

# Compliance Digest

Dear readers,

We are pleased to present to you our first Compliance Digest as part of our on-going compliance training.

The aim is to provide local and international updates on compliance issues and to enhance the Bank's compliance culture to help put ABL in a better position to drive growth while proactively navigating risk and regulatory complexity.

In this issue, you will be exposed to the functions of the Compliance department and you will be able peruse a thorough guidance on beneficial ownership. Moreover, you will have an overview of the current updates in legislations and guidelines, and the latest international compliance related news.

Finally, we extend our heartiest congratulation to the 3 staff for succeeding in the Professional Bankers Certificate awarded by the Chartered Institute of Bankers of Scotland.

Wishing you a pleasant read!

**Anil Fangoo**

**Head of Compliance & Editorial Team**



*"It takes 20 years to build reputation and 5 minutes to ruin it.  
If you think about that, you'll do things differently"*

*Warren Buffett*

## In This Issue

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## **What is Compliance?**

A compliance program promotes an organisational culture that encourages ethical conduct and a commitment to compliance with the law and regulations. At ABL, compliance with the law and ABL policies is everyone's responsibility.

The primary objective of compliance is to provide direction, guidance and resources to optimize ethical and compliant behavior. ABL's compliance program assists in the bank's endeavours to fulfill its responsibilities in an ethics-based environment that is consistent with applicable internal policies, laws, rules and regulations.

ABL's day-to-day compliance activities are conducted by the Compliance team. These activities include:

- Develop methodology to prioritise and identify high-risk compliance areas of focus and setting up preventive measures and internal controls;
- Update existing policies, procedures and related controls documentation to regulatory guidance and develop new policies and procedures adapted to operations and business line;
- Perform periodic testing and monitoring of compliance controls;
- Develop training plans, and conduct training sessions;
- Provide ongoing and periodic reporting to senior management and the board, regulators and internal audit;
- Continue assisting and providing information in a timely manner;
- Evaluate technology platforms and leverage existing infrastructure where possible.

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## The Good Governance and Integrity Reporting Act 2015

The Good Governance and Integrity Reporting Act 2015 came into operation on 01 January 2016 and its main objectives are to promote a culture of good governance and integrity reporting in Mauritius; stimulate integrity reporting in the public and private sectors; encourage positive reports of acts of good governance and integrity; disclose malpractices and recover unexplained wealth and protect and reward person(s) making disclosures and reports.

The Act applies to the property of citizens of Mauritius. The Judicial Officer; the Ombudsman; the Director of Audit; Director of FIU; Director-General of ICAC; Director-General of MRA, Governor of Bank of Mauritius and an officer of a statutory corporate or body corporate have an obligation to make a report on that matter to the agency. Any other person who has reasonable ground to suspect that a person has obtained unexplained wealth may also make a written report to the agency.

The Act however does not apply to any property acquired or having come in the possession or under the custody or control of a person more than 7 years before the commencement of the Act; or unexplained wealth of less than 10 million rupees.

### FATF Statement issued on 19/02/2016

Jurisdictions no longer subject to the FATF's on-going global AML/CFT compliance process include:

Algeria, Angola and Panama

As part of its on-going review of compliance with the AML/CFT standards, the FATF has to date, identified the following jurisdictions which have strategic AML/CFT deficiencies for which they have developed an action plan with the FATF:

Afghanistan, Bosnia and Herzegovina, Guyana, Iraq, Lao PDR, Myanmar, Papua New Guinea, Syria, Uganda, Vanuatu and Yemen

[Click here](#) for more details on each country .

### BOM Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism – updated on 16 March 2016

- The BOM Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism has been updated by the Bank of Mauritius and circulated to all banks for implementation. Please find below summary of main changes:
- The bank must pay special attention to the terrorist financing methods and enhance its systems and controls. The following customer activities must be considered as unacceptable by the bank: foreign terrorist fighters (FTFs), fundraising through social media, new payment products and services, and exploitation of natural resources.
- The bank must be careful concerning customers whose activities are linked to commercial activities (e.g. Car dealerships, restaurant franchises etc.) and enhanced due diligence must be conducted to understand their ultimate beneficial owners, activities and transactions.
- Risk factors must be considered and relevant controls must be put in place for new payment products and services (prepaid cards, mobile payments and internet payments systems).

## Guidance to Beneficial Ownership and its Implication For Not Knowing

For some time now, beneficial ownership has taken center-stage in compliance matters. Very often we make use of the term 'Ultimate Beneficial Ownership (UBO) also called Beneficial Ownership (BO) as used in the Anti-Money Laundering (AML) principles. Frequently questions arise as to 'What actually does the term UBO or BO mean?'

