



**THE TURKS AND CAICOS ISLANDS
FINANCIAL SERVICES COMMISSION**

DNFBP EXAMINATION PROCESS GUIDELINES

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TURKS AND CAICOS ISLANDS FINANCIAL SERVICES COMMISSION

DNFBP EXAMINATION PROCESS GUIDELINES

1.0 INTRODUCTION

- 1.1 The Financial Services Commission (the Commission) is responsible for the AML/CFT supervision of Designated Non-Financial Businesses and Professions (DNFBPs)¹ in accordance with regulation 23 of the AML Regulations. The Commission is also responsible for the AML/CFT supervision of company managers and agents² in accordance with section 4 of the FSCO and the AML Regulations.
- 1.2 The Commission carries out AML/CFT supervision of supervised entities through a combination of offsite monitoring and compliance visits. Compliance visits complement ongoing offsite monitoring. The Commission maintains in-depth knowledge of the risk profile of supervised entities by performing ongoing off-site monitoring, which mainly relies on the information reported by supervised entities through supervisory returns i.e., update forms/supervisory questionnaires. This information source helps to build a picture of the vulnerabilities of supervised entities and allows the Commission to identify those entities for which an examination is necessary to ascertain their level of compliance with AML/CFT standards, the accuracy of the information provided, among other things.
- 1.3 All supervised entities are required to comply with the legal requirements set out in the legislation referenced above and failure to do so will result in the Commission taking enforcement actions, including cancellation of registration or revocation of license. The result of enforcement action may mean that the entity can no longer operate legally. There are stiff penalties (fines and/or imprisonment) for a person that operates a business which is not registered (in the case of DNFBPs) or licensed (in the case of financial institutions) by the Commission.

¹ DNFBPs are defined by Schedule 2 of the AML Regulations

² The business of company managers and agents is defined by s. 2 of the Company Management (Licensing) Ordinance

2.0 DEFINITIONS

TERMS	DEFINITION
Anti-Money Laundering and Countering the Financing of Terrorism Legislation (“AML/CFT Rules or Legislation”)	<ul style="list-style-type: none">▪ Proceeds of Crime Ordinance Cap.03.15 (POCO)▪ Anti-Money Laundering and Prevention of Terrorist Financing Regulations 2010 (AML Regulations)▪ Anti-Money Laundering and Prevention of Terrorist Financing Code 2011▪ Companies Ordinance 2017▪ Company Management (Licensing) Ordinance▪ Financial Services Commission Ordinance Cap.16.01
Designated Non-Financial Businesses and Professions (DNFBP)	A financial business, as set out under Schedule 2 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations 2010 (AML Regulations), that is not a regulated financial business as set out under Schedule 1 of the AML Regulations.
Senior Management	The persons (other than the board of directors) who participates in decision-making affecting the whole or a substantial part of the business of the supervised entity, or who has the capacity to significantly affect the supervised entity's financial standing.
Supervised Entity	Either an individual or entity that has applied to the Commission to be licensed or registered under an Ordinance or Regulation that is administered by the Commission.

3.0 PURPOSE

- 3.1 The purpose of these Guidelines is to provide a useful reference document for supervised entities on the Commission’s review process, which includes on-site or offsite examinations, and to promote awareness and enhance the transparency of the examination process. The Guide describes the examination process, from the decision to launch the examination to the follow-up stage.

4.0 GENERAL FRAMEWORK FOR EXAMINATIONS

Legal provisions

- 4.1 The legal provisions governing examinations of supervised entities are based on the following:
- section 164 of the POCO; and
 - section 32 of the FSCO.

Scope of examinations

4.2 The aim of the examination is to gain an understanding of the various risks, internal control systems, business models and governance of the examined entity. Examinations are conducted within a predefined scope and timeframe, which may occur at the premises of examined entities or offsite e.g. at the Commission's premises. Where necessary, the scope and timeframe of the examination can be changed while the examination is in progress. More specifically, examinations aim to:

- i) examine and assess the appropriateness and quality of the examined entity's corporate governance and internal control framework for AML/CFT in the light of the nature of its business and risks;
- ii) examine and assess the level, nature and features of the inherent ML/TF/PF risks to which the entity is exposed, also considering its risk culture;
- iii) assess the examined entity's control systems and risk management processes for AML/CFT, focusing on detecting weaknesses or vulnerabilities;
- iv) check the examined entity's compliance with AML/CFT rules.

