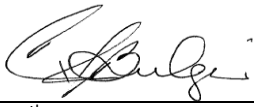




The Registrar of NPOs Risk Base Supervisory Guidelines

General Registry Policy

Version Number	1.0
Date of Version	12 th September 2019
Created By:	Paul Inniss
Approved By:	
Date Approved:	12 th September 2019
Confidentiality Level:	Low



CAYMAN ISLANDS

The Risk-Based Supervision Guidelines

Subject matter, scope and definitions

Subject matter

These guidelines set out the characteristics of our risk-based approach to Anti-Money Laundering, countering the financing of terrorism (AML/CFT), Targeted Financial Sanctions (“TFS”) and Proliferation Financing (“PF”) supervision and the steps the Registrar of Non-Profit Organisations (“The Supervisor”) will take when conducting supervision of NPOs on a risk-sensitive basis as required by the Financial Action Task Force.

Scope

These guidelines are addressed to the NPO sector and will be applied by the Supervisor. They may also be used by the NPOs when designing their internal protocols and best practices for AML / CFT purposes.

Definitions

For the purpose of these Guidelines, the following definitions shall apply:

- Cluster** - Means a group of NPOs having similar characteristics or purpose and activities.
- Competent authorities**- Means the following bodies: The Financial Reporting Authority (“FRA”), The Cayman Islands Monetary Authority (“CIMA”), The Royal Cayman Islands Police Service (“RCIPS”), The Anti-Corruption Commission (“ACC”) The Department of Commerce and Investments (“DCI”), The Customs and Border Control and The Director of Public Prosecutions; or any other competent authority for ensuring firms’ compliance with the requirements of the Proceeds of Crime Law, Anti-Money Laundering Regulations, the Terrorism Law, the Anti-Corruption Law, the NPO Law, and the Bank and Trust Law.
- A Non-Profit Organisation (“NPO”)** - Means a Company, Trust, Partnership, or Unincorporated Association of Persons as define by section 2 of the NPO Law (2017 Revision).
- Inherent money laundering/terrorist financing (‘ML/TF’) risk** - Means the level of money laundering and terrorist financing risk before mitigation.
- Risk-based approach (RBA)** Means- an approach whereby The Supervisor assess and understand the ML/TF risks to which NPOs are exposed and take mitigation measures that are proportionate to those risks.



- ❑ **Risk-based Supervision (RBS)** - Means the risk based approach to the supervision of NPOs determined on the basis of their assessment of the ML/TF risks.
- ❑ **RBS Model**- Refers to the procedures, processes, mechanisms and practicalities allowing The Supervisor to exercise its supervisory powers in a way that is commensurate with the identified ML/TF risks.
- ❑ **ML/TF Risk** - Means the likelihood and impact of ML/TF taking place.
- ❑ **ML/TF risk factors**- Means variables that, either on their own or in combination, may increase or decrease ML/TF risk.
- ❑ **Risk profile**- Means the overall characteristics (including type and level) of risk that remains after mitigation.
- ❑ **Subject of assessment**-Means any section or sub-section of the NPO sector, a group or cluster, categorised according to criteria laid down by the Supervisor.
- ❑ **Threat** - means the potential harm caused by a person or group of people, object or activity. In the ML/TF context, this includes the potential harm caused by criminals, terrorist groups and their facilitators, their funds, as well as past, present and future ML or TF activities.

Requirements regarding AML/CFT risk-based supervision

Implementing the RBS model

Supervisor's Considerations

The Supervisor will apply the following four steps as part of an effective AML/CFT RBS model:

- ❑ Step 1 – Identification of ML/TF risk factors;
- ❑ Step 2 – Risk assessment;
- ❑ Step 3 – Supervision; and
- ❑ Step 4 – Monitoring, review and follow-up.

NPOs should note that the RBS is not a one-off exercise, but an ongoing and cyclical process.

The Supervisor's risk based supervision comprised of single NPO and cluster assessments.

