-type: none"> when in accordance with law; when it is necessary for the government agency to perform its duties or for the non-government agency to fulfil the legal obligation, and when there are proper security measures; when the individual has disclosed such information by himself, or when the information concerned has been publicised legally; and when the personal information is collected, processed or used under certain methods by a government agency or an academic research institution based on the purpose of medical treatment, personal hygiene or crime prevention statistics and/or study. <p>For a government agency, credit reports shall be used in accordance with the scope of its job functions provided by laws and regulations, and in compliance with the specific purpose of collection. However, the information may be used outside the scope upon the occurrence of one of the following conditions:</p> <ol style="list-style-type: none"> where in accordance with law; where it is for national security or to promote public interests; where it is to prevent harm on the life, body, freedom or property of the individual; where it is to prevent harm on the rights and interests of other people; where it is necessary for public interests on statistics or the purpose of academic research conducted by a government agency or an academic research institution, respectively. The information may not lead to the identification of a certain person after the treatment of the provider or the disclosure of the collector; where such use may benefit the individual; or a written consent of the individual has been obtained. <p>For a non-government agency, credit reports shall be used in accordance with the scope of the specific purpose of collection provided. However, the information may be used outside the scope upon the occurrence of one of the following conditions:</p> <ol style="list-style-type: none"> where in accordance with law; where it is to promote public interests; where it is to prevent harm on the life, body, freedom or property of the individual; where it is to prevent harm on the rights and interests of other people; where it is necessary for public interests on statistics or the purpose of academic research conducted by a government agency or an academic research institution, respectively. The information may not lead to the identification of a certain person after the treatment of the provider or the disclosure of the collector; or where a written consent of the individual has been obtained.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2001 (amended 2005, with stricter customer due diligence and money laundering regulations implemented in 2007).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	<p>Under the 2005 amendment, responsibility for customer due diligence and filing of Cash Transaction Reports ("CTRs") was imposed. Customer due diligence has been self-controlled by each financial institution and is now compulsory in the 2007 regulations.</p> <p>In 2013, the requirement to report a specific amount of financial transactions as Suspicious Transaction Reports ("STR's") was abolished. In the case of sending money through Wire, financial institutions should report related information to KoFIU.</p>
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	Korea Financial Intelligence Unit ("KoFIU") http://www.kofiu.go.kr/ is the AML regulator for financial institutions.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Yes. KoFIU has been provided guidelines for regional AML Requirements (http://www.kofiu.go.kr/KOFIU/korean/sub03/law02_view.jsp?mm=3&sm=2&srl_no=11).
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes - the amendments made in 2007 require entities to retrospectively verify the identity of high risk customers only.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - prior to the 2007 amendments of the AML regulations, a risk based approach to customer due diligence was optional. Under the 2007 amendments, a risk based approach is compulsory and guidelines have been prepared.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>No – in 2009, Korea has been the subject of a FATF Mutual Evaluation. Relevant report is available at the FATF Website (http://www.fatf-gafi.org/infobycountry/0.3380.en_32250379_32236963_1_70555_43383847_1_1.00.html).</p> <p>There is a plan to have a mutual assessment in 2016.</p>

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	The minimum thresholds for occasional transactions under which customer due diligence is not required are as follows: a) USD5,000 or equivalent in the case of a transaction in a foreign currency; and b) KRW10,000,000. Transactions less than KRW10,000,000 should be aggregated over 7 days. If the aggregated amount exceeds this threshold, customer due diligence should be conducted.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Individual (including agent): Name, identification number, date of birth, nationality, address and contact (phone number, email address). Profit organisation: Corporate name, registration number, category of business, address, contact and name of owner. Non-profit organisation or others: Organisation name, registration number, category of business, address of headquarters and branches, contacts and name of owner.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	None stated in local regulations or guidance.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	If any suspicious fact about a beneficial owner is detected from a transaction, the regulations advise that the identity of the person and the purpose of the transaction be obtained, although there is no detailed guidance on this. Identification and verification processes of customers have been strengthened in the updated regulations and guidance, including verification of beneficial ownership.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	The revision to regulations in 2005 allows for some exceptions as follows: a) cash payments and receipts between financial institutions; b) cash payments and receipts with the central and provincial governments and public institutions; and c) cash payments and receipts that are prescribed in the presidential decree because the transactions have no risk of money laundering. Simplified due diligence has been included in the updated regulations and guidance.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	The updated regulations recommend that enhanced customer due diligence is applied in respect of customers that fall into major high risk categories specified by the FATF, such as PEPs, private banking, correspondent banking and terrorist facilitators/financiers.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	The updated regulations recommend that enhanced customer due diligence is applied to overseas PEPs.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	The updated regulations recommend that enhanced due diligence is performed for correspondent banking relationships.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

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Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Financial institutions must ensure that all electronic financial services and products, such as ATM transactions, internet banking and telephone banking, are based on accounts established through face-to-face identification. Financial institutions must also have policies and procedures in place to address any specific risks associated with non face-to-face transactions, and must implement them when establishing new business relationships and conducting ongoing customer due diligence.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Suspicious activity reports are made to KoFIU (http://www.kofiu.go.kr).

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs 2011 – 329,463 SARs (KoFIU) Comparative GDP data is not available for this period.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes – financial institutions in Korea have obligations for Currency Transaction Reports (“CTRs”), which is the requirement for reporting transaction above KRW20,000,000 to KoFIU.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes – imprisonment for a period not exceeding 1 year or a fine not exceeding KRW5 million per individual responsible for SAR reporting.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.- recommend to apply a transaction monitoring system.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Yes – on transaction monitoring progress, linked or individual transactions identified as suspicious should be reported to KoFIU.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes – Local AML regulations prohibit SARs to be reported outside of Korea. Also, transferring information of individual and financial transaction is prohibited by Korean Real Name Act.

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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes – a), b), and c) are protected by Personal Protection Information Act.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Yes.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Yes.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	1993.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	(a) & (b) AML is regulated by the Monetary Authority of Singapore ("MAS"). Please refer to link: http://www.mas.gov.sg/en/Regulations-and-Financial-Stability/Regulatory-and-Supervisory-Framework/Anti-Money-Laundering-and-Countering-the-Financing-of-Terrorism.aspx (c) AML is regulated by the Casino Regulatory Authority for casinos, and generally, by the Commercial Affairs Department of Singapore. Please refer to the respective links: http://app.cra.gov.sg/public/www/content.aspx?sid=42 and http://www.cad.gov.sg/content/cad/en/aml-cft/suspicious-transaction-reporting-office--stro-.html
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulatory-and-Supervisory-Framework/Anti-Money-Laundering-and-Countering-the-Financing-of-Terrorism/Notices-and-Guidelines.aspx?sc_q=finance%20companies&sc_type=Filter%20by%20category&sc_p=1 http://www.mas.gov.sg/News-and-Publications/Consultation-Paper/2012/Consultation-Paper-on-Designation-of-Tax-Crimes-as-Money-Laundering-Predicate-Offences-in-Singapore.aspx (MAS' designation of tax crimes as money laundering predicate offences in Singapore) http://app.cra.gov.sg/public/www/content.aspx?sid=42 http://www.cad.gov.sg/content/cad/en/publications/cad-anti-money-laundering-and-counter-terrorism-financing-handb.html
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	<p>Yes. FATF Mutual Evaluation undertaken in February 2008. 2nd follow-up report was performed in February 2011. http://www.fatf-gafi.org/media/fatf/documents/reports/mer/FoR%20Singapore.pdf</p> <p>In October 2013, Singapore launched a National Risk Assessment ("NRA") to comprehensively assess money laundering and terrorist financing risks in the country. This is in line with the revised FATF standards which expects countries to identify and assess money laundering and terrorist financing risks, and to keep the assessment up-to-date. Please refer to the link: http://www.mas.gov.sg/News-and-Publications/Press-Releases/2013/Singapore-National-Risk-Assessment-on-Money-Laundering-and-Terrorist-Financing-Risks.aspx</p>

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Customer due diligence is required. However the extent of due diligence performed may vary based on the risk. For example, in respect of simplified customer due diligence, the regulation states that a bank may perform such simplified customer due diligence measures as it considers adequate to effectively identify and verify the identity of the customer, a natural person appointed to act on the customer's behalf and any beneficial owner, if it is satisfied that the risks of money laundering and terrorist financing are low (certain conditions apply).
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Requirement to identify and verify customers, natural persons appointed to act on a customer's behalf and beneficial owners. This includes <ol style="list-style-type: none"> verification using reliable, independent sources; and retaining copies of all reference documents used to verify the identity of these persons.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Where the customer provides copies and not original identification documents, financial institutions may consider accepting documents that are certified to be true copies by qualified persons.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>There are requirements to take reasonable measures to understand the ownership and control structure of the customer, and enquire if any beneficial owner exists in relation to a customer.</p> <p>Where there is one or more beneficial owner (s) in relation to a customer, the financial institution needs to take reasonable measures to obtain information sufficient to identify and verify the identities of the beneficial owner (s).</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Financial institutions may perform simplified customer due diligence measures it considers adequate to effectively identify and verify the identity of the customer, a natural person appointed to act on the customer's behalf and any beneficial owner, if it is satisfied that the risks of money laundering and terrorist financing are low.</p> <p>However simplified customer due diligence arrangements are not allowed in certain circumstances, such as:</p> <ol style="list-style-type: none"> where the customer originates from or is based in a country/jurisdiction known to have inadequate AML/CFT measures; and/or where the financial institution suspects that money laundering or terrorist financing is involved.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	<p>Enhanced customer due diligence measures are required to be taken in situations such as:</p> <ol style="list-style-type: none"> when dealing with PEPs; when dealing with types of customers, business relations or transactions the financial institution assesses to present a higher risk for money laundering and terrorist financing; and when dealing with business relations and transactions with any person originating from or based in countries and jurisdictions known to have inadequate AML/CFT measures.

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Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	In all circumstances.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Generally, a bank shall satisfy itself of the money laundering risks and perform the following: a) assessing the suitability of the respondent bank; b) documenting the respective AML/CFT responsibilities of each bank; and c) obtaining approval from the bank's senior management to provide new correspondent banking services.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Prohibited to enter into or continue correspondent banking relations with a shell bank.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Where there is no face-to-face contact, the financial institution is required to carry out customer due diligence measures that are as stringent as those that would be required to be performed if there were face-to-face contact.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website?
A18.	Suspicious Transaction Reports (STRs) are reported to Commercial Affairs Department of Singapore - http://www.cad.gov.sg/content/cad/en/aml-cft/suspicious-transaction-reporting-office--stro-/suspicious-transaction-reporting.html
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year?
A19.	Volume of SARs: 2011 – 13,557 SARs GDP (in current prices): 2011 – USD245,024 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD18.07 million of GDP.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Reporting to Commercial Affairs Department of Singapore is made based on unusual transactions and transactions beyond certain threshold.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	There is no de-minimis threshold. The emphasis is on the suspicious nature of the transaction rather than the quantum.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes.

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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
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A23.	No.
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Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
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A24.	Yes. Under the Terrorism (Suppression of Financing) Act (Chapter 325), every person who provides financial services, knowing or having reasonable grounds to believe that they will be used, for the purpose of facilitating or carrying out any terrorist act, or for benefiting any person who is facilitating or carrying out such activity, shall be guilty of an offence. Financial institutions may apply to the Minister for an exemption, subject to various conditions being met.
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Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
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A25.	Yes but subject to compliance with conditions and restrictions.
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AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
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A26.	No.
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Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
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A27.	N/A
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Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
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A28.	N/A
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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
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A29.	Yes, data protection laws were introduced in 2012 under the Personal Data Protection Act ("PDPA"). The PDPA protects "personal data" in relation to individuals. As such, personal data would cover material likely to be held for KYC purposes. All customer data, including corporate data, are subject to banking secrecy laws and regulations.
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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
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A30.	There are banking confidentiality provisions under MAS requirements which protect customers' information. Customers' information may only be disclosed to specified parties under certain conditions. For example, to auditors in their annual audit of the bank, and under Singapore's Exchange of Information framework with its tax agreement partners etc.
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Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Singapore's legal system is based on the English common law system. Apart from referring to written laws, the Courts may refer to case law or decisions, including taking guidance from those of Commonwealth jurisdictions such as Australia and Canada.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes. As stated above, there are banking confidentiality provisions under MAS requirements which protect customers' information.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Philippine Republic Act ("R.A.") No. 9160 otherwise known as The Anti Money Laundering Act of 2001 ("AMLA") was signed into law on 29 September 2001 and took effect on 17 October 2001. The Implementing Rules and Regulations took effect on 2 April 2002. On 7 March 2003, R.A. No. 9194 (An Act Amending R.A. No. 9160) was signed into law and took effect on 23 March 2003. The revised Implementing Rules and Regulations took effect on 7 September 2003. R.A. 10365, which amends certain provisions of R.A. 9160, was signed into law on 15 February 2013 and took effect on 19 April 2013.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	The Anti Money Laundering Council ("AMLC") of the Philippines - http://www.amlc.gov.ph/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	"Anti Money Laundering Act (AMLA) at a Glance" summary: http://www.amlc.gov.ph/amla.html The Bangko Sentral ng Pilipinas ("BSP"; local central bank) issues "Key Prudential Regulations" on Money Laundering for bank and non-bank financial institutions regulated by the BSP: http://www.bsp.gov.ph/regulations/key_aml.asp

