



qatar

FINANCIAL CENTRE

REGULATORY AUTHORITY

Anti Money Laundering Rulebook (AMLR)

Version No. 3

Effective: 1 October 2008—5 December 2009

**Includes amendments made by
Rulebooks (Miscellaneous Amendments) Rules 2008 (No 2)
QFCRA RM/2008-02**

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Background to the Rulebook

1. The *AML Regulations* were made by the *Minister* pursuant to Article 9 of the *QFC Law*. This rulebook (*AMLR*) extends and clarifies the provisions in the *AML Regulations*. Accordingly this rulebook must be read in conjunction with the *AML Regulations*. For ease of reference some provisions of the *AML Regulations* have been replicated in this rulebook.

Role of Regulatory Authority

2. Paragraph 2 of Schedule 2 of the *FSR* provides that all duties, functions and powers relating to monitoring, supervision and investigation, enforcement and related powers under the *AML Regulations* are vested in the *Regulatory Authority*. Part 8 (supervision and investigations), Part 9 (disciplinary and enforcement powers) and Part 10 (enforcement procedure) of the *FSR* apply to the exercise of the *Regulatory Authority's* powers under the *AML Regulations*.
3. The reduction of *Money Laundering* risks plays an important role in assisting the *Regulatory Authority* achieve its objectives of maintaining market confidence and promoting and maintaining the efficiency, transparency and integrity of the *QFC*.
4. The provisions of the *AML Regulations* and *AMLR* are intended to meet the highest international standards of anti *Money Laundering* systems, controls and sanctions (including the *FATF's* Forty Recommendations to combat *Money Laundering* and Nine Special Recommendations on terrorist financing). In ensuring that the provisions of the *AML Regulations* and the *AMLR Rulebook* operate effectively and to give full force to the international standards, the *Regulatory Authority* will co-operate with Qatari and foreign bodies responsible for the detection or prevention of money laundering.
5. Such co-operation may include the sharing of information which the *Regulatory Authority* is not prevented from disclosing.

Relationship between the AML Regulations, AMLR and the Criminal Law of the State

6. By virtue of Article 18 of the *QFC Law*, the criminal laws and sanctions of the *State* shall apply in the *QFC*. Therefore relevant provisions of the "Law No. (28) of 2002 on Anti Money Laundering", the "Law No. (11) of 2004 Penal Code" and any other criminal law of the *State* are applicable in the *QFC*. The *AML Regulations* and *AMLR* relate to regulatory requirements as opposed to requirements imposed by the criminal law. The contents of the *AML Regulations* and *AMLR* should not be relied upon to interpret or determine the application of the criminal laws of the *State*.

Meaning of "Money Laundering" in AMLR

7. The meaning of "*Money Laundering*" is set out in the *AML Regulations* and the *Glossary* in the *INAP Rulebook*. As used in the *AML Regulations* and *AMLR* the meaning of "*Money Laundering*" is very wide and includes not only the matters stipulated in Article (2) of the Law No. (28) of 2002 on Anti Money Laundering but also includes, amongst other things, the knowing conversion, transfer, concealment, acquisition, possession or use of *Criminal Property*.
8. Money laundering is generally described as the process by which criminals attempt to hide or disguise the true origin and ownership of the proceeds of their criminal activities, thereby avoiding prosecution, conviction and confiscation of criminal funds. This includes, but is not limited to, drug smuggling, terrorist financing, blackmail, corruption, extortion, fraud, forgery, tax evasion and theft. *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 state or country.

Meaning of "Customer" in AMLR

9. In the *AML Regulations*, the definition of *Customer* is wide. A *Customer* is (in relation to a *Relevant Person*) any *Person* engaged in, or who has had contact with the *Relevant Person* with a view to engaging in, any *Transaction* with that *Relevant Person*:
 - a. on his own behalf; or
 - b. as agent for or on behalf of another.

1 Application

1.1 Application

1.1.1 This rulebook (*AMLR*) applies to every *Person* to whom the *AML Regulations* apply and to the same extent in relation to every such person as the *AML Regulations* except to the extent that a provision of this rulebook provides for a narrower application.

2 Interpretation

2.1 Purposive Interpretation

- 2.1.1** This rulebook (*AMLR*) is to be interpreted in keeping with the spirit of its *Rules* and with regard to the object and purpose as well as the letter of the *Rules*.
- 2.1.2** The object and purpose of any provision in *AMLR* shall be derived primarily from the wording of the provision itself and from the context both within the chapter of *AMLR* within which it appears and other related provisions elsewhere in *AMLR*.

3 Overview: Basic Principles and Objectives of Money Laundering Prevention and Compliance

3.1 Principles to be adopted by Relevant Persons

3.1.1 To assist compliance with the law of the *State* and the *AML Regulations*, a *Relevant Person* must adopt and maintain the following basic principles:

- (A) policies, procedures and controls must be established and maintained which aim to deter criminals from using the products and services of the *Relevant Person* for laundering the proceeds of crime;
- (B) in developing its policies, procedures, and controls, a *Relevant Person* must be aware of the different vulnerabilities of products and services and the associated risks of *Money Laundering*. *Relevant Persons* should tailor their policies and procedures according to the perceived risks whilst ensuring that procedures do not fall below the standards set out in chapter 3;
- (C) an *MLRO* of sufficient seniority, competence and independence, must be appointed to act as the focal point for all activity relating to *Money Laundering*, to monitor compliance and to make regular compliance reports to the *Senior Management* of the *Relevant Person*. Where a *Relevant Person* is an *Authorised Firm* the *MLRO* must be an *Approved Individual*;
- (D) satisfactory “*Know Your Customer*” procedures must be established to identify the users of services, the principal *Beneficial Owners* and the origin of any funds being deposited or invested with or through a *Relevant Person*. Satisfactory procedures would include knowing the nature of the business that the *Customer* normally expects to conduct; and being alert to transactions that are abnormal within the relationship;
- (E) unexplained or abnormal *Transactions* which are suspected of being linked to *Criminal Conduct*, must be reported to the *MLRO* who must then determine whether a report should be made to the *FIU*;
- (F) reporting lines for suspicious *Transactions* must be clear and unambiguous and all reports must reach the *MLRO* without undue delay;
- (G) all *Employees* must have access to information about their statutory responsibilities and relevant staff must be made aware of the tailored anti *Money Laundering* policies and procedures developed by their employers. *Employees* must be provided with training that helps them to understand the vulnerabilities of the products and services offered, and in how to recognise and report suspicious *Transactions*. Records must be kept regarding who has been trained, the timing of the training and how the training has been given; and

- (H) records confirming the identity of *Customers* must be retained for at least six years following the end of the business relationship. In addition, records of *Transactions* undertaken for those *Customers* that provide the audit trail for funds handled on their behalf must also be kept. Records of all internal suspicious activity reports submitted and all disclosures made to the *FIU* must be retained.

Guidance

These principles are a summary of the major requirements of the *AML Regulations* and *AMLR*. In considering these principles, reference should also be had to the detailed requirements set out in the *AML Regulations* and *AMLR*.

3.2 Application and Purpose of the AML Regulations

AML Regulations

1. The scope of the *AML Regulations* is very wide. The provisions in the *AML Regulations* require *Relevant Persons* to have effective policies, procedures, systems and controls in place to prevent *Money Laundering*. They also require *Authorised Firms* to ensure that *Approved Individuals* exercise appropriate responsibilities in relation to these anti *Money Laundering* systems and controls.
2. Article 2 of the *AML Regulations* provides, amongst other things:

Application

- (4) These Regulations apply to every *Relevant Person*.
- (5) Some provisions of these Regulations also relate to the MLRO of an *Authorised Firm* in his capacity as an *Approved Individual*.
- (6) These Regulations apply to *Relevant Persons* only in relation to activities carried on in or from the QFC.

3. The full anti *Money Laundering* regime set out in the *AML Regulations* applies to every *Relevant Person*, defined in Article 19 of the *AML Regulations* to mean:

Relevant Person

a Person who carries on any *Regulated Activities* and/or a Person who conducts, and in so far as they conduct, any of the following activities:

- (A) the business of providing professional services of audit, accounting or tax consulting and legal and notarisisation;
- (B) the provision, formation, operation and administration of trusts and similar arrangements of all kinds; and
- (C) company services including, the business of provision, formation, operation and management of companies

3.3 General Anti Money Laundering Compliance Requirements

AML Regulations

Article 6 of the *AML Regulations* provides:

General Anti Money Laundering Compliance Requirements

- (1) A Relevant Person must establish and maintain effective anti Money Laundering policies, procedures, systems and controls to prevent opportunities for Money Laundering, in relation to the Relevant Person and its activities.
- (2) A Relevant Person must set up and operate arrangements, including the appointment of an Money Laundering Reporting Officer (MLRO) in accordance with the duty in Article 8 which are designed to ensure that it is able to comply, and does comply, with the provisions of these Regulations.
- (3) A Relevant Person must take reasonable steps to ensure that its Employees comply with the relevant requirements of its anti Money Laundering policies, procedures, systems and controls.
- (4) A Relevant Person must review the effectiveness of its anti Money Laundering policies, procedures, systems and controls at least annually.
- (5) A Relevant Person which is a QFC Entity must ensure that its anti Money Laundering policies, procedures, systems and controls apply to any branch or subsidiary operating in another jurisdiction.
- (6) If another jurisdiction's laws or regulations prevent or inhibit a Relevant Person from complying with the Law No. (28) of 2002 Money Laundering or with these Regulations, the Relevant Person must promptly inform the Regulatory Authority in writing.

3.3.1 A *Relevant Person* must establish and maintain anti *Money Laundering* policies, procedures, systems and controls which:

- (A) ensure compliance with the Law No. (28) of 2002 on Anti Money Laundering and any other relevant laws of the *State*;
- (B) enable suspicious *Customers* and *Transactions* to be detected and reported;
- (C) ensure that the *Relevant Person* is able to provide an audit trail of a *Transaction*; and
- (D) ensure compliance with any other obligation in *AMLR* and the *AML Regulations*.

3.3.2 A *Relevant Person's* anti *Money Laundering* compliance arrangements must consist of policies, procedures, systems and controls and may also encompass appropriate anti *Money Laundering* programmes and strategies.

3.3.3 A *Relevant Person* must have a policy statement detailing the duties and obligations of its *MLRO*.

Guidance

In accordance with INDI chapter 5, in assessing the suitability of a *Person* to perform a *Controlled Function* an *Authorised Firm* should have regard to all relevant factors including matters which may impact on that individual's *Fitness and Propriety*. This assessment should take into account criminal convictions, adverse findings by courts or regulatory authorities in the *State* or elsewhere, or engagement in dishonest or improper business practices

- 3.3.4** The review process under Article 6 of the *AML Regulations* must include an assessment of the *Relevant Person's* anti Money Laundering policies, procedures, systems and controls.
- 3.3.5** A *Relevant Person* must ensure that the review process under Article 6 of the *AML Regulations* is undertaken:
- (A) internally by its internal audit or *Compliance Oversight Function*; or
 - (B) by a competent firm of independent auditors or compliance professionals.
- 3.3.6** A *Relevant Person* must ensure that the review process under Article 6 of the *AML Regulations* covers at least the following, taking into account the nature, scale and complexity of the business:
- (A) a sample testing of “Know Your Customer” arrangements;
 - (B) an analysis of all *Suspicious Transaction Reports* to highlight any area where procedures or training may need to be enhanced; and
 - (C) a review of the nature and frequency of the dialogue between the *Senior Management* with the *MLRO* (if applicable) to ensure that their responsibility for implementing and maintaining adequate controls is satisfactory.

