

To the Senior Executive Officers
of DFSA Authorised Firms

17 March 2010

**Subject: Outcome of Thematic Review – Anti Money Laundering and
Counter Terrorist Financing**

Dear SEO

During the fourth quarter 2009, the DFSA conducted a thematic review in relation to compliance with DFSA's Anti Money Laundering (AML) and Counter Terrorist Financing (CTF) requirements for Authorised Firms (Firms) and Ancillary Service Providers (collectively, entities).

In particular, this thematic review focussed on:

- assessing the responsibilities of Money Laundering Reporting Officers (MLROs) for Firms and Anti Money Laundering Reporting Officers (AMLOs) for Ancillary Service Providers (ASPs). For the purpose of this letter, we will refer to both persons as MLROs.
- the adequacy of an entity's AML training and arrangements to ensure Employees are aware of recent AML updates and matters.

A representative cross-section of entities was reviewed. We again thank those entities for their co-operation and assistance during this thematic review.

1. Overall Findings

Overall, MLROs appear to have sufficient seniority and authority to ensure that their respective entity is complying with DFSA's AML requirements. Further, entities are providing updated AML information to Employees through both AML training and by way of periodic updates. **On page 2, we highlight some areas where we noted some deficiencies.**

Our SEO letter dated 23 June 2009 reminded entities of the importance of United Nations Security Council sanctions and resolutions, and customer due diligence. This continues to be of high importance to the DFSA. In particular, we note the continued need for entities to conduct enhanced due diligence on any customer posing a high or elevated risk. A Firm's risk based approach should address items such as jurisdictional risk, customer risk and product/service risk.



2. Specific Findings

A. Responsibilities of the MLRO

Our theme review focussed on testing an MLRO's responsibilities including:

- (i) their involvement with the day-to-day operations for compliance with the entity's AML policies, procedures, systems and controls. In particular, their role in undertaking and/or reviewing the money laundering risk assessment conducted for proposed customers and what if any enhanced due diligence investigations are conducted for higher risk customers, services and transactions;
- (ii) being a primary contact person for receiving and considering any internal Suspicious Transaction Report (STR) and where necessary, making an external STR to the Anti Money Laundering Suspicious Cases Unit (AMLSCU) of the UAE Central Bank and the DFSA; and
- (iii) establishing and maintaining an appropriate AML training programme and adequate awareness arrangements.

In the main, entities and their MLROs are taking reasonable measures to identify all its clients, their beneficial owners and signatories to an account.

During the thematic review, instances were noted where there was insufficient documentary evidence as to the origin of funds and source of wealth/income maintained on customer files by some Firms. This has since been rectified, but the information should have been collected at inception. We note there appears to be differing practices between Firms as to what information is requested from customers in the absence of documentary evidence. This was particularly the case for customers such as private companies or family businesses conducting activities such as import and/or export businesses from a higher risk jurisdiction.

A Firm should analyse whether a person's income and wealth accumulation are consistent with their proposed level of income and investments. If not, a feasible reason (e.g. inheritance) for the discrepancy should be verified.

Where an entity considers that a customer poses a higher or elevated risk, they should carry out enhanced due diligence in respect of that customer. All entities should have criteria in order to classify customers as low, medium or high risk. A simplified, standard or enhanced form of due diligence should be applied depending on the risk categorisation. Some examples of such factors are as follows:

- a. the jurisdiction of the customer, particularly a higher risk jurisdiction as identified by FATF;
- b. if payments are received from a non-FATF member jurisdiction, particularly a higher risk jurisdiction as identified by FATF;



- c. types of business (general importers and exporters, foreign exchange brokers and dealers, art and jewellery dealers, real estate development, or gambling related);
- d. if the amount of monies involved is large;
- e. if the customer is a Politically Exposed Person; or
- f. if the customer is engaged through a manner which did not include a face-to-face meeting.

Where a customer is classified as high risk, at a minimum it is expected that the Firm should seek documentary evidence of the origin of funds and source of wealth/income in addition to the customer's identity.

As part of adopting sound practices, we note the following:

- a. entities should obtain and make appropriate use of relevant UN Security Council sanctions or resolutions;
- b. an MLRO should conduct periodic and transaction monitoring reviews of high risk customers as part of conducting their ongoing due diligence. To ensure the completeness of customer files, such a review could focus on what information is held in relation to the customer's origin of funds and source of wealth/income; and
- c. in conducting due diligence, some entities rely on a centralised team within the entity's head office and/or other offices. This team is a dedicated resource comprised of persons with AML expertise. In such circumstances, we would expect that an MLRO has:
 - (i) access to all records evidencing compliance with relevant AML requirements. If such records are kept on-line, then the MLRO should have access to such facilities from the DIFC; and
 - (ii) an audit trail of all relevant communications and information provided by the entity to any centralised AML team or qualified professional conducting customer due diligence checks.

B. Adequacy of AML Training and Periodic Information

In the main, entities are providing appropriate and tailored AML training on an annual basis to relevant Employees. Further, some entities are providing updated periodic information by way of email or bulletins in relation to money laundering risks, trends and techniques.

The review highlighted that entities provide AML training through various formats. These include on-line program/tutorials offered by external service providers,



specifically designed and tailored group wide AML on-line tutorials and class room style Powerpoint presentations.

AML Training included the following issues:

- a. what is money laundering and what is the money laundering process – three phases: placement, layering and integration;
- b. legal framework, offences and penalties (including UAE Federal Laws, Notices and Circulars);
- c. the entity's customer due diligence requirements;
- d. examples of suspicious transactions and the process for reporting suspicious transactions;
- e. case studies, scenarios with questions and answers relating to conducting an AML risk assessment;
- f. the role of the MLRO; and
- g. regulatory actions taken against financial service entities for deficient or no AML systems and controls.

Despite these findings, entities should not become complacent with their current AML systems and controls. Entities should actively monitor compliance with DFSA Laws and Rules and ensure the ongoing adequacy of their monitoring programmes at all times.

Control of AML/CTF risks continues to be a top priority of the DFSA. Consequently, the adequacy of AML systems and controls should be a high priority of firm management, and this area will continue to be closely monitored by the DFSA.

Should you have any questions or require clarification regarding the foregoing, please contact your DFSA Relationship Manager.

Sincerely,



Michael J. Zamorski
Managing Director, Supervision