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Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	<p>None.</p> <p>It should be noted that under R.A. 9160, only Covered Institutions are mandated by the AMLA to submit covered and suspicious transaction reports to the AMLC. These are:</p> <ol style="list-style-type: none"> a) banks and all other entities, including their subsidiaries and affiliates, supervised and regulated by the BSP (or Philippine Central Bank); b) insurance companies and all other institutions supervised or regulated by the Insurance Commission; and c) securities dealers, "pre-need" companies, foreign exchange corporations and other entities supervised or regulated by the Philippine Securities and Exchange Commission. <p>In addition to the above list per R.A. 9160, Covered Institutions under R.A 10365 now also include the following:</p> <ol style="list-style-type: none"> a) jewellery dealers in precious metals and stones for transactions in the amount of PHP 1 million and above; b) company service providers which, as a business, provide any of the following services to third parties: <ol style="list-style-type: none"> a. acting as a formation agent of juridical persons; b. acting as a director or corporate secretary of a company, a partner of partnership, or a similar in relation to other juridical persons; c. providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal persons or arrangements; and d. acting as a nominee shareholder for another person. c) Persons who provide any of the following services: <ol style="list-style-type: none"> a. managing of client money, securities or other assets; b. management of bank, savings or securities accounts; c. organization of contributions for the creation, operation or management of companies; and d. creation, operation or management of juridical persons or arrangements, and buying and selling business entities. <p>Only Covered Institutions are required to establish and record the true identity of their clients based on official documents. They shall maintain a system of verifying their legal existence and organisational structure, as well as the authority and identification of all persons purporting to act on their behalf. Covered Institutions shall establish appropriate systems and methods based on internationally compliant standards and adequate internal controls for verifying and recording the true and full identity of their customers.</p>

Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	None stated in local regulations or guidance.

Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	None. The AMLA defines "covered transactions" as single transactions in cash or other equivalent monetary instruments involving a total amount in excess of PHP500,000 within one banking day, except for jewellery dealers in precious metals and stones who are required to report a single transaction equal to PHP1 million or above. But regardless of whether these are covered transactions, the establishment and recording of the true identity of clients of Covered Institutions would cover all their clients.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: The following minimum information/documentation shall be obtained from individual customers: name; present address; permanent address; date and place of birth; nationality; nature of work and name of employer or nature of self-employment/business; contact numbers; tax identification number, social security system number or government services and insurance system number; specimen signature; source of funds; and names of beneficiaries in cases of insurance contracts.</p> <p>Corporate and Judicial Entities: The following minimum information/documentation shall be obtained from customers that are corporate or judicial entities, including shell companies and corporations: articles of incorporation/partnership; by-laws; official address or principal business address; list of directors/partners; list of principal stockholders owning at least 2% of the capital stock; contact numbers; beneficial owners, if any; and verification of the authority and identification of the person purporting to act on behalf of the client.</p>

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Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Individuals: Covered Institutions shall require customers to produce original documents of identity issued by an official authority, bearing a photograph of the customer. Examples of such documents are identity cards and passports.</p> <p>Corporate/Judicial Entities: Before establishing business relationships, Covered Institutions shall endeavour to ensure that the customer is a corporate or judicial entity which has not been or is not in the process of being dissolved or wound up, or that its business or operations have not been or are not in the process of being closed, shut down, phased out, or terminated.</p> <p>Applicable to all types: No new accounts shall be opened and created without face-to-face contact and full compliance with the above mentioned requirements.</p> <p>Though it is not defined in the local regulations or guidance, as a common business practice, banks and other institutions require copies of original documents to be certified as true copies by the issuing agency (e.g. copies of Articles of Incorporation/Partnership should be certified by the Securities and Exchange Commission), or by an independent lawyer or public notary (in the case of certifications and affidavits issued by an individual).</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>When dealing with customers who are acting as trustee, nominee, agent or in any capacity for and on behalf of another, Covered Institutions shall verify and record the true and full identity of the person(s) on whose behalf a transaction is being conducted.</p> <p>Covered Institutions shall retain accounts only in the true and full name of the account owner or holder. The provisions of existing Philippine laws regarding anonymous accounts, accounts under fictitious names, and all other similar accounts shall be prohibited.</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	None stated in local regulations or guidance.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	None stated in local regulations or guidance.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	None stated in local regulations or guidance.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Nothing specific mentioned in local regulations or guidance for due diligence procedures performed for correspondent banking relationships.</p> <p>Nonetheless, when dealing with customers who are acting as trustee, nominee, agent or in any capacity for and on behalf of another, Covered Institutions shall verify and record the true and full identity of the person(s) on whose behalf a transaction is being conducted.</p>
Q16.	Are relationships with shell banks specifically prohibited?
A16.	No – however dealings with shell companies and corporations, being legal entities which have no business substance in their own right, but through which financial transactions may be conducted, should be undertaken with extreme caution.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>No new bank accounts shall be opened and created without face-to-face contact and full compliance with the above mentioned requirements.</p> <p>In case a Covered Institution has doubts when dealing with customers who are acting as trustee, nominee, agent or in any capacity for and on behalf of another, that they are being used as dummies in circumvention of existing laws, they shall immediately make the necessary inquiries to verify the status of the business relationship between the parties.</p>

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Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	AMLC: http://www.amlc.gov.ph/assistance.html
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	<p>Covered transactions are single transactions in cash or other equivalent monetary instruments involving a total amount in excess of PHP500,000 within one banking day, except for jewellery dealers in precious metals and stones which requires to report a single transaction amounting to PHP1 million and above.</p> <p>Suspicious transactions are transactions with covered institutions, regardless of the amounts involved, where any of the following circumstances exists:</p> <ul style="list-style-type: none">a) there is no underlying legal/trade obligation, purpose or economic justification;b) the client is not properly identified;c) the amount involved is not commensurate with the business or financial capacity of the client;d) the transaction is structured to avoid being the subject of reporting requirements under the AMLA;e) there is a deviation from the client's profile/past transactions;f) the transaction is related to an unlawful activity/offense under the AMLA; and/org) transactions similar or analogous to the above. <p>The Land Transportation Authority and all its Registries of Deeds are required to submit to AMLC report on all real estate transactions involving an amount in excess of PHP500,000.</p>
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Refer to A20 above.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>Failure to keep records is committed by any responsible official or employee of a covered institution who fails to maintain and safely store all records of all transactions of the institution, including closed accounts, for five years from the date of the transaction/closure of the account. The penalty is 6 months to 1 year imprisonment or a fine of not less than PHP100,000 but not more than PHP500,000, or both.</p> <p>Malicious reporting is committed by any person who, with malice or in bad faith, reports/files a completely unwarranted report or false information relative to money laundering transaction against any person. Penalty is 6 months to 4 years imprisonment and a fine of not less than PHP100,000 but not more than PHP500,000, at the discretion of the court. The offender is not entitled to avail the benefits of the Probation Law.</p> <p>If the offender is a corporation, association, partnership or any judicial person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or allowed by their gross negligence, the commission of the crime.</p> <p>If the offender is a judicial person, the court may suspend or revoke its license.</p> <p>If the offender is an unknown, he shall, in addition to the penalties prescribed, be deported without further proceedings after serving the penalties prescribed.</p> <p>If the offender is a public official or employee, he shall, in addition to the penalties prescribed, suffer perpetual or temporary absolute disqualification from office, as the case may be.</p> <p>Breach of confidentiality: When reporting covered or suspicious transactions to the AMLC, covered institutions and their officers/employees are prohibited from communicating directly or indirectly, in any manner or by any means, to any person/entity/media, the fact that such report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned official and employee of the covered institution shall be criminally liable. Neither may such reporting be published or aired in any manner or form by the mass media, electronic mail or other similar devices. In case of a breach of confidentiality published or reported by media, the responsible reporter, writer, president, publisher, manager and editor-in-chief shall also be held criminally liable. Penalty is 3 to 8 years imprisonment and a fine of not less than PHP500,000 but not more than PHP1 million.</p>

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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No, however, covered institutions are required to register with the AMLC and enrol in the online transactions reporting module and covered/suspicious transaction reports module: http://www.amlc.gov.ph/archive.html#Registration Detailed guidance can be found here: http://www.amlc.gov.ph/archive/Reporting%20Procedures.pdf

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Authority to inquire into Bank Deposits: Notwithstanding the provisions of R.A. 1405 (Law on Secrecy of Bank Deposits), as amended, R.A. No. 6426, as amended, R.A. No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution upon order of any competent court in cases of violation of this act when it has been established that there is probable cause that the deposits/investments are involved/related to an unlawful activity as defined in Sec. 3(i) of the AMLA or a money laundering offense under Sec. 4 thereof; except that no court order shall be required in cases involving kidnapping for ransom; drug trafficking and related offenses; and hijacking, destructive arson and murder, including those perpetrated by terrorists against non-combatant persons and similar targets.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	None.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: <ol style="list-style-type: none"> a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	<p>The Data Protection Act (Republic Act [RA] 10173) was signed into law last August 15, 2012. It protects the integrity and confidentiality of individual personal information and communications systems in the government and the private sector, by penalising the unauthorised disclosure of personal information. It specifically exempts, however, information necessary for banks and financial institutions as part of anti-monetary laundering efforts, and personal data processed by central monetary authorities and law enforcement and regulatory agencies, among others</p> <ol style="list-style-type: none"> a) Personal data as defined under Section 3(g) of RA 10173 refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual. From the definition it likely covers information used for KYC purposes, and the specific exemption only applies to agencies, etc that are implementing anti-money laundering laws. b) There is no specific provision in the Data Protection law that covers corporate data. However, it provides that processing of personal information is regulated by the law and applies to natural and juridical persons involved in personal information processing. c) The Data Protection law likewise provides a separate definition for "sensitive personal information" such that it refers to personal information: <ol style="list-style-type: none"> a. About an individual's race, ethnic origin, marital status, age, colour, and religious, philosophical or political affiliations; b. About an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings; c. Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and d. Specifically established by an executive order or an act of Congress to be kept classified. <p>Lawful processing of personal information is allowed under the law, subject to certain conditions and requirements that must be complied with. On the other hand, processing of sensitive personal information is prohibited, except under specific exempt circumstances as provided under Section 13 of the Act. There is also a higher penalty imposed for unlawful processing of sensitive personal information (imprisonment ranging from 3 years to 6 years, and a fine of PHP500,000 to a maximum of PHP4,000,000).</p>
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	<p>Transfer of credit records by duly authorised entities to non-authorised ones is regulated and prohibited, unless written consent or authorisation is obtained (See RA 9510, An Act Establishing the Credit Information System).</p> <p>As regards criminal records and medical data, there are no specific provisions addressing these specific types of information/reports, other than those mentioned falling within the ambit of personal information and sensitive personal information. (Sections 3(g) and 3(l), RA 10173).</p>
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Additionally, transfer of information is likewise restricted and subject to the provisions of Presidential Decree (PD) No 1718, issued in 1980, that restricts the transfer of information vital to Philippine national interests, to foreign jurisdictions. In this regard, prior approval from the Office of the President of the Philippines must first be obtained before any such transfer is made.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes, the Philippines has a Bank Secrecy Law (RA 1405), which provides that all deposits with banks or banking institutions in the Philippines are considered confidential, and may only be inquired into and examined, only upon written permission of the depositor, or upon order of the courts.



