

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

## Onsite Visit Guidance for:

- Real Estate Agents & Letting Agents (REAs); and
- High Value Goods Dealers (HVGDs).

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### Disclaimer

The information contained in these guidance is not intended to be legal advice and is for guidance and information purposes only. For the definitive authority on your legal obligations regarding Anti-Money laundering, combatting the finance of terrorism and proliferation financing please refer to the Proceeds of Crime Act 2015 and to the OFT's Guidance Notes for REAs and HVGDs.

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# 1. Onsite Visit Guidance

## 1.1 Purpose of this Guidance

This guidance is for:

1. Real Estate Agents & Letting Agents (REAs); and
2. High Value Goods Dealers (to include Potential High Value Dealers and Art Market Participants) (HVGDs),

each a 'Regulated Entity' and together the 'Regulated Entities.

The guidance is designed to help Regulated Entities to understand what they can expect from an onsite visit conducted by the OFT's officers.

Where relevant, references in this guidance to 'you' and 'your' should be interpreted as references to REAs and HVDs.

## 1.2 What is an onsite visit?

An onsite visit is an inspection that takes place at a Regulated Entity's premises. The visit allows the OFT to observe the implementation of AML/CFT/CPF processes, procedures and controls by a Regulated Entity and enables the OFT to reach supervisory conclusions.

## 1.3 What are the aims of an onsite visit?

The OFT's aim is to determine Regulated Entities' understanding of their AML/CFT/CPF obligations and to assess the effectiveness of policies, controls and procedures implemented to meet these obligations. The OFT shall:

1. monitor Regulated Entities' level of compliance with their AML/CFT/CPF obligations;
2. assess Regulated Entities' money laundering, terrorist financing and

proliferation financing (ML/TF/PF) risk; and

3. assess the AML/CFT/CPF compliance culture within Regulated Entities.

This assists the OFT to identify breaches and shortcomings in effectiveness and to give recommendations to raise standards and increase effectiveness.

## 1.4 When is an onsite carried out?

An onsite visit can be carried out for two reasons:

1. as part of the OFT's routine and regular supervision. The OFT will periodically visit every Regulated Entity to gain a wider understanding of its policies and procedures and see how they are carried out effectively. How often these routine visits are carried out is dependent on the Regulated Entity's ML/TF/PF risk as determined by the OFT;
2. in response to particular supervisory concerns the OFT has about the Regulated Entity which it wants to investigate at its premises. This can be:
  - a. due to the Regulated Entity's poor compliance levels or a limited response to rectify identified AML/CFT/CPF shortcomings; or
  - b. where the OFT has concerns about or suspects ML/TF/PF activities.

The urgency, frequency, and timing of onsite visits can differ significantly between Regulated Entities.

## 1.5 What does an onsite visit involve?

An onsite visit shall involve OFT officers:

1. reviewing AML/CFT/CPF documents and records;

2. testing AML/CFT/CPF controls for efficacy; and
3. meeting with the reporting entity's senior management, MLRO and other employees.

### **1.6 Why is the OFT issuing these guidance notes?**

The OFT is issuing these Guidance Notes in order to assist REAs and HVGDs to understand the onsite visit process and so that they can prepare for it accordingly.

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## **2. Before the Onsite Visit**

### **2.1 Pre-visit communications**

OFT officers will provide Regulated Entities with as much notice as possible of their intention to conduct an onsite visit. A minimum of one week's notice will normally be provided, the exception being where there is an identified pressing need to conduct the visit sooner.

### **2.2 Initial liaison and consultation**

OFT officers will liaise by phone with the Regulated Entity's MLRO to arrange a mutually convenient time to carry out the onsite visit where key AML/CFT/CPF personnel and senior management are available.

### **2.3 Notification letter**

Following consultation, an official notification e-mail will be issued to the Regulated Entity confirming the dates of the on-site visit and requesting pre-visit information required by the OFT (see section 2.4).

### **2.4 Providing pre-visit information**

The notification letter shall provide a date by which the Regulated Entity must provide the following information to the OFT:

1. a questionnaire to be completed by the Regulated Entity to provide information that will be reviewed by the OFT's officers before the visit;

2. a list of the Regulated Entities' customer files that the OFT officers will be inspecting during the onsite.
3. Other information and documents may be requested depending on what has previously been submitted by the Regulated Entity to the OFT. This may include, but is not limited to,
  - a. a copy of the latest Risk assessment;
  - b. cash policy;
  - c. AML/CFT/CPF policies and procedures;
  - d. details of any AML/CFT/CPF issues, incidents or breaches
  - e. details of the Regulated Entity's structure, ownership and management.

### **2.5 What is the pre-visit information for?**

The pre-visit information is used to determine some of the discussion topics that will be covered with you during the visit.

The information provided will need to be available to the OFT's officers during the on-site visit.

### **2.6 Are these the only things to be discussed?**

No. Due to the dynamic nature of AML/CFT/CPF, other discussion topics may

include specific ML/TF/PF risk areas or topics that are currently relevant to the Regulated Entity's respective industry by

identifying potential areas for increased/decreased focus.