Guidance

1. If another jurisdiction’s laws or regulations prevent or inhibit a *Relevant Person* from complying with Law No. (28) of 2002 on Anti Money Laundering or the *AML Regulations*, the *Regulatory Authority* may impose restrictions that may be necessary, preventing it from operating a branch or subsidiary in that jurisdiction.
2. A *QFC Entity* should conduct a periodic review to verify that any branch or subsidiary operating in another jurisdiction is in compliance with the obligations imposed under the Law No. (28) of 2002 on Anti Money Laundering and the provisions of the *AML Regulations*.

3.4 Co-operation with Regulator

AML Regulations

Article 7 of the *AML Regulations* provides:

Co-operation with Regulator

A *Relevant Person* that receives a request for information from the FIU, an Overseas Regulator or other agency responsible for anti Money Laundering regarding enquiries into potential Money Laundering related to activities carried on in or from the QFC, must promptly inform the *Regulatory Authority* in writing.

3.5 Appointment of MLRO

AML Regulations

Article 8(1) – (4) of the *AML Regulations* provides:

Appointment, Responsibilities and Duties of the MLRO

- (1) A Relevant Person must appoint an individual to act as its MLRO and operate arrangements that are designed to ensure that it and the MLRO comply with the relevant obligations of these Regulations.
- (2) A Relevant Person must appoint an individual to act as a deputy of the Relevant Person's MLRO who must fulfil the role of MLRO in the MLRO's absence.
- (3) If the position of MLRO falls vacant, the Relevant Person must appoint another individual as its MLRO.
- (4) A Relevant Person must ensure that the MLRO is of sufficient seniority within the Relevant Person to enable him to:
 - (A) act on his own authority;
 - (B) have direct access to the senior management of the Relevant Person;
 - (C) have sufficient resources including, if necessary, an appropriate number of appropriately trained Employees to assist in the performance of his duties in an effective, objective and independent manner;
 - (D) have unrestricted access to information the Relevant Person has about the financial and business circumstances of a Customer or any person on whose behalf the Customer is or has been acting; and
 - (E) have unrestricted access to relevant information about the features of the Transactions which the Relevant Person has entered into or may have contemplated entering into with or for the Customer or that person.

3.5.1 When appointing an individual to be its *MLRO*, a *Relevant Person* must appoint someone who is employed within the *Relevant Person*, or within another relevant firm in the same *Group*, whether as part of its *Governing Body*, management or staff.

Guidance

1. The *MLRO* of an *Authorised Firm* will perform the *Money Laundering Reporting Function*. Every *Authorised Firm* is required to have at least one *Person* performing the *Money Laundering Reporting Function* in accordance with INDI Rule 2.3.1.
2. In accordance with INDI Rule 2.2.2 any individual performing the *Money Laundering Reporting Function* must be ordinarily resident in the *State*.
3. The *MLRO* is responsible for the oversight of the *Relevant Person's* anti Money Laundering activities and is the key individual in the *Relevant Person's* implementation of anti Money Laundering strategies and policies. The job of the *MLRO* is to act as the focal point within the *Relevant Person* for the oversight of all activity relating to anti *Money Laundering*. He needs to be senior, to be free to act on his own authority and to be informed of any relevant knowledge or suspicion in the *Relevant Person*. In turn he has to pass on issues to the *FIU* as he thinks appropriate. He can be expected to liaise with the *FIU* on any question whether to proceed with a *Transaction* in the circumstances.
4. A deputy of an *Authorised Firm's* *MLRO* need not be registered as an *Approved Individual* to perform the *Money Laundering Reporting Function*.

3.6 Responsibilities of an MLRO

AML Regulations

1. Article 8(5) – (6) of the *AML Regulations* provides:

Appointment, Responsibilities and Duties of the MLRO

- (5) A Relevant Person must ensure that its MLRO is responsible for all of its anti Money Laundering activities carried on in or from the QFC.
- (6) A Relevant Person must ensure that its MLRO carries out and is responsible for the following:
 - (A) establishing and maintaining the Relevant Person's anti Money Laundering policies, procedures, systems and controls and compliance with anti Money Laundering legislation and regulation applicable in the QFC;
 - (B) the day-to-day operations for compliance with the Relevant Person's anti Money Laundering policies, procedures, systems and controls;
 - (C) receiving internal Suspicious Transaction Reports from the Relevant Person's Employees;
 - (D) taking appropriate action pursuant to Article 13 following the receipt of an internal Suspicious Transaction Report from the Relevant Person's Employees;
 - (E) making, in accordance with Law No. (28) on Anti Money Laundering or otherwise, external Suspicious Transaction Reports to the FIU and notifying the Regulatory Authority under Article 13(7);
 - (F) acting as the point of contact within the Relevant Person for the FIU, other competent Qatar authorities and the Regulatory Authority regarding Money Laundering issues;
 - (G) responding promptly to any request for information made by the FIU, the QFC Authority, the Regulatory Authority or other competent State authorities;
 - (H) receiving and acting upon findings under Article 14;
 - (I) establishing and maintaining an appropriate anti Money Laundering training programme (whether by himself or someone else) and adequate awareness arrangements pursuant to Article 17; and
 - (J) making annual reports to the Relevant Person's senior management under Article 8(7).

2. In accordance with CTRL section 5.1 where a *Relevant Person* outsources specific anti *Money Laundering* tasks of its *MLRO* to another suitable individual of a third party provider, including within its *Group*, or where the *MLRO* delegates tasks to other suitably qualified persons within the *Authorised Firm*, the *MLRO* of the *Relevant Person* remains responsible for ensuring compliance with the duties imposed on the *MLRO*.

3.7 MLRO's Reporting Duties

AML Regulations

- Article 8(7) – (10) of the *AML Regulations* provides:

Appointment, Responsibilities and Duties of the MLRO

- (7) The MLRO must report at least annually to the senior management of the Relevant Person on the following matters:
 - (A) the Relevant Person's compliance with applicable anti Money Laundering laws including Articles, Rules and Regulations;
 - (B) the quality of the Relevant Person's anti Money Laundering policies, procedures, systems and controls;
 - (C) any findings under Article 14 and how the Relevant Person has taken them into account;
 - (D) any internal Suspicious Transaction Reports made by the Relevant Person's staff pursuant to Article 13 and action taken in respect of those reports, including the grounds for all decisions;
 - (E) any external Suspicious Transaction Reports made by the Relevant Person pursuant to Article 13 and action taken in respect of those reports including the grounds for all

- decisions;
- (F) the results of the review under Article 6(4); and
 - (G) any other relevant matters related to Money Laundering as it concerns the Relevant Person's business.
- (8) A Relevant Person must ensure that its senior management promptly:
- (A) assess the report provided under Article 8(7);
 - (B) take action, as required subsequent to the findings of the report, in order to resolve any identified deficiencies; and
 - (C) make a record of their assessment in (A) and the action taken in (B).
- (9) The report provided under Article 8(7) and the records of the assessment and actions pursuant to Article 8(8)(B) must be documented in writing.
- (10) A complete copy of each document referred to in Article 8(9) must be provided to the Regulatory Authority promptly.

3.8 Customer Identification Requirements

AML Regulations

Article 9 of the *AML Regulations* provides:

- Customer Identification Requirements**
- (1) A Relevant Person must establish and verify the identity of any Customer with or for whom the Relevant Person acts or proposes to act.
 - (2) In establishing and verifying a Customer's true identity, a Relevant Person must obtain sufficient and satisfactory evidence having considered:
 - (A) its risk assessment under Article 15 in respect of the Customer; and
 - (B) the relevant provisions of the AML Rulebook.
 - (3) A Relevant Person must update as appropriate any Customer identification policies, procedures, systems and controls.
 - (4) Whenever a Relevant Person comes into contact with a Customer with or for whom it acts or proposes to act, it must establish whether the Customer is acting on his own behalf or on the behalf of another person.
 - (5) A Relevant Person must establish and verify the identity of both the Customer and any other person on whose behalf the Customer is acting or appears to be acting. This includes verification of the Beneficial Owner of the person and/or of any relevant funds, which may be the subject of a Transaction to be considered. In such cases the Relevant Person must obtain sufficient and satisfactory evidence of all of their identities.
 - (6) Subject to Article 9(7), the obligations under Article 9(1) must be fulfilled as soon as reasonably practicable after the Relevant Person has contact with a Customer with a view to:
 - (A) agreeing with the Customer to carry out an initial Transaction; or
 - (B) reaching an understanding (whether binding or not) with the Customer that it may carry out future Transactions;
 and before the Relevant Person effects any Transaction on behalf of the Customer.
 - (7) With regard to insurance business carried on in or from the QFC, if it is necessary for sound business reasons to enter into an insurance contract before the identification requirements under Article 9(6) can be completed a Relevant Person must have controls which ensure that any money received is not passed on to any person until the Customer identification requirements have been fulfilled.
 - (8) If the Customer does not supply evidence of identity in a manner that permits the Relevant Person to comply with the requirements in Articles 9(6) or (7), the Relevant Person must:

- (A) discontinue any activity it is conducting for him; and
 (B) bring to an end any understanding it has reached with him;
 unless in either case the Relevant Person has informed the Regulatory Authority.
- (9) A Relevant Person must when it next has contact with a Customer who was an existing Customer, prior to the Relevant Person's licensing or authorisation by the QFC Authority or the Regulatory Authority, as the case may be, assess whether it has performed the identification of that Customer which would have been required had these Articles been applicable when the Customer became a Customer, and to obtain without delay any missing information or evidence about the true identity of all relevant parties.
- (10) A Relevant Person must ensure that the information and documentation concerning a Customer's identity remains accurate and up-to-date.
- (11) If at any time a Relevant Person becomes aware that it lacks sufficient information or documentation concerning a Customer's identification, or develops a concern about the accuracy of its current information or documentation, it must promptly obtain appropriate material to verify the Customer's identity.

3.8.1 A *Relevant Person* must obtain a statement from a prospective *Customer* to the effect that he is, or is not, acting on his own behalf. In cases where the *Customer* is acting on behalf of a third party, the *Relevant Person* must obtain a written statement confirming the statement made by the *Customer*, from the parties (including any *Beneficial Owner*, if different from the third party).

3.8.2 A *Relevant Person* must undertake a periodic review to ensure that *Customer* identity documentation is accurate and up-to-date.

3.8.3 A *Relevant Person* must undertake a review under Rule 3.8.2 particularly when:

- (A) the *Relevant Person* changes its "Know Your *Customer*" documentation requirements;
- (B) a significant *Transaction* with the *Customer* is expected to take place;
- (C) there is a material change in the business relationship with the *Customer*; or
- (D) there is a material change in the nature or ownership of the *Customer*.

3.8.4 A *Relevant Person* must comply with those *Rules* contained in Appendix 1 in respect of *Customer* identification requirements.

