

9 SCREENING, AWARENESS AND TRAINING OF EMPLOYEES

9.1 Overview of section

1. One of the most important controls over the prevention and detection of *money laundering* and the *financing of terrorism* is to have appropriately screened employees who are:
 - › alert to money laundering and financing of terrorism risks and
 - › well trained in the recognition of notable transactions or activity which may indicate money laundering or financing of terrorism activity (see Section 6 of this Handbook).
2. The effective application of even the best designed *systems and controls* (including *policies and procedures*) is compromised if employees lack competence ~~or~~ integrity, ~~or~~ are unaware of, or fail to apply, *systems and controls* (including *policies and procedures*), or if employees are not adequately trained.
3. It is essential that a *supervised person* takes action to make sure that *customer-facing* and other employees are:
 - › competent and have integrity
 - › aware of policies and procedures and their obligations under the Anti-Money Laundering and Counter-Terrorism Legislation and the AML/CFT Codes of Practice issued under the Supervisory Bodies Law
 - › trained in the recognition of notable transactions or activities (which may indicate money laundering or *financing of terrorism*) or transactions and activity with *enhanced risk states* and/or sanctioned parties (see Section 6 of this Handbook).
4. In particular, *customer-facing* employees and those who handle, or are responsible for the handling of, *customers* and transactions will provide a *supervised person* with its strongest defence, or its weakest link.
5. As noted in the Glossary, for the purposes of this Handbook the term “employee” should be understood to include officers of a *supervised person* and is not limited to individuals working under a contract of employment. It will include temporary and contract employees, and the employee of any external party fulfilling a function in relation to a *supervised person* under an outsourcing agreement.
6. A *supervised person* should also encourage its employees to maintain an active awareness of the risks of *money laundering* and the *financing of terrorism* as they carry out their duties.

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9.2 Screening of employees

Statutory requirements (paraphrased wording)

7. Article 11(1)(d) of the Money Laundering Order requires a relevant person to maintain appropriate and consistent policies and procedures relating to screening of employees.

AML/CFT Code of Practice

8. A *supervised person* must screen the competence and probity of the following employees at the time of recruitment and where there is a subsequent change in an employee's role:
 - › *customer-facing employees* and other employees handling, or being responsible for the handling of, *business relationships* or *one-off transactions*

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- › *employees* directly supporting *customer-facing employees* or other *employees* handling or responsible for the handling of *business relationships* or *one-off transactions*, e.g. individuals processing and book-keeping *customer* transactions
- › the *MLRO* (and any *Deputy MLRO*) and *MLCO* and
- › the Board and senior management.

9. Where a supervised person carries on Investment Business (within the meaning of the FS(J) Law) they must also undertake credit checks on any customer-facing employees who solicit funds from customers.

10. In respect of the employees described in paragraph 9 above, a supervised person carrying on Investment Business must **repeat the screening process** where they become aware of any change in an employee's circumstances which increases the risk that the employee may be involved in money laundering, the financing of terrorism or a predicate offence of the same.

Guidance notes

11. With reference to the Code of Practice at paragraph 8 above, a supervised person may demonstrate that an employee is screened where it does one or more of the following, as appropriate for the nature of the employee's role and responsibilities:
- › obtains and confirms references provided
 - › obtains and confirms employment history and qualifications disclosed
 - › obtains details of any regulatory action taken against the individual (or absence of such action)
 - › obtains and confirms details of any criminal convictions (or absence of such convictions).
12. With reference to the Code of Practice at paragraph 9 above, an example of a customer-facing employee who solicits funds from customers would be an employee who seeks funds from a customer in order to facilitate an investment activity.
13. When undertaking a credit check, a supervised person should ensure that they use a credit reference agency which has access to credit information held in Jersey.
14. If a credit check produces a poor rating, or where the employee does not have a credit history, the supervised person should apply their judgement in order to determine if the outcome of the credit check suggests an increased risk the employee could become involved in money laundering, the financing of terrorism or a predicate offence of the same. The supervised person should document their conclusions.
15. Enquiries into an individual's criminal past are required to be subject to the [Rehabilitation of Offenders \(Jersey\) Law 2001](#), which prevents a supervised person requesting information from its directors, senior managers and other employees (and prospective directors, senior managers and other employees) about convictions that are "spent", except where provided for by the [Rehabilitation of Offenders \(Exceptions\) \(Jersey\) Regulations 2002](#).

