AML / CFT

Anti-money laundering and countering financing of terrorism

Guideline for audits of risk assessments and AML/CFT programmes

FINANCIAL MARKETS AUTHORITY
TE MANA TATAI HOKOHOKO ~ NEW ZEALAND

RESERVE BANK OF NEW ZEALAND

INTERNAL AFFAIRS
Te Tari Taiwhenua

Introduction

1. This guideline is to help reporting entities manage the requirement to audit their AML/CFT risk assessment and AML/CFT programme, as required under section 59(2) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act).

2. The AML/CFT Act does not specify how these audits are conducted. This guideline provides an overview of matters to consider when arranging an audit.

3. This guideline is provided for information only and cannot be relied on as evidence of complying with the requirements of the AML/CFT Act. It does not constitute legal advice from any of the AML/CFT supervisors and cannot be relied on as such.

4. After reading this guideline, if you still do not understand any of your obligations you should seek legal advice, or contact your AML/CFT supervisor.

Legal obligations

5. If you are a reporting entity, section 59(2) of the AML/CFT Act requires you to audit your risk assessment and your AML/CFT programme every two years or when asked by your supervisor.

6. You must provide the audit report to your supervisor when asked. Your annual report also requires you to declare:
   - whether you have a procedure in place for independent audits;
   - when your last audit was undertaken;
   - if any deficiencies were highlighted; and
   - whether you have made the changes identified as necessary to address deficiencies.

What is an audit of your risk assessment and AML/CFT programme?

7. The audit is a systematic check of your AML/CFT risk assessment and AML/CFT programme by an independent and suitably qualified person (the auditor). The end result is a written report on whether:
   - you meet the minimum requirements for your AML/CFT risk assessment and AML/CFT programme;
   - the AML/CFT programme was adequate and effective throughout a specified period; and
   - any changes are required.

8. The audit complements your own review of your risk assessment and AML/CFT programme (under section 59(1) of the AML/CFT Act).

9. There are some important differences between an audit of your AML/CFT risk assessment and AML/CFT programme. The table below sets out the key differences.

Some differences to consider

Audits of your Risk Assessment:	Audits of your Programme:
Are limited to assessing whether this document complies with all of the obligations in section 58(3) of the AML/CFT Act. *n.b.:* under the Act, auditors will assess the nature and extent of the AML/CFT risk assessment and its application. They are not expected to audit the judgment calls you made in your risk assessment.	Include: • whether it complies with all of the obligations in section 57 of the AML/CFT Act; • whether the policies, procedures and controls are based on your AML/CFT risk assessment; • whether the policies, procedures and controls are adequate; and • whether the policies, procedures and controls have operated effectively throughout the period.

What will your audit do?

10. The audit will provide you with an independent assessment of your AML/CFT risk assessment and AML/CFT programme. It is an opportunity for you to consult another person's view of how well your AML/CFT programme and AML/CFT risk assessment are designed and working.

11. The audit may also inform your AML/CFT supervisor's opinion about the adequacy and effectiveness of your AML/CFT programme. Your supervisor is also likely to assess the adequacy and robustness of your audit. Their opinion and assessment may influence the way in which you are supervised.

Who can audit?

12. AML/CFT guidelines[1] outline who can audit an AML/CFT programme: Section 59(3) of the AML/CFT Act states that the person must be independent and appropriately qualified to conduct the audit. 'Qualified' does not necessarily mean that the person has to be a Chartered Accountant or qualified to undertake *financial audits*.

13. An audit conducted for the purposes of the AML/CFT Act does not have to meet the auditing and assurance standards set by the External Reporting Board (XRB) or professional accounting bodies. Note that where a member of a professional body is appointed to perform the audit, the professional body may require that person to comply with any applicable professional standards. The person must have relevant skills or experience to conduct the audit, such as

[1] Risk Assessment Guideline and AML/CFT Programme Guideline
http://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Services-Anti-Money-Laundering-Codes-of-Practice-and-Guidelines?OpenDocument

knowledge of the AML/CFT Act and Regulations. For example, people with AML/CFT or relevant financial experience in your sector might be suitably qualified. You must be able to justify to your AML/CFT supervisor how your auditor is appropriately qualified.

14. Section 59(5) of the AML/CFT Act also states that the person who conducts the audit must be independent, and not involved in the development of a reporting entity's AML/CFT risk assessment, or the establishment, implementation or maintenance of its AML/CFT programme.

15. The person appointed to undertake the audit may be a member of your staff, provided he/she is adequately separated from the area of the business carrying out your AML/CFT risk assessment and AML/CFT programme.

16. Similarly, you may choose to appoint an external firm to undertake the audit, but the same separation must apply. Those within the firm undertaking the audit must be separate from those involved with the development of the AML/CFT risk assessment and AML/CFT programme.

17. You can also ask a potential auditor about their background and qualifications to help make your decision.

18. The Act expects the audit to provide an independent view. If considering whether a person has been 'involved' in the development of the risk assessment, or the establishment, implementation or maintenance of the AML/CFT programme, you might take into account whether:
    - the risk assessment or programme has changed substantially since their involvement; or
    - their only involvement has been as part of (or as a result of) their audit.

19. You should record your consideration of the auditor's independence. You might set a policy around these points. You may wish to explain your reasoning to your supervisor before finalising arrangements for the audit.

20. When deciding who to use and how to audit, some options to consider are:
    - Reciprocal audit arrangements with a similar company.
    - Using different auditors to audit your AML/CFT risk assessment and AML/CFT programme.