Guidance

1. A *Relevant Person* should adopt a risk-based approach for the *Customer* identification and verification process. Depending on the outcome of the *Relevant Person's Money Laundering* risk assessment of its *Customer*, it should decide to what level of detail the customer identification and verification process will need to be performed.
2. In the *AML Regulations*, the definition of *Customer* is wide. A *Customer* is (in relation to a *Relevant Person*) any *Person* engaged in, or who has had contact with the *Relevant Person* with a view to engaging in, any *Transaction* with that *Relevant Person*: (a) on his own behalf; or (b) as agent for or on behalf of another.

3. Rules and guidance are set out in Appendix 1 to AMLR on how a *Relevant Person* should identify its Customers and any other *Persons* on whose behalf the *Customer* is acting, including the *Beneficial Owner*.

3.9 Exception to customer identification requirements

AML Regulations

AML Regulations, article 9 (12) provides:

Customer Identification Requirements

- (12) Consistent with its powers, duties and requirements as set forth in Part 3 of the Financial Services Regulations the Regulatory Authority shall adopt rules implementing the provisions of this Article and shall identify in such rules any exceptions that will apply in respect of these requirements.

Guidance for s 3.9

- 1 Rule 3.9.1 contains the exceptions mentioned in the *AML Regulations*, article 9 (12).
- 2 The *Regulatory Authority* expects a *relevant person* to rely on an exception in rule 3.9.1 in relation to a *customer* only if it has taken reasonable steps to decide whether the *customer* falls within the exception, and to keep records of the basis on which the *customer* was considered exempt.

3.9.1 (1) A *relevant person* is not required to establish the identity of a *customer* for the *AML Regulations*, article 9 (1) if the *customer* is an *authorised firm* or another *relevant person*.

(2) A *relevant person* is not required to establish the beneficial ownership of a *person* or any relevant funds for the *AML Regulations*, article 9 (5) if the *relevant person's customer* is an *authorised firm* or another *relevant person*.

(3) The exceptions in subrules (1) and (2) do not apply if the *relevant person* knows or suspects, or has reasonable grounds to know or suspect, that a *customer* or a *person* on whose behalf the *customer* is acting (including any beneficial owner or other provider of relevant funds) is engaged in *money laundering*.

Note If the exceptions in r (1) and (2) do not apply, the relevant person must comply with *AML Regulations*, art 9 (1) and (5).

(4) For subrule (3), the *relevant person* is taken to know or suspect, or to have reasonable grounds to know or suspect, if –

- (a) an *employee* of the *relevant person* handling the *transaction* or potential *transaction*; or
- (b) any *person* managerially responsible to the *relevant person* for the *transaction* or potential *transaction*;

knows or suspects, or has reasonable grounds to know or suspect, that the *customer* or the *person* on whose behalf the *customer* is acting is engaged in *money laundering*.

3.10 Documentation and Records

AML Regulations

Article 10 of the *AML Regulations* provides:

Documentation and records

- (1) All relevant information, correspondence and documentation used by a Relevant Person to verify a Customer's identity pursuant to Article 9(1) must be kept for at least six years from the date on which the business relationship with a Customer has ended.
- (2) If the date on which the business relationship with a Customer has ended remains unclear, it may be taken to have ended on the date of the completion of the last Transaction.
- (3) All relevant details of any Transaction carried out by the Relevant Person with or for a Customer must be kept for at least six years from the date on which the Transaction was completed.

3.10.1 A Relevant Person must maintain records in such a manner that:

- (A) the *Regulatory Authority* or another competent third party is able to assess the *Relevant Person's* compliance with legislation or regulation applicable in the *QFC*;
- (B) any *Transaction* which was processed by or through the *Relevant Person* on behalf of a *Customer* or any third party can be reconstructed;
- (C) any *Customer* or third party can be identified;
- (D) all internal and external *Suspicious Transaction Reports* can be identified; and
- (E) the *Relevant Person* can satisfy, within an appropriate time, any regulatory enquiry or court order to disclose information.

3.11 Reliance on others to Verify Identity

AML Regulations

Article 11 of the *AML Regulations* provides:

Reliance on others to verify identity

- (1) A Relevant Person may outsource technical aspects of the Customer identification process to a qualified professional.
- (2) Where a Customer is introduced by another member of the Relevant Person's Group, a Relevant Person need not re-identify the Customer, provided that:
 - (A) the identity of the Customer has been verified by the other member of the Relevant Person's Group in a manner consistent with these Articles or equivalent international standards applying in FATF Countries;
 - (B) no exception from identification obligations has been applied in the original identification process; and
 - (C) a statement written in the English language is received from the introducing member of the Relevant Person's Group confirming that:
 - (i) the Customer has been identified with the relevant standards under (A) and (B);
 - (ii) any identification evidence can be accessed by the Relevant Person without delay; and

- (iii) that the identification evidence is kept for at least six years.
- (3) If a Relevant Person is not satisfied that the Customer has been identified in a manner consistent with these Articles, the Relevant Person must perform the verification process itself.
- (4) Where Customer identification records are kept by the Relevant Person or other persons outside the State, a Relevant Person must take reasonable steps to ensure that the records are held in a manner consistent with these Articles.
- (5) A Relevant Person must verify if there are secrecy or data protection legislation that would restrict access without delay to such data by the Relevant Person, the QFC Authority, the Regulatory Authority, the FIU or the law enforcement agencies of Qatar. Where such legislation exists, the Relevant Person must obtain without delay certified copies of the relevant identification evidence and keep these copies in a jurisdiction which allows access by all those persons.

3.11.1 For the *AML Regulations*, article 11 (1), the following are qualified professionals:

- (a) an *authorised firm* or another *relevant person*;
- (b) a *regulated financial institution* to which rule A1.1.2 (1) (a) applies.

3.11.2 The following aspects of *Customer* identification or identity verification fall under Article 11(1):

- (A) undertaking the identification process under Article 9(1) and obtaining any additional “*Know Your Customer*” information from a *Customer* in the course of a business relationship with a *Customer*, and
- (B) confirming the identification details if the *Customer* is not resident in the *State*.

Guidance

Pursuant to CTRL section 5.1 the outsourcing of aspects of the identification process to qualified professionals does not release an *Authorised Firm* from any of its obligations under applicable laws or regulations including the *AML Regulations*. The *Authorised Firm* (and *Relevant Person*) retains primary responsibility for ensuring that the *Customer* identification verification process is conducted properly.

- 3.11.3** (1) Before a *relevant person* outsources an aspect of the *customer* identification or identity verification process to a qualified professional, the *relevant person* must enter into a cooperation agreement with the qualified professional.
- (2) The cooperation agreement must –
- (a) define the tasks to be outsourced; and
- (b) require that the tasks be carried out in accordance with the *AML Regulations* and *AMLR*.
- (3) The *relevant person* must immediately obtain information about the elements of the *customer* due diligence carried out in relation to a *customer* if –
- (a) the *relevant person* has outsourced an aspect of the *customer* identification or identity verification process to a qualified professional; or

- (b) the *customer* was introduced to the *relevant person* by another member of the *relevant person's group* and the *relevant person* is relying on the exception in *AMLR*, article 11 (2).
- (4) In this rule:
outsourcing, in relation to a *relevant person* that is an *authorised firm*, has the meaning given by *INAP*, chapter 3, glossary.
 Note *CTRL*, chapter 5 applies to *outsourcing* by an *authorised firm*.

3.12 Correspondent Banks Identification

AML Regulations

Article 12 of the *AML Regulations* provides:

| Correspondent Banks identification | |
|---|---|
| (1) | Prior to establishing a business relationship an Authorised Firm must establish and verify its Correspondent Banks identity in accordance with Article 9 by obtaining sufficient and satisfactory evidence of the identity. |
| (2) | An Authorised Firm that establishes, operates or maintains a Correspondent Account for a Correspondent Banking Client must ensure that it has arrangements to: <ul style="list-style-type: none"> (A) conduct due diligence in respect of the opening of a Correspondent Account for a Correspondent Banking Client including measures to identify its: <ul style="list-style-type: none"> (i) ownership and management structure; (ii) major business activities and customer base; (iii) location; and (iv) intended purpose of the Correspondent Account; (B) ensure that the Correspondent Banking Client has verified the identity of, and performs on-going due diligence on, its customers having direct access to the Correspondent Account and that the Correspondent Banking Client is able to provide customers due diligence information upon request to the Authorised Firm; and (C) monitor Transactions processed through a Correspondent Account that has been opened by a Correspondent Banking Client, in order to detect and report any suspicion of Money Laundering. |
| (3) | An Authorised Firm must not: <ul style="list-style-type: none"> (A) establish a correspondent banking relationship with a Shell Bank; (B) establish or keep anonymous accounts or accounts in false names; or (C) maintain a nominee account which is held in the name of one person, but controlled by or held for the benefit of another person whose identity has not been disclosed to the Authorised Firm. |

3.12.1 A *Relevant Person* must verify if any secrecy or data protection law exists in the country of incorporation of a business partner that would prevent access to relevant data.

3.12.2 A *Relevant Person* must have specific arrangements to ensure that adequate due diligence and identification measures with regard to the business relationship are taken.

- 3.12.3 (1)** Before a *relevant person* opens an account on behalf of a *client*, or otherwise establishes a business relationship on behalf of a *client*, with a bank in a *jurisdiction* other than the *QFC*, the *relevant person* must –
- (a) obtain information about the bank to enable it to satisfy itself about –
 - (i) the bank’s reputation (including whether the bank has been the subject of any investigation, or civil or criminal proceeding, relating to *money laundering*); and
 - (ii) the bank’s financial position; and
 - (iii) the adequacy of the bank’s anti *money laundering* policies, procedures, systems and controls and its compliance with them; and
 - (iv) the quality of supervision to which the bank is subject (including the existence and quality of supervision over the bank’s compliance with anti *money laundering* laws); and
 - (b) document the bank’s responsibilities for anti *money laundering*; and
 - (c) obtain the approval of its *senior management*.
- (2) If the bank with which the account is to be opened or the business relationship is to be established is a subsidiary, the *relevant person* must obtain the following information:
- (a) the domicile and location (if different) of the bank’s *parent entity*;
 - (b) the reputation and history of the *parent entity*;
 - (c) the ownership, control and management structure of the *parent entity* (including whether the entity is owned, controlled or managed by a *politically exposed person*);
 - (d) if the *parent entity* has control over the bank’s anti *money laundering* policies, procedures, systems and controls – the anti *money laundering* laws that apply to the *parent entity* and the existence and quality of supervision over the entity’s compliance with them.

Guidance

1. Specific care should be taken to assess the anti *Money Laundering* arrangements of *Correspondent Banking Clients* and, if applicable, other qualified professionals relating to *Customer* identification, *Transaction* monitoring, terrorist financing and other relevant elements and to verify that these business partners comply with the same or equivalent anti *Money Laundering* requirements as the *Relevant Person*. Information on applicable laws and regulations regarding the prevention of *Money Laundering* should be obtained. A *Relevant Person* should ensure that a *Correspondent Banking Client* does not use the *Relevant Person’s* products and services to engage in business with *Shell Banks*.
2. If applicable, information on distribution networks and delegation of duties should be obtained.
3. A *Relevant Person* should also have arrangements to guard against establishing a business relationship with business partners who permit their accounts to be used by *Shell Banks*.

