



ADVISORY

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ADVISORY ON THE CUSTOMER DUE DILIGENCE (“CDD”), SIMPLIFIED DUE DILIGENCE (“SDD”) AND ENHANCED DUE DILIGENCE (“EDD”) REQUIREMENTS FOR NATURAL PERSONS

This Advisory is directed to:

- Nominated Officers
- Chief Executive Officers
- Chief Operating Officers
- Chief Risk Officers
- Compliance Officers
- Legal Officers
- Other Principal Officers

1.0 Legislative References

- ☐ Proceeds of Crime Act (“POCA”);
- ☐ Terrorism Prevention Act (“TPA”);
- ☐ Proceeds of Crime (Money Laundering Prevention) Regulations (“POC-MLPR”)
- ☐ Terrorism Prevention (Reporting Entities) Regulations (“TP-RER”)
- ☐ United Nations Security Council Resolutions Implementation Act (“UNSCRIA”)

2.0 General CDD Requirements for a Natural Person

General CDD requirements involve the obligation to know your customer (“KYC”) by satisfactorily identifying the customer, verifying their identity and establishing details pertaining to the customer’s:

- ☐ Occupation and economic activity;
- ☐ Personal financial, and business track record;
- ☐ Source of funds (“SOF”) and/or source of wealth (“SOW”);
- ☐ Contact information;
- ☐ Capacity in which the business is being transacted;
- ☐ Regulatory compliance status; and
- ☐ Criminal background, if any.

The regulated business is required to conduct ongoing monitoring of the business relationship to ensure that the customer’s transactions are consistent with its financial and risk profiles.

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2.1 Identification Procedures for Business Relationships and One-off Transactions

As soon as is practicable after contact is made between a regulated business and an applicant for business concerning any business relationship or one-off transaction, the following obligations come into effect:

- a. The applicant for business produces satisfactory reliable evidence of his identity to the regulated business;
- b. The regulated business takes the required measures to verify the applicant's identity; and
- c. Risk management measures are applied to the conditions under which the business relationship or one-off transaction is dealt with, while identification procedures to verify the applicant's identity are being carried out.

Risk management measures may include the following:

- Restricting the number of transactions that are conducted on the account;
- Restricting the types of transactions that are allowed (for instance, precluding wire transfers and/or foreign currency transactions); and
- Applying a threshold on the value/size of transactions.

Where the regulated business is unable to verify the applicant's identity within **fourteen (14) days** after contact is first made, the regulated business has to then act as set out in 2.1.1 and 2.2 below.

2.1.1 Unsatisfactory CDD Outcome

Where a regulated business is not satisfied with the outcome of its CDD inquiries, **but** there are no reasonable grounds to suspect that the business relationship or one-off transaction constitutes or could be related to money laundering ("ML"), then:

- The business relationship or one-off transaction should be ceased unless conducted with the permission of, and in accordance with guidelines issued by, the Financial Services Commission (FSC); and
- The regulated business shall make an assessment as to whether any disclosure is required under section 94 or 95 of the POCA; that is, a suspicious transaction report ("STR").

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2.1.2 Customer Information

With regard to applicant(s) for business, customer information includes:

- a. full true name and any aliases used;
- b. current permanent address (and postal address, if different from the permanent address);
- c. taxpayer registration number (or other national reference number);
- d. date of birth;
- e. place of birth;
- f. nationality;
- g. mother's maiden name ;
- h. references;¹
- i. employment/occupation/business activity
- j. contact numbers (work, home, mobile); and
- k. SOF and/or SOW.

2.1.3 Verification of Customer Information²

A regulated business is required to conduct verification measures of customer information by the use of reliable satisfactory evidence. Reliable satisfactory evidence includes confirmation as to identity from trusted sources independent of the regulated business. Verification is a cumulative process, except for small one-off transactions. The regulated business is not to place reliance on any single piece of documentary evidence. The best possible documentation of identification should be required and obtained from the verification subject. For this purpose "best possible" means any document which is the most difficult to replicate or acquire unlawfully because of its reputable and/or official origin.

A regulated business should not use the same document for both proof of identification and proof of address. Therefore, if for example, a driver's licence is provided for identification purposes, then another document should be used to verify the address of the customer. This restriction serves to provide further safeguards in the verification of customer information measures.