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9.3 Obligations to promote awareness and to train

Overview

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16. The *Money Laundering Order* requirements concerning both the promotion of awareness and the provision of training apply to *employees* whose duties relate to the provision of a *supervised business* (defined in the Glossary as “relevant employees”). They do not apply to all *employees* of a *supervised person*. However, *money laundering* and *financing of terrorism* offences established in the *Proceeds of Crime Law*, *Terrorism Law* and other legislation are wider in scope, therefore all *employees* will need to have a basic understanding of *money laundering* and the *financing of terrorism* and how they may manifest themselves. All *employees* must also know and apply internal reporting procedures and know the identity of the *MLRO* (and, if applicable, the *Deputy MLRO*) and know how to contact them.
17. *Relevant employees* will include, among others, relationship managers, accounting and book-keeping staff, and stock-brokers.

Statutory requirements (paraphrased wording)

18. Articles 11(9), (10), (10A), (11) and (12) of the *Money Laundering Order* require that a *relevant person* must, in relation to *employees* whose duties relate to the provision of a *financial services business*:
- › take appropriate measures from time to time for the purposes of making them aware of:
 - the CDD, record-keeping, reporting and other policies and procedures for the purposes of preventing and detecting money laundering and the financing of terrorism
 - the enactments in Jersey relating to money laundering and the financing of terrorism and any relevant Code of Practice.
 - › provide those *employees* from time-to-time with training in the recognition and handling of:
 - transactions carried out by or on behalf of any person who is or appears to be engaged in money laundering or the financing of terrorism
 - other conduct that indicates that a person is or appears to be engaged in money laundering or the financing of terrorism.
- Such training to include the provision of information on current money laundering techniques, methods and trends and on the financing of terrorism
- › establish and maintain procedures that monitor and test the effectiveness of the *relevant person's* policies and procedures, *employees' awareness* and the training provided to *employees*, such testing having regard to the risk of money laundering that exist in respect of the *relevant person's business*, and matters that may have an impact on that risk (e.g. size, nature and structure).

AML/CFT Code of Practice

19. A *supervised person* must:
- › provide *employees* who are not *relevant employees* with a written explanation of the *supervised person's* and *employees' obligations* and potential criminal liability under the *Anti-Money Laundering and Counter-Terrorism Legislation*, including the implications of failing to make an internal SAR
 - › require such *employees* to acknowledge that they understand the *supervised person's* written explanation and its procedures for making internal SARs.



20. In the case of a *supervised person* who is a *sole trader*, that person must be aware of the enactments in Jersey relating to *money laundering* and the *financing of terrorism* and the *AML/CFT Codes of Practice*.

21. In the case of a *supervised person* who is a *sole trader*, that person must be able to recognise and be aware of their obligations surrounding:

- › transactions carried out by, or on behalf of, a person who is, or appears to be, engaged in money laundering or the financing of terrorism
- › other conduct that indicates a person is, or appears to be, engaged in money laundering or the financing of terrorism.

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Guidance notes

22. A *supervised person* may demonstrate that it has satisfied awareness raising and training obligations that apply to *relevant employees* where it includes:

- › *customer-facing employees* and other *employees* handling, or being responsible for the handling of, *business relationships* or *one-off transactions*
- › *employees* directly supporting *customer-facing employees* or other *employees* handling, or being responsible for the handling of, *business relationships* or *one-off transactions*, e.g. individuals processing, book-keeping and accounting for *customer* transactions
- › the *MLRO* (and any *Deputy MLRO*) and *MLCO*
- › the Board and senior management.

23. A *supervised person* who is a *sole trader* may demonstrate that they are aware of relevant enactments and are able to recognise and are aware of their obligations surrounding transactions and other conduct, where they have received formal training or through self-study.

