

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);
- Art Market Participants (AMPs); 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**);
2. Art Market Participants (**AMPs**) and
3. 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, AMPs and HVDs.

1.2 Purpose and Aims of an Onsite visit

An onsite visit, also known as an onsite inspection, involves OFT officers attending the premises of a Regulated Entity to evaluate its compliance with anti-money laundering, countering the financing of terrorism, and countering proliferation financing (AML/CFT/CPF) obligations. These visits are a critical component of the OFT's supervisory framework, allowing for direct observation of how compliance measures are implemented and enabling the OFT to make informed supervisory assessments.

The aims of an onsite visit are to:

1. Evaluate the Regulated Entity's understanding and implementation of its AML/CFT/CPF obligations.

2. Monitor general compliance through the examination of relevant policies, procedures, systems, and internal controls.
3. Assess the level of ML/TF/PF risk posed by the Regulated Entity.
4. Identify and address any issues or weaknesses that may be of concern to the OFT.
5. Examine the overall AML/CFT/CPF compliance culture within the entity.

Additionally, the supervisory team may use the visit to confirm whether the Regulated Entity holds a valid business license. If it is found that a Regulated Entity is operating without a valid business license, this may result in a separate notification. While this does not interfere with the assessment of AML/CFT/CPF compliance, it will prompt further action regarding business licensing obligations.

Regulated Entities are therefore encouraged to ensure that they are properly licensed and have effective processes in place to meet all applicable legal and regulatory obligations.

1.3 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 due to:
 - a. the Regulated Entity's poor compliance levels;;
 - b. the Regulated Entity's response to rectify identified AML/CFT/CPF shortcomings; and/or
 - c. 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.

1.4 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 Regulated Entity's senior management, MLRO and other employees.

1.5 Why is the OFT issuing these guidance notes?

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

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 weeks' notice will normally be provided, the exception being where there is an identified pressing need to conduct the visit sooner.

2.3 Notification e-mail

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 2.3). The Regulated Entity must acknowledge receipt of e-mail.

2.2 Providing pre-visit information

The notification e-mail 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 covering the period requested by the OFT officers.

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; and
- e. details of the Regulated Entity's structure, ownership and management.

2.3 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.

2.4 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.

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 may 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.

The following information, should be typically present in the CDD files for each client, and the Regulated Entity must ensure that these documents are available for review (please note this is not an exhaustive list):

1. **Evidence of ML/TF/PF Client Risk Assessment** – Documented risk assessment that addresses money laundering, terrorist financing, and proliferation financing risks.
2. **Evidence of Sign-Off by Senior Management (where appropriate)** – Signed confirmation that senior management has reviewed and approved the risk assessments and other critical elements.
3. **Evidence of All CDD Documentation Collected Through the Business Relationship** – Documentation that proves that the necessary CDD information was collected and verified at the outset and during the business relationship.

4. **Source of Funds (SOF)** – Documentation verifying the source of funds for the transaction where necessary
5. **Source of Wealth (SOW)** – Documentation verifying the source of wealth for the client.
6. **For Corporate Clients** - Evidence of Beneficial Owners (BO) and Controllers – Clear documentation identifying the beneficial owners and controllers of the corporate client.
7. **Evidence of PEP Screening** – Documentation showing that Politically Exposed Persons (PEP) screening has been conducted.
8. **Evidence of Sanctions Screening** – Proof that sanctions checks have been carried out, including relevant screening results.
9. **Proof of Address and Identification** – Copies of official documents verifying the client's identity and address, such as utility bills or government-issued IDs.
10. **Any Relevant Internal or External Correspondence** – Communication records that may provide insight into the client's activities or business relationship.
11. **Evidence of Ongoing Monitoring** – Proof that ongoing monitoring has been conducted throughout the client relationship, ensuring that transactions are consistent with the established profile.
12. **Details of Any Internal or External Suspicious Activity Reports (SARs) Pertaining to the Client** – Documentation related to any SARs that have been raised in relation to

the client, along with any further action taken.

The Regulated Entity must ensure that the CDD files are complete and up to date, as these documents are essential for evaluating the effectiveness of the entity's AML/CFT/CPF practices.

The OFT officers will request the following;

1. For Initial Visits: A list of all transactions from the last 12 months.

2. For Follow-Up Visits: A list of all transactions since the last OFT visit.

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.

4. After the Onsite Visit

4.1 Initial Feedback

Following the visit, the OFT will send you written feedback in the form of a draft Onsite Report. You will be given two weeks to review the draft and make any representations or comments.

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

Once the two-week representation period has passed, the OFT will issue the final Onsite Report, taking into account any representations received. The final report may include a revised risk score and

changes to the proposed actions based on the feedback.

You will then have a further two weeks to make final representations regarding the content of the final report. This second representation period does not include an opportunity to rectify shortcomings, but allows the Regulated Entity to respond formally to the finalised findings and conclusions.

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.

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).

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Schedule - Onsite Visit Flow Chart

