Know Your Customer (KYC), Customer Due Diligence (CDD) and Enhanced Due Diligence (EDD)

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Agenda

• Introduction
• KYC Principles and Obligations.
• The levels of KYC/CDD.
• Embedding KYC into operational procedures.
• Discussion - local issues.
Introduction

• Objectives of AML Industry Seminars:
  – have open and transparent communication with firms operating in the QFC;
  – promote practical discussion on the implementation of AML requirements; and
  – create a platform for other speakers (such as the Qatar Financial Information Unit) to liaise with QFC firms.
Introduction

• Potentially devastating social and financial effects of money laundering and terrorist financing.
• It is a joint effort between governments, regulators, institutions, law enforcement etc to prevent money laundering and terrorist financing.
• Regulatory Authority has a statutory objective to minimise the extent to which business carried out by Firms can be used in connection with financial crime. Achieve this through setting standards for firms through regulations and rules and supervising Firm’s compliance.
• Firms should have appropriate policies, procedures, systems and controls to detect and prevent incidences of financial crime (including money laundering) and that can address the ever changing strategies of money launderers and terrorist financiers.
KYC Principles and Obligations
KYC Principles and Obligations

1. Identify customer and verify identity

2. Identify beneficial owner and verify identity

3. Develop customer profile:
   a. expected business
   b. source of wealth
   c. origin of funds

4. Ongoing monitoring:
   a. KYC data
   b. transactions
KYC Principles and Obligations

- Responsibility of the Firm to implement appropriate policies and procedures to meet the obligations under Qatar law and QFC AML legislation.
- Guidance and good practice principles:
  - Guidance in Regulatory Authority AML Rulebook.
  - Joint Money Laundering Steering Group Guidance.
  - Basel Committee on CDD for Banks.
- Key considerations:
  - Embed into documented client on-boarding and customer acceptance procedures.
  - Reflect the different types of customers and risks.
  - Documented policy on acceptable verification documentation.
  - Consider validity of the documents, vulnerability to fraud.
  - Consider STR if fails the know your customer process.
KYC Principles and Obligations

1. Identify customer and verify identity

Key requirements under QFC Legislation

- Article 9(1): “establish and verify the identity of any Customer with or for whom the Relevant Person acts or proposes to act”
- Article 9(2): “must obtain sufficient and satisfactory evidence having considered… risk assessment… AML rulebook”
- A1.1.1(A): “obtain and verify the true full name or names used and the current permanent address”
- A1.2.1: “verify that it is dealing with a true and existing Person”
- App1 – Guidance regarding the type of information and evidence which should be obtained to establish and verify the identity of a Customer.
KYC Principles and Obligations

1. Identify customer and verify identity

**Individuals**

**Information**
- Full name
- Official ID number
- Full address
- Telephone, fax, email
- Date and place of birth
- Nationality
- Occupation, employer

**Documentation / Verification**
- Documents issued by government agencies: current signed passport, current signed national ID card, drivers licence (with photo and DOB).
  - Tenancy agreement, utility bill, bank statement, letter from public authority, home visit.
  - Contacting customer by telephone, letter, email.
  - Introduction or personal reference from respected customer known personally to management or trusted member of staff.
- Firm takes copy of original documentation and mark with ‘original sighted’
  - If only copy provided it should be certified by lawyer, notary, accountant, post office etc.
KYC Principles and Obligations

1. Identify customer and verify identity

Institutions

Information
- Legal name
- Trading name
- Registered / trading address
- Contact numbers, website, email
- Registered number
- Directors / beneficial owners
- Authorised signatories

Documentation/verification
- Certificate of incorporation, memorandum and articles of association, latest report and accounts, company public search
- Visit company premises, contact company by telephone, email
- Prior bank references
- Resolution of board of directors (identifying authority to open / transact account)
- Independent undertaking from reputable lawyers/accountants confirming documents / legitimacy of business

Exact requirements and verification documents will depend on type of institution, e.g.:

Publicly traded companies
“designated exchange” – well regulated market. No need to verify individual shareholders and directors.

Private/unlisted
- Understand structure and ownership, review public information, company registry search, regulatory body, auditor
- Shareholders/controllers identity
- List of all shareholders >5%, identity of shareholders > 10%
KYC Principles and Obligations

2. Identify beneficial owner and verify identity

Key requirements under QFC Legislation

• Article 9(4): “establish whether the Customer is acting on his own behalf or on the behalf of another person”

• Article 9(5): “establish and verify the identity of both the Customer and any other person on whose behalf the Customer is acting or appears to be acting. This includes verification of the Beneficial Owner of the Person and/or of any relevant funds, which may be the subject of a Transaction to be considered. ....obtain sufficient and satisfactory evidence of all of their identities”.

• AMLR 3.8.1: Statement from customer – whether acting on own behalf. Statement from “the parties” confirming the statement made by the Customer.
KYC Principles and Obligations

2. Identify beneficial owner and verify identity

• Determine if acting on own behalf.
  • get statement/declaration from customer (separate or as part of account opening)

• If purporting to act on behalf of another person – determine if authorised to do so and get statement from that person that acting on his behalf.