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9.4 Awareness of relevant employees

Overview

24. With the passage of time between training initiatives, the level of *employee* awareness of the risk of *money laundering* and the *financing of terrorism* decreases. The utilisation of techniques to maintain a high level of awareness can greatly enhance the effectiveness of a *supervised person's* defences against *money laundering* and the *financing of terrorism* risk.

Guidance notes

25. A *supervised person* may demonstrate that it has appropriate awareness measures in place to make *relevant employees* aware of *policies and procedures* where it:

- › provides them with a written explanation of its business risk assessment, in order to provide context for those policies and procedures
- › provides them with case studies illustrating how products or services provided by the supervised person may be abused, in order to provide context for the application of policies and procedures
- › provides ready access to its policies and procedures.

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26. A *supervised person* may demonstrate that it takes appropriate measures to make *relevant employees* aware of enactments in Jersey relating to *money laundering* and the *financing of terrorism* where it:
- › provides *relevant employees* with a written explanation of the *supervised person's* and *employee's* obligations and potential criminal liability under the Proceeds of Crime Law, Terrorism Law, Directions Law, and Terrorist Sanctions Measures, including the implications of failing to make an internal SAR
 - › provides *relevant employees* with a written explanation of the disciplinary measures that may be applied for failing to report knowledge, suspicion, or reasonable grounds for knowledge or suspicion, without reasonable excuse, or as soon as practicable
 - › requires such employees to acknowledge that they understand the *supervised person's* written explanations and procedures for making internal SARs
 - › reminds employees of their obligations from time-to-time and the need to remain vigilant
 - › circulates relevant material, e.g. material that is published by the JFSC or JFCU, FATF, or EU, in order to provide context for enactments in Jersey
 - › circulates relevant media reports, in order to provide context for enactments in Jersey.
27. A *supervised person* may demonstrate that it takes appropriate measures to make *relevant employees* who are officers (e.g. directors and equivalent) aware of enactments in Jersey relating to *money laundering* and the *financing of terrorism*, where the *supervised person* also explains how officers may be held personally liable for an offence committed by the *supervised person*.

9.4.1 Monitoring and testing effectiveness

Guidance notes

28. A *supervised person* may demonstrate that it maintains procedures for monitoring and testing the effectiveness of awareness-raising where it periodically tests *employees'* awareness of:
- › risks and policies and procedures and
 - › statutory obligations
- and takes appropriate action where awareness is insufficient.

9.4.2 Technological developments

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29. Where a *supervised person* has identified a risk that may arise in relation to new products, services, business practices or technology, including where developed at group level or by outside developers (in Jersey and elsewhere), a *supervised person* must take steps to ensure that those involved in their development have a basic awareness of *money laundering* and the *financing of terrorism*, and of current *money laundering* techniques, methods and trends.



Guidance notes

30. A *supervised person* may demonstrate that developers have a basic awareness of *money laundering* and the *financing of terrorism* and of current *money laundering* techniques, methods and trends where it:
- › provides them with a written explanation of its business risk assessment, in order to provide context for development work
 - › provides case studies illustrating how new products, services, business practices and technology may be abused
 - › circulates any relevant material, e.g. material that is published by the *JFSC* or *JFCU*, the *FATF*, or the *EU*
 - › circulates relevant media reports.
31. A *supervised person* may also demonstrate that developers have a basic awareness of *money laundering* and the *financing of terrorism* and of current *money laundering* techniques, methods and trends, where it obtains assurances that similar measures to those set out in Paragraph 30 are taken by group or outside developers.

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9.5 Training of employees

Overview

32. The guiding principle for all *AML/CFT* training should be to encourage *employees*, irrespective of their level of seniority, to understand and accept their responsibility to contribute to the protection of the *supervised person* against the threat of *money laundering* and the *financing of terrorism*.
33. There can be a risk that more junior *employees*, non-customer facing *employees* and support *employees* consider that their role is less crucial than, or secondary to, that of more senior or customer-facing colleagues. This can lead to failures to report important information because of assumptions that the information will have already been identified and dealt with by other colleagues. A *supervised person* should be aware of this risk and take steps to address it through the training provided.