3.12.4 A *relevant person* must conduct regular reviews of its relationships with banks mentioned in rule 3.12.3.

3.13 Internal and External Reporting Requirements

AML Regulations

Article 13 of the *AML Regulations* provides:

| Internal and External Reporting Requirements | |
|---|---|
| (1) | <p>A Relevant Person must have appropriate arrangements to ensure that whenever any Employee, acting in the ordinary course of his employment, either:</p> <p>(A) knows or suspects; or</p> <p>(B) has reasonable grounds for knowing or suspecting;</p> <p>that a person is engaged in Money Laundering or conduct relating to the financing of terrorism, that Employee promptly makes an internal Suspicious Transaction Report to the Relevant Person's MLRO.</p> |
| (2) | A Relevant Person must have policies and procedures to ensure that disciplinary action can be taken against any Employee who fails to make such a report. |
| (3) | The duties in Article 13(1) (internal reporting) and Article 13(7) (external reporting) do not apply where the Relevant Person is a professional legal adviser and the knowledge or suspicion or the reasonable grounds for knowing or suspecting are based on information or other matter which came to it in privileged circumstances. |
| (4) | <p>Information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to the adviser:</p> <p>(A) by (or by a representative of) its client in connection with the giving by the adviser of legal advice to the client;</p> <p>(B) by (or by a representative of) a person seeking legal advice from the adviser; or</p> <p>(C) by a person in connection with legal proceedings or contemplated legal proceedings.</p> |
| (5) | The privileged circumstances in Article 13(4)(B) do not apply to information or other matter which is communicated or given with a view to furthering a criminal purpose or in contravention of a provision of any Regulations or Rules. |
| (6) | "Professional legal adviser" includes any person who may come into possession of information or other matter in privileged circumstances. |
| (7) | <p>If a Relevant Person's MLRO receives an internal Suspicious Transaction Report he must without delay:</p> <p>(A) investigate the circumstances in relation to which the report was made, including where necessary accessing any relevant "Know Your Client" information;</p> <p>(B) determine whether in accordance with Law No. (28) of 2002 on Anti Money Laundering a corresponding external Suspicious Transaction Report must be made to the FIU;</p> <p>(C) if required, make such an external report to the FIU; and</p> <p>(D) where an external report is made to the FIU, notify the Regulatory Authority that such a report has been made and include general details of the report.</p> |
| (8) | <p>The MLRO must document:</p> <p>(A) the steps taken to investigate the circumstances in relation to which an internal Suspicious Transaction Report is made; and</p> <p>(B) where no external Suspicious Transaction Report is made to the FIU, the reasons why no such report was made.</p> |
| (9) | All relevant details of any internal and external Suspicious Transaction Report pursuant to Articles 13(1) and 13(7) must be kept for at least six years from the date on which the report was made. |
| (10) | A Relevant Person must ensure that if the MLRO decides to make an external Suspicious Transaction Report in accordance with Article 13, his decision is made independently and is not |

subject to the consent or approval of any other person.

- (11) An MLRO or other employee of a Relevant Person is not:
- (A) liable to a proceeding;
 - (B) subject to a liability; nor
 - (C) in breach of any duty merely by reason of the making of an external Suspicious Transaction Report to the FIU if such Suspicious Transaction Report is made in good faith and in the reasonable belief that the information in the Suspicious Transaction Report is relevant to the functions of the FIU.
- (12) Relevant Persons must not carry out Transactions which they know or suspect or have reasonable grounds for knowing or suspecting to be related to Money Laundering until they have:
- (A) informed the FIU pursuant to Article 14(7); and
 - (B) obtained the consent or non-objection of the FIU to proceed with the Transaction.

3.13.1 A sole trader with no *Employees* who knows or suspects, or has reasonable grounds to know or suspect, that a *Customer* or the *Person* on whose behalf the *Customer* is acting, is or has been engaged in *Money Laundering* must make a report promptly to the *FIU*.

3.13.2 A *Relevant Person* that sets up internal systems to allow its *Employees* to consult with their line manager before reporting to the *MLRO* must ensure that such systems are not used to prevent staff making internal suspicious transaction reports to the *MLRO*.

3.13.3 If a *Relevant Person* has reported a suspicion to the *FIU* and the *Customer* to which the report relates expresses his wish to move any relevant funds before the *Relevant Person* receives instructions from the *FIU*, the *Relevant Person* must immediately contact the *FIU* for further instructions.

3.13.4 If a *customer* does not undergo or complete *customer* due diligence, the *MLRO* of the *relevant person* must consider making a *suspicious transaction report* to the *FIU* in relation to the *customer*.

Guidance

1. The requirement for *Employees* to make an internal *Suspicious Transaction Report* include situations when no business relationship was developed because the circumstances were suspicious.
2. The steps to be taken under Article 13(2) of the *AML Regulations* include establishing and maintaining arrangements for disciplining any *Employee* who fails, without reasonable excuse, to make a report of the kind envisaged in this section.
3. *Authorised Firms* are reminded that the failure to report suspicions of *Money Laundering* may constitute a criminal offence that is punishable under the laws of the *State*.
4. In preparation of an external *Suspicious Transaction Report*, if a *Relevant Person* knows or assumes that the funds which form the subject of the report do not belong to a *Customer* but to a third party, this fact and the details of the *Relevant Person's* proposed course of further action in relation to the case should be included in the report.
5. *Relevant Persons* are reminded that in accordance with Article 11 of the Law No. (28) of 2002 on Anti Money Laundering, in cases where there is concern about disposing of assets and *Property* which may be the subject of *Money Laundering*:
 - a. the Governor of the Qatar Central Bank can order their reservation for a period not exceeding ten days;

- b. the Public Prosecutor has to be notified of the order within three days after the issuance of the order, otherwise, it shall be deemed as non-existent. The Public Prosecutor has the right to cancel the order of reservation or renew it for a period not exceeding three months;
- c. the three months period of reservation cannot be renewed except by virtue of an order issued by the Supreme Criminal Court upon demand from the Public Prosecutor. In this case, the renewal shall be for a similar period or periods until the criminal case is settled conclusively; and
- d. in all cases, it is possible for the concerned parties to contest the reservation order at the Supreme Criminal Court within 30 days since the date of their notification thereof and the court's verdict regarding the contestation shall be final.

3.14 Tipping-off

3.14.1 If a *Relevant Person* reasonably believes that performing the "Know Your Customer" process will tip-off a *Customer* or potential *Customer*, it may choose not to pursue that process and must instead file a *Suspicious Transaction Report*. *Authorised Firms* should ensure that their *Employees* are aware of and sensitive to these issues when considering the "Know Your Customer" process.

Guidance

Relevant Persons are reminded that in accordance with Article 4 of the Law No. (28) of 2002 on Anti Money Laundering, workers at a financial establishment are prohibited from informing their *Customers* of the measures taken against them to combat *Money Laundering*. They are also prohibited from disclosing any information with the intention of harming a relevant criminal investigation.

3.15 Government, Regulatory and International Findings

AML Regulations

Article 14 of the *AML Regulations* provides that:

| Government, Regulatory and International Findings | |
|--|---|
| (1) | A Relevant Person must have arrangements to ensure that it obtains and makes proper use of any relevant findings issued by: <ul style="list-style-type: none"> (A) the government of the State or any government departments in the State; (B) the Central Bank of Qatar or the National Committee for Combating Money Laundering or the FIU; (C) the Financial Action Task Force (FATF); (D) the QFC Authority; (E) the Regulatory Authority; or (F) the Gulf Co-operation Council. |
| (2) | The findings of a body in Article 14(1) are relevant findings for the purposes of Article 14(1) if they: <ul style="list-style-type: none"> (A) include a finding or other conclusion that arrangements for restraining Money Laundering in a particular country or jurisdiction are materially deficient in comparison with one or more of the relevant, internationally accepted standards, including any recommendations published by the FATF, required of or recommended to countries and jurisdictions; or (B) contain a finding or other conclusion concerning named persons, groups, organisations or entities or any other body where a suspicion of Money Laundering or terrorist financing exists. |

Guidance

The purpose of Article 14 of the *AML Regulations* is to enable government and *FATF* findings of inadequacy, for example from the *FATF* list of Non Cooperative Countries and Territories, concerning the approach to *Money Laundering* of individual countries or jurisdictions, to be brought to bear on a *Relevant Person's* decisions and arrangements about its anti *Money Laundering* policies, procedures, systems and controls.

3.15.1 A *Relevant Person* must examine and should pay special attention to any *Transactions* or business relations with *Persons* (including *Beneficial Owners*) located in such countries or jurisdictions.

3.15.2 A *Relevant Person* considering *Transactions* or business relationships with *Persons* located in countries or jurisdictions that have been identified as deficient, or against which any authority in the *State* has outstanding advisory notices, must be aware of the background against which the assessments, or the specific recommendations, have been made. These circumstances should be taken into account in respect of introduced business from such jurisdictions, and when receiving inward payments for existing *Customers* or in respect of inter-bank *Transactions* from *Correspondent Banking Clients*.

3.15.3 A *Relevant Person's MLRO* is not obliged to report all *Transactions* from these countries or jurisdictions to the *FIU* if they do not otherwise qualify as suspicious.

Guidance

1. *Transactions* with counterparties located in countries or jurisdictions which have been relieved from special scrutiny, for example taken off the *FATF* list of NCCTs, may nevertheless require attention which is higher than normal.
2. In order to assist *Relevant Persons*, the *Regulatory Authority* may, from time to time, publish Qatar, *FATF* or other findings. However, the *Regulatory Authority* expects *Relevant Persons* to take their own steps in acquiring relevant information from various available sources.
3. A *Relevant Person* should be proactive in obtaining and appropriately using available national and international information, for example suspect lists or databases from credible public or private sources with regard to *Money Laundering* and terrorist financing. The *Regulatory Authority* encourages *Relevant Persons* to perform checks against their *Customer* databases and records for any names appearing on such lists and databases as well as to monitor *Transactions* accordingly.
4. The risk of terrorist financing entering the *Financial System* can be reduced if *Relevant Persons* apply effective anti *Money Laundering* strategies, particularly in respect of "Know Your Customer" procedures. *Relevant Persons* should assess which countries carry the highest risks and should conduct an analysis of *Transactions* from countries or jurisdictions known to be a source of terrorist financing.
5. The *Regulatory Authority* may require *Relevant Persons* to take any special measures it may prescribe with respect to certain types of *Transactions* or accounts where the *Regulatory Authority* reasonably believes that any of the above may pose a *Money Laundering* risk to the *QFC*.