Single assessment entails a comprehensive review of the NPO's purpose and activities, types of funding methods, location of solicitation of funds and resources, location of use of funds and resources, management components and use of best practices; to determine the types of vulnerabilities and risk exposure the entity is subjected to. Those entities who exhibit higher risk profiles will be subjected to closer scrutiny and assistance where necessary to reduce the risk profile.



As part of the methodology the Supervisor may also group NPOs that do not belong to the same sector as well as those who share similar characteristics into 'clusters' and consider them as a single 'subject of assessment'. Examples of characteristics NPOs within one cluster might share include their size, the nature of their business, the type of customers, their geographic areas or activity and their delivery channels. In that case, some elements of the RBS process may be carried out at the collective level of the cluster itself, rather than at the level of each individual NPO within that cluster.

In clustering firms the Supervisor will ensure that the conditions and practicalities of the clustering are appropriate to the ML/TF risks associated with NPOs in that cluster. It should be noted that the Supervisor will not use clustering as a main method of supervision but instead treat firms that form part of the NPO sector as one 'subject of assessment'.

Should the Supervisor know, or have reasonable grounds to suspect, that the risk associated with an individual NPO in a cluster varies significantly from that associated with other NPOs in the cluster, for example because the NPO is managed by individuals whose integrity is in doubt, or because the NPOs internal control framework is deficient, the Supervisor will remove that firm from the cluster and assess it either individually, or as part of a cluster of NPOs with a similar risk level.

The Supervisor will employ both desk based and onsite inspections as part of its supervisory processes. Desk based consist of the Registrar obtaining documentation (which includes, copies of board of directors minutes, resolutions, policies, invoices and other financial records) from the NPO under review, and conducting an in house review and analysis of that information.

Onsite inspection entails an inspection team visiting the NPO and conducting an onsite review of records, policies, financial records and operating procedures. A formal inspection report will follow either review process, of which the NPO will obtain a copy. Where necessary this report can be the catalyst of a review process during recommendations are made to NPO with an expectation of implementation within the period under review.

Proportionality

Assessments of NPO's will be proportionate to levels of risk identified. The extent of information sought, and the frequency and intensity of supervisory engagement and dialogue with a NPO will take into account the nature and size of the NPO and be commensurate with the ML/TF risk acknowledged.

The Supervisor will also take into account the size or systemic importance of an NPO may not, by itself, be indicative of the extent to which it is exposed to ML/TF risk; small firms that are not



systemically important can nevertheless pose a high ML/TF risk. There are those situations where smaller firms with less internal controls and lack of managerial experience may exhibit a higher risk rating than the large NPOs with links to other entities and jurisdictions.

Cooperation with other competent authorities

The Supervisor will apply all cooperation and coordination measures and tools legally at our disposal, including any measures which maybe implemented by the Anti-Money Laundering Steering Group (“AMLSG”) and the Inter-Agency Coordination Committee (“IACC”).

Step 1: Identification of ML/TF risk factors

General considerations

When applying a RBS model, the Supervisor will identify the risk factors that will affect the ML/TF risks to which the NPO is exposed. The extent and type of information will be proportionate to the nature and size of the NPO’s business. It will also take into account its risk profile as determined on the basis of previous risk assessments, if any, and the context in which the NPO operates, such as the nature of the sub- sector to which the NPO belongs. The Supervisor will set out what information will be required, require similar information for comparable NPOs and consider what type of information will trigger a more extensive and in-depth information request. Example of information to be provided include banking details, copies of board of director minutes, invoices and contracts (where applicable).

When identifying ML/TF risk factors, we may draw on the guidance notes set out by the Cayman Islands Monetary Authority as well as the Anti-Money Laundering Regulations, on simplified and enhanced customer due diligence and other factors such as those credit and financial institutions may consider when assessing the ML/TF risk associated with individual business relationships and occasional transactions. (Particularly applicable to those NPOs performing some form of relevant financial business).

