



Circular No. 10 of 2020

Date: 12th September, 2020

Appointment of Compliance Officer and Alternate Compliance Officer under the AML/CFT Act for licensees under the ICSP Act

This Circular is being issued to provide clarification in terms of the requirement of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 ("AML/CFT Act") for all licensees under the International Corporate Service Providers Act, 2003 ("ICSP Act") to appoint a Compliance Officer and a senior official at management level to serve as the Alternate Compliance Officer in the absence of the Compliance Officer.

Following the publication of the AML/CFT Act (Commencement) Notice published on 28th August, 2020, the Anti-Money Laundering Act, 2006 is now repealed and the new AML/CFT Act has come into force. In line with the provisions of the AML/CFT Act, the Financial Services Authority ("FSA") is now the supervisory authority for the reporting entities under its purview. As such, the FSA is issuing this Circular to provide clarification on certain key requirements of the AML/CFT Act regarding the appointment of Compliance Officers.

In line with Section 34(1) of the AML/CFT Act, all reporting entities are required to appoint a Compliance Officer who shall be a senior official at management level or employee with such qualifications and experience as has been prescribed. Furthermore, section 34(3) of the AML/CFT Act also requires reporting entities to appoint a senior official at management level to serve as the Alternate Compliance Officer, to act in the absence of the Compliance Officer. Both, the Compliance Officer and Alternate Compliance officer must be approved by the FSA.

The FSA is calling on all licensees to undertake the necessary steps to comply with the above requirements in the manner specified in the AML/CFT Act. That is, every licensee must, within 30 days from the coming into force of the AML/CFT Act, appoint a Compliance Officer and, in line with section 100(d) of the Act, appoint an Alternate Compliance Officer by 31st January, 2021. It is also important to note that, in accordance with section 100(d) Act, as from 1st February, 2021, every Compliance Officer must be resident in Seychelles.

Every Compliance Officer and Alternate Compliance Officer individuals shall be required to undergo a fit and proper assessment in order for the FSA to determine their fitness and propriety to fulfil the

relevant positions. The criteria utilized by the FSA to determine the fitness and propriety of Compliance Officers has been prescribed by section 23(3) of the Anti-Money Laundering and Countering the Financing of Terrorism Regulations, 2020 (“AML/CFT Regulations”).

The FSA acknowledges the current scarcity of suitably qualified individuals within the local labour market and that the legislation does not provide for adequate transitional timeframe to allow licensees to train their Compliance Officers and Alternate Compliance Officers accordingly to meet the required standard. In order to address the issue, the FSA will be working with individual licensees to administratively provide additional timeframe to each licensee to train their Compliance Officers and Alternate Compliance Officers to the required standard.

The FSA is cognizant of the fact that certain individuals fulfilling the function of Compliance Officer for the purpose of section 23(2) the Financial Services Authority Act, 2013 (“FSA Act”) would also be fulfilling the role of Compliance Officer for the AML/CFT Act, and in certain other cases, individuals who are already determined fit and proper by the FSA are being proposed to fulfil the role of Alternate Compliance Officer. In order to guide licensees vis-à-vis the assessment process for such individuals, Annex 1 to this Circular provides clarification on how such cases shall be treated.

The FSA also wishes to inform licensees that, as per section 8(2) of the AML/CFT Regulations, smaller firms with 5 employees or less may apply to the FSA to have one person appointed as its sole Compliance Officer (i.e. to be absolved from the requirement to appoint an Alternate Compliance Officer). All licensees which qualify for this exception are required to submit a written request to the FSA, providing the reasons (including any supporting documents where relevant) as to why the licensee should be granted with this exception. The FSA will consider such applications on a case by case basis, taking into consideration of the scale, size and complexity of licensees’ business and their specific business model.

Application of the Compliance Officer requirement to Managed Service Providers

The FSA recognizes that Managed Service Providers are prohibited from employing individuals in Seychelles to carry on or manage their business and should instead rely on their managing service provider to carry on their licensed business in Seychelles.

In consideration of the above outlined requirement for Compliance Officers appointed for the purpose of the AML/CFT Act to be a resident in Seychelles, the FSA wishes to inform all Managed Service Providers that the function of the Compliance Officer and Alternate Compliance Officer under the AML/CFT Act should form part of the of human resources being provided by the Managing Service Provider.

Licensees may contact the FSA for any clarification or further information regarding the content of this Circular (or email amlunit.fiduciary@fsaseychelles.sc).

Financial Services Authority

Annex 1

STATUS OF INDIVIDUAL ON FSA'S RECORDS	ACTION TO BE UNDERTAKEN BY LICENSEE
<p>1. The proposed individual is currently determined fit and proper as Compliance Officer under Section 23(2) of the FSA Act¹</p>	<p>Submit a formal letter to the FSA:</p> <ul style="list-style-type: none"> - providing the details of the individual being proposed as Compliance Officer pursuant to section 34(1) of the AML/CFT Act; - confirming that this individual is currently determined to be fit and proper by the FSA; and - declare that the information held by the FSA in respect to the said individual is up to date, accurate and still applicable to the individual. <p>Note: The licensee shall not be required to submit a Personal Questionnaire Form or other supporting documents, unless the FSA identifies that certain supporting documents are outdated or has expired.</p>
<p>2. The proposed individual is currently determined to be fit and proper by the FSA²</p>	<p>Submit a formal letter to the FSA:</p> <ul style="list-style-type: none"> - providing the details of the individual being proposed as Compliance Officer or Alternate Compliance Officer pursuant to section 34(1) and (3) of the AML/CFT Act; - confirming that the individual is currently determined fit and proper by the FSA and indicate the position held; and - Declare that the information held by the FSA in respect to the said individual is up to date, accurate and still applicable to the individual <p>The letter must be accompanied with a Personal Questionnaire Form completed by the individual in respect to the new position as Compliance Officer or Alternate Compliance Officer. The licensee will not be required other supporting documents to the Personal Questionnaire Form, unless the FSA identifies that certain supporting documents are outdated or has expired.</p>
<p>3. The proposed individual has not been determined to be fit and proper by the FSA³</p>	<p>Submit a formal letter to the FSA providing the details of the individual being proposed as Compliance Officer or Alternate Compliance Officer pursuant to section 34(1) and (3) of the AML/CFT Act.</p>

¹ Applications for Compliance Officers only

² Applications for Compliance or Alternate Compliance Officers

³ Applications for Compliance or Alternate Compliance Officers



The letter must be accompanied by a Personal Questionnaire Form completed by the individual and other supporting documents accompanying the Personal Questionnaire Form.