2.1.3.1 Identification Documents³

Identification documents for a natural person may include the following:

¹ At least two references are required, except for customers conducting one-off transactions

² Please refer to Section V of the FSC's AML/CTF Guidelines (October 2019) for guidance on alternative forms of identification.

³ Please refer to GEN-ADV-19/02-0001 issued in February 2019, which provides detailed guidance on identification and verification documents that are recommended by the FSC.

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- Current Driver’s Licence;
- Current Passport;
- Current Voter’s Identification Card; and/or
- Current Known Employer or Public Sector Employer Identification Card (with a photograph, signed by both the employee and employer and which has an expiry date).

2.1.3.2 *Address Verification Documents*

For the verification of address, a regulated business may use one of the following recommended methods:⁴

- Utility Bill;
- Telephone Directory;
- Voter Identification Card;
- Credit Card Statement or Bank Statement⁵;
- Letter from a Justice of the Peace;
- Driver’s Licence;
- Confirmation from a Trusted Referee; or
- Letter from Known Employer.

2.2 *Cessation of CDD Requirements*

Where the regulated business has reasonable grounds to suspect that a business relationship or one-off transaction constitutes or could be related to ML **and** is of the belief that carrying out the full required CDD measures might alert the person that such a suspicion has been formed, then the regulated business should act as follows:

- Discontinue the CDD procedures; and
- Make the required disclosure (STR) under section 94 or 95 of the POCA or section 16(3) of the TPA.

The regulated business has to ensure that in discontinuing the CDD procedures, it has collected enough information to adequately identify the applicant so that it can submit a valid⁶ STR to the Financial Investigations Division (“FID”).

⁴ See Advisory (GEN-ADV-19/02-0001) issued in February 2019, which provides detailed guidance on identification and verification documents that are recommended by the FSC

⁵ Issued by mail by another financial institution

⁶ The FID’s reporting portal, goAML has established minimum standards for the acceptance of a report from a reporting entity. Therefore, any report submitted that does not have specified mandatory information will be automatically rejected by the system/portal.

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2.3 Updating of Customer Information

Customer information should be kept under review and should be updated:

- At least once in every seven (7) years during the course of the business relationship;
- At more frequent intervals as warranted by the risk profile;
- Whenever there is doubt about the veracity or adequacy of previously obtained information;
- When the customer's transactions are inconsistent with their financial profile;
- Where transactions which are carried out in a single operation or in several operations appear to be linked;
- Where any cash transaction involves or exceeds the prescribed amount⁷;
- Where the transaction being conducted is a wire transfer;
- Upon the execution (or attempted execution) of a significant transaction;
- Upon material changes to customer documentation standards;
- When there is a material change in the manner in which the account is operated;
- When there are doubts regarding the identity of the customer or the beneficial owner of the account; and
- Where the regulated business is required to file a STR under section 94 or 95 of the POCA or under section 16(3) of the TPA.

The documentation provided to establish the relationship with the regulated business should be continually reviewed and updated. The contract with the customer should place an obligation on the customer to notify the regulated business of any change in identification or changes in other particulars, which would render the information held by the regulated business out-dated.

Where customer information is not updated as required, then the:

- a. Business relationship shall not proceed any further; and

⁷ For FSC's regulated businesses, the prescribed amount is US\$15,000 or its equivalent in any other currency.

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- b. The regulated business shall make any required disclosure pursuant to section 94 or 95 of the POCA or section 16(3) of the TPA.

2.4 Establishing SOF and SOW

SOF refers to the origin of the particular funds or assets, which are the subject of the business relationship between the regulated business and its customers and the transactions being undertaken by these customers.

SOW refers to the wealth or assets of the customer in general, whether they are the subject of a business relationship or not. The information to be obtained from an applicant for business should provide an indication as to the volume of wealth that the potential customer would reasonably be expected to have and the manner in which it was acquired.

Pursuant to regulation 7A (5) of the POC-MLPR, a regulated business should obtain and verify both SOF and SOW for all business relationships and one-off transactions that have been determined to be high-risk.

