

THE COMPLIANCE COMMISSION

ANTI-MONEY LAUNDERING AND COMBATting THE FINANCING OF TERRORISM EXAMINATION FORM

LAWYERS

A counsel and attorney in The Bahamas under the Legal Profession Act, Chapter 64, is subject to Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) regulations, which includes submitting to periodic examination if he meets any of the following criteria under Section 3 (1) (k) of the Financial Transactions Reporting Act, Chapter 368 (FTRA):

“ any arrangement provided as a business service for a client where the counsel and attorney receives funds for the purpose of:

- (1) making a deposit or investing on that client's behalf in circumstances where the lawyer acts as an intermediary or conduit for the entry or placement, or the movement, or removal, of such funds into, within or out of the financial system; or***
- (2) *settling a real estate transaction- (i.e. the sale or purchase of real property); or***
- (3) simply holding such funds in his clients' account on the client's behalf and such funds are not for professional fees, disbursement, expenses or bail”.***

'Settling a real estate transaction' is defined in the definition section on page 8.

If a counsel and attorney does not provide the preceding services, then he is not a financial institution for AML/CFT purposes and is not required to submit to the examination. In such a case, the counsel and attorney should complete and submit the declaration found at the bottom of the Compliance Commission's (the Commission) registration form (Form R-1A).

Where there is doubt as to whether the counsel and attorney is a financial institution, the counsel and attorney should contact the Commission's Inspector before the examination commences.

Instructions

Please read all instructions carefully before completing this form

What is the purpose of this form?

The purpose of this form is to assess the level of compliance of financial institutions with the requirements of Bahamian AML/CFT laws and rules.

Who should complete this form?

This form may be used by the Commission and Accountants duly appointed to act as agents of the Commission to conduct on-site examinations. This form may also be used by a senior staff member of the financial institution for the purpose of an off-site examination.

Please indicate below the type of examination to be conducted:

Compliance Commission Examiner

Follow-up On-Site Examination

Random On-Site Examination

Special On-Site Examination

Appointed Accountant

Routine On-Site Examination

Authorized Senior Staff Member of Financial Institution

Off-Site Examination

If this is an Off-Site examination, please state name and position of person completing the form below.

Name

Position

Notes to the examiner:

1. Examiners are reminded that all examinations are risk-based. The examination **should not** be completed if the financial institution does not have **written risk-based AML/CFT Policies and Procedures** and has not categorised its facilities into "high" and "low" risk for money laundering and terrorist financing. Please advise the Commission of this immediately.
2. The financial institution's most current risk-based AML/CFT Policies and Procedures should be used to conduct the examination.
3. An examination form should be completed for each branch of a financial institution, where the records of the branches are separate. Records include client identification, verification and financial transaction documents relating to financial services provided under Section 3(1)(k) of the FTRA.
4. Examination forms should be type-written and returned to the Commission within ten (10) working days subsequent to the completion date of the examination.
5. **The examination year follows the calendar year and commences 1st January of each year and ends 31st December.**
6. If a financial institution has not submitted a routine examination for more than one year, the examination period should be at the date of the financial institution's last examination up to the date of the current examination.
7. Definition of key terms on the examination form can be found on page 8 of this form and a sample guide on the selection of facilities to be examined can be found on page 9.

PART I:
PARTICULARS OF THE BUSINESS

1. **Name of Firm:** _____

2. **Business License #:** _____

3. **Does the business have a branch or branches?** Yes No

If "Yes" please list location of the branch(es) below and indicate the main branch¹:

4. **Are the client records of branches combined with another branch²?** Yes No

5. **Location Being Examined:** Main Branch Other Branch

6. **Street Address:** _____

7. **Postal Address:** _____

8. **Telephone #:** _____ **Fax #:** _____

9. **E-mail Address:** _____

10. **Number of Staff:** _____

11. **Number of Partners and Directors over the last 12 months:** _____

PARTNERS/ DIRECTORS¹

<u>Name</u>	<u>Position</u>	<u>Appointment Date</u>	<u>Cessation Date</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

12. **Number of Lawyers with the firm over the last 12 months?** _____

LAWYERS¹

<u>Name</u>	<u>Date Called to BAR</u>	<u>Starting Date</u>	<u>Ending Date</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

¹ Please attach a list of other branches, Partners, Directors or Lawyers if the space provided is not adequate.

