



ABU DHABI GLOBAL MARKET
سوق أبوظبي العالمي

By Email

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To: Senior Executive Officers (SEOs), Money Laundering Reporting Officers (MLROs) and Principal Representatives (PRs) of Authorised Persons

Dear All,

FINDINGS OF THE AML THEMATIC REVIEW AND NEXT STEPS

During March and April 2019 the Financial Services Regulatory Authority (“FSRA”) conducted a thematic review (“the Review”) of the practices of Authorised Persons (“APs”) in ADGM in relation to preventing and detecting the acts of money laundering, terrorist financing and the financing of weapons of mass destruction¹. This letter provides an overview of the findings from the Review, which comprised a desk-based analysis of the annual AML Returns received from forty-two APs and the on-site inspection of nine of them, and important messages arising from it that should be considered by APs.

BACKGROUND

The Review focused on the following three key matters.

1. The Risk Based Approach (“RBA”)
2. Customer Due Diligence (“CDD”)
3. Sanctions monitoring

The Review was designed and undertaken to allow the FSRA to assess the effectiveness of the systems and controls being used by APs in order to comply with the obligations imposed on them by the ADGM AML Rulebook. Based on the findings of the Review and the insights gained from it, the FSRA has identified a number of areas where current practices are effective in reducing those risk types, but also a number of areas where APs can improve their practices and by doing so enhance their systems and controls, further reducing those risk types within ADGM.

FINDINGS

In general, the findings revealed that the majority of APs have taken appropriate measures to implement the required systems and controls as prescribed in our AML Rulebook. However, there were

¹ For the purposes of this letter the term “risk types” will be used to cover the risks to an AP arising from these acts and the term “anti-money laundering” (“AML”) will be used to refer collectively to the actions undertaken to counter those activities and the associated risks.



some shortcomings that must be addressed, as highlighted in more detail below.

1. Application of the Risk Based Approach (RBA)

In some cases business risk assessments, i.e. the analysis undertaken by an AP of its own exposure to these risk types, were not sufficiently detailed to provide any meaningful assistance in formulating a robust AML framework, comprising appropriate systems and controls, for the AP. Furthermore, these assessments were not always reviewed and updated on a regular basis. The FSRA also observed that in a number of cases generic risk managements reports were produced which did not specifically address these risk types arising from the specific nature of the business, customers, products and services of the AP.

2. Customer Due Diligence (CDD)

The FSRA noted a number of shortcomings in the performance of CDD, both whilst onboarding new customers but also on an ongoing basis in accordance with the risk rating determined for each customer. Certain APs were unable to specify the type of CDD undertaken as well as the frequency of conducting ongoing CDD for customers commensurate with their respective customer risk ratings (i.e. based on categorization as High, Medium or Low). It was also noted that some APs failed to carry out ongoing CDD. In the instances where ongoing CDD was conducted, certain APs were unable to identify the specific sections in their policies and procedures that specified how they should undertake CDD.

3. Sanctions Monitoring

Customers were generally screened against the relevant sanctions lists, both international and those drawn up by the UAE authorities (“local”), when they were on-boarded and thereafter, but some APs could not provide an indication of the frequency with which post-onboarding screenings were performed. It is unclear whether sanctions screenings were performed when triggers are met or whether the screening was carried out on a periodic basis. Thus, the FSRA concluded that sanctions compliance for some APs was regarded as an ad hoc activity rather than being treated as a core regulatory process. In cases where APs are relying on technological platforms offered by various service providers, they must ensure that appropriate mechanisms are in place to monitor these platforms’ accuracy in order meet the APs obligations in sanctions monitoring.

Additionally, some APs were unable to show that they had screened customers against the relevant UAE sanctions list when it was released/updated or on a periodic basis thereafter.

