

Guernsey introduces revised Handbook on countering financial crime and terrorist financing

Service area / [Regulatory](#)

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On 12 November 2018 the Guernsey Financial Services Commission (**GFSC**) issued a revised Handbook on Countering Financial Crime and Terrorist Financing (the **Handbook**). Put simply, the Handbook is a statement of the standards expected by the GFSC of all 'Specified Businesses' in the Bailiwick. The Handbook now applies to both financial services businesses and prescribed businesses. The aim is to ensure the Bailiwick's compliance with the International Standards on Combating Money Laundering and the Financing of Terrorism, as set out in the Financial Action Task Force Recommendations of 2012. Further recommendations were made in January 2016 by MONEYVAL, a monitoring body set up by the Council of Europe that is tasked with assessing the measures in place to prevent money laundering and the financing of terrorism.

The revised rules in the Handbook are due to take effect from on 31 March 2019, by way of a new Schedule 3 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 which imposes the revised statutory duties on all Specified Businesses.

Ascertaining risk

As with all Anti-Money Laundering and Counter Financing of Terrorism (**AML/CFT**) obligations, one of the key emphases remains that businesses should take a risk-based approach to business relationships and transactions. Chapter 3 of the Handbook includes further guidance on risk assessments and recommends a holistic approach to ascertain whether or not aspects might, on a cumulative basis, increase or decrease the business' overall risk exposure. A recommended starting point is that businesses consider their risk assessment methodologies.

Business Risk Assessments (**BRAs**) must be expanded to encompass separate assessments of possible terrorism financing and money laundering risks, with recognition of the differences between the two. It is the board's responsibility to fix the risk appetite of the business and it must take ownership of the BRA. BRAs must be prepared as soon as reasonably practicable after 31 March 2019 and must be approved by the board no later than four months from the effective date of the legislation. As the legislation is expected to be implemented on 31 March 2019, in effect businesses should aim for no later than 31 July 2019 for completion of their updated BRAs.

Additionally, policies, procedures and controls must have been reviewed and revised before being approved by the board. This must be done no later than three months from the date that the BRAs were approved.

MLCOs

The Handbook introduces the concept of the Money Laundering Compliance Officer (**MLCO**). The MLCO is responsible for the firm's compliance with AML and CFT obligations such as controls, policies and procedures. The board must ensure a suitable MLCO is appointed by 31 March 2019 and that the GFSC is notified by 14 April 2019 of the appointment. The MLCO may also carry out the Money Laundering Reporting Officer (**MLRO**) function should the business deem that the individual has sufficient capabilities and resources to discharge both roles.

Customer Due Diligence

There are changes to the recommendations in respect of Customer Due Diligence (**CDD**). Following the IMF and MONEYVAL assessments it was considered necessary to extend the parameters of Enhanced CDD to certain customers, regardless of their risk-rating. As a consequence of this, enhanced measures will be mandatory where the business relationship involves or relates to:

- a. a customer who is not resident in the Bailiwick;
- b. the provision of private banking services;
- c. a customer which is a legal person or legal arrangement used for personal asset-holding purposes; or
- d. a customer which is either a legal person with nominee shareholders (e.g. a company which has nominee shareholders), or is owned by such a person (i.e. owned by a legal person which has nominee shareholders).

The enhanced measures should be specific to the higher risk factors associated with that business relationship. An example would include a detailed understanding of the rationale for the business relationship and a documented account of this. Firms should have policies and procedures in place which recognise and seek to meet the heightened requirements in the Handbook. Simplified CDD requirements remain broadly the same.

The Handbook demonstrates the Bailiwick's continued commitment to AML/CFT compliance. It maintains the overriding risk-based approach that businesses should adopt as they see appropriate. However individual businesses decide to revise their policies, procedures and controls, they should document the process and continue an ongoing surveillance of the model they adopt and of their customer relationships and transactions.



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