



## ANGUILLA FINANCIAL SERVICES COMMISSION

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### GUIDELINES FOR INTRODUCED BUSINESS

(Issued under Section 49 of the Financial Services Commission Act, R.S.A. c. F28)

Recent changes to the Anti-Money Laundering and Terrorist Financing Regulations, R.R.A. P98-1 (“AML/CFT Regulations”) described below, require a service provider that relies on an *“eligible introducer or intermediary”* to apply customer due diligence measures to obtain immediately from the eligible introducer or intermediary the customer due diligence information.

**In accordance with section 13 of the AML/CFT Regulations, where a service provider relies on an introducer or intermediary to apply customer due diligence measures, the service provider remains liable for any failure to apply those measures. Moreover, ongoing monitoring is the sole responsibility of the service provider.**

A service provider can only rely on an introducer or intermediary if:

- (a) the introducer or intermediary is a regulated person or a foreign regulated person; and
- (b) the introducer or intermediary consents to being relied on.

Section 26 of the Anti-Money Laundering and Terrorist Financing Code, R.R.A. P98-4 (“AML/CFT Code”) states that a service provider - **prior to** relying on an introducer or intermediary - **must**:

- (a) satisfy itself that the introducer or intermediary is a regulated person or a foreign regulated person and has procedures in place to undertake customer due diligence measures in accordance with, or equivalent to, the AML/CFT Regulations and Code; and
- (b) carry out a risk assessment to determine whether it is appropriate for it to rely on the introducer or intermediary and, if so, whether it should put in place any measures to mitigate the additional risk.

A number of factors relevant to this risk assessment are detailed in the guidance regarding “Reliance on intermediary or introducer” in the AML/CFT Code.

**THE COMMISSION REQUIRES** all service providers carrying on company management business in or from Anguilla to establish and enforce formal procedures to ensure that their eligible introducers and/or intermediaries are:

- (a) complying with all applicable Anguillian legislation, regulations, codes, guidelines and regulatory directives;
- (b) able to provide the service provider with all due diligence evidence (i.e. identification documents such as passport copies, utility bills etc.) and other information and documents requested by the Commission within 72 hours of such a request.

An “**eligible introducer or intermediary**” is one that satisfies the definition of a foreign regulated person under section 7 of the AML/CFT Regulations, as amended by section 6 of the AML/CFT (Amendment) Regulations, which states:

*“Foreign regulated person” means a person—*

*(a) that is incorporated in, or if it is not a corporate body, has its principal place of business in, a jurisdiction outside Anguilla (its “home jurisdiction”);*

*(b) that carries on business outside Anguilla that, if carried on in Anguilla, would fall within a category of business specified in Schedule 1, paragraphs (a) to (i);*

*(c) that, in respect of the business referred to in paragraph (b)—*

*(i) is subject to legal requirements in its home jurisdiction for the prevention of money laundering and terrorist financing that are consistent with the requirements of the FATF Recommendations for that business; and*

*(ii) is subject to effective supervision for compliance with those legal requirements by a foreign regulatory authority.”*

(FATF publishes a list of high risk and non-cooperative jurisdictions on its website. Please see link at <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>)

**Introducers and intermediaries (including overseas agents) that do not satisfy the above requirements should not be relied upon by service providers to apply customer due diligence measures.**

Paragraph 12(b) of the AML/CFT (Amendment) Regulations added new subsection 13(2A) to the AML/CFT Regulations. Subsection 13(2A) states:

*“Where a service provider relies on an introducer or an intermediary to apply customer due diligence measures in respect of a customer, third party or beneficial owner, the service provider shall immediately obtain from the introducer or intermediary, the customer due diligence information concerning the customer, third party or beneficial owner.”*

**A SERVICE PROVIDER MUST, AT ALL TIMES,** have readily available to it due diligence information concerning the customer, third party or beneficial owner. “**Due diligence information**” does not refer to basic due diligence evidence (i.e. identification documents such as passport copies, utility bills etc.). Rather, it refers to all information pertaining to the customer that allows the service provider to make a risk assessment. Due diligence information may include the information set out in the attached Appendix.

