



**GUIDE TO STRUCTURING AN
AML COMPLIANCE MANUAL
FOR
MOTOR VEHICLE DEALERS**

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TABLE OF ACRONYMS

ACRONYM	DEFINITION
AML	Anti-Money Laundering
AMLA	Anti-Money Laundering Act 2006, as amended
AML Regulations	AML Regulations 2012
CDD	Customer Due Diligence
CO	Compliance Officer
FIU	Financial Intelligence Unit
ML	Money Laundering
MVD	Motor Vehicle Dealer
RoC	Registrar of Companies
SLA	Seychelles Licensing Authority
SRC	Seychelles Revenue Commission
STR	Suspicious Transactions Report

1. INTRODUCTION

In accordance with Section 15 (b) (ii) of the Anti-Money Laundering Act, 2006 (“AMLA”) all reporting entities are required to establish and maintain a Manual of Compliance Procedures (“AML Compliance Manual”) in relation to its business. The AML Compliance Manual is an essential component of a reporting entity’s compliance regime. Such a manual, which should be risk-based, is design to assist reporting entities to put in place internal control measures to deter criminals from using its business for money laundering and to ensure compliance with its obligations under the relevant laws and regulations.

2. PURPOSE

In order to assist Motor Vehicle Dealer’s (“MVD”) to comply with the above requirement, the Financial Intelligence Unit (“FIU”) has prepared this guidance document outlining the AML measure and system to be considered by MVD’s in developing their AML Compliance Manual. This guide strives to explain the basics of the written AML Compliance Manual but does not necessarily represent all the requirements under the AMLA or any other obligations that may be imposed by other Authorities, such as the Registrar of Companies (“RoC”), Seychelles Licensing Authority (“SLA”) or the Seychelles Revenue Commission (“SRC”). Furthermore, it remains the responsibility of the MVD to ensure that its AML Compliance Manual is reviewed on a regular basis in order to ensure that changes are made in line with legislative amendments or changes within the MVD’s own internal policies/procedures.

3. APPLICATION OF THIS GUIDE

Note that this guide is **not** intended to be exhaustive nor does it prescribe a uniform set of requirements for all MVD’s. MVD’s are required to follow the obligations of Reporting Entity as stipulated under the AMLA. This Guide may NOT contain all those requirements and does not create a safe harbour from regulatory responsibility. The extent and degree to which an MVD adopts this guide should be commensurate to its risk and business profile.

4. KEY ELEMENTS OF AN AML COMPLIANCE MANUAL

The AML Compliance Manual should cover four key overriding components: a system of internal compliance controls, a designated AML compliance officer; ongoing employee training and an independent audit to test the system.

This Part details out the key elements that should be incorporated within your AML Compliance Manual. The obligations that are applicable to MVDs under the AMLA have been taken into consideration for the purposes of this Guide.

4.1. GENERAL LAYOUT AND CONTENT

The overall layout of the AML Compliance Manual should be well structured so as to ensure that it is easy to be read and understood by all employees, and thus easy to apply in practice. A well-structured AML Compliance Manual should include the following:

- A Cover Page with document title and version control;
- Approval by Senior Management Officials such as Directors, Partners or Owners of the Business (may include signature/stamp/seal and date of approval);
- Table of Acronym as an index of the different terms which has been abbreviated within the Manual such as AML, CDD, CO;
- Table of Contents sufficiently setting out what is in the Manual, including page numbers, to ensure that the Manual can be easily navigable;
- Brief background information about the MVD; and
- Provision made for employees to confirm that they have read and understood the AML Compliance Manual. This may be in the form of an Acknowledgement Form appended to the Manual.

4.2. POLICY STATEMENT

The policy Statement should clearly delineate the;

- MVD's commitment to combat money laundering;
- role of employees to detect and prevent money laundering as well as to ensure that suspicious activities and transactions can be identified and reported thereby protecting the business from being used for illegal purposes;
- requirements the policies and procedures are designed to meet, namely the AMLA and AML Regulations 2012; and
- obligation that all employees (including Directors) are required to comply with the AMLA and the AML Compliance Manual.

4.3. FREQUENCY FOR REVIEW OF AML MANUAL

AML Compliance is dynamic and as such legislations, money laundering risks and sector best practices are always changing. Therefore, it is crucial that AML Compliance Manuals are reviewed on a regular basis to ensure that it is in line with both legislations and internal practices being undertaken by the MVD.

The period/frequency by which the AML Compliance Manual will be reviewed should be documented. The best practice is to review the Manual on an annual basis or as and when there are legislative changes or emerging risk which may affect the business conduct of MVDs.