The FATF-GAFI recommendation defines 'beneficial owner' as 'natural person(s) who ultimately owns or controls a customer

and/or natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement'.

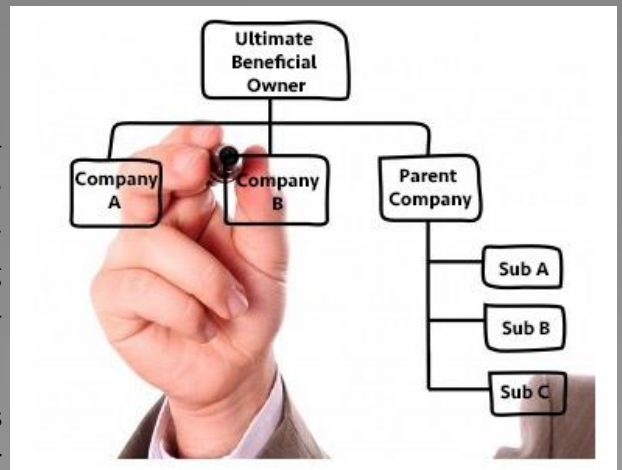
In simple words, beneficial ownership should be broadly conceived of as including individual(s) (i) who generally have ultimate control over such funds through ownership or other means and/or (ii) who are the ultimate source of funds for the account and whose source of wealth should be subject to due-diligence.

The AML principles do not seek to define the term 'beneficial ownership' but rather focus on identifying persons, in particular circumstances, who should be viewed as having the requisite 'beneficial ownership', in particular contexts of (i) natural persons, (ii) legal entities, (iii) trusts and (iv) unincorporated associations before or during the course of establishing a business relationship or conducting transactions for occasional customers.

Identifying beneficial ownership has been a difficult task, if not impossible. For a natural person seeking to open an account in his/her name, it is reasonable to presume that he/she is the beneficial owner. In the context of a legal entity, a proper understanding of the company's structure is required, especially for company operating with many shareholders or where there are individuals who are in a position to exert control over the funds held by the company (e.g directors). In the context of trusts, the 'settlor' who is namely the 'provider of funds' should be considered as the beneficial owner. Though the beneficiaries of the trust might appropriately be referred to as 'beneficial owners', they should not be treated as 'beneficial owners' for AML purposes (but are subject to appropriate due-diligence). With regard to Partnership, Foundation or Unincorporated Association, establishing the beneficial ownership generally entails the same principles.

Multiple implications surround not knowing the beneficial ownership doing business with our bank. Among these, our Bank will risk infringement of the law and international standards and will place its reputation at risk, all of which translates into hefty fines and loss of revenues. A bank that choose to ignore the requisite of identifying the beneficial ownership may end up processing transactions in violation of UN and EU Sanctions, OFAC, etc. In these situations, losses cannot be quantified at the cost of a fine, but rather, among others: (i) loss of opportunities and their related revenues, (ii) replacement cost—new hires, new systems and procedures and (iii) future ability to establish new banking relationships.

In summary, the compliance goal is to meet regulatory obligations, yet the ultimate goal and benefit of any organisation is to have solid knowledge of its customer base so that marketing efforts are directed to the appropriate clientele, and controls are placed where they are most needed; this is in essence the risk based approach and the benefit to knowing our customers.

