



# THEMED INSPECTIONS PROGRAMME 2012

ANTI-MONEY LAUNDERING AND COMBATING FINANCING OF  
TERRORISM SUMMARY OF FINDINGS

**ANGUILLA FINANCIAL SERVICES COMMISSION**  
**2013**

## TABLE OF CONTENTS

|   |  |   |
|---|--|---|
| 1 | Introduction .....                       | 1 |
| 2 | Scope .....                              | 1 |
| 3 | Preliminary Observations .....           | 1 |
| 4 | Areas of Substandard Performance .....   | 2 |
| 5 | Required Improvements .....              | 2 |
|   | 5.1 Customer Due Diligence .....         | 2 |
|   | 5.2 Customer Risk Assessments .....      | 3 |
|   | 5.3 Training and Awareness.....          | 3 |
|   | 5.4 MLCO/MLRO/CO .....                   | 4 |
|   | 5.5 Policies, Systems and Controls ..... | 4 |
|   | 5.6 Corporate Governance.....            | 4 |
| 6 | Final Comments.....                      | 5 |

## **1 Introduction**

- 1.1 In 2012, the Commission continued its themed on-site inspections to assess the extent to which licensed service providers were operating in accordance with their obligations under the AML/CFT legislation, i.e. Proceeds of Crime Act (“POCA”), the Anti-Money Laundering and Terrorist Financing Regulations, 2009 (“Regulations”) and the Anti-Money Laundering and Terrorist Financing Code, 2009 (“Code”). Findings from those inspections underpin the Commission’s continued concern at the lack of effective implementation of the Territory’s AML/CFT regime.
- 1.2 This paper highlights areas where licensed service providers’ performance is below required standard, seeks to educate industry participants on the risks faced and provides advance warning to non-compliant service providers. It does not present an exhaustive list of all risks that may be associated with non-compliance with legal and regulatory obligations. Moreover, not all licensed service providers face all the issues described. However, the observations made reflect areas of risk that have been noted by the Commission as relevant.

## **2 Scope**

- 2.1 The Commission’s on-site inspection programme covered a range of financial services businesses, including company managers, trust companies and insurance companies.
- 2.2 Thirteen on-site inspections were undertaken between March and October 2012. Inspectors assessed whether service providers carried out and documented customer risk assessments and whether their policies and procedures involved a risk based approach. Inspectors also reviewed service providers’ AML/CFT policies and procedures, staff training and awareness, record keeping, appointment of money laundering reporting officers (“MLROs”), money laundering compliance officers (“MLCOs”) and compliance officers (“COs”).
- 2.3 Prior to inspection, service providers were asked to complete a preliminary off-site questionnaire, with emphasis on risk assessments.
- 2.4 Inspectors reviewed, on a sample basis, records, files and written procedures maintained by service providers and held discussions with management and staff involved in strategic, operational and compliance matters. Where appropriate, specific areas for improvement were identified and deadlines set for remedial action.

## **3 Preliminary Observations**

- 3.1 As in 2011, the Commission found a significant number of areas where service providers exhibited a low level of compliance with the AML/CFT legislation, with only a minority of those inspected achieving acceptable standards. The findings are based upon a relatively small sample and the Commission acknowledges that they may not be representative of the financial services industry as a whole. The areas of sub-standard performance are outlined in section 4.

## **4 Areas of Substandard Performance**

- 4.1 Some service providers failed to prepare and record customer risk assessments and to assess and document the risk that business relationships involve (as required by sections 10 and 16 of the Regulations).
- 4.2 Some service providers recorded information pertaining to source of funds that was vague and failed to request further information (as required by section 10 of the Regulations).
- 4.3 Some service providers failed to evidence a training program to test effectiveness of their employee's AML/CFT awareness and training (as required by section 19 of the Regulations).
- 4.4 Although service providers complied with the requirement to keep transaction records, the correspondence and supporting documentation were not kept in a form that could be made available on a timely basis when requested by the Commission or a law enforcement authority (as required by section 17 of the Regulations).
- 4.5 Although most service providers complied with the requirement to appoint a MLCO/MLRO, the majority of these appointments had not been submitted for approval by the Commission (as required by sections 20 and 21 of the Regulations).
- 4.6 Some service providers continued to fail to document AML/CFT policies, systems and controls adequately, notably in relation to customer due diligence and ongoing monitoring (as required by section 16 of the Regulations).

## **5 Required Improvements**

Based on inspection findings, the Commission considers the following areas demand improvement:

### **5.1 Customer Due Diligence**

- 5.1.1 Service providers were partially compliant with the customer due diligence requirements set out in section 10 of the Regulations. Although service providers obtained customer identification and verification information, there appeared to be a lack of customer relationship information and risk assessments. Relationship information includes source of funds, source of wealth, nature and type of business. In cases where service providers provided relationship information, the source of funds information obtained was so vague that it required further amplification.
- 5.1.2 In high risk situations, a request for a source of wealth document may be more essential than a source of funds document which relates only to the transaction. Service providers should understand the source of wealth underpinning the net worth of their customer.

- 5.1.3 The Commission also considers the nature and type of business a critical component of customer due diligence and one which should be detailed in the application document or business plan of the customer.