21. The AML/CFT Act does not specify that the AML/CFT risk assessment audit and the AML/CFT programme audit have to be conducted by the same person.

How will it happen?

22. Before choosing an auditor you should think and plan ahead. Matters to consider and discuss include:
    - the level of assurance you want the auditor to provide;
    - the outcome;
    - the estimated cost of the audit;
    - an estimate of time required to complete the audit; and
    - how you want the findings reported to you.

An appropriate level of assurance

23. You should note that your auditor may give you some options regarding the level of assurance to be obtained by the auditor when conducting the audit.

24. The auditor will provide a report containing a conclusion that conveys the assurance the auditor obtained when conducting the audit.

25. The auditor can perform a limited assurance audit or a reasonable assurance audit. In a reasonable assurance audit, the auditor will express the conclusion in a positive form. In a limited assurance audit, the auditor will express the conclusion in a negative form. The reasonable assurance audit requires more work from the auditor than a limited assurance audit. In a limited assurance audit there is therefore an increased risk that the auditor may not become aware of a significant error / non- compliance with the AML/CFT Act.

26. The AML/CFT Act does not require your auditor to provide a specific level of assurance. You have the option to choose. You will need to balance the costs of the audit against the degree of confidence you require from the audit.

27. Your supervisor may take into account the robustness of your audit when planning their work.

28. Your supervisor may also take into account the extent of the detail with which your audit assessed your compliance.

The outcome

29. At a minimum the outcome should be a written report that expresses the auditor's view on :
    - whether your AML/CFT risk assessment (section 58(3) of the AML/CFT Act) and AML/CFT programme (section 57 of the AML/CFT Act) comply with the requirements of the Act; and
    - whether your AML/CFT programme is functioning in practice as required and intended.

30. You may also want the auditor to make recommendations for rectifying non-compliance, and/or to identify areas for improvement in behaviour and practice. These deliverables are desirable but not mandatory.

Other matters to consider

31. The auditor will tell you what they need from you. This is likely to include information to give the auditor an understanding of your business and access to (for example):
    - your AML/CFT risk assessment documents;
    - your AML/CFT programme;
    - documents relating to the development of your risk assessment and programme;
    - access to staff members and/or senior management;
    - access to files, customer identification records, transactions and/or outputs from your systems;
    - disclosures of all known instances of non-compliance; and

- the results of your own monitoring and your reviews of your risk assessment and AML/CFT programme.

32. You should discuss and agree the scope, deliverables and other expectations of the work with your auditor and you or the auditor should set these expectations out clearly in writing. Your supervisor may ask you to produce this document.

33. You may want to ensure that you have an opportunity to correct factual inaccuracies by reviewing a draft report. However, the views expressed in the report will be the auditor's own.

34. If the auditor has had difficulty gathering information, this may result in the auditor giving a qualified opinion.

35. The auditor may request a written acknowledgment:
- of your responsibility for compliance with the applicable requirements,
- that you have provided the auditor with all the relevant information and access agreed to, and
- that you have disclosed any relevant matters to the auditor (for example, any non-compliance with the AML/CFT Act).

What you may expect from the audit report

36. In general an audit report includes:
- the period the audit report covers e.g. July 20XX to June 20XX.
- a title that includes the words 'Independent AML/CFT Audit'.
- key findings, including;
  - whether your risk assessment and/or programme meet the AML/CFT Act's requirements, and which requirements it does not meet and why;
  - an indication of where there are potential failings.
- a description of methods used to determine the adequacy and effectiveness of your AML/CFT risk assessment and/or programme.
- a recommended course of action to rectify non-compliance. This may include recommendations on highest priorities for rectifying non-compliance.
- the date and the signature of the auditor.

What should you do with the audit report

37. The audit report should be addressed to your senior management so they can decide what (if any) next steps are required.

38. Non-compliance and/or partial compliance identified in the audit report must be addressed. How you do this is up to you. In your AML/CFT annual report to the supervisors you must state whether you have made the necessary changes to address issues raised in the audit report. Your supervisor may also ask questions about the actions you have taken.

Timing

39. You are responsible for your own compliance with the audit requirements so it is advisable to plan ahead. Your senior management should have a say in what is required from the audit, and how much detail they require from the report given the nature, scale and complexity of your business. Your AML/CFT supervisor may contact you to discuss the timing or frequency of your audit cycle, and may request that you undertake an audit earlier or 'out of cycle' with your current plans. This is part of the supervisory framework to assess reporting entities' progress towards compliance with the AML/CFT Act.

Reporting suspicions

40. Under section 43 of the AML/CFT Act, an auditor may submit suspicious transaction reports to the New Zealand Police, if the auditor comes across information that causes them to have grounds for suspicion. The grounds for suspicion will not be documented in the audit report. However, the auditor may document any weaknesses in your systems and processes, such as your procedures for identifying or reporting suspicious transactions.

Resources

41. The resources set out below may be useful. Some can be downloaded without cost. Others may have associated costs, and may be available from your library.

- The XRB's Explanatory Guide Au1 *Overview of Auditing and Assurance Standards,* which explains some different assurance levels (XRB EG Au1)
- The XRB's International Standard on Assurance Engagements (New Zealand) 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information (*ISAE (NZ) 3000)
- The XRB's Standard on Assurance Engagements 3100 *Compliance Engagements* (SAE 3100) (to be read in conjunction with ISAE (NZ) 3000,
- The XRB's International Standard on Assurance Engagements 3402 *Assurance Reports on Controls at a Service Organisation* (to be read in conjunction with ISAE (NZ) 3000)
- AML/CFT risk assessment guideline
- AML/CFT programme guideline