2.4.1 Establishing and Verifying SOW

SOW can be established by:

- First, obtaining information on the applicant's net worth. Net worth can be obtained from the applicant's own representations;
- Thereafter, obtaining information on the source of the net worth. Source normally includes: employment, investments, gifts and inheritance. Generally, there will be multiple sources accounting for the potential customer's net worth; and
- Lastly, verifying information provided about the SOW. The SOW can be verified using reliable and independent sources that can be obtained (examples of which are in the table below); along with external confirmations and information provided by the applicant for business.

2.4.2 Establishing & Verifying SOF

Regulation 7A (3) of the POC-MLPR imposes an obligation on regulated businesses to verify the SOF for all applicants for business and one-off transactions. Similar to the requirement for verification of the identity of a customer, a regulated business must verify the SOF of a potential customer during its onboarding process and also when the circumstances outlined at 2.3 justify this verification.

For transactions involving cash, verification of the SOF can become even more challenging. A regulated business therefore has to ensure that it conducts all the required due diligence measures to ensure that the funds were derived from a legitimate source.

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Where funds originate from a third party, a regulated business should:

- Establish the relationship between its client and the person providing the funds;
- Establish the SOF;
- Verify the SOF;
- Establish the purpose of the transaction; and
- Assess whether the transaction is in keeping with the documented financial profile of the customer.

2.4.3 SOF & SOW verification documents

SOF and SOW verification documents include (but are not limited to):

SOF/SOW	Information & Verification Documents
Employment Income	<ul style="list-style-type: none"> ■ Letter from employer ■ Annual salary ■ Pay slips (3 most recent) ■ Latest accounts or income tax declaration (if self-employed)
Savings/Deposits	<ul style="list-style-type: none"> ■ Bank statements ■ Passbook
Property Sale	<ul style="list-style-type: none"> ■ Details of the property sold (address, sale value, purchaser, date of sale) ■ Copy of signed sales agreement, Copy Certificate of Title
Sale of shares or other investment	<ul style="list-style-type: none"> ■ Copy of contract ■ Sale value of shares & name of dealer ■ Statement of account ■ Transaction receipt ■ Board resolution for sale of shares ■ Date of sale
Loan	<ul style="list-style-type: none"> ■ Copy of Loan agreement ■ Amount, date and purpose of loan ■ Name and address of lender ■ Details of any security/collateral ■ Statement of account
Company Sale	<ul style="list-style-type: none"> ■ Copy of the contract of sale ■ Name and address of the company ■ Companies Office search

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	<ul style="list-style-type: none"> ■ Total sales price ■ Clients' share participation ■ Nature of business ■ Date of sale and receipt of funds ■ Open-source information (media etc.)
Company profits/dividends	<ul style="list-style-type: none"> ■ Copy of most recent audited financial statements ■ Copy of most recent in-house financial statements ■ Board of Directors' approval ■ Dividend distribution ■ Tax declaration form ■ Evidence of dividend payments
Inheritance	<ul style="list-style-type: none"> ■ Name of deceased ■ Date of death ■ Relationship to customer ■ Date received ■ Amount received ■ Attorney-at-law/Administrator/Executor details
Gift	<ul style="list-style-type: none"> ■ Date received ■ Amount received ■ Relationship to customer ■ Deed of Gift or Letter from donor explaining the reason for the gift and providing information on the source of the donor's wealth ■ Certified identification documents of donor
Maturity/Surrender of life policy	<ul style="list-style-type: none"> ■ Amount received ■ Policy provider ■ Policy number/reference ■ Date of surrender ■ Statement of account
Other income sources	<ul style="list-style-type: none"> ■ Nature of income ■ Date received ■ Name of source ■ Letter from payer ■ Statement of account ■ Appropriate supporting documentation

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2.5 Terminating Business Relationships

A regulated business should ensure that its mandates with customers and contractual arrangements entered into permit the legal termination of a transaction, arrangement or business relationship.

During the course of updating a customer's information or any time after the business relationship has commenced, the regulated business may discover that the information on file is inaccurate or is no longer applicable; and that the correct or updated information is unavailable or is being unreasonably withheld. If this occurs, the regulated business must take steps to terminate the relationship and assess whether this information should be reported to the FID.