**Compliance with this Guideline will be assessed during routine and special onsite examinations of licensees which will include a review of due diligence information and due diligence evidence from a random sample of introducers and/or intermediaries. Failure by the introducers and/or intermediaries to comply with the due diligence requirements of the AML/CFT Regulations and Code will be considered in assessing whether licensees should continue to maintain a**

**relationship with delinquent introducers and/or intermediaries. Repeated noncompliance on the part of introducers and/or intermediaries will have an impact on a licensee's fit and proper status and its eligibility to continue to conduct company management business.**

**Amended as approved by the Board**

10 December 2013

## Appendix A

- Entity name (in full) and any trading names
- Name of intermediary/introducer (including approved overseas agent)
- Address of intermediary/introducer
- Name of intermediary/introducer's regulator
- Entity identification information
  - Date and country of incorporation/registration
  - Official identification number
- Entity address
  - Registered office address
  - Mailing address, if different
  - Principal place of business/operations, if different
- Type of entity
  - For example: company incorporated under Anguilla Companies Act (including a PCC), IBC, LLC
- Purpose/intended nature of business relationship
  - A sufficient description should be provided of the reason for the business relationship, for example:
    - Provision of current account facilities to the entity
    - Investment of cash assets in equities, bonds etc.
- Type, volume and value of activity expected
- Source of funds
  - Activity which generates funds for a relationship
- Source of wealth (if applicable)
  - Source of wealth describes the activities which have generated the total net worth of a person, i.e., those activities which have generated a client's funds and property.
  - Information concerning the geographical sphere of the activities that have generated a client's wealth may also be relevant.
  - Bland statements are not acceptable, such as "life time savings"
  - Fuller descriptions, such as "life time savings of shareholder who was a doctor", will be required
- Details of any known existing relationships with the relevant person
- Name of entity's regulator, if applicable

- Additional information:
  - Ownership and control, including underlying companies
  - Nature of activities and geographical sphere
    - A sufficient description should be provided of the business that the entity undertakes and the geographical sphere of that business to enable a relevant person to properly categorise the underlying nature of the arrangements
- Risk factors identified (provide details)
  - Factors that are material to the risk presented by the entity should be disclosed
- Is the entity associated with a PEP (yes/no)
  - Politically exposed persons are individuals who are (or have been) entrusted with prominent public functions overseas, their immediate family and close associates
- Are commission/consultancy fees a source of wealth? (yes/no)
  - If yes, provide further information
- Is the entity connected with a high risk jurisdiction? (yes/no)
  - If yes, provide further information
  - A country may be considered to be high risk where it:
    - Is generally considered to be “un-cooperative” in the fight against money laundering and terrorist financial
    - Has inadequate safeguards in place against money laundering or terrorism
    - Has high levels of organised crime
    - Has strong links (such as funding or other support) with terrorist activities
    - Is vulnerable to corruption, or
    - Is the subject of UN or EU sanctions measures
  - Regard must be given to objective data available from the FATF, World Bank, the Egmont Group, US Department of State (International Narcotics Control Strategy Report), US Office of Foreign Assets Control, and Transparency International (Corruption Perception Index)
- Is the entity part of a complex structure? (yes/no)
  - If yes, provide further information
- Is the entity involved in trading? (yes/no)
  - If yes, provide further information
- Are bearer shares in issue? (yes/no)
  - If yes, provide further information
- Full names of directors or equivalent
- Beneficial owner or controller, including

- The individuals with ultimate effective control over the entity's assets, including the individuals comprising the mind and management of the entity
- The individual ultimately holding a 10% or more interest in the capital of the entity, and
- Legal name, used
  
- Legal name of beneficial owner or controller, former name (such as maiden name) and any other names used
  
- Role of beneficial owner or controller, for example
  - 10% shareholder
  - Partner
  
- Principal residential address of beneficial owner or controller
  
- Date of birth of beneficial owner or controller
  
- Place of birth of beneficial owner or controller
  
- Nationality of beneficial owner or controller
  
- Gender of beneficial owner or controller
  
- Government-issued personal identification number or other government-issued unique identifier of beneficial owner or controller.