3.16 Money Laundering Risks

AML Regulations

Article 15 of the *AML Regulations* provides:

| Money Laundering Risks | |
|-------------------------------|--|
| | Risk Assessment |
| (1) | The anti Money Laundering policies, procedures, systems and controls of a Relevant Person must adequately address the Money Laundering risks which take into account any vulnerabilities of its products, services and Customers. |
| (2) | A Relevant Person must assess its risks in relation to Money Laundering and perform enhanced due diligence investigations for higher risk products, services and Customers having regard to guidance issued by the Regulatory Authority under Article 15(7). |
| (3) | A Relevant Person must be aware of any Money Laundering risks that may arise from new or developing technologies that might favour anonymity and take measures to prevent their use for the purpose of Money Laundering. |
| | Risks regarding corruption and Politically Exposed Persons |
| (4) | A Relevant Person must have systems and controls to determine whether a Customer is a Politically Exposed Person. |
| (5) | When a Relevant Person has a Customer relationship with a Politically Exposed Person, it must have specific arrangements to address the risks associated with corruption and Politically Exposed Persons. |
| | Suspicious transactions and transaction monitoring |
| (6) | A Relevant Person must establish and maintain policies, procedures, systems and controls in order to monitor for and detect suspicious Transactions. |
| | Guidance on Money Laundering risks |
| (7) | The Regulatory Authority may make Rules and issue guidance on Money Laundering risks for the purposes of this Article 15. |

Guidance

Rules and guidance on how a Relevant Person may address the risks identified in Article 15 of the AML Regulations are set out in Appendix 2.

3.17 Transaction examination and funds transfer

AML Regulations

Article 16 of the *AML Regulations* provides:

| Transfer of Funds | |
|--------------------------|--|
| (1) | Where a Relevant Person is a financial institution and makes a payment on behalf of a Customer to another financial institution using an electronic payment and message system, it must include the Customer's name, address and either an account number or a unique reference number in the payment instruction. |
| (2) | The requirement in Article 16(1) does not apply to a Relevant Person which: <ul style="list-style-type: none"> (A) provides financial institutions with messages or other support systems for transmitting funds; or |

- (B) transfers funds to a financial institution where both the originator and the beneficiary are financial institutions acting on their own behalf.

Guidance

1. “FATF Special Recommendation Number 7” seeks to ensure that national or international electronic payment and message systems, including fund or wire transfer systems such as SWIFT, are not misused as a means to break the *Money Laundering* audit trail. Therefore, the information about the *Customer* as the originator of the fund transfer should remain with the payment instruction through the payment chain.
2. *Relevant Persons* should monitor for and conduct enhanced scrutiny of suspicious activities including incoming fund transfers that do not contain complete originator information, including name, address and account number or unique reference number in accordance with Appendix 2.

- 3.17.1(1)** A *relevant person* must examine *transactions* that –
- (a) are complex, unusually large or show unusual patterns; and
 - (b) have no apparent or visible economic or lawful purpose.
- (2) A *relevant person* must also examine *transactions* –
- (a) with persons located in countries or jurisdictions that have been identified as deficient, or against which any authority in the *State* has outstanding advisory notices, as described in section 3.15; and
 - (b) that have no apparent or visible economic or lawful purpose.
- (3) As far as practicable, an examination under subrule (1) or (2) must include an examination of the background and purpose of the *transactions*.
- (4) The *relevant person* must prepare a written report of the examination and must make the report available to regulatory authorities and auditors for a period of 6 years after the day the report is completed.

3.17.2 A *relevant person* must not batch non-routine *transactions* if the risk of *money laundering* would be increased.

3.17.3 A *relevant person* must ensure that a *financial institution* that it uses to transfer funds using an electronic payment and message system has adequate risk-based procedures for identifying and handling transfers that do not contain complete originator information.

3.18 Employee Awareness and Training

AML Regulations

1. Article 17 of the *AML Regulations* provides:

Staff Awareness and Training

- (1) A Relevant Person must have arrangements to provide regular information and training to all Employees to ensure that they are aware of:
 - (A) the identity and responsibilities of the Relevant Person's MLRO and his deputy;
 - (B) applicable legislation relating to anti Money Laundering;
 - (C) the potential effect on the Relevant Person, its Employees and its Customers of breaches of applicable legislation relating to Money Laundering;
 - (D) the Relevant Person's anti Money Laundering policies, procedures, systems and controls and any changes to these;
 - (E) Money Laundering risks, trends and techniques;
 - (F) the types of activity that may constitute suspicious activity in the context of the business in which an Employee is engaged that may warrant an internal Suspicious Transaction Report pursuant to Article 13;
 - (G) the Relevant Person's arrangements regarding the making of an internal Suspicious Transaction Report pursuant to Article 13;
 - (H) the use of findings pursuant to Article 14(1); and
 - (I) their individual responsibilities under the Relevant Person's arrangements made under these Regulations, including those for obtaining sufficient evidence of identity and recognising and reporting knowledge or suspicion of Money Laundering.
- (2) Information described under Article 17(1) must be brought to the attention of new Employees and must remain available to all Employees.
- (3) A Relevant Person must have arrangements to ensure that:
 - (A) its anti Money Laundering training is up-to-date with Money Laundering trends and techniques;
 - (B) its anti Money Laundering training is appropriately tailored to the Relevant Person's different activities, services, Customers and indicates any different levels of Money Laundering risk and vulnerabilities; and
 - (C) all Employees receive anti Money Laundering training.
- (4) A Relevant Person must conduct anti Money Laundering training sessions with sufficient frequency to ensure that within any period of 24 months it is provided to all Employees.
- (5) All relevant details of the Relevant Person's anti Money Laundering training must be recorded, including:
 - (A) dates when the training was given;
 - (B) the nature of the training, and
 - (C) the names of the Employees who received the training.
- (6) These records must be kept for at least six years from the date on which the training was given.

Guidance

1. The purpose of Article 17 of the *AML Regulations* is to ensure that *Employees* of a *Relevant Person* are made aware of, and given regular training about, what is expected of them in relation to the prevention of *Money Laundering*, and what the consequences are for the *Relevant Person* and for them personally if they fall short of that expectation.
2. *Employees* need to have an awareness of anti *Money Laundering* legislation in the *State*, including a clear understanding of their own potential criminal liability.
3. *Employees* are likely to need information about the ways in which their *Customers'* involvement in *Money Laundering* may affect bank and other accounts and other assets, in particular if a *Relevant*

Person decides it is unable to process *Transactions*, because of the risk of committing a *Money Laundering* offence.

App1 Customer Identification Requirements

A1.1 Duties and Responsibilities

Guidance

1. Robust “Know Your Customer” arrangements have particular relevance to the safety and soundness of a *Relevant Person*, in that:
 - a. they help to protect its reputation and the integrity of the QFC by reducing the likelihood of a *Relevant Person* becoming a vehicle for, or a victim of, *Financial Crime* and suffering consequential reputational damage; and
 - b. they constitute an essential part of sound risk management, for example by providing the basis for identifying, limiting and controlling risk exposures to assets and liabilities, including assets under management.
2. Any inadequacy of “Know Your Customer” standards can expose *Relevant Persons* to serious business operation and control risks.
3. *Relevant Persons* should adopt a risk-based approach for the *Customer* identification and verification process. Depending on the *Money Laundering* risk assessment regarding the *Customer*, the *Relevant Person* should decide to what level of detail the *Customer* identification and verification process will need to be performed. The risk assessment regarding a customer should be recorded in the *Customer* file.
4. The risk-based approach does not release a *Relevant Person* from its overall obligation to identify fully and obtain evidence of customer identification to the *Regulatory Authority’s* satisfaction.
5. A *Relevant Person* is advised that in cases of doubt it should adopt a stricter rather than a moderate approach in its judgement concerning the risk level and the level of detail to which *Customer* identification is performed and evidence obtained.
6. Pursuant to Article 9(1) of the *AML Regulations*, a *Relevant Person* is required to be satisfied that a prospective *Customer* is who he claims to be and obtain evidence to prove this.

A1.1.1 To comply with the “Know your Customer” requirements pursuant to Article 9(1) of the *AML Regulations*, a *Relevant Person* must:

- (A) in respect of personal details, obtain and verify the true full name or names used and the current permanent address;
- (B) in respect of the nature and level of business to be conducted, obtain information regarding the nature of the business that the *Customer* expects to undertake, and any expected or predictable pattern of *Transactions*, including the purpose and reason for opening the account or establishing the business relationship, the anticipated level and nature of the activity that is to be undertaken and the various relationships of signatories to the account (if any) and details of any underlying *Beneficial Owners*;
- (C) in respect of the origin of funds, identify how all payments are to be made, from where and by whom and ensure that all payments are recorded to provide an audit trail; and

- (D) in respect of the source of wealth, establish a source of wealth or income, including how the funds were acquired, to assess whether the actual transaction pattern is consistent with the expected transaction pattern and whether this constitutes any grounds for suspicion of *Money Laundering*.

Guidance

1. It is important for a *Relevant Person* to obtain such information because this process should allow for the risk of being exploited for the purpose of *Money Laundering* to be reduced to a minimum. It should also enable suspicious *Transactions* to be detected in the event that they are incompatible with the information received.
2. Any unusual facts of which a *Relevant Person* becomes aware during the identification process may be an indication of *Money Laundering* and should prompt the *Relevant Person* to request supplementary information and evidence.
3. The *Regulatory Authority* expects a *Relevant Person* to establish the full identity of all relevant parties to the business relationship. Further, a *Relevant Person* should take adequate steps to understand the relationship between the counterparties involved. The following list includes some identification checks for particular relationships as relevant:
 - a. joint account holders and joint applicants: identification should be performed and evidence obtained for all applicants and account holders;
 - b. pooled accounts which are managed by professional intermediaries such as mutual funds, pension funds, money funds, lawyers, stockbrokers on behalf of entities or other *Persons*: all *Beneficial Owners* of the account held by the intermediary should be identified;
 - c. power of attorney: identification and evidence should be obtained for the applicants and account holders as well as for the holder of the power of attorney; and
 - d. minors: an account for a minor should be opened by a family member or guardian whose identification evidence should be obtained in addition to the birth certificate or passport of the minor.

A1.1.2(1) Despite rule A1.1.1, a *relevant person* may comply with the “Know your Customer” requirements without fully complying with that rule if the *customer* is –

- (a) a *regulated financial institution* authorised in a *jurisdiction* that has effectively implemented the *FATF* recommendations on *money laundering*; or
- (b) a *subsidiary* of a *regulated financial institution* to which paragraph (a) applies if the *anti money laundering* laws that apply to that institution also apply to the *subsidiary*.

Guidance for r A1.1.2 (1)

1. If this subrule applies, the guidance before rule A1.1.1 applies to the *customer* identification and verification that must be undertaken by the *relevant person*.
 2. If there is any doubt about the application of this subrule to a *customer*, the *Regulatory Authority* expects the *relevant person* to fully comply with rule A1.1.1.
- (2) However, the *Regulatory Authority* may require a *relevant person* to fully comply with rule A1.1.1 in relation to a *jurisdiction*, *regulated financial institution* or *subsidiary* of a *regulated financial institution*.
- (3) Also, subrule (1) does not apply if the *relevant person* knows or suspects, or has reasonable grounds to know or suspect, that a *customer* or a *person* on whose behalf

the *customer* is acting (including any *beneficial owner* or other provider of relevant funds) is engaged in *money laundering*.

Note If subrule (1) does not apply, the *relevant person* must comply fully with rule A1.1.1.

- (4) For subrule (3), the *relevant person* is taken to know or suspect, or to have reasonable grounds to know or suspect, if –
- (a) an *employee* of the *relevant person* handling the *transaction* or potential *transaction*; or
 - (b) any *person* managerially responsible to the *relevant person* for the *transaction* or potential *transaction*;

knows or suspects, or has reasonable grounds to know or suspect, that the *customer* or the *person* on whose behalf the *customer* is acting is engaged in *money laundering*.