AML/CFT Codes of Practice

34. A *supervised person* must provide *employees* with adequate training at appropriate frequencies. Such training must:
- › be tailored to the *supervised person* and be relevant to the *employees* to whom it is delivered
 - › highlight to *employees* the importance of the contribution that they can individually make to the prevention and detection of *money laundering* and the *financing of terrorism*
 - › cover key aspects of legislation to prevent and detect *money laundering* and the *financing of terrorism*.

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9.5.1 All relevant employees

Guidance notes

35. A *supervised person* may demonstrate the provision of adequate training to *relevant employees* where it addresses:
- › the supervised person and employees' obligations under the Proceeds of Crime Law, Terrorism Law, Directions Law, Terrorist Sanctions Measures, Money Laundering Order and AML/CFT Codes of Practice issued under the Supervisory Bodies Law
 - › vulnerabilities of products and services offered by the supervised person (based on the supervised person's business risk assessment), and subsequent money laundering and financing of terrorism risk
 - › policies and procedures, and employees' responsibilities under the same
 - › application of risk-based CDD policies and procedures
 - › Recognition and examination of notable transactions and activity, such as activity outside of expected patterns, unusual settlements, abnormal payment or delivery instructions and changes in the patterns of business relationships.
 - › money laundering and financing of terrorism developments, including techniques, methods, trends and typologies (having regard for reports published by relevant Jersey authorities, FATF and FATF-style regional bodies (also known as FSRBs).
 - › management of business relationships or one-off transactions subject to an internal SAR, e.g. risk of committing the offence of tipping off, and dealing with questions from such customers, and/or their advisers.

9.5.2 The Board or equivalents

Guidance notes

36. A *supervised person* may demonstrate the provision of adequate training to Board members where (in addition to training for *relevant employees*) it addresses:
- › conducting and recording a business risk assessment
 - › establishing a formal strategy to counter *money laundering* and the *financing of terrorism* and
 - › assessing the effectiveness of, and compliance with, *systems and controls* (including *policies and procedures*).

9.5.3 The MLCO

Guidance notes

37. A *supervised person* may demonstrate the provision of adequate training to the *MLCO* where, in addition to training for *relevant employees*, it addresses the monitoring and testing of compliance with *systems and controls* (including *policies and procedures*) in place to counter *money laundering* and the *financing of terrorism*.



9.5.4 The MLRO and Deputy MLRO(s)

Guidance notes

38. A *supervised person* may demonstrate the provision of adequate training to the *MLRO* (and, if applicable, *Deputy MLROs*) where, in addition to training for *relevant employees*, it addresses:
- › the handling and validation of internal *SARs*
 - › liaising with the *JFSC*, *JFCU* and law enforcement
 - › management of the risk of tipping off and
 - › the handling of production and restraint orders.

9.5.5 Non-relevant employees

Guidance notes

39. A *supervised person* may demonstrate the provision of adequate training to *employees* who are not *relevant employees* where it addresses:
- › the threat of *money laundering* and the *financing of terrorism*
 - › procedures for making internal *SARs*.

9.5.6 Timing and frequency of training

Guidance notes

40. A *supervised person* may demonstrate the provision of training at appropriate frequencies by:
- › providing all *employees* with induction training **within 10 working days** of the commencement of employment and, when necessary, where there is a subsequent change in an *employee's* role and
 - › delivering training to all *employees* **at least once every two years**, and otherwise determining the frequency of training for *relevant employees* on the basis of risk, with more frequent training delivered where appropriate.

9.5.7 Monitoring the effectiveness of screening, awareness and training

Overview

41. Monitoring and testing the effectiveness of *policies and procedures*, awareness-raising measures and of training provided is a function of the *MLCO*, further detail of which is set out at Section 2.6 of the *AML/CFT Handbook*.
42. Such monitoring and testing should also be considered in the context of the Board's periodic check that *systems and controls* (including *policies and procedures*) are operating effectively, as set out at Section 2.4.1 of the *AML/CFT Handbook*.

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