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Last updated:

January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The Anti Money Laundering Act was enacted in March 2010 after its approval by the Parliament of Pakistan. In addition, local banking regulator State Bank of Pakistan ("SBP") has issued detailed AML and CFT regulations, together with guidelines on risk based approach in 2012. The following is the link to these guidelines: http://www.sbp.org.pk/bprd/2012/C2.htm
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	Before issuance of the AML Act in 2010, the AML Ordinance was issued in 2007 by the President of Pakistan.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	The SBP is the regulator for AML controls for banking and related services while the Securities and Exchange Commission ("SECP") is the regulator for all other entities. http://www.sbp.org.pk/ , http://www.secp.gov.pk/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The SBP has issued detailed guidelines on AML/CFT regulations, together with guidelines on risk based approach. The following is a link to these guidelines: http://www.sbp.org.pk/bprd/2012/C2.htm
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Yes.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes. SBP has issued detailed guidelines on AML/CFT regulations, together with guidelines on the risk based approach. The following is a link to these guidelines: http://www.sbp.org.pk/bprd/2012/C2.htm . These contain detailed instructions on quantification of risk through a defined risk matrix, specific risk profiling of customers, specific high risk elements and recommendations for EDD, general high-risk scenarios/factors and general low risk scenarios/factors.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	Yes –performed by Asia Pacific Group on Money Laundering – Mutual Evaluation Report dated 09/07/2009. http://www.apgml.org/documents/default.aspx?s=date&c=7&pcPage=4

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No threshold is defined in the AML Act 2010. However, organisations have defined their own internal monetary thresholds.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>As per SBP AML/CFT Regulations (para 3 of Regulation 1: Customer Due Diligence), for identity and due diligence purposes, at the minimum, the following information shall also be obtained, verified and recorded on KYC/CDD form or account opening form:</p> <ul style="list-style-type: none"> a) Full name as per identity document; b) CNIC/Passport/NICOP/POC/ARC number or where the customer is not a natural person, the registration/incorporation number or business registration number (as applicable); c) Existing residential address, registered or business address (as necessary), contact telephone number(s) and e-mail (as applicable); d) Date of birth, incorporation or registration (as applicable); e) Nationality or place of birth, incorporation or registration (as applicable); f) Nature of business, geographies involved and expected type of counter-parties (as applicable); g) Purpose of account; h) Type of account; i) Source of earnings; j) Expected monthly credit turnover (amount and no. of transactions); and k) Normal or expected modes of transactions. <p>In addition, there are defined documentation requirements to be fulfilled in relation to different categories of customers. For details please refer to Annexure I of SBP AML/CFT Regulations pages 18-21: http://www.sbp.org.pk/bprd/2012/C2.htm .</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Banks/Development Finance Institutions ("DFIs") shall ensure that the Computerised National Identity Card ("CNIC") and the photograph are for the same person whose account is being opened with them. The particulars/CNIC of such persons must be confirmed from the National Database Registration Authority ("NADRA") in writing or through its 'VeriSys' system by the bank/DFI.</p> <p>As per paragraph 4 of Regulation 1 of SBP AML/CFT regulations, the Bank/DFI shall verify identity documents of the customers from relevant authorities/document issuing bodies and where necessary using other reliable, independent sources and retain on record copies of all reference documents used for identification and verification. The verification shall be responsibility of concerned bank/DFI for which the customer should neither be obligated nor the cost of such verification be passed on to the customers.</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>As per paragraphs 7 and 8 of Regulation 1 of SBP AML/CFT regulations:</p> <p>In case of beneficial owner(s) in relation to a customer, reasonable measures shall be taken to obtain information to identify and verify the identities of the beneficial owner(s).</p> <p>Where the customer is not a natural person, the bank/DFI shall (i) take reasonable measures to understand the ownership and control structure of the customer for obtaining information required under Para 9 below and (ii) determine that the natural persons who ultimately own or control the customer.</p>
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Detailed guidelines are available in section F of SBP AML/CFT Guidelines on Risk Based Approach (paragraphs 7-9) on general low risk scenarios/factors and their disposition.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	<p>Section D of SBP AML/CFT Guidelines on Risk Based Approach (paragraph 4) provides specific high risk elements and recommendations for EDD such as NPOs, NGOs, charities, associations, house wife accounts, landlords, proprietorships, self employed professionals, landlords, on-line transactions, cash, wire transfers etc. These elements/factors are bifurcated into customers, products and services and delivery channels with EDD measures specified against each of the above-mentioned elements/factors.</p> <p>Paragraph 5 specifies general high-risk scenarios and factors, bifurcated into products, delivery channels and geographies or locations etc with examples and the EDD measures to be employed.</p>

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Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Paragraph 30 of Regulation 1 of the SBP AML/CFT regulations covers in detail the treatment for PEPs. In relation to PEPs and their close associates or family members, banks/DFIs shall: <ul style="list-style-type: none">a) implement appropriate internal policies, procedures and controls to determine if a customer or beneficial owner is a PEP;b) obtain approval from the bank's senior management to establish or continue business relations where the customer or a beneficial owner is a PEP or subsequently becomes a PEP;c) establish, by appropriate means, the sources of wealth or beneficial ownership of funds; including obtaining a self-declaration to this effect; andd) conduct during the course of business relations, enhanced monitoring of business relations with the customer.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Regulations 2 of SBP AML/CFT regulations cover this topic in detail.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes – As per Regulation 2 of SBP AML/CFT regulations (paragraph 4), No bank/DFI shall enter into or continue correspondent banking relations with a shell bank and shall take appropriate measures when establishing correspondent banking relations, to satisfy them that their respondent banks do not permit their accounts to be used by shell banks.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	In dealing with non face-to-face/online customers, adequate measures should be in place e.g. independent verification by a reliable third party, client report from the previous bank/DFI of the customer etc.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	For banking organisations, to the local regulator i.e. State Bank of Pakistan. http://www.sbp.org.pk/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	As per paragraph 7 of Regulation 4 of SBP AML/CFT regulations: "Banks/DFIs should note that STRs, including attempted transactions, should be reported regardless of the amount of the transactions; and, the CTRs should be reported above the threshold of PKR2.5m as per requirements of AML Act."

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	No.

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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Yes by SBP. The following are extracts from SBP AML/CFT Regulation No. 4 (paragraph 5): Banks/DFIs are advised to make use of technology and upgrade their systems and procedures in accordance with the changing profile of various risks. Accordingly, all banks/DFIs are advised to implement automated Transaction Monitoring Systems (TMS) capable of producing meaningful alerts in real time, based on pre-defined parameters/thresholds and customer profile, for analysis and possible reporting of suspicious transactions. Further, banks/DFIs shall establish criteria in their AML/CFT Policies for management of such alerts.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	There are no specific laws on data protection except for certain data confidentiality clauses in specific arrangements/ transactions/ account types under the Banking Companies and Economic Reforms Act.

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	None except for those specified above.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	None except for those specified above.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation?) If so, what data is subject to regulation?
A32.	None except for those specified above.



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January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	While the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ("AMLCFTA") was passed in 2009, the AMLCFTA did not fully come into effect until 30/06/2013. Regulations to the Act were gazetted on 30 June 2011.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	The previous regime was captured under the Financial Transactions Reporting Act 1996 ("FTRA"). Lawyers remain subject to the obligations in the FTRA.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	<ul style="list-style-type: none"> a) The Reserve Bank of New Zealand for banks, life insurers, and non-bank deposit takers: http://www.rbnz.govt.nz/ ; b) The Financial Markets Authority for issuers of securities, trustee companies, futures dealers, collective investment schemes, brokers, and financial advisers: http://www.fma.govt.nz/ ; c) The Department of Internal Affairs for casinos, non-deposit-taking lenders, money changers, and other reporting entities that are not covered by a) or b): http://www.dia.govt.nz/ .
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>AML Programme guideline: http://www.dia.govt.nz/Pubforms.nsf/URL/AMLCFT-Programme-Guideline_FINAL_12-December-2011.pdf/\$file/AMLCFT-Programme-Guideline_FINAL_12-December-2011.pdf</p> <p>AML Risk Assessment guideline: http://www.dia.govt.nz/Pubforms.nsf/URL/AMLCFT_RiskAssessmentGuidelineFINAL_14June2011.pdf/\$file/AMLCFT_RiskAssessmentGuidelineFINAL_14June2011.pdf</p> <p>Interpreting "Ordinary course of business": http://www.dia.govt.nz/Pubforms.nsf/URL/AMLCFT_OrdinaryCourseofBusinessGuideline_FINAL.pdf/\$file/AMLCFT_OrdinaryCourseofBusinessGuideline_FINAL.pdf</p> <p>Amended Identity Verification Code of Practice: http://www.dia.govt.nz/pubforms.nsf/URL/AMLCFT_Amendment-to-IDVCOP-2013-FINAL-October-2013.pdf/\$file/AMLCFT_Amendment-to-IDVCOP-2013-FINAL-October-2013.pdf</p> <p>Auditing guideline: https://www.fma.govt.nz/media/1339626/guideline_for_audits_of_risk_assessments_and_aml_cft_programmes.pdf</p> <p>Countries Assessment Guideline: http://www.dia.govt.nz/pubforms.nsf/URL/AMLCFT_CAG_July2012.pdf/\$file/AMLCFT_CAG_July2012.pdf</p>
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	<p>Under the AMLCFTA reporting entities are required to re-verify existing customers where there is both a material change in the nature or purpose of the business relationship and the reporting entity considers that it has insufficient information on that customer.</p> <p>For anonymous accounts, a reporting entity is required to undertake standard customer due diligence when it becomes aware of existing anonymous accounts regardless of whether a material change in the nature or purpose of the business relationship has occurred.</p>
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	The AMLCFTA requires a risk based approach.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	An FATF Mutual evaluation Report was produced in October 2009. http://www.fatf-gafi.org/documents/documents/mutualevaluationofnewzealand.html There was also a 2 nd Follow up Report produced in October 2013 containing a detailed description of the actions taken by New Zealand in respect of all recommendations rated partially compliant or non-compliant in the 2009 Mutual Evaluation Report. http://www.fatf-gafi.org/media/fatf/documents/reports/mer/FUR-New-Zealand-2013.pdf

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes – Under AMLCFTA, occasional transaction thresholds have been established. These are thresholds at which customer due diligence will need to be carried out in respect of occasional transactions including but not limited to: <ul style="list-style-type: none"> a) Those over NZD9,999.99; b) Cash transactions in a casino that are for NZD6,000 or more; c) Travellers' cheques NZD5,000 ; d) Money & postal orders NZD1,000; and e) Foreign exchange transactions over NZD1,000.

Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	Section 15 of AMLCFTA stipulates the identification information to be obtained in the case of standard risk customers: <p>Individuals: The person's full name, date of birth, if the person is not the customer, the person's relationship to the customer and the person's address and any information prescribed by regulations. The Amended Identity Verification Code of Practice 2013 requires an individual's name and date of birth to be verified.</p> <p>Legal persons: Full name, if the person is not the customer, the person's relationship to the customer, address, company identifier or registration number and any information prescribed by regulations.</p>

Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Individuals: Name and date of birth can be verified by using one form of photographic identification including <i>inter alia</i> a passport, national identity card, New Zealand Firearms Licence, New Zealand Refugee Travel document or New Zealand Certificate of Identity. Alternatively, one form of non-photographic identification can be used in combination with a secondary or supporting form of photographic identification or a New Zealand Driving Licence can be used in conjunction with other forms of documentation which are itemised in the Code of Practice. Further information can be found here: http://www.dia.govt.nz/pubforms.nsf/URL/AMLCFT_Amendment-to-IDVCOP-2013-FINAL-October-2013.pdf/\$file/AMLCFT_Amendment-to-IDVCOP-2013-FINAL-October-2013.pdf <p>Identification documents must be certified as a true copy by a trusted referee who is at least 16 years of age and one of the following:</p> <ul style="list-style-type: none"> a) Commonwealth representative (as defined in the Oaths and Declarations Act1957); b) Member of the police; c) Justice of the peace; d) Registered medical doctor; e) Kaumātua (Kaumātua means Māori Elder and is as verified through a reputable source); f) Registered teacher; g) Minister of religion; h) Lawyer (as defined in the Lawyers and Conveyancers Act 2006); i) Notary public; j) New Zealand Honorary consul; k) Member of Parliament; l) Chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996); or m) A person who has the legal authority to take statutory declarations or the equivalent in New Zealand.