A1.1.3 A *relevant person* must not rely on rule A1.1.2 (1) (a) in relation to a *regulated financial institution* unless the *relevant person* has obtained proof that the financial institution is a *regulated financial institution* to which that paragraph applies.

A1.1.4 A *relevant person* must not rely on rule A1.1.2 (1) (b) in relation to a *subsidiary* of a *regulated financial institution* unless the *relevant person* has obtained –

- (a) proof that the financial institution is a *regulated financial institution* to which rule A1.1.2 (1) (a) applies; and
- (b) a written statement from the financial institution and its *subsidiary*, stamped with the company seal (if relevant) and signed by the authorised signatories, confirming that the same anti *money laundering* laws apply to both of them.

A1.1.5 A *relevant person* must ensure that the information and evidence concerning a *customer's* identity is accurate and up-to-date.

Guidance for r A1.1.5

1. The *customer* identification process does not end at the point of application. A *relevant person* is expected to ensure that the information and the evidence obtained from the *customer* is valid and has not expired, for example, when obtaining copies of identification documentation such as a passport or identification card.
2. If a *customer* account is dormant or a *relevant person* has had no contact with the *customer* within the previous 12 months, a *relevant person* should take reasonable steps to verify whether available information, documentation and evidence about the *customer* is still valid and up-to-date.

A1.2 Establishing Identity – Identification Procedures

A1.2.1 The *Relevant Person* must verify that it is dealing with a true and existing *Person*.

Guidance

1. A *Relevant Person* is expected to establish to its satisfaction the true identity of a *Customer* and any other *Person* on whose behalf the *Customer* is acting, including that of the *Beneficial Owner* of the relevant funds which may be the subject of a *Transaction* to be considered. It also should obtain evidence of verification that is sufficient to establish that the *Person* is indeed who he claims to be.

Guidance Notes – Type of Information and Evidence to verify Customers

2. The following guidance notes are not meant to be exhaustive and, should be considered as guidance regarding the type of information and evidence which should be obtained by a *Relevant Person* to establish and verify the identity of a *Customer*.

Firms regulated by the Regulatory Authority, other Relevant Persons or Firms regulated in a FATF country

3. Under rule 3.9.1 (1), a relevant person is not required to establish the identity of a *customer* if the *customer* is an *authorised firm* or another *relevant person*.
4. However, the confirmation of the existence of such a relevant firm or institution, its regulatory status, including the application of *AML Regulations* applying in the *QFC* or equivalent anti *Money Laundering* provisions, should be verified by the *Relevant Person* prior to entering into a *Customer* relationship. Regular professional and commercial checks and due diligence investigations should still be performed. The following information should be obtained by the *Relevant Person*, as relevant:
 - a. the full name of the financial institution;
 - b. confirmation of its regulated status;
 - c. a list of authorised signatories (if appropriate);
 - d. a copy of the institution's latest annual report and accounts or other up-to-date financial information; and
 - e. the nature of the business to be conducted with the *Relevant Person*, including if appropriate:
 - i. the purpose or reason for opening the account or establishing the relationship; and
 - ii. the anticipated level and nature of the activity that is to be undertaken.
5. The *Relevant Person* should verify the regulatory status of the firm or institution by one of the following means:
 - a. checking with the relevant *Overseas Regulator* or other relevant home country Central Bank (this can usually be undertaken on-line); or
 - b. requesting a certified copy of a relevant licence or authorisation to conduct financial or banking business from the *Relevant Person* or institution.

Public Registered Companies

6. The name of the company should be checked against the most up to date *OFAC* list and other applicable lists of proscribed entities and the following information should be obtained:
 - a. the full name of the company;
 - b. its registered number;
 - c. its registered office and business address (if different);
 - d. confirmation that the company is listed on a Designated Exchange or any other exchange;
 - e. the nature of the company's business; and
 - f. the nature of the business to be conducted with the *Relevant Person*, including if appropriate:
 - i. the purpose or reason for opening the account or establishing the relationship; and
 - ii. the anticipated level and nature of the activity that is to be undertaken.
7. Where the company has an existing relationship with an *Associate*, it may in some cases be possible to rely (in whole or in part) on the "Know Your *Customer*" due diligence undertaken by that *Entity*.
8. In order to identify the legal existence of the company, the *Relevant Person* should obtain certified copies of the following documents:

- a. certificate of incorporation or extract from the relevant register or an enquiry search via a company enquiry agent;
 - b. the latest report and accounts; and
 - c. satisfactory evidence that the individuals representing the company have the necessary signing authority to do so (e.g. list of authorised signatories).
9. Corporate customers that are listed on a *Designated Exchange* (or which are known to be a wholly owned *Subsidiary* or a *Subsidiary* under the control of such a company) are considered to be publicly owned and generally accountable. Consequently there is no need to verify the identity of the individual shareholders. Similarly, it is not necessary to identify the *Directors* of a listed company.

Private Corporate Entities

10. The following information should be obtained in either documentary or electronic form:
- a. registered corporate name and any trading names used;
 - b. complete current registered address and any separate principal trading addresses, including all relevant details with regard to country of residence;
 - c. telephone, fax number and email address;
 - d. date and place of incorporation;
 - e. corporate registration number;
 - f. fiscal residence;
 - g. business activity;
 - h. regulatory body, if applicable;
 - i. name and address of *Group*, if applicable;
 - j. legal form;
 - k. name of external auditor;
 - l. information regarding the nature and level of the business to be conducted;
 - m. information regarding the origin of the funds; and
 - n. information regarding the source of wealth or income.
11. In addition, the following documentary evidence of identity should be obtained:
- a. certified copy of the articles of association or statutes;
 - b. certified copy of either the certificate of incorporation or the trade register entry and any trading licence including the renewal date;
 - c. latest annual report, audited and published if applicable;
 - d. certified copies of the identification documentation of the authorised signatories;
 - e. certified copies of the list of authorised signatories specifying who is authorised to act on behalf of the *Customer* account and of the board resolution authorising the signatories to operate the account;
 - f. certified copies of the identification documentation of the authorised signatories;
 - g. names, country of residence, nationality of directors or partners and of the members of the governing body;

- h. list of the main shareholders holding more than 5% of the issued capital; and
 - i. identification evidence of those shareholders with interests of 10% or more in the capital of the company.
12. For private companies, in addition to verifying the legal existence of the company, there is a requirement to look behind the corporate entity to identify those who have ultimate control over the business and the company's assets, i.e. principal shareholder(s). The *Relevant Person* should therefore obtain a copy of the identity document of the principal shareholder(s) and any other person who has principal control over the company's assets.
13. *Relevant Persons* should note that principal control will often rest with those who are mandated to manage funds, accounts or investments without requiring authorisation and who would be in a position to override internal procedures and control mechanisms.
14. Where the principal owner is another corporate *Entity* or trust there is a requirement to look behind that company or trust and to verify the identity of the ultimate *Beneficial Owner* or settlor.
15. If the applying *Customer* is not obliged to publish an audited annual report, adequate information about the financial accounts should be obtained.
16. A *Relevant Person* should verify that the applying *Customer* is active and has not been, or is not in the process of being dissolved, wound-up or terminated.
17. Customers which are credit or financial institutions which are regulated in their home state but which are not regulated either by the *Regulatory Authority* or an *Overseas Regulator* in an *FATF Country* should be treated in accordance with the rules for public registered companies or private limited companies, as appropriate.
18. Companies incorporated under the *Companies Regulations* will normally need to be identified in accordance with these provisions.

Individuals

19. The following evidence should be obtained in either documentary (hard copy) or electronic form:
- a. true full name or names used;
 - b. complete current permanent address, including all relevant details with regard to country of residence;
 - c. telephone, fax number and email address;
 - d. date and place of birth;
 - e. nationality;
 - f. fiscal residence;
 - g. occupation or profession, name of employer and location of activity;
 - h. information regarding the nature of the business to be conducted;
 - i. information regarding the origin of the funds; and
 - j. information regarding the source of wealth or income.
20. The address of a prospective *Customer* should enable a *Relevant Person* to physically locate the *Customer*. If P.O. Box numbers are customary to a country, additional methods of physically locating the *Customer* should be applied.
21. One of the following should be obtained to verify the identity:
- a. current, signed passport;

- b. current, signed national identity card; or
 - c. other identification documentation that is customary in the country of residence, such as driving licence, including a clear photograph of the prospective *Customer*.
22. Subject to guidance note 23, a *Relevant Person* should ensure that any documents used for the purpose of identification are original documents.
23. Where personal identity documents, such as passport, national identity card or other identification documentation cannot be obtained in original form, for example because a *Relevant Person* has no physical contact with the *Customer* the identification documentation provided should be certified as a true copy of the original document by any one of the following:
- a. a registered lawyer;
 - b. a registered notary;
 - c. a chartered accountant;
 - d. a government ministry;
 - e. a post office;
 - f. a police officer; or
 - g. an embassy or consulate.
24. The individual or authority undertaking the certification under guidance note 23 should be contactable if necessary.
25. Where a copy of an original identification document is made by a *Relevant Person*, the copy should be dated, signed and marked with "original sighted".
26. One or more of the following should be obtained to verify the address:
- a. record of home visit;
 - b. confirmation from an electoral register search that a *Person* of such a name lives at that address;
 - c. tenancy agreement;
 - d. utility bill;
 - e. local tax bill; or
 - f. driving licence (if not used as evidence of name).
27. As an alternative or supplementary to documentary evidence of name and address, the individual's name, address and other information may be checked electronically by accessing one or more data sources.
28. For joint applicants who have the same address as each other, only the address of the first named applicant need be verified.

Unincorporated Businesses or Partnerships

29. The following evidence should be obtained in either documentary or electronic form:
- a. true full name or names;
 - b. complete current registered and trading address, including relevant details with regard to country of establishment;

- c. telephone, fax number and email address;
 - d. fiscal residence;
 - e. the nature of the business activity;
 - f. information on the nature of the business to be conducted;
 - g. trading licence (if any), with renewal date;
 - h. list of authorised signatories of the business or partnership;
 - i. the identity of the controllers or partners;
 - j. the anticipated level and nature of the activity that is to be undertaken;
 - k. regulatory body, if applicable;
 - l. information regarding the origin of funds; and
 - m. information regarding the source of wealth/income.
30. The following documentary evidence should be obtained to verify identity:
- a. latest annual report and accounts, audited where applicable;
 - b. certified copy of the partnership deed (if any), to ensure that it has a legitimate purpose and to ascertain the nature of the business or *Partnership*; and
 - c. copies of the identity documents for the authorised signatories of the account.

A1.2.2 Where the business or *Partnership* has multiple signatories the identification document certified copies of the identification documents of the authorised signatories must be obtained.

Guidance

- 1. Evidence of the trading address of the business or *Partnership* should be obtained and may be verified with a visit to the place of business.
- 2. Where an individual is trading as a firm, the rules for individual *Customers* apply. For unincorporated businesses or *Partnerships* whose controllers/partners/principal *Beneficial Owners* do not already have a business relationship with the *Relevant Person*, the identity of the controllers/partners/principal *Beneficial Owners* and the authorised signatories (if different) must be established.
- 3. *Limited Liability Partnerships* should be identified in accordance with the procedures for trading/operating companies.
- 4. Prior to opening the account the name of the unincorporated business/*Partnership* together with the names of the authorised signatories to the account should be checked against the most up-to-date *OFAC* list and other relevant lists of proscribed *Persons*.
- 5. Where the unincorporated business/*Partnership* has an existing relationship with another *Group* entity, it may in some cases be possible to rely (in whole or in part) on the “Know Your *Customer*” due diligence undertaken by that *Entity*.