AREAS FOR IMPROVEMENT AND NEXT STEPS

AML is a key regulatory concern for ADGM, in line with the UAE national efforts to combat financial crime. The annex to this letter contains examples of good practices that were observed during the Review and areas where APs should improve their practices. This can be achieved through strengthening existing systems and controls or adopting new, supplementary processes where necessary.



The FSRA will continue to monitor industry practices in relation to AML, in order to ensure that high, effective control standards are maintained by APs. Failure to comply fully with the requirements of the Federal AML Laws and ADGM AML Rulebook may result in the imposition of supervisory measures including possible enforcement actions.

The Financial Crime Prevention Unit (“FCPU”) of the FSRA will continue to conduct outreach sessions and issue further specific guidance to raise the level of awareness and compliance.

Sincerely,

Richard Teng
Chief Executive Officer



Annex: Good Practices and Areas for Improvement

General
General Remarks
APs should: <ul style="list-style-type: none">• understand that regulatory requirements are the minimum standards that must be met;• employ appropriate expertise and experience in dealing with AML;• be aware that when outsourcing tasks to another entity, especially in relation to CDD, the ultimate responsibility for meeting regulatory requirements rests with the AP so they must have a detailed knowledge of the related activities undertaken by that entity;• appreciate that AML measures are global in nature, across their operations; and• proactively monitor international standards that are critical in formulating global AML standards (i.e. those from FATF, the UN, the Basel AML index).
1. Application of the Risk Based Approach (RBA)
Good Practices
The Business risk assessment process: <ul style="list-style-type: none">• uses all available sources of information, e.g. FATF Mutual Evaluations reports and the Basel AML index, to support the identification and analysis of risk types;• engages senior management, business areas and control functions (e.g. compliance, risk management) as part of the review and approval process; and• identifies and considers all key financial crime risks, including tax evasion and corruption.
Areas for Improvement
APs should: <ul style="list-style-type: none">• ensure that the assessment is an integral part of formulating their AML framework;• use a granular approach to the assessment and document it, rather than assign a headline risk rating without detailed analysis of the underlying risk types; and• assess the effectiveness of various AML controls in the light of the specific, inherent risks that those controls are intended to mitigate.
2. Customer Due Diligence (CDD)
Good Practices
CDD methodology and processes:



- are well-documented in an AML Manual that includes a section addressing ongoing CDD and ongoing transaction monitoring, and is written in plain English;
- clearly define the client risk rating methodology;
- require a central client risk rating register to be established prior to onboarding any customer; and
- utilize screening software against lists of key names and entities including customers, beneficial owners and known associates, on an ongoing basis, and generate real time alerts.

Areas for Improvement

APs should:

- ensure a meaningful differentiation between the classifications of Low, Medium and High risks, with supporting analysis based on the relevant risk factors for those categories;
- screen the relevant name(s) (including UBOs) against all relevant sanctions lists at the time of on-boarding and thereafter;
- ensure - when onboarding a customer belonging to a group where there is an existing relationship - that customer due diligence requirements are the same as would be applicable to a new customer;
- set clear protocols for the frequency of on-going CDD that are appropriate for the different customer risk ratings (whether Low, Medium or High);
- conduct searches using a variety of information sources, with a focus on sources of funding and wealth, ownership and organizational structure, composition of senior management, authorized signatories who will act on behalf of the client or their agent; and
- review AML policies and procedures on a periodic basis (at least annually) and whenever there is a material change to circumstances, whether internal or external (e.g. new legislation).

3. Sanctions Monitoring

Good Practices

Monitoring:

- screens customers at the time of onboarding and then periodically, in accordance with the relevant sanctions lists;
- utilizes electronic software/solutions to monitor sanctions lists.

Areas for Improvement

APs should:

- ensure a consistent and documented approach when screening the names of all agents and UBOs against various sanctions lists including the local lists before their onboarding or when establishing a relationship with the client or their agent;
- have clear action plans defined for next steps when a “hit” is seen; and
- ensure that sanctions lists, both international and local, are monitored and kept up-to-date.



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