



Anti-money laundering and combatting the financing of terrorism and proliferation financing (AML/CFT/CPF)

Internal Manual: AML/CFT Enforcement Policy for:

- Real Estate Agents & Letting Agents;
- High Value Goods Dealers; and
- Art Market Participants



This document is intended for internal use by OFT officers.

This manual is published.

Version: 3.1
Issued: November 2018
Updated: March 2025





1. Purpose of this Policy

This manual sets out the OFT's policy in respect of enforcement for non-compliance with AML/CFT/CPF obligations by:

1. Real Estate Agents and/or Letting Agents (**REAs**); and/or
2. High Value Good Dealers (to include a potential High Value Dealers) (**HVGDs**); and/or
3. Art Market Participants (**AMPs**),

each a "**Regulated Entity**" and together the "**Regulated Entities**".

This policy has been established as a means of setting up a consistent approach to addressing non-compliance by REAs, HVGDs and AMPs with their AML/CFT/CPF obligations as set out in the Proceeds of Crime Act 2015 (**POCA**) and the OFT's AML/CFT/CPF Guidance for REAs and HVGDs and AMPs. The policy also aims to ensure that the OFT's enforcement actions are commensurate and proportionate to the gravity of the non-compliance identified.

Under the powers afforded to the OFT by POCA and the Supervisory Bodies (Powers etc.) Regulations 2017 (the "**Regulations**") the OFT may impose sanctions and penalties to non-compliant businesses. Enforcement in the context of this policy shall not however be limited exclusively to the imposition of sanctions and penalties, but shall also include remedial action mechanisms whereby the OFT can support REAs and HVGDs and AMPs to achieve compliance.

This enforcement policy sets out the OFT's approach towards enforcement and penalties within the following four enforcement phases:

1. Consultation & Onsite Visits;
2. Remedial Action;
3. Sanctions; and
4. Dissemination of Sanctions.

While the OFT will seek to follow the general principles set out in this policy wherever possible it may depart from the same and/or not follow the phases set out in this policy where it is reasonable, appropriate and/or proportionate to do so, in the OFT's sole discretion, taking into account the circumstances surrounding any particular matter.

1. Assessing Materiality in Enforcement

Our enforcement process incorporates materiality factors to determine the nature, scale, and proportionality of corrective actions, sanctions, or penalties. Key materiality factors include:

1. **Business Size:** Number of employees, branches, and operational complexity.
2. **Financial Scope:** Turnover, transaction volume, and financial exposure.
3. **Client Profile:** Nature of customers, including high-net-worth individuals, cash-intensive businesses, and politically exposed persons (PEPs).
4. **Geographic Exposure:** Involvement in cross-border transactions or operations in high-risk jurisdictions.
5. **Business Activities:** Level of risk associated with products and services, including high-value assets, large cash transactions, or complex financial structures.

2. Application of Materiality in Enforcement Actions

Materiality factors will be used to determine:

1. **Severity of Enforcement Measures:** Higher materiality risks may result in more stringent enforcement actions, while lower materiality risks may lead to corrective guidance or lesser sanctions.
2. **Proportionality of Sanctions:** Fines, penalties, or remedial actions will be scaled according to the entity's risk exposure and systemic impact.
3. **Resource Allocation:** Investigations and enforcement efforts will focus on entities where material risks pose the greatest threat to financial integrity.

By embedding materiality into enforcement decision-making, we ensure a risk-based, fair, and effective regulatory approach that enhances compliance while maintaining market stability.

2. Phase 1 – Consultation & Onsite Visits

There are two paths to enforcement action under the Regulations:

1. Consultation; and
2. Onsite Visits.

2.1 Consultation

The OFT's Supervisory powers are set out in Part 3 of the Regulations.

Upon the identification of non-compliance of AML/CFT/CPF obligations, the Regulated Entity is to be contacted as a means of commencing a consultation process. Contact may be made with the Regulated Entity through a meeting (onsite (see below) or otherwise) or in writing via e-mail or mail.

The purpose of early consultation is to:

1. communicate to the Regulated Entity that transgressions have been identified;
2. establish the extent of the transgressions where necessary;

3. give guidance about achieving compliance, where appropriate without the need for further enforcement action;
4. determine whether the Regulated Entity has the capacity to achieve compliance; and
5. to establish if remedial action or enforcement & sanctioning is necessary or desirable.

A consultation phase will usually be appropriate where:

1. the nature of non-compliance of AML/CFT/CPF obligations is minor or technical in nature;
2. it is due to the Regulated Entity not fully understanding their AML/CFT/CPF obligations;
3. where the Regulated Entity is cooperative and has demonstrated a desire to rectify the identified transgression immediately; and/or
4. where there are no indicators that money laundering and/or terrorist financing has taken place.