Trusts, Nominees and Fiduciaries

- 6. In addition to the identification documentation listed under private companies, the following information and documentation should be obtained:
 - a. identity of any settlor, the trustee and any principal controller who has the power to remove the trustee as well as the identity of the *Beneficial Owner*;

- b. a certified copy of the trust deed, to ascertain the nature and purpose of the trust; and
- c. documentary evidence of the appointment of the current trustees.

A1.2.3 A *Relevant Person* must use its best endeavours to ensure that it is advised about any changes concerning the individuals who have control over the funds, and concerning the *Beneficial Owners*.

A1.2.4 Where a trustee, principal controller or *Beneficial Owner* who has been identified is about to be replaced, the identity of the new trustee, principal controller or *Beneficial Owner* must be verified before they are allowed to exercise control over the funds.

Supra-national Organisations, Government Departments, Local Authorities and Universities

A1.2.5 Where the applicant for business is a supra-national organisation, government department or a local authority, the *Relevant Person* must take steps to verify the legal standing of the applicant, including its ownership and its principal address.

Guidance

The *Relevant Person* should obtain a certified copy of the resolution or other document authorising the opening of the account or undertaking the *Transaction*. Evidence that the official representing the body has the relevant authority to act should also be obtained.

Clubs, Co-operative, Charitable, Social or Professional Societies

A1.2.6 A *Relevant Person* must take steps to satisfy itself as to the legitimate purpose of clubs and societies by, for example, obtaining a certified copy of the constitution of the organisation.

A1.2.7 The identity of the principal signatories and controllers must be verified in accordance with the requirements for private individuals.

Verification of Identity when Dealing with Intermediaries

Guidance

1. The capacity of the signatories to act on behalf of the club or society and the identity of *Beneficial Owners* of the funds should be established and verified.
2. Where a regulated financial services firm from an *FATF Country* is the counterparty, regardless of whether it is acting on behalf of underlying *Customers*, whether named or otherwise, identification evidence will not be required either for the firm or its underlying *Customers*. Fund managers, private client stockbrokers and investment management firms acting as agents will normally fall within this category. However, confirmation of the existence of the relevant firm should be verified in accordance with guidance note 14 of this appendix.
3. In all other circumstances, for example, where an intermediary is acting as an introducer, unless an exemption applies, identification evidence will need to be obtained by the product/service provider for the underlying *Customer(s)*. However, when more than one *Authorised Firm* continues to have a responsibility to verify the identity of the underlying *Customer*, it may be reasonable for one *Authorised Firm* to rely on another *Authorised Firm* to obtain the identification evidence on behalf of both of them.
4. For the purpose of clarification, an intermediary is an "introducer" when it arranges for its *Customer* to carry out a *Transaction* directly with the product provider and takes no part in the *Transaction* itself, or where it is a party to a *Transaction* which establishes a business relationship between the product/service provider and the *Customer*.

5. For the particular procedures relating to:
 - a. unregulated intermediaries or those from *Non-FATF Countries*, see guidance notes 6 to 10.
 - b. business that is introduced by authorised financial intermediaries to product/service providers, see guidance notes 11 to 17.

Unregulated and non-exempt intermediaries acting as agents

6. Where an intermediary which is located within a *FATF Country* is either unregulated or is not covered by the relevant *Money Laundering* legislation, and is acting as agent on behalf of underlying *Customers*, then each case should be treated on its own merits depending on the knowledge of the agent and its “*Know Your Customer*” standards. Where the agent is not part of a *Group* whose head office is located in an *FATF Country*, the requirements for confirming the identities of the underlying principals should be in line with those for agents from countries without equivalence status.

Agents from Non-FATF Countries (that is, without equivalence status)

7. Where an intermediary which is acting as an agent for an underlying principal(s) is not located in a *FATF Country*, the *MLRO* or another relevant senior manager will need to assess the level of reliance that can be placed on the agent and the amount of evidence that should be obtained from the *Underlying Customers*.
8. Good practice should reflect current *FATF* requirements, in particular the need to be satisfied that the identities of all underlying *Customers* have been verified and that the underlying records of identity are required for the relevant period. The anti *Money Laundering* procedures of the agent should be assessed against current international standards and, from time to time, spot checks of the underlying evidence of identity retained by the intermediary should be undertaken. Alternatively, an individual confirmation certificate along with copies of all relevant records of identity should be completed for each underlying *Customer* and, where the certificates cannot be obtained, then the business should not be undertaken.
9. The responsibility to ensure that satisfactory identification and “*Know Your Customer*” procedures have been undertaken by the intermediary, and that the underlying records are retained, rests with the *Relevant Person*.

Agents located in a Non-Cooperating Country or Territory

10. Where an intermediary acting as agent is located in a non-cooperating country or territory (NCCT), or in a country listed as having material deficiencies, the business should not proceed unless the underlying *Beneficial Owners* of the funds have been identified to the satisfaction of the *State* product/service provider and in line with *QFC* standards.

Introduced business from authorised financial intermediaries from FATF Countries

11. Where a *Customer* has a relationship with both a financial intermediary and a *Relevant Person*, it is the responsibility of both parties to know who their *Customer* is. Consequently, where an intermediary introduces a *Customer* to another firm, e.g. a *Relevant Person* with whom the *Customer* then has a business relationship, the underlying *Customer* is an applicant for business and must be identified by the *Relevant Person* in line with the requirements for personal, corporate or business *Customers*.
12. In such circumstances it will be reasonable for the introducing intermediary to undertake the identification procedures on behalf of both parties and to confirm, through the use of introduction certificates along with copies of all relevant records of identity, the measures that have been taken. However, whilst the identification process can be delegated between *Authorised Firms*, it is important to remember that the responsibility to ensure that satisfactory identification evidence has been obtained and the appropriate records are retained cannot be delegated.
13. For written business, in the absence of any exemption from the verification requirements, unless the firm to which the introduction is being made is going to verify identity itself, it must obtain an introduction certificate for each *Customer* from the introducing intermediary.

14. To ensure that product/service providers can meet their obligations that satisfactory identification evidence has been obtained and will be retained for the necessary period, each introduction certificate must either be accompanied by certified copies of the identification evidence that has been obtained or by sufficient details/reference numbers etc that will permit the actual evidence obtained to be re-obtained at a later stage.
15. The certificate must indicate whether the application was dealt with face-to-face or non face-to-face.
16. If these procedures are followed, the product/service provider will be considered to have fulfilled its own identification obligations. However, if certification is not forthcoming from the introducer, or the certificate indicates that the introducer has not verified the identity of the applicant, the product provider will have to satisfy its obligation through other means (e.g. its own direct identification procedures).

Non written applications

17. Asset managers and other product providers receiving non-written applications by telephone or by other electronic means from financial intermediaries acting as introducers, and who have an obligation to verify the identity of the *Underlying Customer* must also ensure that the intermediary provides a written introduction certificate along with copies of all relevant records of identity.

Introductions from Regulated Intermediaries in Non-FATF Countries

A1.2.8 Where introduced business is received from a regulated financial intermediary who is not located in an *FATF Country*, the reliance that can be placed on that intermediary to undertake the verification of identity check must be assessed by the *MLRO* or some other competent person within the business on a case-by-case basis based on knowledge of the intermediary. The identification checks must be undertaken to *QFC* standards and an intermediary certificate completed in respect of each introduced *Customer* together with certified copies of the identification documents.

A1.2.9 Where *Relevant Persons* have day-to-day access to all *Group* “Know Your Customer” information and records, there is no need to identify an introduced *Customer*, or obtain a group introduction certificate, if the identity of that *Customer* has been verified previously to *QFC* or *FATF* standards. However, if the identity of the *Customer* has not previously been verified, e.g. because the *Group Customer* relationship pre-dates the introduction of anti *Money Laundering* regulations, or if the identification evidence is inadequate, then any missing identification and “Know Your Customer” evidence that is deemed to be necessary must be obtained.

A1.2.10 Where identification records are held outside of the *State*, a *Relevant Person* must determine whether there is secrecy or data protection legislation that would restrict access to the records either by the *Relevant Person* freely on request, or by the *State’s* law enforcement agencies under court order or relevant mutual assistance procedures. If restrictions apply, certified copies of the underlying records of identity must, wherever possible, be obtained and retained within the *State*.

Guidance

If the *Group* introducer is not from a *FATF Country* and no *Group* procedures exist that require identification and record keeping to *QFC* or *FATF* standards, copies of the identification evidence, certified by a *Senior Manager* of the *Group* introducer, should accompany the introduction certificate.

A1.3 Miscellaneous

1. The *Regulatory Authority* may from time to time:
 - a. review the *Rules* and guidance under Appendix 1 in light of changing *Money Laundering* legislation, publications issued by the Central Bank of Qatar, *Money Laundering* trends and techniques and according to international standards, in order to keep the Guidance current; and
 - b. provide such other guidance as it deems appropriate regarding customer identification obligations.
2. The *Regulatory Authority* expects that a *Relevant Person* will take these changes into account by amending, as appropriate, its policies, procedures, systems and controls.

Appendix 2 Money laundering risks

Note for app 2

Because of the definition of *money laundering* in *INAP*, the rules and guidance in this appendix apply to any act that constitutes—

- participation in, association with or conspiracy to commit, or attempt or incitement to commit, certain *money laundering* offences or other acts comprising *money laundering*; or
- aiding, abetting, facilitating, counseling or procuring the commission of certain *money laundering* offences or other acts comprising *money laundering*.

A2.1 Risk Assessment

Guidance

1. Generally, a *Relevant Person* is expected to take a risk-based approach when assessing any business relationship or *Transaction* with respect to its specific *Money Laundering* risk and the information and evidence that might be required or validated for this purpose. “Know Your Customer” procedures need to be established and managed according to the perceived *Money Laundering* risk.
2. The *Relevant Person* should take specific and adequate measures necessary to compensate for the higher risk of *Money Laundering* which might arise, for example from the following products, services or *Customers*:
 - a. non face-to-face business relationships or *Transactions*, such as via mail, telephone or the Internet;
 - b. internet based products;
 - c. correspondent banking relationships;
 - d. *Customers* from FATF “Non Cooperative Countries and Territories” and higher-risk countries; and
 - e. *Politically Exposed Persons*.
3. A *relevant person* should apply an intensified monitoring of *transactions* and accounts in relation to these products, services and *customers*. To remove any doubt, the need to apply intensified monitoring applies to any *branch* or *subsidiary* of a *relevant person* that is a *QFC entity* operating in another jurisdiction (see *AML Regulations*, article 6 (5) and (6)).
4. While a *Relevant Person* should assess the *Money Laundering* risks posed by the products and services it offers and devise its products with due regard to those risks, a risk-based approach does not release the *Relevant Person* from its overall obligation to comply with anti *Money Laundering* obligations.
5. The highest risk products or services in respect of *Money Laundering* are those where unlimited third party funds can be freely received, or where funds can regularly be paid to third parties, without evidence of identity of the third parties being taken.
6. *Money Laundering* risks are increased if a *Person* is able to hide behind bearer shares or corporate structures such as limited companies, offshore trusts, special purpose vehicles and nominee arrangements. When devising its internal procedures, a *Relevant Person* should consider how its *Customers* and operational systems impact upon the capacity of its staff to identify suspicious *Transactions*. Generally, the lowest risk products in respect of *Money Laundering* are those where funds can only be received from a named *Customer* by way of payment from an account held in the *Customer’s* name, and where the funds can only be returned to the named *Customer*.
7. The geographical location of a *Relevant Person’s Customer* may also affect the *Money Laundering* risk assessment. The *Regulatory Authority* recommends that where a *Relevant Person* has *Customers* located in countries:

- a. without adequate anti *Money Laundering* strategies;
- b. where cash is the normal medium of exchange;
- c. which have a politically unstable regime with high levels of public or private sector corruption;
- d. which are known to be drug producing or drug transit countries; or
- e. which have been classified as countries with inadequacies in their anti *Money Laundering* regulations

it should consider which additional “*Know Your Customer*” and monitoring procedures might be necessary to compensate for the enhanced risks of *Money Laundering*.