² If each branch keeps its client records separate from the other branches, a separate examination should be conducted for each branch and a separate FORM I-7LAW should be completed for each branch.

<p style="text-align: center;">PART II:</p> <p style="text-align: center;">RISK-BASED CUSTOMER VERIFICATION PROCEDURES AND RECORDS</p>	<p style="text-align: center;">Points Scored (for Commission use only)</p>
<p>13. Are there written AML/CFT policies and procedures that categorise facilities into “<u>high</u>” or “<u>low</u>” risk for money laundering and state the criteria used for the categorisation?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/> Date Issued? _____ <small style="margin-left: 400px;">Day/ Month/ Year</small></p> <p>Please attach the financial institution’s most recent AML/CFT policies and procedures if it has not been submitted to the Compliance Commission.</p> <p><i>N.B. The examiner should <u>not</u> proceed with the examination if the financial institution has not categorised its facilities into either “high” or “low” risk for money laundering.</i></p>	<p>13.</p> <p>_____</p>
<p>14. Total number of facilities on record <input style="width: 50px; height: 25px;" type="text"/></p> <ul style="list-style-type: none"> • Number of high risk facilities <input style="width: 50px; height: 25px;" type="text"/> • Number of low risk facilities <input style="width: 50px; height: 25px;" type="text"/> 	
<p>15. Total number of facilities examined³ <input style="width: 50px; height: 25px;" type="text"/></p> <ul style="list-style-type: none"> • Number of high risk facilities <input style="width: 50px; height: 25px;" type="text"/> • Number of low risk facilities <input style="width: 50px; height: 25px;" type="text"/> 	
<p>16. Has each facility holder for the facilities examined been verified in compliance with the financial institution’s policies and procedures for customer verification?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>16.</p> <p>_____</p>
<p>17. What number and percentage of facilities examined <u>did not</u> comply with question 16?</p> <p># <input style="width: 50px; height: 25px;" type="text"/> % <input style="width: 50px; height: 25px;" type="text"/></p>	<p>17.</p> <p>_____</p>
<p>18. Please indicate how many large cash transactions⁴ have been conducted by a facility holder or a <u>non-facility holder</u> during the current examination period.</p> <p style="text-align: right;"><input style="width: 50px; height: 25px;" type="text"/></p>	

³ Please see Sample Guide on page 9 for guidelines on selecting a sample of facilities to be examined.

⁴A **large cash transaction** refers to any cash transaction in excess of \$15,000 (see Definition Terms on page 8).

		Points Scored (for Commission use only)
19.	What percentage of transactions identified in question 18 were verified in accordance with the financial institution's AML/CFT policies and procedures? <input type="text"/>	19. _____
20.	What percentage of transactions identified in question 18 relied upon confirmation letters that verification had been carried out by another financial institution? <input type="text"/>	
PART III: TRANSACTIONS RECORD KEEPING PROCEDURES		
21.	What is the aggregate number and percentage of the facilities examined that <u>did not</u> have all transaction records as required by Section 23 of the FTRA? # <input type="text"/> % <input type="text"/>	21. _____
PART IV: SUSPICIOUS TRANSACTIONS REPORTING PROCEDURES		
22.	Name of Money Laundering Reporting Officer (MLRO) _____	22. _____
23.	Has he/she confirmed he/she is aware of his/her responsibilities under the FI(TR)R, Chapter 367? Yes <input type="checkbox"/> No <input type="checkbox"/>	23. _____
24.	Is the MLRO registered with the FIU? Yes <input type="checkbox"/> No <input type="checkbox"/> If "Yes", what is the date of registration? _____	24. _____
25.	Name of Compliance Officer, if different from MLRO _____	

	Points Scored (for Commission use only)
<p>26. Has the Compliance Officer confirmed that he/she is aware of his/her responsibilities under the FI(TR)R, Chapter 367?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>26.</p> <p>_____</p>
<p>27. How many suspicious transactions reports have been made to the MLRO during this current examination period^s?</p> <p style="text-align: right;"><input type="text"/></p>	
<p>28. How many suspicious transactions reports have been made to the FIU during this current examination period?</p> <p style="text-align: right;"><input type="text"/></p>	
<p>PART V:</p> <p>TRAINING AND STAFF AWARENESS PROCEDURES</p>	
<p>29. Has any staff member participated in AML/CFT training conducted by the firm during the examination period?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If "Yes", please attach list of participants and date(s).</p>	<p>29.</p> <p>_____</p>
<p>30. Has any staff member participated in AML/CFT training conducted by the Commission or another organisation either locally or abroad during the examination period?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If "Yes", please state organisation(s), attach list of venue(s), participant(s) and date(s).</p>	<p>30.</p> <p>_____</p>
<p>31. Do the most current Guidelines for the FIU and the Commission's most current Code of Practice form part of the AML/CFT training and awareness procedures for staff?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>31.</p> <p>_____</p>

DEFINITION TERMS

Definitions for the terms used on this form are set out below.