A consultation phase would not however be appropriate where:

1. the nature of non-compliance of AML/CFT/CPF obligations is significant;
2. the risk of money laundering and/or terrorist financing is moderate to high;
3. a similar transgression has been identified previously and the OFT has already engaged with the Regulated Entity previously in this regard before; and/or
4. the OFT, in its discretion, has reasonable justification for setting aside the consultation process.

Where the consultation phase would not be appropriate the OFT may dispense with the need for consultation and proceed directly to phase 2 or 3. Where it does so however it should consider reporting the information to GFIU, or another enforcement body, as set out in phase 5 before proceeding.

2.2 Onsite visits

Alternatively, a Regulated Entity may be contacted as part of the of the OFT's ongoing onsite visit process as set out in the OFT's Internal AML/CFT/CPF onsite visit procedure manual. If breaches or deficiencies in meeting the Regulated Entity's AML/CFT/CPF obligations are identified these will be set out in the Onsite Visit Report.

Where appropriate the Onsite Visit Report shall contain a Warning Notice for the purposes of regulation 26 of the Regulations.

3. Phase 2 – Remedial Action



The consultation or onsite visit process may conclude with the OFT proposing remedial action to the Regulated Entity in the form of an Action Plan and financial penalty where appropriate.

Action Plans are regarded as a mechanism that educates and facilitates Regulated Entities to achieve compliance of their AML/CFT/CPF obligation. They set out the identified breaches and deficiencies that must be rectified and provide recommendations to the Regulated Entity about the action that must be taken to avoid further sanctions. Action Plans support Regulated Entities by setting out milestones by which it should rectify the transgressions.

Action plans are not obligatory and are based on the OFT's recommendations about how the Regulated Entity may work towards becoming compliant with their AML/CFT/CPF obligations. They are not therefore appropriate for non-cooperative Regulated Entities. Where Regulated Entities do not follow the Action Plan the OFT must consider taking other more appropriate enforcement action.

Action Plans must be clearly communicated in writing to the Regulated Entity and shall set out:

1. the nature of the breaches or deficiencies identified;
2. high level recommendations about the action required to rectify the breach or deficiency; and
3. the dates by which the OFT requires the Regulated Entity to rectify or improve the transgression.

When issuing an Action Plan, the OFT shall inform the Regulated Entity:

1. that the OFT may take further enforcement action under the Regulations in relation to any Action Plan milestones that are not adhered to; and
2. that if it does take enforcement action or issue a sanction the OFT may, in accordance with regulation 31, publish a statement specifying:
 - a. the identity of the Regulated Entity;
 - b. the type and nature of the Regulated Entity's default or breach; and
 - c. the action taken by the OFT

Should the Regulated Entity adopt changes to effectively rectify the non-compliance of their AML/CFT/CPF obligations by the milestones set out in the Action Plan, the OFT's enforcement action may cease at this phase if the OFT considers there is no further concern of non-compliance. Before doing so the OFT must assess the effectiveness of the actions taken by the Regulated Entity to meet the recommendations in the Action Plan and determine if the Regulated Entity now complies with their AML/CFT/CPF Obligations. Where the Regulated Entity can demonstrate positive and tangible progress with the recommendations, but compliance has not yet been achieved, it may be appropriate for the OFT to propose a further Action Plan where it considers that the



Regulated Entity is capable of improving further and is willing to do so. This shall not preclude the OFT from also issuing an appropriate sanction.

It is not essential for the OFT to offer Remedial Action to Regulated Entities where it deems, in its sole discretion, that moving to the Sanctions phase (phase 3) straight after consultation or an onsite visit is reasonable, appropriate and/or proportionate in the circumstances.

Where breaches of AML/CFT/CPF obligations are identified, the OFT will also consider wider compliance with the Fair Trading Act 2023 (FTA) as part of its remedial actions. Businesses found to be unlicensed under the FTA will be required to rectify this breach as a condition precedent to full compliance with AML/CFT/CPF obligations.

4. Phase 3 - Sanctions

The OFT's enforcement and sanctioning powers are set out in Part 4 of the Regulations. Pursuant to the Regulations the OFT may impose the following disciplinary measures:

1. financial penalties up to EUR 1 million (or equivalent thereof in GBP);
2. the suspension or revocation of their business licence;
3. temporary bans for persons in managerial positions; and/or
4. a direction to the business to take/ refrain from taking action

When considering taking enforcement action or the imposition of sanctions the AML/CFT team must consider:

1. the nature and severity of the transgression in question in order to ensure the proposed penalty is proportionate and commensurate to the breach detected;
2. any previous enforcement action or sanctions taken against that Regulated Entity, particularly if the transgressions are similar in nature; and
3. the dissuasive nature of enforcement action to prevent similar transgressions in the future by that Regulated Entity or other Regulated Entities in that sector.

