

How To Prepare For Your On-site Examination

INTRODUCTION

The Financial Services Regulatory Commission (FSRC) is the regulatory body responsible for regulating and supervising the financial services sector which comprises of Insurance Businesses (Domestic and Captive), Money Services Businesses, Credit Unions, Trust and Corporate Service Providers, Investment Businesses and the Development Bank of St. Kitts and Nevis. The FSRC is also responsible for incorporating/registering Companies, Trusts, Foundations, Limited Partnerships and Non-Governmental Organizations.

As the ultimate regulatory body for Anti-Money Laundering (AML) and Countering the Finance of Terrorism (CFT) in St. Kitts and Nevis, the FSRC conducts on-site examinations on the operations of Regulated Entities on an annual basis.



THE PURPOSE OF THE ON-SITE EXAMINATIONS

The ultimate objective of an on-site examination is to assess the extent to which regulated entities are operating in accordance with the Financial Services Regulatory Commission Act, No. 22 of 2009 (“FSRC Act”), Financial Services (Implementation of Industry Standards) Regulation (“FSR”), No. 51 of 2011 and the Anti-Money Laundering (AML) and Counter Financing of Terrorism (CFT) Laws and Regulations of St. Kitts and Nevis, i.e. the Anti-Money Laundering Regulations, No. 46 of 2011 (“AMLR”) and the Anti-Terrorism (Prevention of Terrorism Financing) Regulations No. 47 of 2011 (“ATR”). Additionally, each Regulated Entity’s level of compliance with the relevant legislation that it is licensed to conduct its business under is assessed. The other objectives include:

- * To assess the Regulated Entity’s AML/CFT policies and procedures for compliance with the AMLR/ATR.
- * To determine whether the established AML/CFT policies and procedures are implemented into the operations of the Regulated Entity;
- * To determine whether there is an independent audit function to test and validate activities associated with the detection, evaluation and mitigation of money laundering (ML) and terrorist financing (TF) risks;
- * To determine if adequate customer due diligence/Know Your Customer (KYC) documents are maintained on the files in accordance with the AML/CFT Laws and Regulations and these files are up-to-date;
- * To determine the frequency and adequacy of AML/CFT training;

THE STEPS OF AN ON-SITE EXAMINATION

The following procedures are followed during an on-site examination:

- A. Entrance Interview—The FSRC Examination Team will host a meeting with senior management of the Regulated Entity usually on the first day of the on-site examination. This meeting provides an opportunity for the Examiners to introduce themselves and discuss the examination scope and time frames. It also provides the opportunity for the senior management of the entity to ask any questions or raise any concerns associated with the examination.
- B. Examination—The Examiners will review the Regulated Entity’s operational and AML/CFT policies and procedures. The relevant client files will also be reviewed and staff may be interviewed to determine whether they are knowledgeable of the policies and procedures and are implementing them into the entity’s day-to-day operations. In addition, the Examiners will make an assessment of the overall risks associated with the entity and its ML/TF mitigation systems.
- C. Exit Interview—The Examiners will hold a meeting with senior management at the end of the examination to discuss a summary of the findings and recommend actions for improvement.
- D. Preparation and Issuance of the Examination Report—The Examiners will prepare a detailed report with the examination findings and recommended actions. After being completed, the report will be reviewed by the FSRC’s Board of Commissioners for approval, then submitted to senior management of the Regulated Entity. The report would include timelines in which the recommended actions should be completed and the risk rating which the Regulated Entity received based on the Examiners’ findings. It would also outline the follow-up period.

HOW TO SUCCESSFULLY PREPARE FOR YOUR ON-SITE EXAMINATION



A. Pre-Examination Planning

Prior to the commencement of the on-site examination, a Notification Letter will be sent to the Senior Official of the Regulated Entity usually one (1) month in advance. The letter will outline the commencement date and a summary of what will be examined. This notification may also list a number of documents that should be submitted to our office one (1) week prior to the commencement of the on-site examination. These documents include but are not limited to:

- * Completed Questionnaire—This questionnaire will be attached to the notification letter and must be completed and submitted to the FSRC;
- * Audited Financial Statements/Management Accounts;
- * A copy of the Regulated Entity’s AML/CFT Manual and any other documented operational policies and procedures;
- * Organizational Chart.

In receipt of the Notification Letter, the Regulated Entity should begin preparations for the on-site examination by completing the following:

1. Establish contact with the Regulators;
2. Review all AML/CFT Policies and Procedures and update them where necessary;
3. Create or update customer due diligence programs;
4. Submit the documents requested in the Notification Letter;
5. Ensure that staff have received adequate AML/CFT training;
6. Anticipate items that will be included in the examination scope, such as a review of the human resource files;
7. Create an Examination Checklist;
8. Correct any outstanding deficiencies cited on a prior audit or exam;
9. Ensure that files are organized and are easily accessible;

10. BE PROACTIVE RATHER THAN REACTIVE.



B. What To Do During The On-Site Examination

1. Make accommodations for the examination team;
2. Respond immediately to Examiners’ on-site requests;
3. Accurately answer interview questions so that a proper assessment can be conducted;
4. Provide the Examiners with the sample files requested;
5. Provide clarification upon request to avoid misunderstanding.

C. What To Do During The Exit Meeting

1. Anticipate items for discussion;
2. Be prepared to discuss the findings;
3. Be receptive to any recommendations made;

D. What To Do After The On-Site Examination

1. Analyze the findings outlined in the examination report.
2. Do not minimize the importance of the examination findings.
3. Acknowledge the urgency for the findings to be addressed.
4. Correct the deficiencies by implementing the recommendations within the timeframe outlined in the examination report.
5. Consistently evaluate the business operations and policies and procedures to ensure compliance.
6. Be prepared for your Follow-up Examination.



COMMON DEFICIENCIES NOTED FROM PAST EXAMINATIONS

A significant number of common deficiencies were noted from examinations previously conducted. These deficiencies demonstrate non-compliance with the FSR, AMLR, ATR, FSRC Act and other relevant Laws and Regulations.

1. Lack of due diligence documents maintained for clients, especially as it relates to valid and notarized/certified IDs and proof of address verification documents.
2. The absence of an independent audit function to test and validate activities associated with the mitigation of Money Laundering and Terrorist Financing risks.
3. Lack of an AML/CFT Manual to outline KYC policies and procedures.
4. Failure to maintain a Suspicious Transaction Report (STR) Register and Register of Enquiries.
5. Insufficient AML/CFT training for employees.
6. Failure to appoint a Compliance Officer and submit his/her application to the FSRC for approval.
7. Failure to conduct customer risk assessments.
8. Failure to provide written Professional Service Agreements with intermediaries/introducers which state that the due diligence procedures utilized by all parties involved will be in accordance with the AML/CFT Laws and Regulations of St. Kitts and Nevis.
9. Lack of Human Resource Files to maintain Know Your Employee (KYE) documents.
10. Failure to submit audited financial statements.
11. Lack of proper record keeping.

The deficiencies above are listed in an effort to encourage Regulated Entities to address them in order to improve their AML/CFT program and their overall business operations.

References:

- *Financial Services (Implementation of Industry Standards) Regulation (FSR), No. 51 of 2011.*
- *Anti-Terrorism (Prevention of Terrorist Financing) Regulations (ATR), No. 47 of 2011.*
- *Anti-Money Laundering Regulations (AMLR), No. 46 of 2011.*