Sources of information

Where possible the Supervisor will identify risk factors based on information from a variety of sources. We will ensure that there is timely access to appropriate sources of information.

The Supervisor will always consider:



- Guidance issued from the Financial Action Task Force
- Global Terrorism Index
- Transparency International
- Information from other AML supervisors such as guidance, and relevant findings from supervisory action, such as notes for record, information gathered as part of the authorization or licensing process, onsite visits, offsite controls and enforcement action. Where relevant information is held by other competent authorities either at home or abroad, we will take steps to ensure exchange of that information, and that this information can be exchanged in a timely manner;
- Information from Financial Intelligence Units (FIUs) and law enforcement agencies, such as threat reports, alerts and typologies.

Other sources of information we may consider include

- Information from industry bodies, such as typologies and information on emerging risks.
- Information from civil society, such as corruption perception indices;
- Information from international standard-setting bodies such as mutual evaluations of countries' AML/CFT, anti-corruption and tax regimes;
- Public information sources, such as newspaper reports;
- Information from commercial organisations, such as risk and intelligence reports and.
- Information from academic institutions.

Domestic risk factors

The Supervisor will ensure that it has adequate knowledge, awareness and understanding of the ML/TF risks identified at the national level in order to identify the ML/TF risk factors associated with the domestic financial activities of the NPO sector.

As part of this, and based on the sources previously described we will take into consideration:

- The type and scale of money laundering linked to predicate offences committed domestically;
- The scale of laundering of proceeds from predicate offences committed abroad;
- The scale of, and the level of support for, terrorist activities and groups in the country (if applicable);
- Relevant ML/TF typologies identified by the Financial Reporting Authority ("FRA"), The Royal Cayman Islands Police Service ("RCIPS") and other public authorities or private entities.

Foreign risk factors



Where an NPO maintains significant links with other Member States or third countries that may present additional exposure to ML/TF risks associated with these countries, the Supervisor will make efforts to identify these risks. Significant links include those where:

- An NPO maintains significant business relationships with counterparties established in other countries;
- An NPO forms part of a financial group established in another country;
- An NPO's controller(s) or senior officer(s) are based in another country; and
- Any other relevant links to another Member State or third country exist, which means that the NPO is exposed to the ML/TF risk associated with that country.

The Supervisor will take reasonable steps to acquire adequate knowledge, awareness and understanding of the ML/TF risks associated with these countries that may affect the activities carried out by the branch of NPO. To this end, identifying the risk factors in line with those previously described.

When identifying third party countries which have strategic deficiencies in their national AML/CFT regimes that pose significant threats to the financial system of the Cayman Islands, the Supervisor will have regard to the guidance issued by the international standard-setters, including the Financial Action Task Force (FATF), CFAFT, Moneyval or other FATF-Style Regional Bodies as well as our domestic regular CIMA.

Sector-wide ML/TF risk factors

Some NPOs registered in the Cayman Islands are either directly or indirectly connected to relevant financial businesses. We remain committed to having an indebt understanding of the risk factors associated with relevant financial business. As part of this, we endeavor to understand how each NPO is organized, and the risks associated with the type of products and services offered, the delivery channels used and the type of customers they service.

Information on ML/TF risk factors at the level of the NPO

The Supervisor will gather sufficient, relevant and reliable information to develop an overall understanding of the NPO's or cluster being assessed:

- Inherent ML/TF risk factors, and
- Factors that mitigate inherent ML/TF risk.

This information includes but is not limited to:

- The ownership and corporate structure, taking into account whether the NPO is an international, foreign or domestic institution, parent company, subsidiary, branch or other affiliates, and the level of complexity and transparency of its organisation and structure.