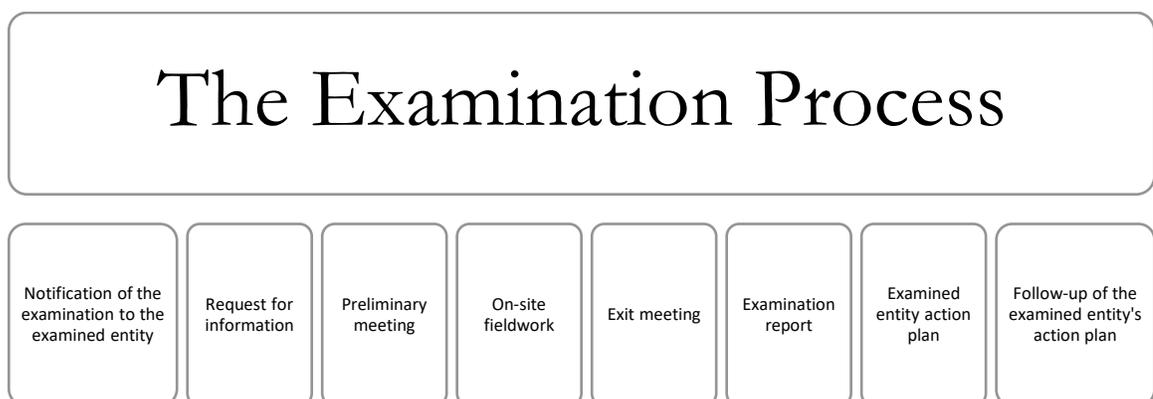
Examination team

4.3 The examination team is made up of employees from the Commission consisting of no less than two people. The examination team is led by a Lead Examiner who is responsible for planning, organising, and supervising the examination. The Lead Examiner assigns team members to work on specific assignments of the examination which is set out in the internal examination plan document.

5.0 EXAMINATION PROCESS

Steps of an examination

5.1 The diagram below outlines the steps involved in an examination, each of which is explained in more detail afterwards.



Preparatory phase

Notification of the examination/Scope letter

- 5.2 Senior management of the entity to be examined will be notified of the examination through a letter from the Commission informing the entity of the Commission's intention to conduct an examination, which may be performed onsite or offsite. The notification letter informs the entity to be examined of the identity of the members of the examination team, including the Lead Examiner. It sets out the scope of the examination, as well as the commencement date and the estimated duration of the planned examination.

Request for information

- 5.3 The Commission sends a request for information to the entity as soon as possible before the commencement of the on-site fieldwork or offsite assessment. The request for information details the information necessary to perform a thorough pre-examination analysis of the entity to identify the areas to be tested. The examiners reviews and evaluates several sources of information including, but not limited to, the following:
- (a) Organisation chart;
 - (b) Policies, procedures, onboarding documents, customer database, risk assessments, etc.;
 - (c) The supervised entity's risk profile;
 - (d) Supervisory returns;
 - (e) Past examination reports and working papers;
 - (f) Independent testing reports performed by internal and external auditors;
 - (g) Information obtained from other relevant national agencies e.g. Business Licensing Unit, the Financial Intelligence Agency, Customs Department, etc.;
 - (h) Information obtained from the Companies Registry;
 - (i) Information obtained from news sources and other open sources e.g. Google;
 - (j) The pre-examination information required of the supervised entity as detailed in the Scope letter.
- 5.4 If the entity has any questions regarding the requested information, it should not hesitate to contact the Lead Examiner and ask for clarification.

Fieldwork phase

Preliminary meeting

- 5.5 The preliminary meeting is the first official meeting between the entity to be examined and the examination team. It is organised and chaired by the Lead Examiner.
- 5.6 During this meeting, the Lead Examiner introduces the team to the examined entity's management. The Lead Examiner uses this meeting to expand on the Scope letter and to present in detail the objectives and scope of the examination and the various steps involved.

