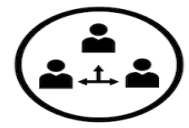


NewsLetter



RELIANCE ON THIRD PARTIES

Third Parties Explained

According to the Financial Action Task Force (FATF), Third Parties are defined as Financial Institutions (FIs) or Designated Non-Financial Businesses or Professions (DNFBPs) that are supervised or monitored and that meet the requirements of FATF Recommendation 17 (Reliance on Third Parties).

These entities provide services such as the following:

- ◇ Identification of Customers/Clients using reliable, independent source documents, data or information;
- ◇ Identification of Beneficial Owners. This should include an understanding of the ownership and control structure;
- ◇ Identification and understanding of the purpose and intended nature of business;
- ◇ Maintenance of Records; and
- ◇ Introduction of New Business.

It is important to note that based on the FATF standards, the ultimate responsibility for Customer Due Diligence (CDD) and Record Keeping should remain with the FI or DNFBP relying on the Third Party. This means that the necessary steps should be taken to ensure that copies of all relevant documentation relative to CDD requirements are made available from the Third Party upon request and without delay.

Additionally, mechanisms should be in place to confirm that the Third Party is regulated, monitored or supervised and has appropriate measures in place for compliance with CDD and Record Keeping Requirements of the FATF Recommendations and local Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Legislation.

Regulation 7 (2) - (6) of the Anti Money Laundering Regulations 2011 (AMLR) and Anti Terrorism Regulations (ATR) outline the guidelines governing identification procedures when engaging in business with Third Parties.

<https://www.fsrc.kn/law-library/anti-money-laundering/96-sro-46-of-2011-1/file>

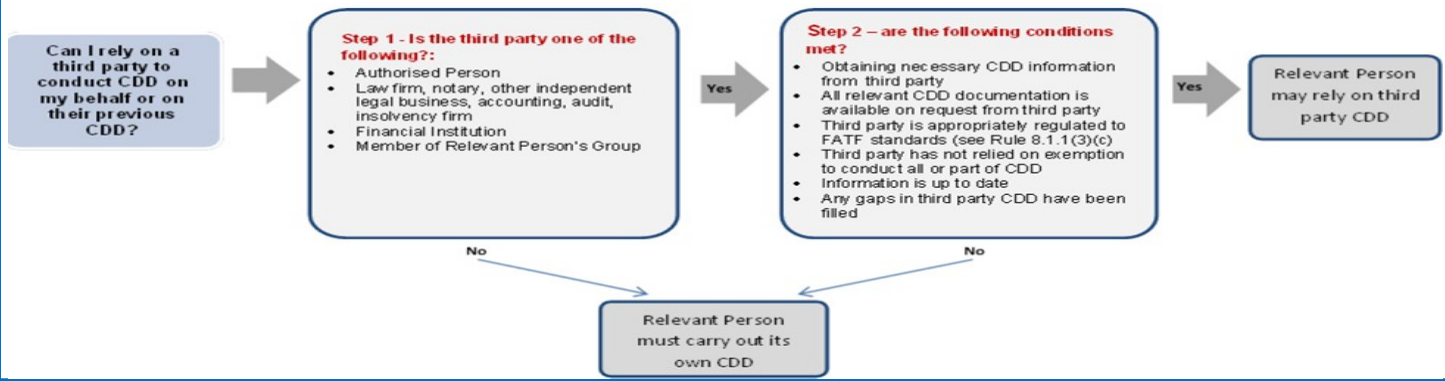


Internal Controls regarding Third Party Reliance

FIs and DNFBPs should develop concise and comprehensive policies and procedures on accepting CDD through a third party. The entity's policies and procedures must explicitly outline that ultimate responsibility for obtaining and maintaining adequate CDD in accordance with the relevant legislation remains with the entity.

The FI or DNFBP should ensure the following:

- The third party is regulated and supervised in accordance with the FATF Recommendations and relevant legislation in the jurisdiction it is operating from;
- A written agreement or arrangement is developed in relation to the CDD processes and services to be provided by the third party;
- The entity's policies and procedures include provisions for adequate review and oversight of the relationship with the third party to determine whether it is operating in accordance with the established agreement or arrangement;
- The third party has an adequate AML/CFT compliance program which is implemented in accordance with the entity's internal policies and local legislation;
- A risk assessment is conducted on the third party and the business relationship to identify any risk exposure, prior to and during the engagement
- A review or audit is conducted on the third party to ensure that the CDD policies and procedures have been implemented in accordance with the relevant legislation and international standards;
- The third party relationship is terminated if the CDD procedures become inadequate.



Risks Associated with Third Parties

Reliance on Third Parties can be an extremely beneficial operational move however, the use of Third Parties can also carry significant risk. In the event that the Third Party fails to deliver in one aspect or another, the multiplier effect on the entity relying on the Third Party may be detrimental.