In determining the type, duration and level of a sanction the OFT must take into account all the relevant circumstances, including those listed in regulation 24.

The AML/CFT team shall also consider how the proposed action may be taken in practice and whether, considering the procedural requirements of the Regulations (e.g. the need to give warning letters in regulation 26), this will be appropriate.

The aim of the OFT is to achieve compliance by all Regulated Entities. It may therefore use a combination of remedial action (see Section 3) and sanctions to facilitate and educate Regulated Entities to achieve compliance while penalising poor compliance.

Where the OFT has instructed legal advisors it may also seek advice in this regard.



Following its assessment, the AML/CFT/CPF team will determine the type of sanction under the Regulations that is commensurate to the breach or deficiency identified.

With respect to enforcement communications, all formal engagement will be directed to the designated Money Laundering Reporting Officer (MLRO) and/or directors/principals of the business. Other advisors are welcome to attend meetings and be copied on correspondence.

We operate a zero-tolerance policy with respect to disrespectful behaviour. Should our staff experience or perceive any form of disrespect, we reserve the right to terminate any meetings or calls immediately as deemed necessary.

4.1 Financial Penalties

With a view to achieving consistency and regularity when imposing financial penalties, the OFT will assess transgression against pre-defined guidance criteria covering:

1. Administrative non-compliance & non-responsiveness - for breaches relating to the OFT's regulatory requirements as a supervisory body (paragraph 4.1.1); and
2. AML/CFT/CPF obligation non-compliance - for breaches and deficiencies of specific AML/CFT/CPF obligations set out in POCA and the OFT's AML/CFT/CPF Guidance Notes for REAs and HVGs. A small dissuasive fine may be applied for first-time offenders who meet the criteria defined in paragraph 4.1.2. Following this financial penalties divided into 3 rising levels depending on the seriousness and recurrence of breaches. (paragraphs 4.1.3 to 4.1.5).

The criteria provided below however is meant as guidance for the OFT's AML/CFT/CPF team only. The OFT is not bound to adhere to these criteria and may, in its sole discretion, impose different sanctions where it is reasonable, appropriate and/or proportionate to do so, taking into account all factors of a particular matter.

4.1.1 Administrative non-compliance & non- responsiveness

Financial Penalty imposed could be between £500.00 - £10,000.00 and is appropriate where:

1. the breach is administrative in nature (e.g. non-submission of AML/CFT/CPF documents, e.g. AML/CFT/CPF policy or business risk assessment);
2. the breach relates to a failure to produce information requested by the OFT generally while carrying out its supervisory functions as a supervisory body (this excludes information requested during the course of an investigation or as part of an onsite visit); and/or
3. the AML/CFT/CPF team have determined that the transgression is minor and does not require a Level 1 penalty (see below).

This is not an exhaustive list.

4.1.2 First-time Offenders



Where a Regulated Entity:

1. is in breach of its AML/CFT/CPF obligations; and
2. those breaches would ordinarily result in the issuance of a financial penalty as set out in level 1 to 3 below,

the OFT may consider it proportionate not to issue such a financial penalty where the Regulated Entity:

1. has not been in breach of any AML/CFT/CPF obligations previously;
2. has cooperated with the OFT throughout;
3. had not fully understood their AML/CFT/CPF obligations and has shown a willingness to work towards rectifying the breaches once these have been understood;
4. has not been issued any enforcement action in the past;
5. has been issued an action plan with milestones in accordance with Phase 2 to rectify said breaches; and
6. the Regulated entity has achieved an effectiveness score of High or Moderate Effectiveness using the OFT's Ongoing ML/TF/PF Risk Scoring policy.

Where a Regulated Entity meets all the criteria above except for 6, having achieved a Low effectiveness score, it shall be appropriate for the OFT to issue a limited financial penalty of between £100 and £1000 commensurate with the extent and nature of the breach as a further dissuasive measure.

It is expected that Regulated Entities to which this section applies shall improve their AML/CFT/CPF effectiveness quickly by meeting the milestone in the action plans. Should these milestones not be met future financial penalties should be issued commensurate with the continuing nature of their breaches and taking into account any reductions pursuant to this section.

4.1.3 Level 1

Financial Penalty imposed could be anything within 0-30% of the maximum penalty applicable under the Regulations (EUR1 – EUR 300,000, or equivalent thereof in GBP) and is appropriate where:

1. the contravention was not carried out deliberately;
2. there is no risk of money laundering and/or terrorist financing;
3. the value of loss or profit as a result of the transgression is low or non-existent;
4. there was a self-declaration of non-compliance;

5. the business has been cooperative and has a good history of compliance; and/or
6. there is no risk of money laundering or terrorist financing.

This is not an exhaustive list.