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## 3. At the Onsite Visit

### 3.1 Who needs to be present?

During the on-site visit the OFT expects the regulated entity's MLRO to attend all meetings. The MLRO should however be supported by relevant senior management and staff where it is considered appropriate to cover:

1. the Regulated Entity's understanding of their AML/CFT/CPF obligations;
2. how the Regulated Entity's has risk assessed its business from an AML/CFT/CPF perspective;
3. the Regulated Entity's AML/CFT/CPF policies, controls and procedures and how appropriate these are to cover the identified risks, including how they are applied (see section 3.2); and
4. how the Regulated Entity ensures (and can evidence) that its staff are aware of all the above and that they are trained to recognize and deal with suspicious activity.

You should also note that the OFT's officers shall request to speak to other staff members involved in the day-to-day activities of the business during the visit.

### 3.2 Testing AML/CFT/CPF policies, controls and procedures

During an on-site visit the OFT officers will seek any necessary clarifications on the Regulated Entity's policies, controls and procedures to ensure that these are well understood and the pre-visit material has not been misinterpreted by the OFT.

They shall also ask the MLRO to guide them through different test transactions. The MLRO will have the opportunity to outline the steps that would be taken from start to finish, including how the Regulated Entity would carry out customer due diligence (CDD) measures. This will allow OFT officers to test how effective the systems are to enable timely identification and review of suspicious transactions and the submission of suspicious activity reports to the Gibraltar Financial Intelligence Unit.

### 3.3 Inspecting client files

OFT officers shall also inspect client and transaction documentation to determine if:

- 1 if CDD is being collected appropriately; and
- 2 to see if the business is using the CDD to determine the transaction's and the client's ML/TF/PF risk.

This shall be requested in advance as part of the pre-visit information request. The OFT officers may however request additional documentation at the onsite without prior warning.

OFT officers would expect to see the following in client and transaction documentation:

1. Evidence of customer risk assessments and appropriate sign-off by senior management and risk rating given.
2. Evidence of all customer due diligence measures carried out commensurate to the customers risks.

3. Identification of beneficial owners and, where applicable, the verification of complex ownership structures.
4. Identification of PEPs, close associate of PEPs and family of PEPs and records of commensurate CDD measures applied.
5. Sanction screening.
6. Evidence of appropriate open source checks carried out (e.g. internet searches) and any conclusions drawn from these.
7. Any applicable internal or external correspondence e.g. emails, file notes, etc.
8. Evidence of ongoing monitoring of customers.
9. Any applicable information relating to potential suspicious transactions that may have occurred i.e. transactions that have been flagged and then subsequently discussed and reviewed.
10. Details of any suspicious activity reports submitted.

When selecting samples the OFT officers shall ensure that this covers

1. Variety of high, medium and low risk clients
2. PEPs, close associate of PEPs and family of PEPs
3. Variety of country of activity, residency and nationality

### **3.4 Open Session**

At the end of the onsite visit we will explain any areas of concern and you will be provided with an opportunity for an open session. The purpose of the open session is to allow you to ask the OFT officers any questions on any aspects of AML/CFT/CPF.

### **3.5 Disruptions**

The OFT officers shall endeavour to keep disruptions to your business to a minimum while the onsite visit is taking place. They shall also try to stick to the timings of the agenda as far as possible. It should be noted however that timings may need to be fluid if conversations or any walk-throughs take longer than expected, or vice versa. Unless the Regulated Entity is a large, complex business, the visit should take less than a day.

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## **4. After the Onsite Visit**

### **4.1 Initial Feedback**

After the visit we will send you written feedback in the form of a draft Onsite Report. The report shall communicate the following:

1. Breaches - Whether there have been breaches of the Regulated Entity's AML/CFT/CPF obligations;
2. Deficiencies - Whether the Regulated Entity has met only part of its AML/CFT/CPF obligations;
3. Best Practice Recommendations - Whether the OFT recommends good practice principles that the Regulated Entity should implement;
4. Risk score - Whether the OFT considers the Regulated Entity carries a high, medium or low risk of ML/TF/PF.

5. Action Plan – A proposed Action plan with recommended actions to be implemented by the Regulated Entity to improve their AML/CFT/CPF effectiveness with milestones for implementation.

6. Enforcement action - A warning of the proposed action that the OFT will take against the Regulated Entity as a result of identified shortcomings.

#### **4.2 Final Onsite Report**

The OFT shall provide you an opportunity to rectify any identified shortcomings before it issues the final Onsite Report. This must be done by a set date.

It shall issue the final On-site Report taking into account any steps taken to rectify any

shortcomings identified, including a revised risk score if this has changed, and any changes in action that was proposed in the draft Onsite Report.

#### **4.3 Interval between visits**

The frequency of onsite visit depends on multiple factors including, but not limited to, the Regulated Entity's:

1. size and complexity;
2. customer and transaction profiles;
3. AML/CFT/CPF risk scores;
4. implementation of recommended actions; and
5. previous record of complying with its ML/TF/PF obligations.

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## **5. Useful Contacts**

### **5.1 Gibraltar Financial Intelligence Unit**

The Gibraltar Financial Intelligence Unit (GFIU) receives, analyses and disseminates financial intelligence gathered from Suspicious Activity Reports (see 5.8 above).

Suite 832, Europort, Gibraltar

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## Schedule - Onsite Visit Flow Chart