The records of the conduct and results of this exercise should be in writing and available on request, to the FSC (the competent authority) and the FID (the designated authority). These records should also be available to that business' internal and external auditors. In such cases, those accounts should be legally terminated, unless a direction to the contrary is received from the FID.

In seeking to discontinue the process for establishing a business relationship/one-off transaction or in terminating an established business relationship, a regulated business should be mindful of the prohibition against tipping-off/unauthorized disclosures as outlined under the following provisions:

- sections 97 and 104 of the POCA;
- section 17 of the TPA; and
- section 5 (6) of the UNSCRIA.

Prior to the termination of a business relationship, where there is suspicion that the funds in an account may constitute criminal property; a regulated business should seek appropriate consent from the designated authority pursuant to sections 91, 92, 93 and 99 of the POCA before returning such funds to the customer.

3.0 General SDD Requirements for a Natural Person

SDD procedures may be applied when the regulated business has made a determination that both the applicant for business and the product that is being accessed by the applicant are low-risk. SDD is the application of **reduced** CDD measures. A regulated business is still expected to identify the applicant for business and take reasonable measures in verifying the identity of the applicant, despite the utilization of SDD procedures.

3.1 Conditions for Applying SDD

In determining whether SDD is applicable, the regulated business should:

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- Conduct a proper evaluation of the risk to justify the adoption of the SDD procedures;
- Identify and document the risks of ML and terrorism financing (“TF”);
- Implement appropriate controls and systems to reduce or mitigate those risks;
- On an ongoing basis, review both the identified risks and the systems/controls that have been implemented to mitigate those risks; and
- Review the product features of the business, such as:
 - Threshold limits for the value of transactions;
 - Whether or not cross-border transactions are permitted;
 - Whether there is prohibition of the anonymous use of the product; and
 - Limits on delivery channels such as limited to face-to-face.

Where there is any change to the risk level of the business relationship, then the regulated business should immediately apply the appropriate due diligence measures to the business relationship; that is, CDD for moderate risk customers and EDD for high risk customers.

3.2 SDD Procedures

Pursuant to regulation 7A (5C) of the POC-MLPR, SDD procedures may include the following:

- Requiring only one form of identification. This identification should preferably be government issued, but regulated businesses may accept any form of identification as recommended by the FSC;
- Accepting identification verification from third parties who are under equivalent obligations with respect to customer identification and transaction verification procedures;
- Collecting only basic identification information such as names, addresses, and dates of birth;
- Reliance on publicly available documents or such other documents as the FSC may specify; and/or
- Such other procedures as the FSC may specify.

4.0 General EDD Requirements for a Natural Person

Where a business relationship or one-off transaction has been determined by the regulated business to be high-risk, EDD measures should be applied. EDD is the application of **additional** CDD measures to mitigate the higher ML/TF risks.

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4.1 EDD Measures

Pursuant to regulation 7A (5) of the POC-MLPR and regulation 6A (4) of the TP-RER⁸, EDD measures include the following:

- Obtaining senior management approval to commence or continue the business relationship or one-off transaction;
- Verification of both the SOF and the SOW held by the applicant for business and all other persons involved in the business relationship or one-off transaction; and
- Enhanced monitoring throughout the course of the business relationship, to include:
 - A requirement for more frequent updating of customer information;
 - A requirement for more detailed information as to the nature of the business relationship;
 - A requirement for more detailed information about the applicant for business and other parties involved in the transaction;
 - An increase in the number and timing of controls applied to each relevant transaction;
 - The selection of patterns of actions that require more detailed examination; and
 - A requirement that the first payment in the transaction be carried through an account with a financial institution in the name of the applicant for business.