- The reputation and integrity of senior managers, members of the management body and significant shareholders;
- The nature and complexity of the products and services provided and the activities and transactions carried out;
- The delivery channels used, including the free provisions of services and the use of agents or intermediaries;
- The types of customers serviced;
- The geographical area of the business activities, in particular where they are carried out in high-risk third countries as well as, if applicable, the countries of origin or establishment of a significant part of the NPO's customers (in this context meaning donors or benefactors).
- The quality of internal governance arrangements and structures, including the adequacy and effectiveness of internal audit (where applicable as prescribed by the NPO Law) and compliance functions, the level of compliance with AML/CFT legal and regulatory requirements and the effectiveness of the AML/CFT policies and procedures to the extent that these are already known.
- The prevailing 'corporate culture', particularly the 'compliance culture' and the culture of transparency and trust in relations with the competent authorities.
- Other considerations, such as years in operation.

Where NPOs are dealt with as clusters, we will identify relevant factors based on those considerations previously stated. This should enable us to justify our decisions on the risk profile we assign to the cluster. Consideration will be given to any previous supervisory actions in respect of NPOs included within that cluster.

Step 2: Risk assessment

The Supervisor will take a holistic view of the ML/TF risk factors identified under Step 1 that, together, will form the basis for the subject of assessment's risk assessment. This includes gauging any inherent risk factors identified under Step 1, and how this affects the subject of assessment, and the extent to which the AML/CFT systems and controls which the NPO has in place are adequate to effectively mitigate the inherent ML/TF risks it is exposed to.

Good AML/CTF systems and controls include due diligence programs by which the NPO understands the legitimacy of its source of funds, having relevant risk management system in place to assist in safe guarding against theft and other internal abuse, good knowledge of use of funds donated as well as systems to monitor (where applicable any risk associated with these operation. The internal policies should also include protocols surrounding reporting suspicion of wrong doings or abuse. Good risk management systems should include (where applicable) certain product design features limiting ML/TF exposure, as well as wider governance arrangements and risk management processes, including an overall risk culture.

Weighting inherent risk factors and mitigating factors



The Supervisor may decide to weight risk factors and mitigating factors differently, depending on their relative importance.

When weighting inherent risks factors and mitigating factors, the Supervisor will make an informed judgement about the relevance of different factors in relation to a specific subject of assessment. The weight given to individual factors can vary from one NPO to another.

We will ensure however that weighting is not unduly influenced by just one factor and that due consideration is given to factors that are identified by national legislation related to money laundering or terrorist financing risk.

Substantial deficiencies with the potential severely to affect the effectiveness of AML/CFT preventive measures will be given greater weight in the assessment than average or minor deficiencies.

Risk profiles and categorizing subjects of assessment

The combination of the assessment of the inherent risk level and the effect of risk mitigants on the inherent risk level will result in the assignment of an overall risk profile to the NPO to facilitate comparison between those assessed and to be the basis of supervisory action as outlined in Step 3.

The categories of risk are high, medium high, medium, medium low and low. Each category has specific factors that influence the risk rating. These categorise along with the risk factors are outlined in the initial NPO Risk assessment.

Step 3: Supervision

The Supervisor will utilize a Risk Based Approach. Our initial assessment and second risk assessment form the basis for the development of our supervisory strategy and for supervising the sector as a whole going forward.

Individual AML/CFT supervisory plans

Resources will be allocated to each NPO in a way that is commensurate with the NPOs risk profile.

Our approach to supervision includes but not limited to:

- ❑ Adjusting the nature of supervision, for example, by adjusting the ratio between offsite and on-site supervision. NPOs should note that off-site supervision alone is unlikely to be sufficient in higher risk situations, as well as to the fact that onsite inspection does not signify that the assessed NPO is high risk;



- ❑ The use of Thematic reviews with a focus on the management of risks associated with particular products or services, or on specific aspects of the AML/CFT processes such as customer identification, risk assessment, ongoing monitoring and reporting activities. Such an approach allows us to investigate key risk, by focusing on these specific risk and particular concerns;
- ❑ Adjusting the frequency of supervision, for example by monitoring key indicators less often where the risks are reduced; and
- ❑ Adjusting the intensity and intrusiveness of supervision, for example by determining, according to risk, the extent of reviews, sample testing of transactions and adequate record keeping, articulation of Board of Director minutes and resolutions. NPO are encouraged to have policies and procedures in place but note that assessment will not only focus on their implementation, but their likely use and being able to demonstrate the usage by way of record keeping.

