

# AML COMPLIANCE ADVISORY SERVICES

BDO MALTA







## OVERVIEW

Our Compliance Advisory service line pays particular focus on assessing and mitigating two sectors of risk: regulatory compliance and ML/FT risks. Our experts within this field have delivered quality assessments, enabling licensed entities, service providers and subject persons to foster a compliance culture within their own organisation, as well as planned reorganisation, including practical measures intended to tailor and reshape a company's culture of compliance to suit the ever-changing compliance obligations.

Businesses which fail to adhere to their compliance obligations could be subject to heavy sanctions and adverse media, at the expense of their reputation and customer trust. For this reason, our experts assist customers to sufficiently demonstrate to regulators their strong adherence to compliance obligations.

In order to obtain an understanding of the level of compliance within an organisation, we encourage our customers to consider the following:

- ▶ Do you have a Compliance program in place?
- ▶ Do you have an escalation procedure in place?
- ▶ Do you have an appointed whistle-blower officer?
- ▶ Do you have systems (possibly automated) in place for the ongoing customer transaction and activity monitoring?
- ▶ Are you aware of your reporting obligations?
- ▶ Are you aware of your regulatory obligations as a licensee?
- ▶ Are your employees aware of who the company MLRO is?
- ▶ Does the MLRO maintain a STR register?
- ▶ Does senior management enforce a compliance culture within the workplace?
- ▶ Have you reassessed your company's risk profile in the last 12 months?
- ▶ Have you reassessed your customers' risk profile in the last 12 months?
- ▶ Have you provided company-wide AML/CFT training to your employees within the last 12 months?
- ▶ Have you updated your Business Risk Assessment (BRA) following internal operational changes?
- ▶ Have you updated your company policies in line with ongoing legislative amendments?

## COMPLIANCE FRAMEWORK

A sound compliance framework is an essential component for any legal entity, however particularly for those licensed entities in terms of their regulatory obligation as well as subject persons in view of their AML and CFT obligations.

### Compliance Culture

Fostering a compliance culture with an organisation is the first step to ensuring adherence to compliance obligations and proper enforcement by senior management. The development and regular review of a Compliance Plan allows a business to remain reactive to unforeseen changes.

### Preventive rather than Reactive

How can we replicate that sense of urgency to shift our business continuity approach to being preventative, rather than reactive?

- ▶ Reassess your company's risk profile in light of the emerging pressures and resulting compliance failures;
- ▶ Re-enforce and restructure a compliance culture, including proper understanding and adherence to data privacy rules;
- ▶ Create a one-to-three year plan focused on enhancing the company's compliance program;
- ▶ Set reasonable targets which take into account the business resources, limitations, customer base, and suppliers;

- ▶ Refresh compliance training addressing the compliance failures which took place during the pandemic, together with a plan on how to address, resolve and mitigate these new risks within the company;
- ▶ Ensure all employees and relevant third parties are involved, and have proper access to the relevant compliance material, policies, and procedures;
- ▶ Address linguistic and cross-jurisdictional barriers, such as closure of registries, lockdowns, and the consequential difficulties arising from these unprecedented times;
- ▶ Document your root cause analysis, system improvements, policy updates, training refreshers, and all that is being done by the company as a rectification process;
- ▶ Create an audit trail as this will come in handy during regulatory offsite inspections as well so even more important; and
- ▶ Balance reward of sale with an effective compliance culture and include a compliance measurement into job performance matrices.





AML-CFT COMPLIANCE REVIEWS

Independent compliance reviews have become an essential component of business development and planning. A thorough compliance review enables an organisation to understand, from a practical point of view, the effectiveness of its internal controls and procedures, both internally and externally, and whether additional controls are required to properly mitigate any newly identified risks, in order to reduce the overall business risk.

Through a compliance review, testing is carried out on internal systems, controls and procedures in order to assess the current processes deployed by an organisation, and assess whether the people within that organisation are both knowledgeable and enforcing the established regulatory requirements, or whether problems have been identified within a particular process, simultaneously ensuring that the established policies and procedures are designed to comply with internal and external policies.

Our Compliance Review is tailored to the sector-specific requirements of our customers, predominantly focused at enabling the organisation to assess its compliance function and regulatory universe, identify gaps and as a follow up, provide an implementation plan to address those gaps.

The end result emanating from our compliance reviews is intended to provide recommendations on ways to make improvements or corrective actions and to prevent future deficiencies or nonconformities. Practical guidance is also provided in relation to maintaining compliance with frequently changing industry regulations. Any identified risk areas for noncompliance within the organisation are reported to the Board of Directors for proper address of deficiencies.



AML-CFT COMPLIANCE RISK ASSESSMENTS

A comprehensive and thoroughly tested AML/CFT Compliance Program is an essential requirement for strict adherence to the applicable legislation, further emanating from EU directives and established practices by intergovernmental bodies.

BDO Malta’s qualified experts in the AML/CFT sector are able to provide subject persons with a full assessment to determine whether the Company has implemented adequate and effective controls in line with all applicable AML/CFT rules and regulations.

Our assessment includes control objectives and key controls for the following processes:

- ▶ Compliance with the following regulatory frameworks in relation to the prevention of money laundering and financing of terrorism ('PMLFT');
- ▶ Assessment of automated technology solutions deployed by the subject person for the PMLFT and other risks involved;
- ▶ Assessment of risk assessments carried out by the subject person in relation to PMLFT;
- ▶ Communication with key management to discuss, confirm, and walkthrough the key controls in place within the identified risk areas; and
- ▶ Identification of unmitigated risks or control gaps in the current processes.





