



By Email

31 March 2015

To the Senior Executive Officers of DFSA Authorised Firms

Dear SEO,

Annual Anti-Money Laundering (AML) Return

As you are aware, the Anti-Money Laundering (AML), Counter-Terrorist Financing (CTF) and Sanctions Module of the DFSA Rulebook (AML Module) was amended in July 2013. One of the new provisions contained in the AML Module was the requirement to lodge with the DFSA an Annual AML Return (AML Return), which is due within four months of an Authorised Firm's year end.

During 2014, the DFSA received and analysed the first submission of AML Returns lodged under the new provisions. The DFSA will publish a report setting out the details of its findings shortly. In assessing these first submissions, the DFSA deliberately adopted a more lenient approach in feedback and criticism. Moving forward however, given the guidance and feedback provided during the process and in this letter, the DFSA will have higher expectations for improvements in the timeliness and quality of future submissions.

In the meantime, the purpose of this letter is to share with you immediately, the high level findings of our review, together with guidance that will help assist in the completion of this year's AML Return.

This letter and its accompanying attachments should be shared with members of your Firm's senior management, Compliance Officer and Money Laundering Reporting Officer.

Please refer to Appendix A of this letter for a summary of the key findings and observations from our review. Appendix B contains specific guidance on preparing your next annual AML Return.

You should contact your DFSA relationship manager, if one has been assigned, or via the [DFSA contact portal](#) if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan Stirewalt', is written over a light blue horizontal line.

Bryan Stirewalt
Managing Director, Supervision

Appendix A

Summary of Key & Observations of AML Returns

The AML Return was designed to be read and answered in conjunction with the AML Module. For ease of reference, the various components of the AML Return make reference to the relevant AML Rules. These rules should be consulted prior to answering each section to ensure that your answers are relevant and in context.

Overall, our analysis from the first submissions identified the following general issues regarding Firm's understanding of and response to some of the questions in the AML Return. In particular:

- Some Firms misinterpreted or did not understand the questions being asked. For example, **Section C1** asks for the listing of "*individuals forming the senior management of the firm.*" The term senior management is a defined term in the AML Module and in these instances respondents simply named the SEO and Compliance Officer, omitting other members of senior management;
- Some Firms did not answer the questions as required which resulted in insufficient details to assess the answer. For example, in **Section D3**, Firms are asked to "*state the date or dates when the last risk assessment was carried out on the adequacy of its AML systems and controls.*" Some Firms failed to provide a date or provided vague answers such as "routinely";
- Many of the questions asked in the AML Return are multi-faceted and require more than one answer. Using **Section D3** as an example, it asks Firms "*to provide or attach a summary of the findings of this assessment.*" Often this was not provided and no explanation provided for the failure to answer.

In order to improve the quality of future AML Returns Firms should:

- Read and completely understand the context of the question before attempting to answer it;
- Consult with the AML Module and its glossary and be conscious of the use of defined terms;
- Double check that the answer is complete and includes a response to each sub element, including why the Firm thinks an answer is not applicable or unanswerable; and
- When asked for specific number or dates, provide specific numbers and dates, or an explanation as to why these cannot be provided.

The below table provides a summary of the DFSA's findings with respect to specific sections within the AML return:

Senior Management and	➤ a significant number of Firms did not properly identify their senior management and/or failed to obtain their acknowledgement and sign off.
------------------------------	---

Sign Off	<ul style="list-style-type: none"> ➤ acknowledgement and sign off is one way that Senior Management is able to evidence its oversight and responsibility for the Firm's compliance with its AML obligations.
Assessment of business AML risk	<ul style="list-style-type: none"> ➤ the quality of the documentation of a Firm's AML risk assessment varied from very good to very poor. ➤ areas of improvements include the need for Firms to tailor their assessments specifically to their business, and obtain buy-in from all areas of the Firm including senior management, compliance and business lines.
Assessment of customer AML risk	<ul style="list-style-type: none"> ➤ most Firms displayed a good grasp of the factors that should be taken into consideration when assessing the specific risks posed by customers. ➤ some customer risk assessments placed too great an emphasis on the country or jurisdiction from which a customer originated, without considering the associated product or service risk. ➤ the assessment of customer risk should be appropriately documented so that all information known about the customer for example by their relationship manager can be collectively shared within the organisation.
Customer Due Diligence (CDD)	<ul style="list-style-type: none"> ➤ most Firms were able to document and evidence the CDD processes undertaken when on-boarding new customers, such steps were generally well articulated and clear. ➤ areas of improvement include the requirement to conduct ongoing CDD such as transaction monitoring. ➤ many Firms appeared to rely on the fact that transactions were booked overseas to not monitor transactions from the DIFC.
Reliance and Outsourcing	<ul style="list-style-type: none"> ➤ a significant number of Firms misinterpreted questions in this section and failed to appreciate the difference between placing reliance on, or outsourcing CDD measures to a third party, from using a third party information vendor or screening software.
Suspicious Activity Reports (SAR)	<ul style="list-style-type: none"> ➤ 54 internal notifications relating to suspicious activities, and 50 external SARs were lodged by Firms. ➤ The trigger for submitting an internal notification should be as expansive as possible with the MLRO then acting as a second stage filer and ultimately deciding if an external SAR should be lodged. Accordingly, the DFSA expected that the number of internal notifications would be significantly higher than the number of external SARs.

Preparing your next Annual AML Return

Following the DFSA's review and analysis of the first submissions of AML Returns, the DFSA provides the following guidance for the preparation of Firms' next AML Return.

Finding the AML Return and its Due Date

- The [Annual AML Return](#) is located in the DFSA's AFN Module published on the DFSA website. The current AML Return is marked **AML/VER3/03-15**. This was updated in March 2015. Your firm should ensure that the latest version is used and submitted.
- Your Annual AML Return is **due within four months of your financial year end**. Thus, if your financial year end is 31 December, you are required to submit your AML return by 31 April.

Your firm should ensure sufficient time to involve senior management in the completion of this return. Should you require additional time to submit the AML Return, any requests for an extension should be made to the DFSA in advance of the due date. A failure to submit on time is a rule breach.

Guidance on submitting your Annual AML Return

- 1) Consider the observations and findings contained in this letter with specific attention to the deficiencies highlighted by the DFSA analysis;
- 2) Read each question carefully and ensure that all questions are answered including sub-questions;
- 3) Refer to the rule references which are attached to each section before answering, as not all sections may be applicable. These references will provide context and guidance to the anticipated response;
- 4) Attach all supporting documentation relevant to the question being asked and provide specific references (page and paragraphs) to these documents where required;
- 5) You are not required to attach supporting documentation where it has been provided to the DFSA in your previous AML Return, unless such documents have been update or amended. Your answers should reference that you have previously provided such documents and that they have not changed;
- 6) If a date is requested provide an actual date or explain why no date is available;
- 7) Where you are unable to provide an answer, or a question is "not applicable", you must explain why you are unable to provide the answer or why the question is not applicable; and
- 8) Do take into account any specific comments provided by the DFSA on your previous AML Return submission.