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Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	<p>A beneficial owner is an individual who satisfies any one element or any combination of the elements listed below:</p> <ol style="list-style-type: none">Who owns more than 25 percent of the customer;Who has effective control of the customer; andThe person(s) on whose behalf a transaction is conducted. <p>Beneficial ownership threshold level is set at 25% meaning that any individuals owning 25% (or more) of a customer would be subject to CDD requirements. Identifying beneficial ownership of a customer is an obligation that must be satisfied, regardless of the level of risk associated with the customer. However, when deciding what reasonable steps to take to satisfy yourself that the customer's identity and information is correct, you may vary your approach depending on the risk assessment of the customer. The process for assessing customer risk and deciding how to identify and verify beneficial ownership should be set out in a bank's AML/CFT programme.</p> <p>Section 16 of the AMLCFTA states; A reporting entity must:</p> <ol style="list-style-type: none">Take reasonable steps to satisfy itself that the information provided under section 15 of the AML/CFT Act is correct;according to the level of risk involved, take reasonable steps to verify any beneficial owner's identity so that the reporting entity is satisfied that it knows who the beneficial owner is;if a person is acting on behalf of the customer, according to the level of risk involved, take reasonable steps to verify the person's identity and authority to act on behalf of the customer so that the reporting entity is satisfied it knows who the person is and that the person has authority to act on behalf of the customer; andVerify any other information prescribed by regulations.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Simplified due diligence can be conducted on a company that is listed on an exchange registered under Part 2B of the Securities Markets Act 1988 a government department named in Schedule 1 of the State Sector Act 1988, a local authority as defined in section 5 of the Local Government Act 2002, the New Zealand Police, the New Zealand Security Intelligence Service; or any other entity or class of entities specified in regulations. A reporting entity may also conduct simplified customer due diligence on a person who purports to act on behalf of a customer when the reporting entity already has a business relationship with the customer at the time the person acts on behalf of the customer; and the reporting entity has conducted one of the specified types of customer due diligence on the customer.</p> <p>A reporting entity may conduct simplified customer due diligence if:</p> <ol style="list-style-type: none">It establishes a business relationship with one of the aforementioned categories of customers particularised in section 18(2) AMLCFTA;One of the categories of customers particularised in 18(2) conducts an occasional transaction through the reporting entity; orA customer conducts a transaction or provides a product or service specified in regulations through the reporting entity. <p>In the case of simplified due diligence reporting entities are not required to conduct identification or verification of a beneficial owner of a customer.</p>
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	<p>Under AMLCFTA a reporting entity must conduct enhanced customer due diligence in accordance with sections 23 and 24 of the Act in the following circumstances:</p> <ol style="list-style-type: none">If the reporting entity establishes a business relationship with a customer that is:<ol style="list-style-type: none">a trust or another vehicle for holding personal assets;a non-resident customer from a country that has insufficient anti-money laundering and countering financing of terrorism systems or measures in place; ora company with nominee shareholders or shares in bearer form;If a customer seeks to conduct an occasional transaction through the reporting entity and that customer is:<ol style="list-style-type: none">a trust or another vehicle for holding personal assets;a non-resident customer from a country that has insufficient anti-money laundering and countering financing of terrorism systems or measures in place; ora company with nominee shareholders or shares in bearer form;If a customer seeks to conduct, through the reporting entity, a complex, unusually large transaction or unusual pattern of transactions that have no apparent or visible economic or lawful purpose; orWhen a reporting entity considers that the level of risk involved is such that enhanced due diligence should apply to a particular situation.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	AML/CFTA requires foreign PEPs to undergo enhanced due diligence.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Under Section 29 of AMLCFTA, the correspondent must:</p> <ol style="list-style-type: none"> Gather enough information about the respondent to understand fully the nature of the respondent's business; Determine from publicly available information the reputation of the respondent and whether and to what extent the respondent is supervised for AML/CFT purposes, including whether the respondent has been subject to a money laundering or financing of terrorism investigation or regulatory action; and Assess the respondent's money laundering and countering financing of terrorism controls to ascertain that those controls are adequate and effective; Obtain approval from its senior management before establishing a new correspondent banking relationship; Document the respective AML/CFT responsibilities of the correspondent and the respondent; and Be satisfied that, in respect of those of the respondent's customers who have direct access to accounts of the correspondent, the respondent: <ol style="list-style-type: none"> Has verified the identity of, and conducts ongoing monitoring in respect of, those customers; and Is able to provide to the correspondent, on request, the documents, data, or information obtained when conducting the relevant customer due diligence and ongoing customer due diligence.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes – Section 39 AMLCFTA.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Under AMLCFTA for non-face-to-face transactions, identity documents can be endorsed by one of a number of nominated persons (See answer to A10)

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Suspicious Transaction Reports ("STRs") are made to the New Zealand Police's Financial Intelligence Unit: http://www.police.govt.nz/advice/businesses-and-organisations/fiu/about

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2010 – 4,357 SARs</p> <p>GDP (in current prices): 2010 – USD139,768 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD32.1 million of GDP.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	<p>It is an offence to:</p> <ul style="list-style-type: none"> a) Fail to report a suspicious transaction; b) Provide false or misleading information; c) Unlawfully disclose a STR; d) Fail to keep adequate records in relation to filing of STRs; e) Obstruct the investigation relating to a STR; f) Disclose information in judicial proceedings; or g) Structure transactions to avoid AML/CFT requirements. <p>Penalties are:</p> <ul style="list-style-type: none"> a) in the case of an individual, either or both of the following: <ul style="list-style-type: none"> a. a term of imprisonment of not more than 2 years, b. a fine of up to NZD300,000; and b) in the case of a body corporate, a fine of up to NZD5 million.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No, but it is encouraged. The FIU does not accept manual STR submissions. Submissions must be electronically submitted using "goAML", the Police's system, except in urgent circumstances: http://www.police.govt.nz/sites/default/files/publications/fiu-goaml-schema-introduction-v2-0-dec-2012.pdf

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No. AML Risk Assessments and Programmes must be audited, but not necessarily by an external party.

Q27.	<p>If an external report on the bank's AML systems and controls is required:</p> <ul style="list-style-type: none"> a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	<ul style="list-style-type: none"> a) Reporting should be done annually regarding reporting entities AML systems and controls. An audit must also be conducted every 2 years, or at the request of the supervisor; b) The report should be submitted to the organisation with recommendations on possible enhancements to the Risk assessment or Programme; and c) Not necessarily, but it can be.

Q28.	<p>What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require:</p> <ul style="list-style-type: none"> a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	<ul style="list-style-type: none"> a) Under section 57(j) of AMLCFTA, the AML/CFT Programme must outline how the business will determine when enhanced due diligence must be conducted and when simplified CDD may be permitted. Thus there will be some sample testing of KYC/CDD files; b) No, but we expect testing will be required; and c) Yes the audit is also of the reporting entity's risk assessment.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	The Privacy Act 1993 governs how agencies collect, use, disclose, store and give access to personal information. a) Personal data is " <i>Personal information</i> " under the Act and defined as information about an identifiable individual; and includes information relating to a death that is maintained by the Registrar General pursuant to the Births, Deaths, Marriages, and Relationships Registration Act 1995, or any former Act. The definition covers material likely to be held for KYC purposes. b) The Privacy Act only applies to personal information and does not apply to corporate data. c) There is no separate definition of sensitive data. No differentiation is made between how different types of personal information are to be treated under the Act. See: http://www.privacy.org.nz
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	The Privacy Commissioner is given the power to prohibit a transfer of personal information from New Zealand to another state, territory, province or other part of a country ("State") by issuing a transfer prohibition notice ("Notice") if it is satisfied that information has been received in New Zealand from one State and will be transferred by an agency to a third State which does not provide comparable safeguards to the Act and the transfer would be likely to lead to a contravention of the basic principles of national application set out in Part Two of the OECD Guidelines and set out in schedule 5A. See: http://www.legislation.govt.nz/act/public/1993/0028/latest/whole.html#DLM3242810 There are further codes in place as at 31 January 2013 that prohibit some transfer of credit reports, criminal records and medical data. They are: a) Credit Reporting Privacy Code; b) Health Information Privacy Code; and c) Justice Sector Unique Identifier Code.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Specialist advice will be required.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No specific bank secrecy laws.

GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2002.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	Bank Negara Malaysia (the Central Bank).
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	For banks and other financial institutions, a new guideline was issued on 1 September 2013: http://www.bnm.gov.my/guidelines/01_banking/03_anti_money/04_gl_amlcft_deposit.pdf For accountants and other non-financial sector entities, a new guideline effective 1 November 2013 has been introduced: http://www.bnm.gov.my/guidelines/50_others/AMLCFT(DNFBPS%20&%20Others).pdf
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - a risk based approach is approved, but a specific approach is not detailed and it remains the responsibility of the reporting institution to devise an approach.
Q7.	Has the country been the subject of a FATF (of FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No.

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: reporting institutions should obtain at least: full name; date of birth; nationality; permanent and mailing address; and NRIC/passport number. Institutions should verify the identity, representative capacity, domicile, legal capacity, occupation or business purpose of any person, as well as other identifying information on that person, whether an occasional or usual client, through the use of documents such as an identity card, passport, birth certificate, driver's licence, or any other official or private document.</p> <p>Corporates: reporting institutions should require the company/business to provide original documentation and copies should be made of each of the following documents:</p> <ol style="list-style-type: none"> Memorandum and Articles of Association/Certificate of Incorporation/partnership; identification documents of directors/shareholders/partners; authorisation for any person to represent the company/business; and Identification document of the person authorised to represent the company/business in its dealing with the reporting institution.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Original documents must be provided and the reporting institution should make copies, as required. Certified true copies/duly notarised copies may be accepted.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The reporting institution must identify and verify the beneficial owner. They should conduct customer due diligence on the natural person that ultimately owns or controls the customer's transaction when they suspect the transaction is conducted on behalf of a beneficial owner and not the customer who is conducting such a transaction. The customer due diligence conducted should be as stringent as that imposed on an individual customer.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	A simplified customer due diligence process is adopted for lower risk categories of customers, business relationships or transactions. The relevant simplified process may vary from case to case depending on the customers' background, transaction type and specific circumstances.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	Local AML guidance requires an enhanced customer due diligence process for higher risk categories of customers, business relationships or transactions. Enhanced due diligence should include at least obtaining more detailed information from the customer and through publicly available information, in particular, on the purpose of the transaction and source of funds; and obtaining approval from the Senior Management of the reporting institution before establishing the business relationship with the customer. Examples of higher risk customers are individuals with high net worth, non-resident customers, individuals from locations known for their high rates of crime (e.g. drug producing, trafficking, smuggling), countries or jurisdictions with inadequate AML/CFT laws and regulations as highlighted by the FATF, PEPs, legal arrangements that are complex (e.g. trust, nominee), cash based businesses, and businesses/activities identified by the FATF as of higher money laundering and financing of terrorism risk.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Once a PEP (local and foreign) is identified, the reporting institution should take reasonable and appropriate measures to establish the source of wealth and funds of such a person.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>Section 20 of the sectorial guidelines for banks and financial institutions, deals with correspondent bank:</p> <p>S. 20.1 Reporting institutions providing correspondent banking services to respondent banks are required to take the necessary measures to ensure that it is not exposed to the threat of ML/TF through the accounts of the respondent banks such as being used by shell banks.</p> <p>S. 20.2 In relation to cross-border correspondent banking and other similar relationships, reporting institutions are required to:</p> <ol style="list-style-type: none">gather sufficient information about a respondent bank to understand fully the nature of the respondent bank's business, and to determine from publicly available information the reputation of the respondent bank and the quality of supervision exercised on the respondent bank, including whether it has been subject to a ML/TF investigation or regulatory action;assess the respondent bank's AML/CFT controls having regard to AML/CFT measures of the country or jurisdiction in which the respondent bank operates;obtain approval from the Senior Management before establishing new correspondent banking relationships; andclearly understand the respective AML/CFT responsibilities of each institution. <p>S. 20.3 In relation to "payable-through accounts", reporting institutions are required to satisfy themselves that the respondent bank:</p> <ol style="list-style-type: none">has performed CDD obligations on its customers that have direct access to the accounts of the reporting institution; andis able to provide relevant CDD information to the reporting institution upon request. <p>S. 20.4 Reporting institutions shall not enter into, or continue, correspondent banking relationships with shell banks. Reporting institutions are required to satisfy themselves that respondent banks do not permit their accounts to be used by shell banks.</p> <p>For the non-financial institution sector, there is no specific guideline for correspondent banking.</p>

Q16.	Are relationships with shell banks specifically prohibited?
A16.	<p>For banks and other financial institutions, the guidelines state that they should not establish or have any business relationship with shell banks.</p> <p>There is no such prohibition for the non-financial sector.</p>

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	<p>Reporting institutions may establish non face-to-face business relationships with its customers.</p> <p>Non face-to-face relationships can only be established if the reporting institutions have in place policies and procedures to address any specific risks associated with non face-to-face business relationships.</p> <p>Reporting institutions are required to be vigilant in establishing and conducting business relationships via information communication technology.</p> <p>Reporting institutions are required to establish appropriate measures for identification and verification of customer's identity that shall be as effective as that for face-to-face customer and implement monitoring and reporting mechanisms to identify potential ML/TF activities.</p> <p>Reporting institutions may use the following measures to verify the identity of non face-to-face customer such as:</p> <ol style="list-style-type: none">requesting additional documents to complement those which are required for face-to-face customer;developing independent contact with the customer; orverifying customer information against any database maintained by the authorities.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	<p>Financial Intelligence Unit, Bank Negara Malaysia http://www.bnm.gov.my/index.php?ch=176&pg=490&ac=408</p>
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

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Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	For the non-finance sector, there are no specific obligations. For the banking and financial institutions, the obligations are contained at Appendix 1 of the following document: http://www.bnm.gov.my/guidelines/01_banking/03_anti_money/04_gl_aml_aamlcft_deposit.pdf

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes: a) Failing to report suspicion (RM250,000 fine); b) Tipping off (RM1 million or jail or both); and c) Engaging or assisting in money laundering (RM5 million fine or jail or both).