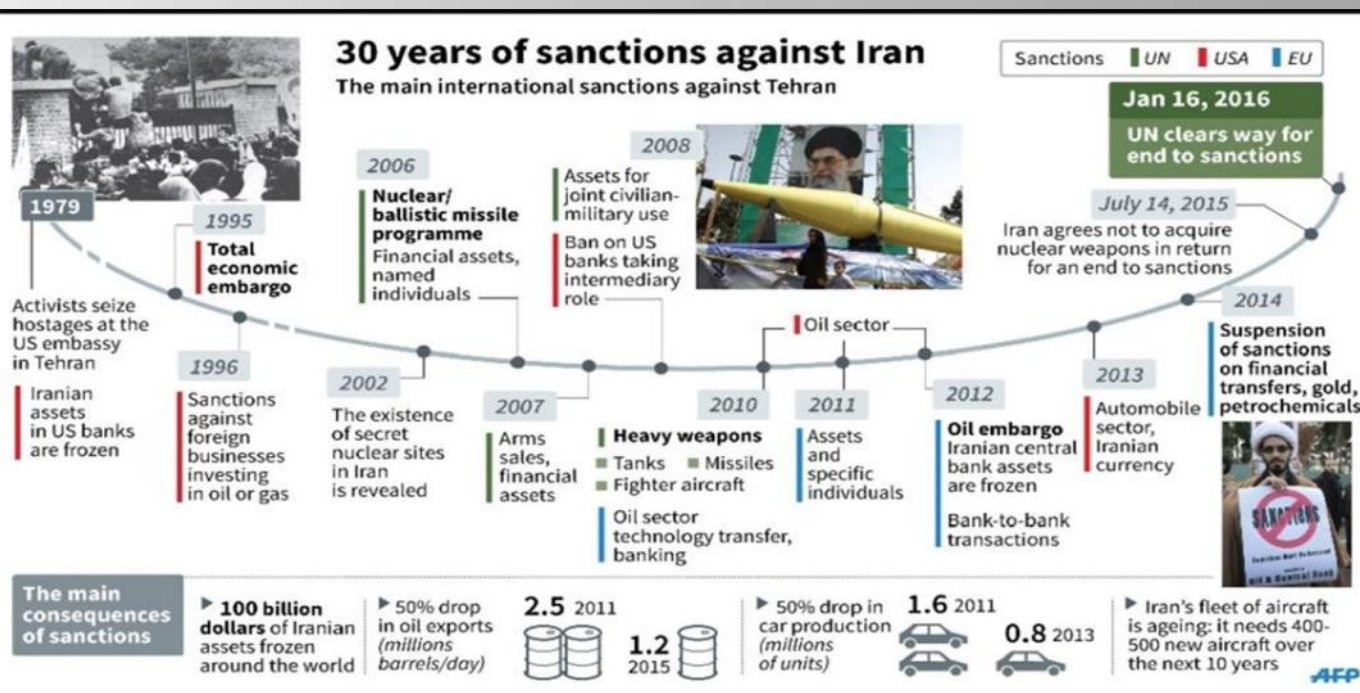


On 14 July 2015, China, France, Germany, Russia, the United Kingdom and the United States, with the High Representative of the European Union for Foreign Affairs and Security Policy, agreed the JCPOA (Joint Comprehensive Plan of Action). The JCPOA is aimed at ensuring the exclusively peaceful nature of the Iranian nuclear programme while providing for the comprehensive lifting of all UN Security Council sanctions as well as EU and US sanctions related to Iran's nuclear programme following an agreed sequence of actions. On 16 January 2016, the UN, USA and EU lifted all nuclear-related economic and financial sanctions against Iran. However other UN, EU and US sanctions are still in force and many companies, individuals, sectors are still under sanction by EU, UN and OFAC. So it will be important for all businesses to ensure that they do their due diligence so that they know who they are dealing with and that the intended transaction will not fall foul of the restrictions that remain

Moreover, Iran is still FATF AML Deficient and a lot of weaknesses have been identified in Government legislation to combat money laundering. It is further more classified as a very high risk country. Iranian's

are not yet of an equivalent standard. The FATF urges Iran to immediately and meaningfully address its AM-L/CFT deficiencies, in particular by criminalising terrorist financing and effectively implementing suspicious transaction reporting requirements. The FATF strongly recommends all jurisdictions to apply effective counter-measures to protect their financial sectors from money laundering and financing of terrorism (ML/FT) risks emanating from Iran. It also continues to urge jurisdictions to protect against correspondent relationships being used to bypass or evade counter-measures and risk mitigation practices.

Consequently, it will take some time for the international banks to get comfortable in processing payments involving Iranian-related funds. The genesis for their concern is in large part due to a fear of US penalties. Leaving sanctions to one side, banks have existing anti-money laundering and compliance responsibilities which they will need to satisfy and Iran's international isolation means that its anti-money laundering and compliance systems are not necessarily of an equivalent standard. Iran will now be running to catch up with international standards.



## Barclays fined \$150M over forex trading by New York regulator

On February 18, 2016, "Barclays' reputation took another battering on Wednesday when a US regulator imposed a \$150m fine on the bank for the way it treated its foreign exchange customers. The New York Department of Financial Services (NYDFS) released a cache of emails to support its finding against Barclays, including one in which a managing director tells staff to 'obfuscate and stonewall' if asked questions about the currency trades. The penalty, which also requires Barclays to fire an unnamed senior individual involved in its electronic global foreign exchange trading business, is related to a computer system the bank devised to reject orders from customers that would not be profitable."