The greater the dependency on Third Parties, the larger the risk which makes the entity more vulnerable to both the actions or inactions of the Third Party as well as any internal or external event that affects the Third Party.

Additionally, by relying on Third Parties, the control of important functions of an entity’s operations are transferred. If these functions are mishandled, it can result in substantial reputational damage to the entity.

Evidence is required to satisfy not only the entity, but Regulators as well, that the Third Party is compliant with all relevant legislation and regulations. There may be differences in practices between the entity and Third Party which may cause customer dissatisfaction and reputational issues. Hence, written agreements/arrangements are essential to ensure compliance with the FATF Recommendations and local legislation.

Engaging Third Parties from other jurisdictions creates a challenge with the expectations of adhering to varying regulatory and legal requirements, however the regulatory requirements of the entities’ jurisdiction prevail.

Third Party Reliance

A A B N S G J M C I S T N C E O W V V X
 G F O N X F N L O Q R T G W C F W T W Y
 R T A Y O J G R I S K F Z W D A Z R D N
 E H X R M R E Q U I R E M E N T W X H R
 E I G E M O N E Y L A U N D E R I N G J
 M R L C J Q J Z G I L L O J K H Z N V H
 E D X O Q C R E C O M M E N D A T I O N
 N P I R N R R Y N B R R E L I A N C E Y
 T A C D B O U L D Q R K P R O T W F E O
 L R K S Z F R S M H N U Z Y L U O E Z H
 G T Z I C U S T O M E R T N G D A W S P
 M Y D D U E D I L I G E N C E K E A L G
 I D E N T I F I C A T I O N D M O E C W
 B M Z L H M R E S P O N S I B I L I T Y
 H V T C W I T H O U T D E L A Y S B P O
 I C H R E C O R D K E E P I N G V Y L M
 F A O H O Q Z T P B K R B I C U V O Z T
 A S D A D X A L I L L K U W T K H H Y Z
 V Q F C O M P L I A N C E Q K A N W Y I
 F O M K Z X V G R K N O Y J F M E H G G

Money Laundering	Identification	Recommendation	Responsibility
Record Keeping	Due Diligence	Without Delay	Compliance
Requirement	Customer	Reliance	Risk
Third Party	Agreement	Records	

References

- Financial Action Task Force International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation.
- Using Third Parties: A Competitive Advantage or a Cause for Concern: Robin Murray. 11 June 2018

FATF Recommendation 17



Countries may permit financial institutions to rely on third parties to perform elements (a)-(c) of the CDD measures set out in Recommendation 10 or to introduce business, provided that the criteria set out below are met.

Where such reliance is permitted, the ultimate responsibility for CDD measures remains with the financial institution or DNFBP relying on the third party. The criteria that should be met are as follows:

- (a) A financial institution or DNFBP relying upon a third party should immediately obtain the necessary information concerning elements (a)-(c) of the CDD measures set out in Recommendation 10.
- (b) Financial institutions or DNFBP should take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to the CDD requirements will be made available from the third party upon request without delay.
- (c) The financial institution or DNFBP should satisfy itself that the third party is regulated, supervised or monitored for, and has measures in place for compliance with, CDD and record-keeping requirements in line with Recommendations 10 and 11.
- (d) When determining in which countries the third party that meets the conditions can be based, countries should have regard to information available on the level of country risk.

When a financial institution or DNFBP relies on a third party that is part of the same financial group, and

- (i) that group applies CDD and record-keeping requirements, in line with Recommendations 10, 11 and 12, and programmes against money laundering and terrorist financing, in accordance with Recommendation 18; and
- (ii) where the effective implementation of those CDD and record-keeping requirements and AML/CFT programmes is supervised at a group level by a competent authority, then relevant competent authorities may consider that the financial institution or DNFBP applies measures under (b) and (c) above through its group programme, and may decide that (d) is not a necessary precondition to reliance when higher country risk is adequately mitigated by the group’s AML/CFT policies.

This Recommendation does not apply to outsourcing or agency relationships. In a third-party reliance scenario, the third party should be subject to CDD and record-keeping requirements in line with Recommendations 10 and 11, and be regulated, supervised or monitored. The third party will usually have an existing business relationship with the customer, which is independent from the relationship to be formed by the customer with the relying institution, and would apply its own procedures to perform the CDD measures.

This can be contrasted with an outsourcing/agency scenario, in which the outsourced entity applies the CDD measures on behalf of the delegating financial institution, in accordance with its procedures, and is subject to the

An increasing reliance on Third Parties, new privacy regulations, shifting cybersecurity threats and frequent data breaches have transformed the Third Party risk landscape. Third Party risk programs must therefore adapt to solve these challenges.

Careful consideration and resources must be allocated to improving Third Party risk management programs so that entities can maintain safe and healthy relationships and avoid potentially catastrophic breaches.