4.2 Activities/Transactions Triggering the Application of EDD Measures

In the exercise of EDD measures, a regulated business should pay particular attention to:

- Requests from foreign persons/entities to establish accounts with a regulated business that is unaccustomed to maintaining accounts for overseas customers and which has not sought out such business;
- Requests for secrecy with regard to a transaction(s);
- Routing of transactions into or through a secrecy jurisdiction;

⁸ As amended by section 3 of the Terrorism Prevention (Amendment) Act, 2013 (see the Second Schedule of this Amendment)

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- Deposits or withdrawals of multiple monetary instruments just below the reporting threshold on or around the same day;
- Patterns, where after deposit or wire transfer is received, funds are soon thereafter transferred to another regulated business (particularly an off-shore or secrecy jurisdiction);
- Enquiry by or on behalf of a politically exposed person (“PEP”) regarding exceptions to reporting requirements;
- Transactions conducted by all high risk customers;
- The transaction is complex, unusually large or with an unusual pattern and does not make any economic sense; and
- The customer or parties involved in the transaction is from a specified territory.

4.3 Identification of High Risk Customers

Pursuant to regulation 7A (1) of the POC-MLPR, each regulated business is required to establish a risk profile of all its business relationships and one-off transactions.

4.3.1 Risk Identification

The first step in assessing ML/TF risks is to identify the risk categories; that is:

- Customers and other counterparties;
- Countries or other geographic areas;
- Products;
- Transactions;
- Delivery channels; and
- Operating environment (business – size, activities and complexities; sector; national and global issues).

4.3.2 Persons Identified as High Risk in Legislation

Persons that are deemed as high risk according to certain characteristics (for example, being the holder of a prominent public post or residing overseas) are identified at regulation 7A of the POC-MLPR.

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4.3.2.1 PEPs

PEPs are individuals who have been entrusted with prominent public functions and are therefore deemed to be high risk. This category of persons includes the following persons, their relatives⁹ and close associates¹⁰:

- A Head of State or of Government;
- A member of any House of Parliament;
- A Minister of Government;
- A member of the judiciary;
- A military official above the rank of Captain;
- A member of the police force of or above the rank of Assistant Commissioner;
- A Permanent Secretary, Chief Technical Director, or chief officer in charge of the operations of a Ministry, department of government or Executive Agency;
- A director or chief executive of any company in which the government owns a controlling interest;
- An official of any political party; or
- An individual who holds, or has held, a senior management position in an international organization.

4.3.2.2 Other High Risk Customers

Other high risk customers include:

- A person who is not ordinarily resident in Jamaica;
- A person acting as a trustee for another in relation to the business relationship or one-off transaction concerned;
- A company having nominee shareholders, or shares held in bearer form; or
- A member of such class or category of persons as the Supervisory Authority may specify by notice published in the Gazette.

5.0 Counter-Measures – Specified Territories

Pursuant to section 94A (2) of the POCA, the FSC has designated the following jurisdictions as specified territories¹¹ by Notice to be published in the Jamaica Gazette:¹²

- Islamic Republic of Iran (Iran); and
- Democratic People’s Republic of Korea (DPRK)

⁹ Relatives mean spouse, child (including stepchild or adopted child), the spouse of his child, his parents, or sibling.

¹⁰ Close associate means an individual who is a business partner; or associated in any other form, in a common commercial enterprise with the person concerned.

¹¹ This is in keeping with the FATF’s designation of these jurisdictions as high-risk.

¹² This Advisory may precede the publication of the referenced Notice by Gazette.

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Accordingly, all financial transactions, business relationships and counterparties' transactions originating from or involving both legal and natural persons from these high-risk jurisdictions should be subject to both EDD measures and other counter-measures to mitigate any risk of ML/TF/PF.

In this regard, counter-measures that can be imposed by the FSC on regulated businesses include:

- Instituting transaction or relationship limits;
- Requiring more frequent intervals for the provision of certain reports;
- Directing for the conduct of additional audit requirements; and
- Denying any exemption of identification procedures.

6.0 Supplementary Provision for Insurance Businesses

For insurance contracts, an insurance business is required to identify and verify the identity of the beneficiary. Verification can be done at the time of the payout of the funds.

Where the beneficiary is designated other than by name (for example, by reference to characteristics or a class) the insurance business shall obtain sufficient information to enable it to identify and verify the identity of the beneficiary at the time of payout.

After the beneficiary has been identified, the regulated business has to then make a determination as to whether EDD measures are applicable. If so, such EDD measures are to be applied accordingly.

For Further Information

*Please contact the Financial Services Commission at Telephone
Numbers: 876-906-3010-2 or by Email to amlunit@fscjamaica.org.*