NPOs associated with higher ML/TF risks are subject to more frequent and intrusive supervision. This also applies where firms have been included within a cluster for risk assessment purposes.

The Supervisor recognizes that firms/ parent entities exposed to high levels of ML/TF risk may not be systemically important.

If a new risk is identified in the course of on-site or off-site inspection, the Supervisor will respond in an appropriate and timely fashion. This may include amending the initial AML/CFT supervisory plan to better reflect the ML/TF risks to which the NPOs are exposed. We will adequately document any changes to the AML/CFT supervisory plan and circulate such plan to the NPO sector.

Overall AML/CFT National Plan

The Supervisor will use the national risk assessment and the assessment of NPOs as well as our wider understanding of the ML/TF risk to drive our risk base approach and targeted risk base supervision.

The Supervisor of NPOs in addition to the other competent authorities all form part of the Cayman Islands National AML/CFT program. The Supervisor of NPOs will continuously work collectively with the other competent authorities to include sharing of information, training and cooperation related to proactive initiatives.

Training

The Supervisor will ensure that staff with direct or indirect responsibilities for NPO supervision has appropriate knowledge and understanding of the applicable legal and regulatory AML/CFT framework and are suitably qualified and trained to exercise sound judgement.



This includes training commensurate with methodologies which allow us to carry out our supervision in an effective and consistent manner. Among other things, we will ensure that our staff has the competency to NPO's o:

- Understand an NPO's operations and exercise a degree of discretion in assessing and mitigating ML/TF risks;
- Assess the quality of a NPO's risk assessment; and
- Assess the adequacy, proportionality and effectiveness of the NPO's ML/CFT policies and procedures and wider governance arrangements and internal controls in light of the NPO's own risk assessment.

Training should be tailored to the responsibilities of relevant staff and may include training courses, recruitment and 'learning by doing'. Additionally we intend to work with other competent authorities such as the Cayman Islands Monetary Authority ("CIMA"), The Department of Commerce and Investment ("DCI"), The Royal Cayman Islands Police Force ("RCIPS") The Anti-Corruption Commission ("ACC"), The Financial Reporting Authority ("FRA"), The Office of the Director of Public Prosecutions ("ODPP"). We also recognise the influence and strategic guidance from the Anti-Money Laundering Steering Group ("AMLSG") and the Inter-Agency Coordination Committee.

The Supervisor will ensure that all staff's AML/CFT expertise remains up to date and relevant, and includes awareness of emerging risks as appropriate.

Step 4: Monitoring and follow-up actions

Updating the risk assessment and supervisory action plan (Steps 1, 2 and 3)

Since the RBS is not a one-off exercise, but an ongoing and cyclical process, the information on which the risk assessment is based should be reviewed periodically and on an ad hoc basis, and updated as necessary.

Periodic reviews

The Supervisor will carry out periodic reviews of its risk assessments to ensure that they remain up to date and relevant.

The schedule of each review should be commensurate with the ML/TF risk associated with the NPOs. For high-risk NPOs or those facing frequent changes in their activities and operating in a fast changing environment, reviews will take place more frequently.

Ad hoc reviews



Ad hoc reviews of the risk factors, the risk assessment and, where necessary, the supervisory plans should take place following significant changes affecting the NPO's risk profile or the sector as a whole. Examples of significant changes include:

- Major external events that change the nature of risks;
- Emerging ML/TF risks;
- Findings from off-site and on-site supervision and any follow-up of corrective or remedial actions taken by the NPO;
- Changes to, or new information emerging in relation to, owners of qualifying holdings, members of the management board or key function holders operations or the organisation of the NPO; and
- Other situations where the Supervisor has grounds to believe that information on which it had based its risk assessment is no longer relevant or has significant shortcomings

We will also consider whether changes affecting one particular NPO might affect others, as well as consider where necessary to renew the risk assessment process of other significantly affected NPOs.

