

Appendix 6

In this Appendix underlining indicates new text and striking through indicates deleted text.



The DFSA Rulebook

Anti-Money Laundering, Counter-Terrorist
Financing and Sanctions Module

(AML)

1 INTRODUCTION

1.1 Application

1.1.1 This module (AML) applies to:

- (a) every Relevant Person in respect of all its activities carried on in or from the DIFC;
- (b) the persons specified in Rule 1.2.1 as being responsible for a Relevant Person's compliance with this module; and
- (c) a Relevant Person, which is a DIFC entity, to the extent required by Rule 14.1.

except to the extent that a provision of AML provides for a narrower application.

1.1.2 For the purposes of these Rules, a Relevant Person means:

- (a) an Authorised Firm other than a Credit Rating Agency;
- (b) an Authorised Market Institution;
- (c) a DNFBP; or
- (d) a Registered Auditor.

1.2 Responsibility for compliance with this module

1.2.1 (1) Responsibility for a Relevant Person's compliance with this module lies with every member of its senior management.

(2) In carrying out their responsibilities under this module every member of a Relevant Person's senior management must exercise due skill, care and diligence.

(3) Nothing in this Rule precludes the DFSA from taking enforcement action against any person including any one or more of the following persons in respect of a breach of any Rule in this module:

- (a) a Relevant Person;
- (b) members of a Relevant Person's senior management; or
- (c) an Employee of a Relevant Person.

1.3 Application table

Guidance

Relevant Person	Applicable Chapters	
Authorised Person	1 - 14	
Representative Office	1 - 5*	10- 14
Registered Auditor	1 - 8	10 - 14
DNFBP	1 - 8	10 - 15

* Chapters 6 – 9 are unlikely to apply to a Representative Office as such an office is only permitted to carry on limited activities in the DIFC and therefore must not have Customers.

8 RELIANCE AND OUTSOURCING

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8.3 Money Service Providers

8.3.1 (1) An Authorised Firm that Provides Money Services must:

- (a) maintain a complete, current and accurate register of all agents it uses to conduct its Money Services business and make the register available to the DFSA upon request;
- (b) include all agents referred to in (a) as part of its AML compliance programme and monitor agents' compliance with the programme;
- (c) comply with all applicable AML requirements in the jurisdictions in which it operates, whether directly or through the use of agents;
- (d) when executing Payment Transactions, assess and consider all relevant information including information about the payer, payee and any beneficiary, as applicable, to determine whether a Suspicious Activity Report should be made; and
- (e) if appropriate, make a Suspicious Activity Report in any jurisdiction impacted or connected to a suspicious Payment Transaction, and make available relevant transaction information to the authorities responsible for AML compliance in the relevant jurisdiction.

- (2) An Authorised Firm making an assessment under (1) must rely only on sources of information that are reliable and up-to-date.

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- (3) An Authorised Firm must keep adequate records of how it made its assessment under (1), including the sources and materials considered.

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14 GENERAL OBLIGATIONS

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14.7 Employee disclosures

- 14.7.1** A Relevant Person must ensure that it does not prejudice an Employee who discloses any information regarding money laundering to the DFSA or to any other relevant body involved in the prevention of money laundering.

Guidance

The DFSA considers that “relevant body” in Rule 14.7.1 would include the FIU or another financial intelligence unit, the police, or a Dubai or Federal ministry.

14.8 Decision making procedures

- 14.8.1** The procedures in Schedule 3 to the Regulatory Law apply to a decision of the DFSA to impose an administrative penalty under Article 14(1) of Federal Law No. 20 of 2018.

- 14.8.2** If the DFSA decides to exercise its power under Article 14(1) of Federal Law No. 20 of 2018 in relation to a person, the person may refer the matter to the FMT for review.

Guidance

The Rules in this section apply where the DFSA makes a decision to impose an administrative penalty under Federal Law No. 20 of 2018. The administrative penalties referred to in that Article include fines, bans from working in a sector, suspension or restriction of activities and other measures. The DFSA may also impose sanctions under DIFC laws, for example, under Article 90 of the Regulatory Law, in which case, the relevant provision will specify the procedures that apply.