## U.S. lists Caribbean nations as money laundering concerns

In the 2016 International Narcotics Control Strategy Report (INCSR) released by the U.S. State Department, Belize has been listed as a major money laundering nation for the proceeds of narcotics trafficking. Other countries in the region have also been named including Antigua and Barbuda, the Bahamas, the British Virgin Islands, Cayman Islands, Colombia, Costa Rica, Curacao, Dominican Republic, Guatemala, Haiti, Panama, St. Maarten and Venezuela

## AML controls critical for new Myanmar government

The UK-based International Governance and Risk Institute have released a statement urging the newly formed Myanmar government to install sufficient policies to combat money laundering. Myanmar is currently on the Financial Action Task Force (FATF) list of countries which does not have sufficient anti-money laundering (AML) and countering the financing of terrorism (CFT) policies in place. The country is due to undergo an independent assessment of its adherence to international AML and CFT standards in 2017.

## A former U.S. prosecutor convicted of money laundering

A former prosecutor from Alaska has been found guilty of fraud and money laundering. He was

indicted in 2013 on allegations of defrauding a woman's trust fund which he managed. It is reported that he used his authority to acquire more than US\$52 million in assets. He is due to be sentenced on 17 May, 2016.

## Philippine bank official remanded in money laundering scheme

A bank branch manager (UID 2966002) has been relieved of her position and is under investigation for involvement in a money laundering scheme. It is alleged that the branch of the bank was the initial storage place for US\$81 million which was stolen from the account of Bangladesh Bank with the U.S. Federal Reserve Bank in New York. The money laundering scheme is currently subject of the Philippine Senate Blue Ribbon Committee and Anti Money Laundering Council investigations.

## The Bangladesh Central Bank says it is hopeful it will get back all of its money after falling victim to a multimillion-dollar bank heist.

Bank robbers successfully made five transfers out of the Bangladesh bank's account at the New York Fed. The request appeared to come from a Bangladesh server, and they supplied the correct bank codes to authenticate the transfers, the New York Fed said. Of the \$101 million they stole, \$80 million ended up in accounts located in the Philippines, and \$21 million went to Sri Lankan accounts. The Bangladesh Central Bank said it has recovered all the money it lost to Sri Lankan accounts, and has successfully frozen the accounts in the Philippines. It is "working closely" with the Philippine's Financial Intelligence agency to recover the money.

## Cayman Island Financial Institutions (FI) admit to tax evasion conspiracy

Two Cayman Islands FIs have admitted to conspiring to assisting in tax evasion. They are reported to have pleaded guilty to charges stating that between 2001 until 2011 they conspired with many of their U.S. taxpayer-clients to hide more than US\$130 million in offshore accounts from the U.S. Internal Revenue Service (IRS) and to evade U.S. taxes on the income earned in those accounts. As part of their plea agreement they have agreed to cooperate fully with the office's investigation of the companies' criminal conduct and will pay a fine of US\$6 million.



A 2-day course on Financial Crime Prevention Compliance was organized by the Mauritius Bankers Association (MBA) from 16—23 February 2016 and the following members of staff had received training:



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**Hassen Jauffeerally**  
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Private Banking



**Reena Anjali Bapoo**  
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**Cedric Beguier**  
Portfolio Manager  
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# ACHIEVEMENTS

Congratulations to the following members of staff for succeeding in the Professional Bankers Certificate Exam awarded by the Chartered Institute of Bankers of Scotland:

- Vashish Bundhun — Compliance Assistant
- Raveena Doolhur - Compliance Officer
- Adeelah Mohabuth - CSA Global Business



*Compliance Digest is a newsletter issued by the Compliance Department of AfrAsia Bank Limited. Compliance Digest is issued quarterly and provides updates and important compliance and risk management issues.*

*Compliance Digest is issued solely for the staff of AfrAsia Bank Limited and AfrAsia Capital Management Limited as part of the Compliance Training Program and should not be communicated to outsiders.*

*The editors welcome ideas for articles in future issues. Please send your ideas or submissions to Anil Fangoo at [Anil.Fangoo@afasiabank.com](mailto:Anil.Fangoo@afasiabank.com); Khusboo Puryag at [Khusboo.Puryag@afasiabank.com](mailto:Khusboo.Puryag@afasiabank.com); Raveena Doolhur at [Raveena.Doolhur@afasiabank.com](mailto:Raveena.Doolhur@afasiabank.com) or Vashish Bundhun at [Vashish.Bundhun@afasiabank.com](mailto:Vashish.Bundhun@afasiabank.com).*