4.4. OVERVIEW AND DEFINITIONS OF MONEY LAUNDERING

A brief overview and definition of Money Laundering (ML) should be provided, together with the penalties for the offence of ML (as per section 3 (4) of the AMLA).

4.5. APPOINTMENT OF COMPLIANCE OFFICER

In accordance with Section 15 (1) (b) the AMLA MVD's should designate a Compliance Officer ("CO") within its organisation who shall receive suspicious or unusual transaction reports from persons handling transactions within the entity. The CO designated should be equipped with the relevant competence, authority and independence to implement the institution's AML compliance programme. The CO shall have ready access to all the books, records and employees of the reporting entity necessary to fulfil the responsibilities under the Act.

The MVD must take reasonable steps to ensure that individuals acting as CO are:

- a) suitable and competent
- b) aware and understand their duties, responsibilities and liabilities as Compliance Officers, and
- c) are able to effectively carry out their responsibilities and duties in a diligent and proper manner.

The AML Compliance Manual should clearly state the main duties and responsibilities of the CO. The duties of the CO shall include but shall not be limited to the following:

- Developing and implementing the MVD's AML Compliance Programme;
- Monitoring the internal effectiveness of the AML policies & procedures;
- Receiving and vetting suspicious transaction reports from staff;
- Filing suspicious transaction reports with the FIU;
- Ensuring that the MVD's compliance programme is implemented;
- Co-ordinating the training of staff in AML awareness, detection methods and reporting requirements; and
- Serving both as a liaison officer with the FIU as well as a point-of-contact for all employees on issues relating to money laundering.

It is not necessary to state the name and contact details of the appointed CO within your AML Compliance Manual. However, if you do, you must ensure that the Manual is updated whenever there is a change in the CO.

4.6. INTERNAL POLICIES, PROCEDURES AND CONTROL

Every MVD should formulate and implement internal rules procedures and other controls to deter criminals from using its facilities for money laundering and to ensure that its obligations under the AMLA and regulations are always met. This section should communicate the AML policies, procedures and controls that employees are expected to follow in order to ensure it complies with the AML Obligations under the AMLA. These procedures, policies and controls should cover Risk, Customer Due Diligence, record retention, the detection of unusual and suspicious transactions, the reporting obligation, among other things. Detailed below are some measure to be considered.

4.6.1. RISKS

The type of money laundering risks associated with the MVD should be identified. As per the Seychelles National Risk Assessment conducted in 2016, the overall vulnerability of money laundering in the motor vehicle sector were rated as high. This is in view that MVDs are particularly attractive to money launderers due to the ease of using ill-gotten gains (cash) to purchase vehicles.

4.6.2. CUSTOMER DUE DILIGENCE (CDD) MEASURES

MVDs are required to identify and verify the identity of their customers. Therefore, the CDD measures implemented by the MVD should be outlined within its AML Compliance Manual. This should include the list of acceptable identification documents required for both individual and non-individual (companies/businesses) customers.

4.6.3. REQUIREMENT TO CEASE TRANSACTION

The circumstances under which the reporting entity should cease transactions (not proceed with the sale of vehicle) should be clearly outlined, such as in instances whereby the MVD is unable to apply its CDD measures.

4.6.4. MONITORING OF TRANSACTIONS

The AML Compliance Manual should outline the mode of payment which is accepted by the MVD i.e. bank transfers, cheque and cash. MVDs which permits customers to pay for motor vehicles through monthly instalments should outline its policy with regards to same. The procedures governing cash transactions should also be outlined. The following should be addressed within the AML Compliance, where applicable to the MVD:

- Is there a no cash policy implemented by the MVD?
- Where cash is accepted, is there a threshold for the amount of cash which can be accepted?
- What are the measures implemented for cash transactions? What documents are requested from customers?

It should be clearly stated that in instances whereby customers are unable to provide the source of funds, a report should be made. (*please see Section 4.7*).

4.7. REPORTING OF SUSPICIOUS TRANSACTIONS

MVD should include the procedures to be implemented for the reporting of suspicious transactions internally by staff to the CO. Internal procedures, depending on the size of the entity, may include the implementation of an Internal Report Form devised by the MVD for its employees to complete and submit to the CO. Whichever measure is implemented, the MVD must ensure that it is one which internal reports of suspicious transactions/activities are made in writing to the CO.

The key indicators/red flags of suspicious activities/transactions that employees must consider should be outlined within the AML Compliance Manual. The CO is required to analyse and consider whether the internal report warrants submitting a Suspicious Transaction Report (STR) to the FIU. It must be stated that STRs must be submitted to the FIU within two (2) working days of forming suspicion.