“**AML**” refers to anti-money laundering

“**Cash**” refers to coins, paper money, travelers’ cheques, postal money orders and other similar bearer type negotiable instruments

“**CFT**” means combating the financing of terrorism

“**Facility**” refers to any account or arrangement that is provided by a lawyer to a client and by, through or with which the client may conduct two or more transactions whether or not they are so used. A facility in the case of a lawyer is essentially any of those services that would qualify him to be a financial institution set out in Section 3(1) (l) of the Financial Transactions Reporting Act, Chapter 368. A facility also specifically includes provision of facilities for safe custody, such as safety deposit boxes.

“**Facility holder**” refers to the client and any person who is authorized to issue instructions in relation to how transactions should be conducted through a facility, provided by the lawyer

“**Internal AML/CFT Compliance Reviews**” refer to a documented assessment of a financial institution’s risk-based AML/CFT Policies and Procedures. An internal AML/CFT compliance review assesses the adequacy and effectiveness of:

- procedures for record keeping by, for example:
 - sampling high and low risk customer identification and verification records for completeness and accuracy;
 - sampling verification records for large cash transactions; and
 - testing electronic monitoring systems.
- procedures for reporting suspicious transactions;
- the written AML/CFT policies and procedures document in meeting the obligations of AML/CFT legislation and guidelines (including updates and amendments); and
- the staff AML/CFT training program in terms of the frequency of training and the staff’s knowledge of AML/CFT legislation and the financial institution’s AML/CFT policies and procedures

“**Large Cash Transaction**” refers to any cash transaction in excess of \$15,000 that is conducted by a facility holder or a non-facility holder; in relation to any facility held by a lawyer. Examples of this may be where;

- a facility holder pays a sum in cash in excess of \$15,000 to the lawyer to be applied for the benefit of himself or
- where a facility holder pays a sum in cash in excess of \$15,000 to the lawyer to be applied for the benefit of non-facility holder or
- where a facility holder pays a sum in cash in excess of \$15,000 to the lawyer to be applied for the benefit of another facility holder or
- where a non-facility holder pays a sum in cash in excess of \$15,000 to the lawyer to be applied for the benefit of a facility holder.

“**ML/TF**” means Money Laundering and Terrorist Financing

“**FTRA**” refers to the Financial Transactions Reporting Act, Chapter 368

“**FTRR**” refers to the Financial Transactions Reporting Regulations, Chapter 368

“**FIU**” refers to the Financial Intelligence Unit

“**FI(TR)R**” refers to the Financial Intelligence (Transactions Reporting) Regulations, Chapter 367

“**Transaction**” refers to any deposit, withdrawal, exchange or transfer of funds in cash, by cheque, payment order or other instrument, and includes electronic transmissions of funds

THE COMPLIANCE COMMISSION

Inspection Unit

SAMPLING GUIDE

This guide is for the specific use of persons conducting AML/CFT examinations on behalf of the Compliance Commission.

The examiner should use this guide to determine the number of facilities that should be examined during the examination.

The sample should include more high risk facilities than low risk facilities. The sample should also include more recently established facilities than facilities established during previous examination periods.

# OF FACILITIES	PERCENTAGE	MINIMUM/ MAXIMUM NUMBER EXAMINED
1-50	30%	3 / 15
51-100	25%	12 / 25
101-200	20%	20 / 40
201-300	15%	30 / 45
301-500	10%	31 / 50
501-700	6%	35 / 49
701-1,000	6%	42 / 60
1,000-1,500	5%	50 / 75
1,501-2,000	4%	60 / 80
2,001-5,000	2%	40/100
5,001-10,000	1%	50/100
10,001-25,000	.5%	50/125
>25,000	.25%	*