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	No.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) Does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How it defined and what is are the additional protections?
A29.	Yes; a) The law only came into effect on 15 November 2013 an although it applies to corporate data in a number of scenarios these have not yet been fully explained; b) Yes. Sensitive personal data is any personal data consisting of information as to the physical or mental health or condition of a data subject, his political opinions, his religious beliefs or other beliefs of a similar nature, the commission or alleged commission by him of any offence or any other personal data. c) Due to the nature of sensitive personal data, a higher restriction is imposed for data users in processing it. A data user must not process sensitive personal data unless with the explicit consent of the data subject. The data subject should be required to provide his clear and express consent to the processing of his sensitive personal data.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	The Personal Data Protection Act 2010 came into force on 15 November 2013. At this early stage, there is some uncertainty over how the transfer of these types of reports (for KYC etc) will be impacted, if at all.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	N/A
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	The Financial Services Act 2013 contains secrecy provisions under section 133. See: http://www.bnm.gov.my/documents/act/en_fsa.pdf



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Country by country comparison of high level Know Your Customer and Anti-Money Laundering information

Japan

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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	Based on the revisions of the FATF 40 Recommendations in 2003, Japan enacted the Act on The Prevention of Transfer of Criminal Proceeds 2007. The Act was amended on 28 April 2011 and came into force on 1 April 2013. Several other laws implemented for Anti-Money Laundering measures include the Anti-Drug Special Prevention Law 1992 and Act on the Punishment of Organised Crime 2000.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	The amendments in 2011 expanded the types of information requested as part of the KYC process. Where previously, under the Act on Prevention of Transfer of Criminal Proceeds, the customer identification information for verification was as follows. Natural person: Name; address; date of birth Legal person: Name; location of the head or main office
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	a) Japan Financial Services Agency ("FSA"): http://www.fsa.go.jp/en/index.html b) There are respective regulatory agencies for each business operator: http://www.npa.go.jp/sosikihanzai/jafic/index_e.htm
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	The FSA has issued "Comprehensive Supervisory Guidelines" for the financial sector. Although they are general guidelines for financial institutions, it contains some guidance regarding Anti-Money Laundering compliance. http://www.fsa.go.jp/en/refer/legislation/index.html
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	Financial institutions are required to verify the identity of customers upon undertaking the specified transactions from pre-existing customers, where customer identification was not undertaken before the implementation of The Act on Prevention of Transfer of Criminal Proceeds.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Despite the fact that the AML regime in Japan is not risk based, some aspects of this approach are incorporated into the guidelines issued by the FSA. Banks are expected to establish and maintain an internal control environment to detect, monitor, and analyse suspicious customers, considering various factors such as customer attributes, transaction types and customer business profiles. In addition, the Japanese Bankers Association issued the "Guidance Note on the Risk based Approach" in November 2007 for combating money laundering and terrorist financing. The Guidance Note is available for member banks and advises on the implementation of the risk based approach.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The most recent FATF Mutual Evaluation on Japan was published in October 2008: http://www.fatf-gafi.org/documents/documents/mutualevaluationofjapan.html

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - customer identification is not required for one-off cash transactions below JPY2,000,000 (approximately USD24,000) and one-off wire transfer transactions below JPY100,000 (approximately USD1,200).
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>The verification method of customer identification information varies depending upon customer types i.e., a natural person or legal entity:</p> <p>Natural person: The following information has to be verified from valid customer identification documents such as a driving licence, passport, alien registration card or any other acceptable documents: Name, address and date of birth.</p> <p>In addition, the following additional information/ has been required since 1 April 2013, based on the amended Act:</p> <ul style="list-style-type: none"> a) Occupation; b) Purpose of the business relationship; c) Verify that natural persons acting on behalf of account holder are so authorised; and d) For higher risk customers described in the ordinance, verify asset and/or income of the customer. <p>Legal Entity: The following information has to be verified from valid identification documents such as certificate of registration, seal registration certificate or any other acceptable documents: Name and location of the head or main office.</p> <p>In addition, the following information/procedures have been required since 1 April 2013, based on the amended act:</p> <ul style="list-style-type: none"> a) Business contents; b) Purpose of the business relationship; c) Identity of beneficial owner; d) Verify that natural persons acting on behalf of the legal entity are so authorised; and e) For higher risk customers described in the ordinance, verify asset and/or income of the customer.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Upon receiving copies of identification documents, financial institutions are required to use registered mail (which cannot be forwarded) to complete the customer identification process. The customer identification process is considered complete unless the registered mail is returned to the financial institution as being undelivered.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	For legal entities, the beneficial owners owning more than 25% of its shares or voting rights are required to be identified and verified.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Reduced due diligence arrangements are not explicitly stipulated in law/regulations. Rather, the ordinance exempts certain types of transactions from customer identification requirements (e.g. transactions with the government or governmental entities), due to no or limited money laundering/terrorist financing risk.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	<ul style="list-style-type: none"> a) In cases where the Specified Operator suspects that the counterparty of the transaction may impersonate a customer or its representative; b) In cases where Specified Operator suspects that the counterparty of the transaction may be disguising identification items at the execution of the transaction; or c) Transactions with the Customer originating in Iran or North Korea. <p>Where such circumstances apply the Specified Operator must conduct CDD again. Additionally, when the transaction amount is above JPY2,000,000, the Specified Operator must verify asset and/or income of the customer.</p>

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Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	There is no legal obligation to undertake enhanced due diligence in respect of business relationships or transactions involving PEPs.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	There is a requirement in the ordinance that financial institutions undertake enhanced due diligence with respect to correspondent banking relationships. Additionally, guidelines issued by the FSA expect financial institutions to appropriately assess the prospective foreign financial institutions before entering into the correspondent banking relationships.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	No - relationships with shell banks are not explicitly prohibited. However, guidelines issued by the FSA require that financial institutions ascertain that prospective foreign financial institutions are not shell banks.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Upon initiating non face-to-face transactions such as internet or telephone banking, financial institutions are required to verify a customer's address by sending registered mail or conducting a site visit.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	SARs are submitted to the respective regulatory agency (e.g. the FSA in respect of the financial sector) and consolidated by Japan Financial Intelligence Center ("JAFIC").
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2012 – 364,366 SARs GDP (in current prices): 2012– USD5,959,718 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD16.4 million of GDP.
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	No.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, an administrative penalty may be received from the respective authorities.

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Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	a) Under the Personal Information Protection Law (2003) , 'personal information' is defined as information of a living individual, such as the name, the date of birth, and/or any other descriptions by which a specific individual can be identified (including information that can be easily collated with other information so that a specific individual can be identified). b) The law does not cover corporate data. c) Yes. FSA Guideline, XX, defines 'sensitive information', and requires financial institutions not to obtain such information. See "Guidelines for Personal Information Protection in the Financial Field" http://www.fsa.go.jp/frtc/kenkyu/event/20070424_02.pdf

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	The definition of sensitive information includes both criminal records and medical data. As noted at A29, financial institutions are restricted in obtaining such information from customers.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2002 (amended through Law of Republic of Indonesia No 8 year 2010).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	N/A
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	a) Bank of Indonesia http://www.bi.go.id/web/en b) Otoritas Jasa Keuangan (Indonesian Financial Services Authority) Link: http://www.ojk.go.id/ ; and c) None.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	a) Bank Indonesia Circular Letter No 15/21/DPNP; b) Bapepam-LK Kep 476/BL/2009 Appendix 22; c) PPAATK (Centre for Financial Transaction Reporting & Analysis) No 07/1.02/PPATK/12/10, Appendix 17.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - as required by the Bank of Indonesia (Central Bank) and Otoritas Jasa Keuangan (Indonesian Financial Services Authority).
Q7.	Has the country been the subject of a FATF (of FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The most recent mutual evaluation was conducted in 2008: The APG 2 nd Mutual Evaluation Report on Indonesia, July 2008. http://www.fatf-gafi.org/topics/mutualevaluations/documents/mutualevaluationreportofindonesia.html The most recent FATF Public Statement issued on 18.10.2013 identified Indonesia as a jurisdiction with strategic AML/CFT deficiencies that has not made sufficient progress in addressing the deficiencies and implementing its action plan within the agreed timeline: The Statement can be found here: http://www.fatf-gafi.org/countries/d-i/indonesia/documents/fatf-public-statement-oct-2013.html#indonesia The IMF 'Indonesia Staff Report for the 2013 Article IV Consultation' published in December 2013 can be found here: http://www.imf.org/external/pubs/ft/scr/2013/cr13362.pdf See page 22.

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Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - transactions amounting to IDR100,000,000 for walk-in customers.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Financial institutions are required to conduct a face-to-face meeting with prospective customers, at least once at the time of account opening.</p> <p>Individuals: obtain name, address, date of birth and verification documentation from a regulatory body authorised to issue documents, which includes customer's full name and photograph, and either address or date of birth, for example an identity card, passport or photocard driving licence.</p> <p>Corporates: obtain name, registration number, registration office in country of incorporation, tax registry number, business address, and identity of personnel who have the legal authority to represent the company.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	<p>Original identification documents should be provided by the prospective customer, and the financial institution should have an adequate record keeping system in relation to identification documents.</p> <p>The requirements for verification is under Bank Indonesia Regulation Number 14/27/PBI/2012 Article 22 which requires banks to scrutinise the accuracy of supporting documents and perform verification of supporting documentation based on documents and/or other sources of information that are reliable and independent, as well as to ensure that data is updated.</p>
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The requirements for beneficial owners are the same as the requirements for individual and corporate customers.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Simplified due diligence arrangements are acceptable when other financial services firms are subject to the Money Laundering Regulations or equivalent, and firms are regulated in Indonesia or in a comparable jurisdiction by equivalent regulators.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	<p>Banks should conduct enhanced due diligence where the customer:</p> <ol style="list-style-type: none">Originates from a high risk country or territory;Their business is categorised as high risk;Is considered to be high risk due to his/her position as a high ranking public officer; andNon-banks should conduct enhanced due diligence on potential customer who is deemed and or categorised as to have a high risk money laundering.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	PEPs are defined in AML Regulation and banks are required to perform enhanced due diligence for customers who are PEPs.
Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>There are two conditions for compliant banking relationships:</p> <ol style="list-style-type: none">If the correspondent bank is regulated by a territory which has the equivalent standard of KYC implementation to Indonesia, then a formal letter should be written stating that the bank has implemented KYC in relation to the customer properly; andIf the correspondent bank is regulated by a territory which has lower KYC standards than Indonesia, then the bank shall conduct KYC procedures with the customer.

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Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Face-to-face meetings should be performed at least once in the account opening process. There is no exception to this requirement.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	The report of suspicious transactions ("STR") are made to the FIU for Indonesia, the Pusat Pelaporan dan Transaksi Analisis Transaksi Keuangan ("PPATK") by both banks and non-banks..

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Information on the volume of SARs is not publicly available.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes, there is an obligation to make cash transaction reports ("CTR") and international funds transfer instructions ("IFTI").

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	STR – No. CTR - IDR100 million. IFTI - No.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes. Tipping off is a criminal offence.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Not at present.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Possibly with financial institutions but not directly with/from the regulators.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Data privacy legislation does not allow transactions to be monitored outside the jurisdiction.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No, reviews are conducted by AML specialists and are not a part of annual statutory audits. There is no statutory requirement for independent review but financial institutions can undertake such audits if they wish.

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Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	a) Yes; b) Same; c) No. The relevant regulation is under Indonesia Basic Banking Law Number 23/1999. There have been some amendments to this law, but no basic change to this requirement.

Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	We believe there are some specific prohibitions but they are in a variety of other legislations.

Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	Refer to A30 above.

Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	Yes. Refer to A29 above.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The Prevention of Money Laundering Act 2002 (PMLA) came into force in July 2005.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	Amendments to the PMLA were enacted on 17/12/2012 and came into effect on 15/02/2013. These amendments included <i>inter alia</i> changes to the categorisation of predicate offences, extension to the scope of the definition of money laundering, confiscation of property is no longer dependent upon a conviction for a scheduled predicate offence, commodities future brokers are now subject to the PMLA, Designated Non-Financial Businesses and Professions (DNFBPs) such as casinos, real estate agents, dealers in precious metals or stones, dealers in high value goods and safe deposit keepers are now subject to the PMLA.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	a) Reserve Bank of India Financial Intelligence Unit ("RBI FIU") for Banks: http://fiuindia.gov.in/ ; b) Insurance Regulatory and Development Authority ("IRDA") for Insurance; and c) Securities and Exchange Board for India ("SEBI") for asset management companies.
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Reserve Bank of India ("RBI") has issued guidelines on AML & KYC in terms of Master Circular, the latest one is dated 1 July 2013. A – relook (KYC documents periodical review) circular was issued on 23 July 2013.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes - the local regulators (RBI, IRDA & SEBI) allow banking companies, financial institutions and intermediaries to use a risk based approach.
Q7.	Has the country been the subject of a FATF (of FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	The first mutual evaluation report on India was adopted on 24/06/2010 and recommended that India be placed in a regular follow-up process for mutual evaluation processes. The 8 th Follow Up Report on the Mutual Evaluation of India was published in June 2013 and can be found at http://www.fatf-gafi.org/media/fatf/documents/reports/mer/India_FUR8_2013.pdf The report concluded that India had made sufficient progress for all core and key recommendations and recommended that India be removed from the follow-up procedure. In January 2013, the IMF published its update entitled 'India: Financial System Stability Assessment Update' which can be found here: http://www.imf.org/external/pubs/ft/scr/2013/cr1308.pdf