There should be a notification to all employees that it is an offence to notify or disclose information to a customer or any third party that the FIU is conducting an investigation or an STR has been filed, either internally or externally to the FIU (“Tipping Off”).

4.8. SCREENING OF POTENTIAL EMPLOYEES

The requirement for screening of potential employees should be clearly stated. This must be conducted prior to the person being recruited by the MVD. Screening of potential employees minimizes the MVD’s money laundering exposure where the individual may be in a position to facilitate the commission of money laundering. An MVD may consider the following factors as part of their screening process:

- Identity – verify the identity of the potential employee (ID/Passport)
- Employment History – obtain employment references in order to determine if they are suitable to be employed in a particular position
- Criminal Record – verify whether the potential employee holds any previous criminal records (Police Character Certificate)

4.9. TRAINING OF EMPLOYEES

The AMLA requires that the reporting entities to have formal, written AML Compliance programme that include training. As such the AML Compliance Manual should outline measures to ensure that all employees, existing & new, are made aware of the relevant laws governing anti-money laundering; and are kept informed of new developments, including information on current ML

techniques, methods and trends. Note that the timing and coverage of the employee training program tailored to meet the perceived needs of the reporting entity can be included in the Manual.

4.10. MAINTENANCE AND RETENTION OF RECORDS

The legislative requirement to maintain records for a minimum period of seven (7) years should be stated. The types of records required to be maintained as per Section 6 of AMLA should be outlined and these are summarized as follows:

- Records of customer due diligence measures
- Transaction records
- All Reports (STRs) made to the FIU
- Enquiries relating to money laundering made to the MVD by the FIU

Although not stipulated under the Act, training records should also be maintained to demonstrate to the FIU the AML trainings provided by the MVD to its employees. Records should be maintained in a manner and form that will enable the MVD to comply immediately with requests for information from law enforcement agencies or the FIU (Section 6 (3) (b)). Therefore, the manual should outline how the MVD will maintain records i.e. whether in electronic form or in hard copy.

4.11. INDEPENDENT TESTING AND ASSURANCE FRAMEWORK

The MVD must periodically assess the overall effectiveness of its AML Compliance Program and take appropriate steps to modify its compliance program to improve its AML systems and controls. The AML Compliance Manual must state the requirement for the MVD to have an independent audit of the AML systems and controls conducted.

Appendix I – Compliance Manual Checklist

COMPLIANCE MANUAL CHECKLIST			
Compliance Manual - Key Elements: Have you covered these key elements?			
CONTENT	EXPLANATION OF CONTENT	Y/N	If Yes, state page no.
1. General Layout & Content	Approval of Senior Management Officials		
	A Table of Contents sufficiently setting out what is covered in the manual and easily navigable.		
	A Table of Acronyms as an index of the different terms which has been abbreviated such as AML, CDD, CO		
	Brief background information about the reporting entity.		
	Provisions made for staff confirm that they have read and understood the policies and procedures.		
2. Policy Statement	Purpose of the AML Compliance Manual		
	Declaration of MVD commitment in combatting ML		
	AML legislations by which the reporting entity is to abide to.		
	Who will the manual be applicable to. i.e. All staff members		
	Period/frequency of review of the policy		
3. Overview and Definitions of Money Laundering	Overview and Definition of Money Laundering (ML)		
	Penalties for the offence of ML		
4. Compliance Officer (CO)	The appointment of a CO		
	The CO's duties and responsibilities outlined as per the AMLA.		

5. Internal policies, procedures and Control	The types of risks associated with the reporting entity should be identified.		
	Procedures for Customer Due Diligence (CDD) measures to be adopted both for individuals and non-individual (companies/businesses) customers.		
	The circumstances under which the reporting entity is required to cease transaction.		
	Procedures governing cash transactions		
	Identification of cash threshold limits (if any)		
	Procedures for screening of persons before recruitment		
	Requirement for an independent audit function to test the AML/ CFT procedures and systems.		
6. Suspicious Transaction Reporting	Internal Procedures for staff to report a suspicious transaction to the CO. Sample of internal STR form to be appended (if applicable).		
	External Procedures for the CO to report a suspicious transaction to the FIU.		
	Offence of "Tipping Off". Notification that it is an offence to give the details of an STR to a customer or any third party.		
7. Record Keeping	Identification of the types of documents to be kept on record (identification documents, transaction records, training records, STR, FIU enquiries)		
	The retention period for documents as per the AMLA.		
	The storage of records. i.e. How and where records will be stored.		
8. Training	The training program to be adopted by the reporting entity. May include frequency of training		
	The staff members to which the trainings will be applicable		