

The Role of the Designated Person and Senior Management – A call to Action!

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AGENDA

- ❖ Defining / Identifying the a Non-Profit Organisation (“NPO”)
- ❖ AML Framework
- ❖ Internal Controls
- ❖ Suspicious Activity Reporting
- ❖ Training
- ❖ Record Keeping
- ❖ Designated Person – Criteria
- ❖ Senior Management:
 - ❖ Best Practices – AML
 - ❖ Best Practices – Governance
- ❖ Now What?

DEFINING / IDENTIFYING AN NPO

- Body of persons natural or legal
- Purpose of charitable, **religious, cultural, educational, social or fraternal**
- **Raises or disburses** funds in pursuance of its objectives

If “yes”. See below

- Register with NPO board and maintain active registration for period of operation
- Notify the Agency of operations and appoint a Designated Person who will be the primary point of contact with the Agency
- Adopt policies and procedures to prevent and forestall ML/TF/PF
- Maintain ongoing relationship with the Agency on AML/CFT matters

AML FRAMEWORK

- **Proceeds of Criminal Conduct Act, 1997 as amended (“POCCA”)**
 - Primary anti-**money laundering and terrorist** financing legislation
 - Criminalises **tipping off**
 - Criminalises **failure to report a suspicion** of money laundering / terrorist financing
 - POCCA is the primary anti-money laundering and counter terrorist financing legislation
- **Anti-Money Laundering and Terrorist Financing Code of Practice, 2008 as amended (“the AML Code”)**
 - Duties of management and staff to combat ML and TF
 - Policies and procedures
 - Best Practices set out at Schedule 1 of the AML Code.

INTERNAL CONTROLS

- Put in place controls to **forestall and prevent money laundering and counter the financing of terrorism**
- Establish and maintain effective system of **internal controls**
- Carry out **due diligence** measures:
- Adopt **risk-based** approach
- **Adopt measures** to ensure that the funds or assets received are not in facilitation or support of money laundering, terrorist financing or proliferation financing



SUSPICIOUS ACTIVITY REPORTING

- once there is a suspicion the donation should be refused by the organisation.
- Internal reports should be made to the Designated Person,
- Designated Person must review and investigate the internal report
- Make a decision on whether or not to externalize the report by way of onward reporting to the Agency
- Ensure that persons working within or representing the organization are aware of the identity of the DP and the procedure for reporting suspicion



TRAINING

- Section 47 – 49 of the AML Code - members/volunteers must be to be trained at least annually in anti-money laundering and countering the financing of terrorism.
- Consider responsibilities and ensure training level is proportionate to those responsibilities
- Must assess the needs of the teams to determine training that is appropriate
- Address any deficiencies identified through training
- **Foster culture of compliance through training**

RECORD-KEEPING

- Regulatory requirement to maintain records
- Due Diligence documentation to be maintained in line with the Code
- Minimum record retention period
- Document policies and procedures for dissemination to relevant persons
- Maintain policies and procedures under annual review
- **Rule of thumb – if it is not recorded, then it was not done**
- Don't lose the value of your work by failing to record it

DESIGNATED PERSON CRITERIA – WHO CAN BE YOUR DP?

The Designated Person must:

- be a person with sufficient seniority within the NPO;
- have the in-depth knowledge of the operations of the NPO in order to effectively carry out the reporting function.
- understanding and knowledge of AML/CFT matters.
- Must have the capacity to adequately investigate and make decisions around internal suspicious activity reports
- attend, at least on an annual basis, relevant training on AML/CFT matters.

SENIOR MANAGEMENT:

Best Practices - AML

Directors and/or managers (or persons appointed or deputed to perform such functions) must:

- act with due diligence and ensure that the organization functions and operates ethically;
- Exercise due care, diligence and probity
- adopt where necessary, proactive verification measures to ensure that their partner organizations and those to which they provide funding, services or material support are not facilitating the activity of criminal groups, including terrorists;
- Ensure that there are appropriate policies and procedures to prevent the use of the organisation's facilities or assets to support or facilitate money laundering, terrorist financing or other financial crime.

SENIOR MANAGEMENT

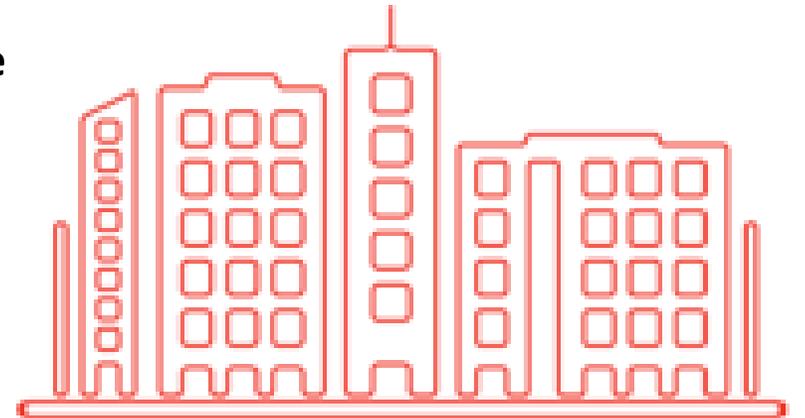
Best Practices – Governance

Where NPO operates with a board, the board must:

- have in place adequate measures to positively identify every board member, both executive and non-executive;
- Meet on a reasonably periodic basis, keep records of its proceedings (including the decisions taken);
- Have in place appropriate formal arrangements regarding the manner in which appointments to the board are effected and how board members may be removed;
- Adopt appropriate measures to ensure the conduct of an annual independent review of the finances and accounts of the organization;
- Adopt policies and procedures which ensure appropriate financial controls over program spending, including programs that are undertaken through agreements with other organizations;
- Ensure that there is an appropriate balance between spending on direct program delivery and administration;

NOW WHAT DO YOU DO?

- Establish the framework – develop policies and procedures, compliance manual, identify designated person
- Implement – distribute compliance manual to all relevant persons and ensure engagement
- Train – arrange training for all staff – starting with baseline AML requirements
- Monitor your progress – assess at least on an annual basis
- Maintain channel of communication with the Agency
- **Bear in mind – board / senior management are ultimately responsible for the success or failure of the AML/CFT/CFP compliance program.**



HOW DO YOU DO THIS?

- Identify resources available and ask the questions:
 - Are they adequate?
 - Are they equipped and up-to-task
 - Fit for purpose?
 - If the answer is “yes” yes, proceed with plan

If the answer is “no”



THANK YOU!