Review of the AML/CFT RBS model

The Supervisor will periodically conduct reviews on our internal procedures, including our ML/TF risk assessment methodology, to ensure that they are being applied consistently and effectively.

Where a review identifies issues with the AML/CFT RBS model, the Supervisor will take steps to address these. Ideally, the model should not be changed repeatedly within short time intervals, to facilitate comparisons over time.

Periodic reviews will be conducted to ensure that it continually delivers the intended outcome and, in particular, whether the level of supervisory resources remains commensurate with the ML/TF risks identified.

When reviewing the adequacy and effectiveness of our AML/CFT RBS model, we may use a variety of tools, including professional expertise, self-assessment questionnaires, sample testing of supervisory actions, comparison with new information such as reports and feedback from other competent or relevant AML/CFT authorities, law enforcement and other national agencies, or documents from other international organisations. We will continuously seek to familiarise ourselves with international best practices and consider participating in relevant international and European forums.

Ad hoc reviews

In addition to a regular review at fixed intervals, the Supervisor will review, update or amend our AML/CFT RBS model if its adequacy or effectiveness is called into question by events such as:



- External evaluations of the model by, for example, the FATF, CFATF or external audits;
- Internal evaluations of the model, for example, gap analysis, internal audit reports, quality assurance testing and 'lessons learned' exercises;
- Significant changes to the supervisory system such as the creation of a new division or large increases in staff, change of board members or the management, or significant changes in the financial sector;
- Significant changes of the legislative or regulatory AML/CFT environment; and
- Emergence or identification of new risk factors.

Organisational and procedural aspects of the review process

The review process will be based on clear and transparent internal procedures. Reviews will be conducted annually followed by and where necessary industry updates and guidance. Reviews will be conducted either by internal team or external parties if and when appropriate. The Registrar will appoint a review team with the scope and overall objectives to include internal quality, risk management or internal audits.

As an option the Registrar will also give consideration to utilizing an external expert to obtain an objective evaluation of our procedures or to ensure harmonisation on a national level with the models used by other competent authorities.

Record keeping

The Supervisor will document the AML/CFT RBS model, its implementation and subsequent reviews appropriately for our institutional (supervisory) memory and also provide a record of outcomes and decisions and our underlying rationale to ensure that actions taken with regard to the different NPOs are coherent and consistent. Data received or obtained as supervisor of the NPOs will be treated as mandated by confidential disclosure.

Feedback and follow-up actions

Accountability

The Supervisor will to continue to have an adequate understanding of the ML/TF risks present in the NPO sector and sub-sectors and is prepared to undertake all relevant and appropriate supervisory actions. This will allow us to judge the overall effectiveness of the measures implemented by NPOs to reduce these risks as well as the need to review, where appropriate, the intensity and frequency of the supervision and the allocation of supervisory resources.

Form of feedback



The findings of the ML/TF risk assessment will be shared with the relevant AML/CFT staff as well as the NPO sector and all relevant stakeholders to include other competent authorities, Ministry of Financial Services and our partners in the financial sector.

Methods of feedback include:

- Supervisory guidance;
- Letters to individual organisations or groups;
- Bilateral or multilateral meetings;
- Enforcement notices; and
- Speeches

Sector Training and Outreach

The Supervisor will periodically (to be determined by the Registrar) conduct outreach sessions with the NPO sectors in keeping with our national mandate. When applicable the Supervisor will conduct targeted sessions with various players from the NPO sector, e.g. financial institution individual NPOs and Clusters to address major risk or supervisory concerns. These sessions will either be with the entire NPO sector or a subsector. It also includes one on one session where necessary.

Methods of Outreach:

- Face to face sessions
- Website updates
- Radio and television appearances and
- Local press

Title III - Implementation

Implementation

This RBS AML/CFT supervisory regime is in effect.