8. Such measures may encompass, for example, the following:
 - a. requiring additional documentary evidence;
 - b. taking supplementary measures to verify or certify the documents supplied;
 - c. requiring that the initial *Transaction* is carried out through an account opened in the *Customer’s* name with a credit or financial institution subject to *AMLR* and the *AML Regulations* or regulated in a *FATF Country*;
 - d. performing direct mailing (registered mail) of account opening documentation to the named *Customer* at an independently verified address, which such mailing is returned completed or acknowledged without alteration to the name or address;
 - e. establishing telephone contact with a *Customer* prior to opening the account on a independently verified home or business number or a “welcome call” to the *Customer* utilising a minimum of two pieces of personal identity security information that have been previously provided during the setting up of the account;
 - f. obtaining a local legal opinion on the ability of the *Customer* to open an account and transact business with the *Relevant Person*. Local counsel should undertake a local company search (if applicable);
 - g. obtaining an introduction certificate from another regulated financial institution in accordance with the procedures set out above; and
 - h. an initial deposit cheque drawn on a personal account in the *Customer’s* name at a bank in an *FATF country*.
9. A *Relevant Person* should be able to aggregate and monitor significant balances and activity in accounts on a consolidated basis, when *Customers* have multiple accounts with the same institution but in offices located in different countries.

Risk Regarding Corruption and Politically Exposed Persons

10. Corruption, especially with the involvement of *Politically Exposed Persons*, may involve serious crimes and has become the subject of increasing global concern. The risk for a *Relevant Person* can be reduced if the *Relevant Person* conducts detailed “*Know Your Customer*” investigations at the beginning of a relationship and on an ongoing basis where it knows, suspects, or is advised that, the business relationship involves a *Politically Exposed Person*. A *Relevant Person* should develop and maintain enhanced scrutiny and monitoring practices to address this risk, see also Appendix 1.
11. A *Relevant Person* is advised that *Customer* relationships with family members or close associates of *Politically Exposed Persons* involve similar risks to those with *Politically Exposed Persons* themselves.

- A2.1.1(1)** A *relevant person* must implement and maintain detailed monitoring and due diligence procedures for each *customer* who is, or becomes, a *politically exposed person*.
- (2) The monitoring and due diligence procedures must include—
- (a) analysis of any complex structures used by the *customer* (for example, structures involving trusts or multiple *jurisdictions*); and
 - (b) measures to establish the origin of funds and the source of wealth or income; and
 - (c) the requirement that approval of *senior management* be obtained—
 - (i) before the *customer* opens an account with the *relevant person*; or
 - (ii) if an account has been opened—to engage in any *transaction* with the *customer*; and
 - (d) development of a profile of expected activities for the *customer* relationship to provide a basis for *transaction* and account monitoring; and
 - (e) regular oversight of the relationship by *senior management*.

Guidance for r A2.1.1

If a *relevant person* subsequently becomes aware that a *customer* is a *politically exposed person*, the *relevant person* must immediately comply with this rule.

A2.2 Suspicious Transactions and Transaction Monitoring

1. Article 13 of the *AML Regulations* requires a *Suspicious Transaction Report* to be made when there is knowledge or suspicion of *Money Laundering*. Suspicion is a personal and subjective assessment. Suspicion of *Money Laundering* requires a degree of satisfaction although this may not amount to belief, it should at least extend beyond mere speculation and should be based upon some foundation that *Money Laundering* has occurred or is about to occur.
2. A member of staff who considers a *Transaction* to be suspicious would not be expected to know the exact nature of the criminal offence or that the particular funds were definitely those arising from a crime.
3. Article 13(1) of the *AML Regulations* also makes reference to “reasonable grounds for knowing or suspecting” which introduces an objective test rather than a subjective test of suspicion by assessing whether or not “suspicion” was ignored in the way of:
 - a. wilful blindness;
 - b. negligence, that is wilfully and recklessly failing to make the adequate enquiries; or
 - c. failing to assess adequately the facts and information that are either presented or available.
4. “Know Your *Customer*” requirements form the basis for recognising suspicious *Transactions*. Sufficient guidance must therefore be given to the *Relevant Person Employees* to enable them to form a suspicion or to recognise when they have reasonable grounds to suspect that *Money Laundering* is taking place. This should involve training that will enable relevant *Employees* to seek and assess the information that is required for them to judge whether a *Transaction* is suspicious in the circumstances.
5. Effective “Know Your *Customer*” arrangements may provide the basis for recognising unusual and suspicious *Transactions*. Where there is a *Customer* relationship, a suspicious *Transaction* will often be one that is inconsistent with a *Customer’s* known legitimate *Transactions*, or with the normal business

activities for that type of account or *Customer*. Therefore, the key to recognising “suspicions” is knowing enough about the *Customer* and the *Customer’s* normal expected activities to recognise when a *Transaction* is abnormal. Circumstances that might give rise to suspicion or reasonable grounds for suspicion may be:

- a. *Transactions* which have no apparent purpose and which make no obvious economic sense;
 - b. *Transactions* requested by a *Customer* without reasonable explanation, which are out of the ordinary range of services normally requested or are outside the experience of a *Relevant Person* in relation to a particular *Customer*;
 - c. the size or pattern of *Transactions*, without reasonable explanation, is out of line with any pattern that has previously emerged;
 - d. a *Customer* refuses to provide the information requested without reasonable explanation;
 - e. a *Customer* who has just entered into a *Customer* relationship uses the relationship for a single *transaction* or for only a very short period of time;
 - f. an extensive use of offshore accounts, companies or structures in circumstances where the *Customer’s* economic needs do not support such requirements;
 - g. unnecessary routing of funds through *Third Party Accounts*; or
 - h. unusual *Transactions* without an apparently profitable motive.
6. A *Relevant Person* is required to have *Transaction* monitoring policies, procedures, systems and controls. On-going monitoring of *Customer* activity, that is, monitoring of *Transactions* and their accounts, either through manual procedures or by computerised systems, is one of the most important aspects of effective “Know Your *Customer*” processes. Whether a *Relevant Person* should undertake the monitoring by means of a manual or computerised system will depend on a number of factors, including, but not limited to:
- a. the size and nature of the *Relevant Person’s* business and customer base;
 - b. the complexity of the *Transactions*; and
 - c. the volume of the *Transactions*.
- Note* Rule 3.17.1 requires a *relevant person* to examine and report on certain transactions that have no apparent or visible economic or lawful purpose.
7. The extent of “Know Your *Customer*” information and that of required *Transaction* monitoring should be assessed taking a risk-based approach. Higher risk accounts and *Customer* relationships will generally require more frequent or detailed monitoring.
8. With regard to enhanced scrutiny to funds transfers, which do not contain complete originator information including name, address and account number or unique reference number, a *Relevant Person* should examine the *Transaction* in more detail in order to determine whether certain aspects related to the *Transaction* might make it suspicious and thus warrant eventual reporting to the *FIU* and the *Regulatory Authority*.

Endnotes

1 Abbreviation key

| | | | | | |
|------|---|----------------|-------|---|------------------------|
| a | = | after | om | = | omitted/repealed |
| am | = | amended | orig | = | original |
| amdt | = | amendment | par | = | paragraph/subparagraph |
| app | = | appendix | prev | = | previously |
| art | = | article | pt | = | part |
| att | = | attachment | r | = | rule/subrule |
| b | = | before | renum | = | renumbered |
| ch | = | chapter | reloc | = | relocated |
| def | = | definition | s | = | section |
| div | = | division | sch | = | schedule |
| g | = | guidance | sdiv | = | subdivision |
| hdg | = | heading | sub | = | substituted |
| ins | = | inserted/added | | | |

2 Rulebook history

Anti Money Laundering Rulebook (AMLR)

made by

Anti Money Laundering Rulebook Rule Making Instrument No. 4, 2005 (RM04/2005)

Made 13 October 2005

Commenced 13 October 2005

Version No. 1

as amended by

Rulebooks (Miscellaneous Amendments) Rules 2008 (RM2008/01 sch 1, pt 1.1 and sch 2, pt 2.1)

Made 30 March 2008

Commenced 7 April 2008

Version No. 2

Rulebooks (Miscellaneous Amendments) Rules 2008 (No2) (RM2008/02 sch 2, pt 2.1)

Made 21 September 2008

Commenced 1 October 2008

Version No. 3

3 Amendment history

s 3.9 Exception to customer identification requirements

s3.9 hdg sub RM2008/01

r 3.9g sub RM2008/01

r 3.9.1 sub RM2008/01

r 3.9.2 om RM2008/01

r 3.9.3 om RM2008/01

s 3.11 Reliance on others to Verify Identity

r 3.11.1 sub RM2008/01

r 3.11.3 sub RM2008/01

s 3.12 Correspondent Banks Identification

- r 3.12.3 sub RM2008/01; am RM2008/02
- r 3.12.3g am RM2008/01
- r 3.12.4 ins RM2008/01

s 3.13 Internal and External Reporting Requirements

- r 3.13.4 ins RM2008/01

s 3.17 Transaction examination and funds transfer

- s 3.17hdg sub RM2008/01
- r 3.17.1 ins RM2008/01
- r 3.17.2 ins RM2008/01
- r 3.17.3 ins RM2008/01

App 1 Customer Identification Requirements

s A1.1 Duties and Responsibilities

- r A1.1.2 sub RM2008/01; am RM2008/02
- r A1.1.2g om RM2008/01
- r A1.1.3 ins RM2008/01
- r A1.1.4 ins RM2008/01
- r A1.1.5 ins RM2008/01
- r A1.1.5g ins RM2008/01
- r A.1.2.1g am RM2008/01

App 2 Money laundering risks

- App 2 hdg sub RM2008/01
- App2 note ins RM2008/01

s A2.1 Risk Assessment

- s A2.1g sub RM2008/01
- r A2.1.1 sub RM2008/01

s A2.2 Suspicious Transactions and Transaction Monitoring

- s A2.2 am RM2008/01