COMPLIANCE RISK MITIGATION

Whilst a thorough compliance review is essential for organisations to understand any weaknesses or vulnerabilities which may be present in their compliance framework, any such analysis shall remain ineffective unless and until recommendations are acted upon and proper mitigation measures are applied to effectively control the identified ML/FT risks.

For this reason, BDO Malta may further assist organisations in directly addressing those identified deficiencies and shortcomings.

Our Compliance Risk Mitigation services are tailored according to the organisation's compliance processes, particularly, to any systems, controls and procedures which require additional scrutiny and enforcement. This can therefore include:

- ▶ drafting or updating internal policies and procedures, manuals, risk assessments, and documentation to ensure that these fully cover and reflect all relevant legislative updates, rules and regulations;
- ▶ educating, guiding, and training the company's Compliance Team to address the Team members' knowledge and relevance in the business area;
- ▶ providing Anti-Money Laundering and Counter-Financing of Terrorism (AML/CFT) informative training sessions for the company's employees to ensure the company's awareness of AML/CFT-related regulations, policies and procedures; and
- ▶ implementing proper and effective customer risk, jurisdictional risk and business risk assessments, with the assistance of our Risk Advisory Department, ensuring compliance with the obligatory risk-based approach.



AML-CFT AWARENESS TRAINING

The Prevention of Money Laundering and Financing of Terrorism Regulations ('PMLFTR') obliges every subject person to not only "have in place and implement measures, policies, controls, and procedures, proportionate to the nature and size of its business, which address the risks identified...", but also to make employees aware of the measures, policies, controls, and procedures established by the organisation, including the recording, maintenance, and update of the relevant policies on an ongoing basis to remain relevant and reflective of ongoing legislative updates.

Providing awareness and training in relation to the AML/CFT procedures and training in relation to identification of unusual activities or suspicious transactions are key elements in the detection and deterrence of ML/FT activities.

The best designed AML/CFT policies and procedures remain ineffective should they not be enforced company-wide by employees. The content and effectiveness of the training provided will therefore be critical to the success or failure of an organisation's AML-CFT framework.

BDO Malta can assist with providing tailor-made AML/CFT training that is aimed at providing employees of licensed entities, service providers and subject persons with an overview of their AML and CFT obligations, in view of having the ability to execute transactions on behalf of the organisation, and, therefore, act as front figures in the identification of unusual transactions, and riskier situations that may turn out to be suspicious.





## AML-CFT POLICIES & PROCEDURES

Well-written, concise, and continually updated AML/CFT policies and procedures are the foundation of a sound AML/CFT framework within organisations conducting relevant activity or relevant financial business.

The PMLFTR obliges every subject person to "have in place and implement the following measures, policies, controls, and procedures, proportionate to the nature and size of its business, which address the risks identified as a result of the findings emanating from internal customer and business risk assessment... and to apply a risk-based approach in relation to customer due diligence measures, record-keeping procedures, and reporting procedures...".

BDO Malta can assist organisations in:

- ▶ drafting an AML/CFT Policy covering the applicable rules and regulations affecting the Company's business, particularly from a risk perspective; and
- ▶ reviewing and updating the AML/CFT Policy to ensure all applicable AML/CFT rules and regulations are reflected in the Policy, particularly any additional regulatory items emanating from acquired licenses.





COMPLIANCE SUPPORT

In line with the Prevention of Money Laundering and Funding of Terrorism Regulations ('PMLFTR') an appointed and approved MLRO is to:

- 1. receive reports from the subject person's employees of knowledge or suspicion of money laundering or financing of terrorism ('ML/FT'), or that a person may have been, is or may be connected with ML/FT;
- 2. consider these reports to determine whether knowledge or suspicion of ML/FT subsists or whether a person may have been, is or may be connected with ML/FT;
- 3. report knowledge or suspicion of ML/FT or of a person's connection with ML/FT to the FIAU;
- 4. respond promptly to any request for information made by the FIAU; and to
- 5. submit the yearly REQs for each entity forming part of the subject person, of which he/she is appointed MLRO.

On the other hand, a Compliance Officer is an appointed official, acting as a key person within a regulated entity, whose role is to ensure that the entity complies with all laws under which it operates, and rules issued by the Regulator. The Compliance Officer shall be expected to demonstrate independence of judgement and to exercise proper day-to-day supervision and control over the activity of the licensee. MLROs are required to be officers within a subject person, thus have an existing employment relationship with the particular organisation, enjoying sufficient seniority and independence whilst holding relevant knowledge and experience within the AML/CFT sector. The function of a Money Laundering Reporting Officer, therefore, cannot be outsourced. Nonetheless, BDO Malta is aware of the all-increasing duties and responsibilities assigned to MLROs and Compliance Officers alike.

BDO Malta can assist organisations with providing the necessary support to approved MLROs and to Compliance Officers that are specifically appointed in terms of licensee

requirements to oversee applicable obligations emanating from the license itself.

In providing compliance support, BDO Malta takes on a sector-specific approach in relation to the particular compliance and regulatory monitoring obligations, in order to remain vigilant of all applicable rules and obligations required by the regulators, such as the MFSA and MGA.



## FOR MORE INFORMATION:

### **BDO MALTA**

Triq it-Torri Msida  
MSD 1824  
Malta

Tel: +356 2342 4000

[info@bdo.com.mt](mailto:info@bdo.com.mt)

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