4.1.4 Level 2

Financial Penalty imposed could be anything within 0-60% of the maximum penalty applicable under the Regulations 2017 (EUR1 – EUR 600,000, or equivalent thereof in GBP) and is appropriate where:

1. the business has been uncooperative and unhelpful;
2. there is a moderate risk of money laundering and/or terrorist financing;
3. the transgression has taken place over a long period of time and the breaches are significant;
4. the transgression was not a self-declaration of non-compliance;
5. the value of loss or profit as a result of the transgression is moderate/significant; and/or
6. the business was aware of the contravention and it was never reported or only partly reported.

This is not an exhaustive list.

4.1.5 Level 3

Financial Penalty imposed could be anything within 0-100% of the maximum penalty applicable under the Regulations 2017 (EUR1 – EUR 1,000,000, or equivalent thereof in GBP) and is appropriate where:

1. the business was intentionally uncooperative and obstructive during investigations;
2. the risk of money laundering and/or terrorist financing is high;
3. the value of loss or profit as a result of the transgression is significant/high;
4. the transgression was discovered by the OFT upon investigation and close monitoring/regulation;
5. the business has a long record of non-compliance and transgressions with the OFT/other supervisory authorities; and/or
6. the transgression poses a serious risk to Gibraltar's reputation.

This is not an exhaustive list.

4.2 Other Sanctions

4.2.1 Suspension or revocation of business licences

The OFT has the power under regulation 19 to suspend, withdraw or revoke the Regulated entity's business licence, should they deem this appropriate after assessing the transgression.

This sanction is serious as it has the effect of preventing the business from operating. It is therefore only appropriate for the more serious AML/CFT/CPF infractions, including, but not limited to, situations where:

1. ML/TF has actually been detected through the business;
2. ML/TF issues are endemic in all aspects of the business or in the business's entire structure;
3. The business has had serious AML/CFT/CPF breaches multiple times;
4. The business has failed to implement appropriate AML/CFT/CPF policies despite this having been raised with the business previously;
5. the business has been set up as part of a ML/TF/PF scheme; and/or
6. allowing the business to continue to operate will result in ML/TF/PF taking place.

This is not an exhaustive list.

Revocations shall result in the business's licence being removed permanently after which the business will not be allowed to operate until it reapplies and obtains a business licence.

Suspensions shall result in the business's licence being removed temporarily. In accordance with regulation 19, the period of suspension of the licence must not exceed 18 months. Once the suspension period lapses the licence will once again be activated.

4.2.2 Temporary bans for persons in managerial positions

The OFT has the power under regulation 20 to temporarily ban relevant individuals from managerial posts. In accordance with subregulation (2) the temporary ban may have effect for a maximum of 18 months.

This sanction shall be appropriate where a specific individual is the cause of the AML/CFT infractions. It is appropriate where the individual being banned:

1. is considered responsible for facilitating ML/TF/PF;
2. is considered largely responsible for the business's AML/CFT/CPF contraventions;
3. has been uncooperative and unhelpful with investigations; and/or
4. does not have the capacity to introduce the required AML/CFT/CPF policies.

This is not an exhaustive list.

4.2.3 Direction to the business to take/ refrain from taking action

The OFT has the power under regulation 21 to instruct non-complaint Regulated entities to take or refrain from taking specified steps to cease a transgression or comply



with AML/CFT/CPF obligations. A direction/notice should be served in writing to the relevant entity.

This sanction shall be appropriate where a specific ML/TF/PF issue is identified or where a specific AML/CFT/CPF obligations has not been met, particularly after these have been raised with the business following the consultation phase (Phase 1) and the AML/CFT/CPF team have deemed it necessary to issue a formal direction to the Regulated entity.

5. Phase 4 – Dissemination

The dissemination of information by the OFT should only be carried having first had due regard to issues of confidentiality and only in accordance with its data protection obligations.

Where the OFT discovers facts that could be related to money laundering or to terrorist financing, it shall promptly inform the GFUI in accordance with the duties set out in Section 30A of the Proceeds of Crime Act.

The OFT may then, where appropriate, decide to report the information to other law enforcement authorities and consider whether the transgressions or suspicions should be referred to the prosecuting authorities for criminal prosecution.

In accordance with regulation 31 of the Regulations where the OFT has taken action under regulations 18 to 21, it must consider publishing on its website (and anywhere else it may deem appropriate) a statement specifying-

1. the identity of the Regulated Entity;
2. the type and nature of the Regulated Entity's default or breach; and
3. the action taken by the OFT

Before doing so however the OFT shall conduct a case by case assessment of the proportionality of the publication taking into account all the factors in regulation 31 (3) to (4A).

The objective of this enforcement policy will at all times be to ensure an effective supervisory and enforcement system, which encompasses both commensurate penalties and remedial actions which promote and encourage compliance. As a result of our commitment to deliver the highest possible level of regulation and enforcement, this enforcement policy will be reviewed and updated regularly, and is therefore subject to change.