- 5.7 At this meeting, the Lead Examiner may ask the entity to give a general presentation on its organisational structure, business model, strategy and governance policy and procedures, and on its main processes in the areas to be covered by the examination. The Lead Examiner may also ask the examined entity to identify the main contact persons for each topic, if applicable.
- 5.8 The entity should use the preliminary meeting to clarify any questions it may have about the examination. The examination team may also use this opportunity to set deadlines for receiving any outstanding information requested.

Fieldwork

- 5.9 After the preliminary meeting, the examination team continues its examination of the supervised entity. This phase consists of interviews and examinations of procedures, reports, and files. Evidence is collected to ensure that an audit trail is in place for any weaknesses identified by the examination team. As a wide variety of examination techniques exist, the list below is non-exhaustive.
- **Observation, information verification and analysis:** the objective is to verify and analyse the information provided by the entity and observe the related processes. The examination team will need access to all information requested and read-only access to relevant IT systems.
 - **Targeted Interviews:** by meeting with the relevant staff of the entity, the examination team collects information about areas of the examination and compares the documented processes and organisational structures with the entity's practices.
 - **Walk-through:** the aim of this examination technique is to ensure that the process the examined entity reports having in place is applied in practice. This also casts light on the consistency of the procedures, enabling the team to locate gaps or weaknesses in them.
 - **Sampling/case-by-case examinations:** samples are taken (e.g. individual loan commitments or other business transactions) to validate the results of the examination and allow examiners to gauge the quality of the entity's AML/CFT risk management. Furthermore, sampling plays an important role in locating problems and/or risks and helps to assess their severity.

Reporting phase

Exit meeting

- 5.10 The examination team will hold an exit meeting with senior management of the examined entity to discuss its findings from the examination. This gives the entity the opportunity to consider any potential issues and provide any additional information, data, or documents to the examination team to review before the draft report is issued.

Examination report

- 5.11 The examination report will discuss the conduct of the examination, material findings from the examination and the recommendations that will require a remedial action plan from the

examined entity. The report will set out an examination rating which may be any of the following:

Strong

Characteristics of the function meet or exceed what is considered necessary for the nature, scope, complexity and risk profile of the institution, and the function has demonstrated highly effective performance on a consistent basis.

Satisfactory

Characteristics of the function meet what is considered necessary for the nature, scope, complexity and risk profile of the institution, and the function has demonstrated effective performance.

Needs Improvement

Characteristics of the function generally meet what is considered necessary for the nature, scope, complexity and risk profile of the institution; but, there are some significant areas that require improvement. Performance has generally been effective; but there are some significant areas where effectiveness needs to be improved. These areas are not likely to cause serious prudential concerns if addressed on a timely basis.

Deficient

Characteristics are not, in a material way, what is considered necessary given the nature, scope, complexity and risk profile of the institution. Performance has demonstrated serious instances where effectiveness needs to be improved through immediate action.

Critically Deficient

Characteristics of the function are critically deficient for the nature, scope, complexity and risk profile of the institution, and the function has demonstrated serious weakness in performance on a consistent basis.

5.12 The recommendations in an examination report are classified as follows:

Matters requiring immediate attention

A significant failure of an enterprise level key control(s) or a series of control failures at the process level which can result in the entity not meeting key AML and PFT objectives. Associated controls, if available and performed effectively, are insufficient to mitigate the risk to acceptable levels. Failure of this control significantly increases the likelihood of money laundering or terrorist financing and/or failure to report suspicious activity.

Matters requiring attention

A failure of a key control which increases the risk of money laundering or terrorist financing and/or failure to report suspicious activity. Successful operation of other process controls minimises the risk but only to a level that targeted remediation is necessary to improve the control environment.

Action plan

- 5.13 The action plan is a document setting out how the entity intends to respond to the recommendations contained in the examination report within the timelines set by the Commission. The Commission can take enforcement action against an examined entity where it fails to comply with the deadlines or required actions.

Follow-up to the action plan

- 5.14 The Lead Examiner will monitor the examined entity's progress in following the action plan and meeting the Commission's deadlines. In this process, the examiner may require evidence that the required actions have been taken, clarification on information provided, additional meetings with the examined entity, or recommend enforcement or disciplinary action be taken against the examined entity for failing to address the required action(s) in a satisfactory manner.

6 PERIODIC REVIEW OF GUIDELINES

- 6.1 The Commission will keep this Guideline under review to ensure it remains current and appropriate for its purpose.