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Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	In the case of transactions carried out by a non-account based customer (walk-in customer) where the amount of transaction is lower than INR 50,000 the customer's identity and address do not require to be verified. However, if a bank has reason to believe that a customer is intentionally structuring a transaction into a series of transactions below the threshold of INR 50,000 - the bank should verify the identity and address of the customer and also consider filling in a suspicious transaction report. Verification of identity must be conducted in respect of all cross border payments.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>The banking company, financial institution or intermediary must verify and maintain the records in respect of identity and current address of the clients. The documents required are:</p> <p>Individuals: Official valid documents such as passport, driving licence, Permanent Account Number ('PAN') Card, Voter's Identity Card issued by the Election Commission of India or any other document.</p> <p>Corporate:</p> <ol style="list-style-type: none"> Certificate of Incorporation; Memorandum and Articles of Association; A resolution from the Board of Directors and power of attorney granted to its managers, officers or employees to transact on its behalf; and An official valid document in respect of managers, officers or employees holding an attorney to transact on its behalf. <p>Association of Persons or Body of Individuals:</p> <ol style="list-style-type: none"> Resolution of the managing body of such association or body of individuals; Power of attorney granted to him to transact on its behalf; An official valid document in respect of the person holding an attorney to transact on its behalf; and Such information as may be required by the banking company or the financial institution or the intermediary to collectively establish the legal existence of such an association or body of individuals.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Certified copies of an official valid document may be used. The copies need to be verified by seeing the originals and stamped as "Originals seen & verified"
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	The banking company, financial institution or intermediary should take reasonable measures to identify the beneficial owner(s) and verify his/her/their identity in a manner so that it is satisfied that it knows who the ultimate beneficial owner(s) is/are.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	Customers can be categorised based on their risk profile. For example, individuals and entities whose identities and sources of wealth can be easily identified may be categorised as low risk. Reduced due diligence arrangements may be followed by the banking company, financial institution or intermediary in the case of low risk customers. The review of low risk clients' KYC documents can be performed once every 10 years as per RBI circular dated 23 July 2013.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	<p>Customers that are likely to pose a higher than average risk to the bank may be categorised as medium or high risk depending on the customer's background, nature and location of activity, country of origin, sources of funds and his client profile etc. Banks may apply enhanced due diligence measures based on the risk assessment, thereby requiring intensive due diligence for higher risk customers, especially those for whom the sources of funds are not clear. Examples of customers requiring higher due diligence may include:</p> <ol style="list-style-type: none"> Non-resident customers; High net worth individuals; Trusts, charities, NGOs and organizations receiving donations; Companies having a close family shareholding or beneficial ownership; Firms with 'sleeping partners'; PEPs of foreign origin; Non-face to face customers; and Those with a high risk reputation as per public information available; and Correspondent banking relationships

Questions and Answers:

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Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Banks should gather sufficient information on any person/customer of this category intending to establish a relationship and check all the information available on the person in the public domain. Banks should verify the identity of the person and seek information about their sources of funds before accepting the PEP as a customer. The decision to open an account for PEP should be taken at a senior level which should be clearly identified in the Customer Acceptance policy. Banks should also subject such accounts to enhanced monitoring on an ongoing basis. The above may also be applied to the accounts of the family members or close relatives of PEPs.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Banks should gather sufficient information to understand fully the nature of the business of the correspondent/respondent bank. Banks should try to ascertain from publicly available information whether the other bank has been subject to any money laundering or terrorist financing investigation or regulatory action. It should also be satisfied that the respondent bank has verified the identity of the customers having direct access to the accounts and is undertaking ongoing due diligence on them. The correspondent bank should also ensure that the respondent bank is able to provide the relevant customer identification data immediately on request.

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Guidance issued by the local regulator prohibits entering into a correspondent relationship with shell banks. Shell banks are not permitted to operate in India. Banks should also guard against establishing relationships with respondent foreign financial institutions that permit their accounts to be used by shell banks.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	In the case of non-face-to-face customers, apart from applying the usual customer identification procedures, banks must adopt specific and adequate procedures to mitigate the higher risk involved. If necessary, additional documents may be called for in such cases. In the case of cross-border customers, there is the additional difficulty of matching the customer with the documentation and the bank may have to rely on third party certification. In such cases, it must be ensured that the third party is a regulated and supervised entity and has adequate KYC systems in place. Additionally, the first transaction should be through a check issued from an existing bank account.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	FIU: http://fiuindia.gov.in/ In India SARs are known as "STRs" (Suspicious Transaction Reports).

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	Volume of SARs: 2011 – 31,317 (FIU India Annual Report 2011-12) GDP (in current prices): 2011 – USD1,872.8 million (Source: data.worldbank.org) This results in a ratio of 1 SAR for every USD59.8 million of GDP.

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Yes, as per the RBI & FIU guidelines, all banking institutions are required to report all such activities in terms of STR (on occurrence), CTR & CCR (periodical as per timelines laid down by the regulators).

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Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	Cash transactions below INR50,000 need not be reported. However, if there is a suspicion of deliberate effort to structure the transactions in such a way to keep the transaction just below the threshold, then such activities need to be reported as STR.

Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	There are punitive clauses in the existing PMLA -2002 which have been revised in 2013. Penalty schemes for money laundering activities were amended: a) Imprisonment term lengthened, from at least 3 years, to a maximum of 7 years; b) Upper limit for fines of INR5 lakhs removed; no upper limit fixed; c) Scope of money laundering activities broadened: possession of money received from criminal proceeds, also classified as crime; and d) Threshold limit (earlier INR30 lakhs) for initiating money laundering cases removed.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Yes, as per RBI and FIU guidelines.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Internal clearance is required.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	Yes, there is a regulatory requirement to include a KYC audit in the reporting by internal and external auditors as part of the audit report

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	Yes, once a year the external and internal auditors are mandated by the regulator to specifically report on KYC & AML controls. In addition, the RBI, SEBI and IRDA conduct annual inspections

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	Yes, they need to include the steps described in Q28 and report findings.

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Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How it defined and what is are the additional protections?
A29.	Yes, They are governed by the Personal Data Protection Bill 2006 and Information Technology Act 2000.
Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Since banks collect Sensitive Personal Data or Information ("SPDI"), they need to comply with the Rules, which lay down certain procedures to be followed at the time of collection of data, transfer of data, and disposal of data, and to maintain relevant security practices and procedures. In the event a bank is negligent in implementing and maintaining "reasonable security practices and procedures" in relation to SPDI, which causes "wrongful loss or wrongful gain" to any person, then the bank is liable to pay compensation to the affected person whose SPDI was compromised. The aggrieved person claiming compensation may approach an adjudicating officer appointed under the Act in the case of damages of up to INR5 crores (approximately USD100,000) or before the civil court in case the damages claimed are above INR5 crores (approximately USD100,000). The Personal Data Protection Bill 2006 protects the privacy of individuals, but the bill was not passed into law. In the meantime, the Act was amended in 2008 to include Section 43A and Section 72A to protect personal data ("PI") and SPDI.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	The Personal Data Protection Bill 2006 and Information Technology Act, 2000. The Information Technology Act provides for recognition of electronic signatures, e-documents and e-transactions, and seeks to control offences conducted over the internet. Also, post-2001, the RBI introduced guidelines governing internet banking, confidentiality, anti-money laundering and KYC norms, which may have prompted customers to move towards the e-platform, albeit with some concerns with respect to the privacy and security of their banking transactions.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	As per Personal Data Protection Bill 2006, while collecting SPDI, the bank must seek express written consent from the provider of information via a letter, fax or e-mail, or consent given by any mode of electronic communication, in relation to the purpose for which SPDI may be used. The provider of information must also be given an option to withdraw such consent and must have knowledge and/or be provided information as to: a) The fact that information is being collected; b) The purpose for which it is being collected; c) Intended recipients of the information; and d) The name and address of the agency that is collecting and/or retaining the information.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The primary legislation governing AML in Hong Kong is as follows: a) Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance – April 2012 (“AMLO”); b) Drug Trafficking (Recovery of Proceeds) Ordinance - 1989 (amended 2005) (“DTROP”); c) Organised and Serious Crimes Ordinance - 1994 (amended 2012) (“OSCO”); and d) United Nations (Anti-Terrorism Measures) Ordinance - 2002 (amended 2012) (“UNATMO”).
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	The AMLO became effective on 1 April 2012. Previous AML regime was governed by DTROP, OSCO and UNATMO.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website
A3.	<p>The Financial Services and Treasury Bureau has taken over the overall co-ordinating role for anti-money laundering/counter-terrorist financing policies and monitor Hong Kong's overall compliance with all the FATF recommendations: (http://www.fstb.gov.hk/fsb/aboutus/welcome/index.htm)</p> <p>The Hong Kong Monetary Authority (“HKMA”) is the regulator for AML controls for banking sector: (http://www.hkma.gov.hk/eng/index.shtml)</p> <p>The Securities and Futures Commission (“SFC”) is the regulator for AML controls for securities sector: (http://www.sfc.hk/sfc/html/EN/index.html)</p> <p>The Officer of the Commissioner of Insurance (“OCI”) is the regulator for AML controls for insurance sector (http://www.oci.gov.hk/about/index.html)</p> <p>The Customs and Excise Department is the regulator for AML controls for money service operators (“MSOs”) (i.e. Remittance Agents and Money Changers) (http://www.customs.gov.hk/en/home/index.html)</p> <p>The Narcotics Division of Security Bureau (“ND”) will assist in overseeing the implementation of the FATF recommendations that are related to the non-financial sectors and the non-profit organisations with a view to ensuring that the anti-money laundering/counter-terrorist financing measures taken by the relevant sectors and organisations are in line with established international standards. It is responsible for revising the guidelines for other non-financial sector (i.e. Designated Non-Financial Businesses and Professions (“DNFBPs”) including accountants, casinos, estate agents, lawyers, precious metals and precious stones dealers, and trust and company service providers). (http://www.nd.gov.hk/en/index.htm)</p>

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Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	<p>Yes, the links of the guidance note issued by the relevant authorities are set out as below:</p> <ul style="list-style-type: none"> a) Guideline on Anti-Money Laundering and Counter-Terrorist Financing (For Authorised Institutions) issued by the HKMA (July 2012) (http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/guideline/g33.pdf); b) Guideline on Anti-Money Laundering and Counter-Terrorist Financing issued by the SFC (July 2012) (http://en-rules.sfc.hk/net_file_store/new_rulebooks/hk/HKSFC3527_3705_VER20.pdf); c) Guideline on Anti-Money Laundering and Counter-Terrorist Financing (For authorised insurers, reinsurers, appointed insurance agents and authorised insurance brokers carrying on or advising on long term business) issued by the OCI (July 2012) (http://www.oci.gov.hk/download/appendixc.pdf); d) Guideline on Anti-Money Laundering and Counter-Terrorist Financing (For Money Service Operators) issued by the Customs and Excise Department (July 2012) (https://eservices.customs.gov.hk/MSOS/download/guideline/AMLO_Guideline_en.pdf); e) Anti-Money Laundering & Counter-Terrorist Financing – A Practical Guide for: Accountants, Estate Agents, Precious Metals and Precious Stones Dealers and Trust and Company Service Providers issued by the ND (June 2009) (http://www.nd.gov.hk/pdf/moneylaundering/AML_eng_full_version.pdf); f) The Guideline for Precious Metals and Precious Stone Dealers issued by the ND (2008) (http://www.nd.gov.hk/pdf/pm-psd_guideline-e.pdf); and g) An Advisory Guideline on Preventing the Misuse of Charities for Terrorist Financing issued by the ND (July 2007) (http://www.nd.gov.hk/pdf/guideline-e.pdf).

Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	<p>No - although under the revised guidelines, enhanced AML assessment requirements are expected to be applied to all customers, including existing customers. As part of their ongoing AML due diligence process, intermediaries should consider and determine whether additional identification information, in line with the current standards, should be obtained from all existing customers, particularly those customers in higher risk categories. In particular, authorised institutions regulated by the HKMA are required to conduct a review at least on an annual basis on all high risk customers to ensure that the customer's records maintained are up-to-date and relevant.</p> <p>Under the AMLO, the identity of pre-existing customers is not subject to retrospective verification. The AMLO only requires the financial institution to review the documents, data and information relating to the customer that is held at the time it conducts the review.</p>

Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	It is expected that financial institutions should adopt a risk based approach to customer due diligence and ongoing monitoring (e.g. suspicious transaction monitoring).

Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	<p>Generally speaking, the current legislation does not specifically set out minimum transaction thresholds where customer due diligence is or is not required. However, less stringent due diligence requirements would be permitted in certain circumstances, such as:</p> <ul style="list-style-type: none"> a) a remittance/exchange transaction carried out by remittance agents/money changers, where the transaction amount is less than HKD8,000 or equivalent; or b) a transaction carried out by authorised institutions on behalf of a non-account holder, where the transaction amount is less than HKD120,000 or equivalent.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: The identity of an individual including his/her name, residential address (and permanent address if different), date of birth and nationality, etc. should be obtained. Identification should be from documents issued by official or reputable sources, i.e., passports or identity cards. The address should be checked by appropriate means, e.g. by reviewing utility or rates bills or checking the electoral roll.</p> <p>Corporates: The following documents or information should be obtained, including the Certificate of Incorporation and Business Registration Certificate, copy of the company's memorandum and articles of association, details of ownership and structure control of the company, the board resolution evidencing the opening of the account and conferring authority on those who will operate it, identification documents of the directors, principal shareholders and account signatories, as required. Additional requirements will arise for higher risk customers.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Copies of identification documentation should generally be checked against original documents. However, reliance may be placed on a 'suitable' certifier to certify that the copy document is a complete and an accurate copy of the original. Such certifiers include, inter alia, officer of an embassy, member of the judiciary, Justice of the Peace, etc.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	There is a requirement to identify the beneficial ownership and control, i.e. to determine which individual(s) ultimately own(s) or control(s) the direct customer, and/or the person on whose behalf a transaction is being conducted. For corporates, the identity of the principal shareholders (e.g. those holding 10% or more voting interests) should be identified. The identity of all shareholders holding 25% (for normal risk circumstance) /10% (for high risk circumstances) or more of the voting rights or share capital are required to be verified.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>The HKMA, SFC and OCI all take a risk based approach and in the circumstances where there is no suspicion of money laundering, the inherent risk of money laundering or terrorist financing is assessed to be low, and there is adequate public disclosure in relation to the customers, a simplified due diligence arrangement may be adopted. Examples of customers who are of a lower risk are:</p> <ol style="list-style-type: none">financial institutions authorised/supervised by the HKMA, SFC, OCI or by an equivalent authority in a jurisdiction that is a FATF member or in an equivalent jurisdiction;public companies that are subject to regulatory requirements, e.g. listing;government or any public body (e.g. government department, legislative, municipal, etc.) in Hong Kong, or the government of an equivalent jurisdiction or a body in an equivalent jurisdiction that performs functions similar to those of a public body;companies which acquire an insurance policy for pension schemes which does not contain a surrender clause and the policy cannot be used as collateral; andcompanies which acquire a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	Enhanced due diligence is required for higher risk categories of customers, business relationships or transactions. These may include companies with unduly complex ownership structure, PEPs, business relationships and transactions with persons from or in jurisdictions that do not meet international AML standards, customers who are not physically present for identification purposes, or remittance transactions for which the remittance messages do not contain complete originator information.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Local regulatory guidance includes a requirement to gather sufficient information from a new customer and check publicly available information to establish whether or not the customer is a PEP. The decision to open an account for a PEP should be taken at a senior management level. A number of risk factors that institutions should consider in handling a business relationship with a PEP are also outlined.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	A bank providing correspondent banking services is required to gather sufficient information about its respondent banks to understand their business. Approval from senior management should be sought before establishing new correspondent banking relationships and the respective responsibilities of each institution should be documented. A corresponding banking relationship should not be established unless it is satisfied that the AML/CFT controls of the proposed respondent bank are adequate and effective. Particular care is required if a correspondent banking relationship is maintained with banks incorporated in jurisdictions that do not meet international AML standards, or where the respondent banks allow the direct use of the correspondent account by their customers to transact business on their own behalf (i.e. payable-through accounts).

Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Firms are required to apply effective customer identification procedures to satisfy the true identity of the customer. Such procedures may include: <ul style="list-style-type: none"> a) requisition of additional documents to complement those required for face-to-face customers; b) taking supplementary measures to verify all the information provided by the customer; and c) requiring the first payment from the account to be made through an account in the customer's name with a bank having satisfactory customer due diligence standards.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	SARs should be made to Joint Financial Intelligence Unit ("JFIU") and the relevant regulator of the reporting entity.

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2013 (up to 30 September) – 23,423 SARs</p> <p>GDP(in current prices): 2013 (up to 30 September) – USD199,756 million¹ (Source: Census and Statistics Department of the Government of the Hong Kong Special Administrative Region, http://www.censtatd.gov.hk/hkstat/sub/sp250.jsp?tableID=030&ID=0&productType=8)</p> <p>This results in a ratio of 1 SAR for every USD 8.53 million of GDP.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Financial institutions shall report to JFIU if there is knowledge or suspicion of ML/TF. Examples include, inter alia: <ul style="list-style-type: none"> a) Customers are reluctant to provide normal information when opening an account, providing minimal or fictitious information or, when applying to open an account, providing information that is complex or expensive for the institution to verify; and b) Customers who decline to provide information that in normal circumstances would make the customer eligible for credit or for other banking services that would be regarded as valuable; etc.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	Institutions are required to refrain from carrying out transactions which they know or suspect to be related to money laundering until they have informed the JFIU which consents to the institution carrying out the transactions. Where it is impossible to refrain or if this is likely to frustrate efforts to pursue the beneficiaries of a suspected money laundering operation, institutions may carry out the transactions and notify JFIU on their own initiative and as soon as it is reasonable for them to do so.
Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	There are no explicit restrictions on "offshore" transactions monitoring provided that the other regulatory requirements, in particular the outsourcing and record keeping requirements, are fulfilled.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	According to s.59 (2) of the Banking Ordinance, HKMA may, as it thinks necessary (e.g. when actual/potential control or supervisory issues within the Bank were identified), direct a bank to submit a report prepared by an external auditor on prescribed subject matters. These include, inter alia, AML systems and controls.
Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	a) As considered necessary by HKMA; b) The external report is submitted to the bank, who then provide it to the HKMA; c) No.
Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	The scope of work varies depending upon the circumstances which trigger the review as mandated by the HKMA. However, in a comprehensive AML review carried out by external auditors, sample testing of KYC files/SAR reports and examination of risk assessments would normally form part of the scope of work.

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	The primary data protection law in Hong Kong is the Personal Data (Privacy) Ordinance ("PDPO"). Under the PDPO, personal data means any data relating directly or indirectly to a living individual; from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and in a form in which access to or processing of the data is practicable. The PDPO does not define corporate data or sensitive data.

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	The PDPO stipulates that personal data shall not, without the prescribed consent of the data subject, be used for a new purpose (i.e. any purpose other than the purpose for which the data was to be used at the time of the collection of the data or a purpose directly related to it). There is prohibition against transfer of personal data to place outside Hong Kong except in specified circumstances.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	We are not aware of any such laws or regulations that may significantly impact upon the transfer of information to Hong Kong.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	There is no specific bank secrecy law in Hong Kong. It should however be noted that banks are subject to confidentiality obligations which are applicable under common law (i.e. the legal framework adopted by Hong Kong) and the regulators also expect that banks duly protect the use of its customer data in the normal course of business.

¹ Equivalent to HKD1,549,065 million as at 30 September 2013 (Source: www.oanda.com)



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	The primary legislation governing AML in China is as follows: a) Anti-money Laundering Law (2006); b) Provisions on Anti-money Laundering through Financial Institutions (2006); c) Administrative Measures for Financial Institutions on Report of Large-sum Transactions and Doubtful Transactions (2006); d) Administrative Measures for Financial Institutions on Report of Transactions Suspected of Financing for Terrorist Purposes (2007); e) Administrative Measures for Financial Institutions on Identification of Client Identity and Preservation of Client Identity Materials and Transactions Records (2007); and f) Financial Institutions to enhance Customer Classification and Risk Ranking model for AML/CTF purpose.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	<p>Prior to the Anti-Money Laundering Law, China issued three main regulations on monitoring and reporting large-sum and suspicious transactions within financial institutions in 2003, requiring financial institutions to take the responsibilities for identifying, monitoring and reporting of doubtful and suspicious capital flow.</p> <p>Previously the regulations applied to proceeds of drug crime, organised crime, terrorism and smuggling. This has been broadened to specifically include proceeds of corruption, taking bribes, violating the financial management order and financial fraud.</p> <p>In late 2012, the central bank issued "Financial Institutions to enhance Customer Classification and Risk Ranking model for AML/CTF purpose" that requires Financial Institutions to add money laundering risk scoring to every of their customers. Please refer to A1 above.</p>
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.). Please include link to the regulator(s) website.
A3.	The AML law in China covers both financial institutions which include banks, insurance companies, securities firms and other deposit taking institutions, as well as the non-financial sector. The People's Bank of China ("PBOC") is the main enforcement body who carry out on-site inspections and apply fines if violations are found. The industry regulatory body for Banking is China Banking Regulatory Commission ("CBRC"); for Insurance Firms and Securities firms it is respectively the China Insurance Regulatory Commission ("CIRC") and China Securities Regulatory Commission ("CSRC"). For Non-financial sectors, the general responsibility rests with the State Administration for Industry and Commerce ("SAIC").
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	No.
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – with the issuance of the latest KYC regulations in 2007, regulators require financial institutions to establish a risk-based KYC approach and report to PBOC. At the end of 2012, PBOC issued a new guideline called "Financial Institutions to enhance Customer Classification and Risk Ranking model for AML/CTF purpose". In the new guidelines, PBOC required Financial Institutions to take into consideration of customer background, products, and geographical location as risk factors. All Financial Institutions need to report to the PBOC the new model by March 2013 and complete the implementation by end of 2015.

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Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	FATF has completed an assessment of the implementation of anti-money laundering and counter-terrorist financing standards in the People's Republic of China (China). The first Mutual Evaluation Report of China was adopted by the FATF Plenary in June 2007 with the most recent follow up report being 17/02/2012 http://www.fatf-gafi.org/media/fatf/documents/reports/mer/Follow%20Up%20MER%20China.pdf .

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	Yes - for one-off services such as cash remittance, cash exchange and negotiable instrument cashing, the threshold is a one-off transaction of RMB10,000 or foreign currency with a value of USD1,000 or equivalent. For property insurance contracts paid in cash, the threshold is a single amount insurance premium of RMB10,000, or foreign currency of value USD1,000 or equivalent. For life insurance contracts paid in cash, the threshold is a single amount insurance premium of RMB20,000 or foreign currency of value USD2,000 or equivalent. For any insurance contracts paid by account transfer, the threshold is an insurance premium of RMB200,000 or foreign currency of value USD20,000 or equivalent.
Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	If any financial institution establishes a business relationship with a client or provides one-off financial services such as cash remittance, cash conversion and bill payment beyond the prescribed amount, it shall verify and record the customer name and identification number, supported by original documentation. If the customer is represented by an agent, the financial institutions shall verify and record both the agent and the principal's identity details. Individuals: financial institutions are required to verify the customer identification information by a site visit in a face-to-face meeting; they should enquire with the public security bureau and check the online citizens' identity information system owned by the PBOC. Corporates: financial institutions are required to verify the customer identification information by a site visit in a face-to-face meeting; in addition, they should enquire with the state administration of industry and commerce.
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Where copies of identification documentation are provided, financial institutions are required to confirm the certified copies with the authentication body, to ensure the accuracy of the information provided. If the financial institution certifies the identity through a third party, it should be assured that the third party has adopted measures for client identity clarification as prescribed by the present Law.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	If a financial institution establishes a business relationship of personal insurance or trust with its client, in the case that the contractual beneficiary is not the client himself, the financial institution shall also verify and register the identity certificate or any other identification document of the beneficiary.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	When one financial institution (the trustor) entrusts another financial institution (the trustee) to sell financial products to clients, the trustor can rely on the customer due diligence conducted by the trustee based on the following conditions: a) the customer due diligence undertaken by the trustee meets the requirements of anti-money laundering laws and regulations; and b) the trustor is able to effectively obtain and preserve the KYC information.
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	None stated in local regulations or guidance.

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Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	None stated in local regulations or guidance.

Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	<p>There is no specific regulation or guidance on this area in the 2007 AML law update. However, the Administration Regulation on Electronic Banking Business, published by the China Banking Regulatory Commission (CBRC), covers electronic banking including wire transfer, internet banking and telephone banking. This requires that the financial institutions intending to provide cross-border electronic banking services must make an application to the CBRC and provide the following documents:</p> <ol style="list-style-type: none"> the country and its law / regulation relating to electronic banking; the main customers and services it intends to provide; the analysis and prediction of the business volume and the size of the customer base in the next three years; and the legal compliance analysis on cross-border electronic banking. <p>There is no other specific KYC or other requirement issued by the authorities that specifically covers correspondent banking.</p>

Q16.	Are relationships with shell banks specifically prohibited?
A16.	No.

Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	None stated in local regulations or guidance.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	China Anti-Money Laundering Monitoring and Analysis Centre ("CAMLMAC") http://www.camlmac.gov.cn/

Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2012 – 29.66 million SARs (Source: People's Bank of China's AML Report 2012)</p> <p>GDP (in current prices) 2012 – USD8,358,363 million (Source: data.worldbank.org)</p> <p>This results in a ratio of 1 SAR for every USD281,805 of GDP.</p>

Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	Different thresholds are used to define Large Value Transactions which are mandatory for reporting – for individuals, the threshold is defined as daily cash transaction over RMB200,000 or USD10,000; or wire transactions over RMB500,000 or USD100,000. For entities other than individuals, the threshold is defined as RMB2m or USD200,000.

Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No.

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Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, the People's Republic of China's AML law states that the Chairman, senior manager or any other person responsible are punishable. Penalties include disciplinary sanction or revoking of qualification to hold a post, fine of RMB10,000 up to RMB500,000 to an individual or/and RMB20,000 up to RMB5m to the organization. For very serious cases, the regulator can order to suspend business for rectification or to revoke its business license.

Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	Yes. PBOC decree 2 2006 requires financial institutions to monitor and report both large value and suspicious transactions based on a set of pre-defined patterns/threshold.

Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	None stated in local regulations or guidance.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	No.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) is it part of the financial statement audit?
A27.	N/A

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	N/A

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	China does not have Data Privacy Laws. Protection of "Personal Data" is governed by different laws for different purposes. Generally speaking, as long as the data is used within China, no law prohibits personal data to be held for KYC purpose. For the purpose of AML/KYC, there is no definition of "sensitive data".

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	Credit reports, criminal records and medical data are all prohibited from transfer for a non-related purpose (including KYC) without proper authority/consent.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No law or regulation in China impacts the transfer of information to the country.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	China does not have Bank Secrecy Laws. Personal data and transaction records are governed by different regulations from free transfer, i.e. outside of the bank, or other than the purpose for which the information is obtained. Bank customer records are prohibited from transfer to outside of the country even within the same group of entities.

¹ GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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Last updated:
January 2014

Regulatory Environment

Q1.	In what year did the relevant AML laws and regulations become effective?
A1.	2006 (with staggered implementation from 13 December 2006 to 12 December 2008, thus phasing in the new legislation and replacing the old). A second tranche to include accountants, lawyers, real estate and others has been delayed.
Q2.	If the AML laws and/or regulations became effective in the last 2 years, what were the requirements of the previous AML regime?
A2.	There is no new legislation; however Rules are still being released. In addition, new sanctions legislation was enacted in 2011. The old legislation (Financial Transaction Reports Act 1988) is still in force but applies to a limited number of entities.
Q3.	Who is the regulator for AML controls for: (a) Banking; (b) Other financial Services; (c) Non financial sector (e.g. casinos, high value goods etc.)? Please include link to the regulator(s) website
A3.	The Australian Transaction Reports and Analysis Centre ("AUSTRAC") regulates AML across all industry sectors: http://www.austrac.gov.au/
Q4.	Is there any practical guidance provided to firms by public authorities regarding AML requirements, beyond the FATF recommendations and local legislation? Please include link to website, where available.
A4.	Guidance on AML requirements has been provided by AUSTRAC: http://www.austrac.gov.au/
Q5.	Is there a requirement to retrospectively verify the identity of customers before the date the new AML regime was introduced?
A5.	No - although there are certain 'trigger events' that require a reporting entity to verify the identity of existing customers. An example of such a trigger event is the customer accessing a new product or service.
Q6.	Is a risk based approach approved by the local regulator(s)?
A6.	Yes – this is the central theme of the AML regime.
Q7.	Has the country been the subject of a FATF (or FATF-style) Mutual Evaluation or IMF assessment exercise in the last three years? If yes, please find a link to a relevant report (if publicly available).
A7.	No.

Customer Due Diligence

Q8.	Are there minimum transaction thresholds, under which customer due diligence is not required? If Yes, what are the various thresholds in place?
A8.	No - however a certain number of exemptions have been provided for transaction thresholds in industries including bullion, low value superannuation, gaming service providers and currency exchange at accommodation facilities.

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Q9.	What are the high level requirements for verification of customer identification information (individuals and legal entities)?
A9.	<p>Individuals: The reporting entity must obtain the customer's name, residential address and date of birth. The customer's full name and either their date of birth or their residential address must be verified based on reliable and independent documentation and/or electronic data.</p> <p>Corporates: The reporting entity must collect from the customer the following information:</p> <ol style="list-style-type: none">the company's full registered name;registered address;principal place of business address; andAustralian Company Number ("ACN") or Australian Registered Business Number ("ARBN"). <p>This information can be verified using a range of documentation or electronic data. Reporting entities must include a procedure for the reporting entity to verify, at a minimum, the following information about a company in the case of a domestic company:</p> <ol style="list-style-type: none">the full name of the company as registered by the Australian Securities and Investments Commission ("ASIC");whether the company is registered by ASIC as a proprietary or public company; andthe ACN issued to the company. <p>There is further guidance in chapter 4 of the AML/CTF Rules Instrument 2007 (No.1) where the customer is:</p> <ol style="list-style-type: none">a domestic company;a foreign company that has registered its presence in Australia; ora foreign company that has not registered its presence in Australia. <p>There are also customer identification requirements for other types of entities such as trusts, associations and clubs, and due diligence requirements for correspondent banking relationships.</p>
Q10.	Where copies of identification documentation are provided, what are the requirements around independent verification or authentication?
A10.	Identification documents must be certified as a true copy by one of a number of categories of qualified individuals including legal practitioners, Justices of the Peace and Police Officers. A list of authorised persons can be found in chapter 1 of the AML/CTF Rules.
Q11.	What are the high level requirements around beneficial ownership (identification and verification)?
A11.	A reporting entity must collect the full name and address of each beneficial owner of a public or proprietary company, other than a company that is licensed and subject to the regulatory oversight of an Australian Commonwealth, State or Territory statutory regulator. The reporting entity should take a risk based approach to determining whether and the extent to which this information should be verified. The reporting entity should also take a risk based approach to determining whether to collect and/or verify the name and address of each beneficial owner of a foreign public company, a domestic unlisted company, or a company that is licensed and subject to the regulatory oversight of a Commonwealth statutory regulator. Australia is under pressure to expand the practical application of ultimate beneficial ownership, There may therefore be changes in the future with respect to the level of beneficial ownership that is to be considered; currently at 25 % this is being reconsidered in light of FATCA requirements and other changes from FATF that could bring the level to 10%.
Q12.	In what circumstances are reduced/simplified due diligence arrangements available?
A12.	<p>Simplified due diligence procedures are available to reporting entities in accordance with the risk based approach and procedures that they adopt.</p> <p>Certain pre-commencement customers are subject to modified identification procedures, in that those procedures do not have to be completed prior to the commencement (or continuation, in this case) of the designated service. For information on medium or low risk customers refer to chapter 4 of the AUSTRAC Regulatory Guide.</p> <p>Guide available at http://www.austrac.gov.au/</p>
Q13.	In what circumstances is enhanced customer due diligence measures required?
A13.	Enhanced due diligence procedures are required to be implemented by reporting entities in accordance with the risk based approach and procedures that they adopt. Risk triggers specified in the rules as requiring enhanced customer due diligence are where the provision of a designated service is high risk or when a suspicion has arisen. Also to be considered are prescribed foreign countries in relation to prohibition or regulation of transactions with them.
Q14.	In what circumstances is additional due diligence required for Politically Exposed Persons ('PEPs')?
A14.	Reporting entities are required to consider the risk posed by PEPs in accordance with the risk based approach and procedures that have been adopted by the reporting entity.

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Q15.	What enhanced due diligence must be performed for correspondent banking relationships (cross-border banking and similar relationships)?
A15.	Due diligence assessments must be carried out on the financial institution with which they wish to enter a correspondent banking relationship, prior to the commencement of the relationship and at regular intervals thereafter.
Q16.	Are relationships with shell banks specifically prohibited?
A16.	Yes.
Q17.	In what circumstances is additional due diligence required for non face-to-face transactions and/or relationships?
A17.	Reporting entities are required to consider the additional risk posed by non face-to-face business, in accordance with the risk based approach and procedures they have adopted. There are currently no specific rules or guidance relating to non face-to-face business.

Reporting

Q18.	To whom are Suspicious Activity Reports (SARs) made? Please include a link to their website.
A18.	Suspicious Matter Reports ("SMRs") are made to AUSTRAC, who act as Regulator and FIU http://www.austrac.gov.au/
Q19.	What was the volume of SARs made to the authorities in the most recent year? Please state the GDP for the equivalent year.
A19.	<p>Volume of SARs: 2010/11 – 46,670 SARs (Referred to as SMR or SUSTRs in Australia via a vis the AML/CTF Regulator (AUSTRAC))</p> <p>GDP (in current prices): 2010/11 – USD1,379,382 million (Source: data.worldbank.org*)</p> <p>This results in a ratio of 1 SAR for every USD29.5 million of GDP.</p>
Q20.	Are there any obligations to report anything more than suspicious transactions e.g. unusual transactions, cash transactions above a certain threshold, international wire transfers, other transactions etc.?
A20.	All Threshold Transactions ("TTRs") over AUD10,000 in cash and all International Funds Transfer Instructions ("IFTIs") are required to be reported to AUSTRAC. In addition, Cross Border Currency movements must be reported to AUSTRAC, the Australian Customs Service or the Police if over AUD10,000.
Q21.	Are there any de-minimis thresholds below which transactions do not need to be reported?
A21.	No minimum threshold for SMRs, or IFTIs, but AUD10,000 for Cash Transactions (TTRs).
Q22.	Are there any penalties for non compliance with reporting requirements e.g. tipping off?
A22.	Yes, prohibited under criminal law and the AML/CTF Act 2006.
Q23.	Are there any requirements (legal or regulatory) to use automated Suspicious Transaction monitoring technology?
A23.	No requirement to have automated monitoring, but AML Rules require each reporting entity to have a suspicious activity monitoring program.
Q24.	Is there a requirement to obtain authority to proceed with a current/ongoing transaction that is identified as suspicious?
A24.	No.

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Q25.	Does the local legislation allow transactions to be monitored outside the jurisdiction?
A25.	Yes, provided the requirements of the Privacy legislation and protocols are complied with. Rules silent on how to monitor and where – AUSTRAC focuses on appropriateness of arrangements.

AML Audits

Q26.	Is there a legal requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls?
A26.	There is no requirement for a bank's external auditor/other external organisation to report on the bank's AML systems and controls. However, there is a requirement for the reporting entity to have an independent review performed on Part A of their Program on a regular basis. This independent review can be performed by either an internal or external party.

Q27.	If an external report on the bank's AML systems and controls is required: a) how frequently must the report be provided? b) to whom should the report be submitted? c) part of the financial statement audit?
A27.	As above, an independent review of the Program is required on a 'regular' basis. In practice this is conducted based on the bank's risk-based approach, with many banks choosing to conduct the independent review on an annual basis. The report must be provided to the governing board and senior management. The regulator also requests a copy during their reviews. This does not constitute part of the financial statement audit.

Q28.	What are the requirements for the content of this external report on a bank's AML systems and controls? Does it require: a) sample testing of KYC files? b) sample testing of SAR reports? c) examination of risk assessments?
A28.	Chapter 8.6.2 of the AML/CTF Rules states the following: The purpose of the review should be to: a) assess the effectiveness of the Part A program having regard to the ML/TF risk of the reporting entity; b) assess whether the Part A program complies with these Rules; c) assess whether the Part A program has been effectively implemented; and d) assess whether the reporting entity has complied with its Part A program. We note that KYC falls under Part B of the Program and is therefore not required by legislation to be reviewed. In practice, the regulator has commented that it would expect to see Part B reviewed and many reporting entities choose to include Part B in the scope of their independent review.

Data Privacy

Q29.	Does the country have established data protection laws? If so: a) does the definition of "personal data" cover material likely to be held for KYC purposes? b) how do the laws apply to corporate data? c) does this country have a separate definition of "sensitive data"? How is it defined and what are the additional protections?
A29.	Yes – Australia's current privacy legislation is the Privacy Act 1988. Pre 12 March 2014: a) Yes. b) The Privacy Act applies to Australian, ACT and Norfolk Island government agencies and certain private sector organisations, businesses that have an annual turnover of more than \$3 million, all credit reporting agencies and all health service providers. c) Yes. Sensitive data is information or an opinion about an individual's racial or ethnic origin, political opinions, membership or a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual preferences or practices, criminal record or health information. It is subject to a higher level of privacy protection as it may only be collected with consent, cannot be used or disclosed for a secondary purpose and cannot be shared in the same way that personal information can be shared. Post 12 March 2014: a) Yes. b) As above. c) As above and post 12 March 2014 sensitive data will not be allowed to be collected unless reasonably necessary to perform an activity of an organisation or a function of an agency.

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Q30.	Are there any prohibitions on the transfer of credit reports (for KYC and credit risk analysis purposes), criminal records (for KYC and crime prevention purposes) and medical data (for KYC and pension benefits purposes)?
A30.	No.
Q31.	Is there case law, other constitutional law or any other laws or regulations that may impact upon the transfer of information to this jurisdiction?
A31.	No.
Q32.	Does this jurisdiction have bank secrecy laws or other obligations of confidentiality (other than those that may have been accepted expressly under contract e.g. in account opening documentation)? If so, what data is subject to regulation?
A32.	No, Australia is not subject to the above.

* GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.



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