• Verify the identity of underlying customer.
KYC Principles and Obligations

2. Identify beneficial owner and verify identity

- If customer **individual**:
  - doing transaction on behalf of someone else (account opened by professional intermediary e.g. lawyer), however consider intermediary e.g. regulated fund manager – might fall within exemptions under AMLR 3.9 or A1.1.2.
  - Need to identify underlying customer – obtain identification documentation.
- If customer is **institution, other entity e.g. trust**
  - understand structure of the institution, arrangement.
  - documentary evidence of legal entities.
  - identify the natural person/s who have ultimate ownership/control incl. directors and obtain documentary evidence of identity.
  - List shareholders >5%, identity documentation 10% or more.
KYC Principles and Obligations

3. Develop Customer Profile

• Develop a profile of the Customer and their expected transactional activity to provide basis for recognising unusual activities:
  • Nature and level of business
  • Origin of funds
  • Source of wealth

• Also assists in building the risk profile.
KYC Principles and Obligations

3. Develop Customer Profile

• A1.1.1(B): Nature and level of business:
  • information about nature of business that the Customer expects to undertake;
  • expected or predictable pattern of transactions;
  • purpose and reason for opening the account/establishing business relationship;
  • anticipated level and nature of activity to be undertaken.

• Anticipate the type, number and frequency of transactions.
• Is the information being given plausible? Are the envisaged transactions rational in the context of the customer’s business / personal activities? If international business, does the customer have obvious reasons for doing business in that country?
KYC Principles and Obligations

3. Develop Customer Profile

- A1.1.1(C) origin of funds:
  - how payments are to made;
  - from where and by whom.
- A1.1.1(D) source of wealth:
  - how are funds acquired (e.g. income etc.),
  - Need to know the customer’s employment, salary, other income (investments etc).
  - Is information plausible and verifiable?
  - Is information incompatible with what’s known about the customer – is salary/income inline with employment, investments held etc.
  - “business man” – these details aren’t verifiable but CEO of XYZ Ltd can be checked.
KYC Principles and Obligations
4. Monitoring

- Two key components:
  - keeping KYC information accurate and up-to-date;
  - scrutinizing transactions.
- Keeping information accurate and up-to-date [Article 9(10) AMLR3.8.2-3, AMLR A1.1.5]
- Determine when to review data
  - During trigger event – changes to KYC policy, significant transaction, material change in business relationship, material change in nature or ownership of customer.
  - KYC information is dynamic - documentation and evidence should remain valid (e.g. passport expires), change employment, personal situation (marriage, children etc).
- How often to review? Risk based.
The levels of KYC/CDD
Levels of KYC / CDD

• Simplified due diligence.
• Standard due diligence.
• Enhanced due diligence.

• Applied to:
  • Customer identity and verification
  • Customer Profile – determining nature and level of business / origin of funds / source of wealth.
  • Ongoing monitoring.
Levels of KYC / CDD

Simplified due diligence

• [3.9.1]: Not required to establish identity of customer if the customer if another Authorised Firm or another Relevant Person.

• [A1.1.2–A1.1.4]: May comply with KYC without fully complying with the rules if...
  • Customer if Regulated Financial Institution authorised in jurisdiction which has effectively implemented the FATF recommendations on ML or subsidiary to which this applies and AML laws also apply to that subsidiary…..”
  • Confirmation that financial institution is a regulated financial institution which this rule applies.

• Cannot be applied when there is a knowledge or suspicion of money laundering or terrorist financing.
Levels of KYC / CDD

Standard due diligence

- The basic information required unless SDD or EDD should be applied.
  - True full name/address etc.
- Exact due diligence depends upon type of customer:
  - Public registered
  - Private corporate
  - Individuals
  - Unincorporated businesses or partnerships
  - Trusts, nominees, fiduciaries
  - Supra-national organisations/ government departments/ local authorities/ universities
  - Clubs, co-ops, charities, social, professional societies
Levels of KYC / CDD

Enhanced due diligence

• [Article 15] - Assess ML risks and perform enhanced due diligence investigations for higher risk products, services and customers.

• Due to increased risk and likelihood of money laundering, standard evidence and monitoring may not be sufficient. Better KYC (including customer profile) = better monitoring and scrutiny.

• A2.1 guidance:
  • Supplementary measures to verify, additional documentary evidence, certify documents.
  • require initial transaction to be carried out through account in customer name.
  • establish telephone contact.
  • legal opinion, introduction certificate from another regulated financial institution.

• Take steps to verify source of wealth, origin of funds.
  • intensified monitoring of transaction and accounts.
Embedding KYC into operational procedures
Operational procedures

**AML/KYC Policy**
sets the tone for the Firm’s approach.

**AML/KYC Manual / Handbook**
identifies obligations and approach to compliance

**Operational Procedures**
Embed the requirements to meet compliance into day to day processes e.g. customer acceptance, customer account opening, transaction monitoring, KYC monitoring.
Operational procedures

- Documented procedures – ensure consistency and embed controls embedded into day to day processes.
- Clear and documented AML roles and responsibilities:
  - Front office staff (relationship managers, customer facing)
  - Operations
  - AML department/MLRO
  - Compliance
  - Internal audit
  - Senior management.

- Also important that staff understand why they are doing something – training and awareness.
Operational procedures

- For example: Account Opening Procedures
  - Application form.
  - Checklist of information required/acceptable documentation.
  - Authentication of documents.
  - Risk assessment.
  - Sanctions lists, adverse information.
  - Developing customer profile.
  - Completed by front office staff / customer facing.
  - Quality assurance.
  - EDD/approvals by senior management for PEPs /higher risk
  - MLRO reviews (all or on risk based sample).
Discussion - local issues
Local issues

• Customer reluctance to provide information and documentation.

• Lack of documents ordinarily available in other jurisdictions (utility bills, audited financials, street addresses / PO Box numbers.

• Perception of discrepancies between local requirements and QFC requirements

• Others?
Conclusion

• Always keep in mind the intended outcome and objectives of KYC.

• Risk based approach – Simplified/Standard/Enhanced.

• Ensure staff understand KYC and its purpose but also make it easy for them to know the Firm’s policy and procedures on what is required.
Next seminars

• October 2009 – Licensed Professional Firms.

• December 2009 – Suspicious Transaction Reporting – in conjunction with Qatar Financial Information Unit.
QUESTIONS