## 5.2 Customer Risk Assessments

- 5.2.1 Inspectors found that eight percent (8%) of service providers sampled carried out and documented customer risk assessments. Risk profiling and rating of customers are required by service providers under section 10 of the Regulations.
- 5.2.2 Inspectors found that customer risk assessments required significant analysis and review of the customer due diligence information to determine effectively the appropriate risk profiling and rating. Some service providers, although having the necessary policies and procedures detailing customer risk assessments, engaged in a “tick box” process without proper analysis.
- 5.2.3 The Commission expects that the process of risk assessments will include checks for politically exposed persons and banned individuals, as well as persons associated with FATF - designated high-risk and non-cooperative jurisdictions. Further, the Commission expects service providers’ policies and procedures to encompass a risk based approach; this requires enhanced due diligence in cases where the risk is perceived to be higher and updating customer due diligence on a risk sensitive basis.
- 5.2.4 Inspectors found that forty six percent (46%) of service providers sampled relied on intermediaries and introducers to apply customer due diligence measures. In this group, inspectors found that service providers were non-compliant in carrying out customer risk assessments because they failed to request the customer due diligence information. Section 13 of the Regulations indicates that since the liability to apply customer due diligence measures rests with the service provider, it must satisfy itself that third parties are “regulated” or “foreign regulated persons” and consent to be relied on.

## 5.3 Training and Awareness

- 5.3.1 Inspectors found only twenty-three percent (23%) of the staff of service providers sampled were familiar with the current AML/CFT legislation. While, in some cases the key principal of the institution was familiar with the AML/CFT legislation, there was little knowledge sharing and/or training of staff whose duties directly related to the provision of relevant business. Also, MLCOs based overseas - although trained - were not familiar with the AML/CFT legislation in Anguilla. Most service providers were non-compliant in implementing training programs to test the effectiveness of their employee’s AML/CFT awareness and training.
- 5.3.2 Section 19 of the Regulations requires service providers to take appropriate measures in making employees whose duties relate to the provision of relevant business aware of the laws of Anguilla relating to AML/CFT offences, the Regulations and Code along with any guidance issued by the Commission.

- 5.3.3 The Commission notes that the Code has incorporated guidance which can serve as a handbook for many service providers. The Code can supplement procedures manuals and assist with training of staff.

#### 5.4 MLCO/MLRO/CO

- 5.4.1 The Commission places great importance on MLROs/MLCOs/COs as they must be highly skilled senior individuals within the institution, interacting with the board of directors, senior management and employees. These individuals are to be vigilant and proactive in their roles as gate keepers of the licensee.
- 5.4.2 Inspectors found that only eight percent (8%) of service providers sampled had their appointed MLROs/MLCOs approved by the Commission (as required by sections 20 and 21 of the Regulations).
- 5.4.3 Additionally, certain service providers had appointed COs whose appointments had not been approved by the Commission (as required by section 27 of the Financial Services Commission Act, R.S.A. c. F28). Reference is made to the “Guidelines on the Role and Approval of Compliance Officers” published under the “Publications” section of the Commission’s website.

#### 5.5 Policies, Systems and Controls

- 5.5.1 Inspectors found that fifty four percent (54%) of the service providers sampled documented their AML/CFT policies and procedures. Some procedures manuals required amendments to include the subject matter listed in the “AML/CFT Issues Guide for Procedures Manual” published under the “AML/CFT” section of the Commission’s website, while other manuals required updates to reflect the current AML/CFT legislation. Sections in the manuals requiring improvement were notably in relation to customer due diligence and ongoing monitoring.
- 5.5.2 Also, certain service providers were non-compliant in carrying out and documenting business risk assessments (as required under section 16 of the Regulations). Service providers must take into account the following risks: customer, product, delivery and country. Analysis of these risks allows the service provider a better understanding of its business and how to manage the risks.

#### 5.6 Corporate Governance

- 5.6.1 In cases where service providers failed to document policies and procedures, there was a general lack of corporate governance.
- 5.6.2 The Commission observes that AML/CFT risks are constantly changing and thus Boards of Directors and Senior Management have to be dynamic in their approach. Directors and Senior Management must engage strategically and operationally in managing and controlling risks. Thus, risk assessment systems should be understood, challenged and reviewed for further improvement by Directors and Senior Management.

- 5.6.3 Directors are encouraged to set an affirmative and firm tone concerning compliance, ensuring that the “culture of compliance” filters down throughout the organization.
- 5.6.4 The Commission considers the advantages of AML/CFT risk management are important and should not be underestimated. They build public trust and confidence in the institution as well as reducing the possibility of legal and regulatory sanctions.

## **6 Final Comments**

- 6.1 Based on the service providers inspected and compared to 2011, the level of compliance with the AML/CFT legislation has not shown significant improvement.
- 6.2 The Commission re-emphasizes Anguilla’s commitment to adhering to international standards and those established by the Financial Action Task Force in combating money laundering and the financing of terrorism.
- 6.3 It is with considerable regret that the Commission publishes the results within this report. The Commission will escalate the approach as it moves from an education programme to an approach where regulatory sanctions are considered when inadequate performance by licencees is encountered.

**Anguilla Financial Services Commission**  
11 June 2013