



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO



FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO

Ministry of Finance

INDEPENDENT TESTING OF THE COMPLIANCE PROGRAMME

Guidance for Non-Regulated Financial Institutions and Listed Businesses

Purpose

This Guidance is intended to provide assistance to Non-Regulated Financial Institutions and Listed Businesses when conducting internal and/or external audits of their AML/CFT/CPF Compliance Programmes

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OVERVIEW

Regulation 10 of the **Financial Obligations Regulations, 2010 ('FORs')** requires that the compliance programme of a Financial Institution (NRFI) and Listed Business (LB) (collectively referred to as “Supervised Entities”) be reviewed by the internal and external auditors engaged by Supervised Entities. The independent testing of a Supervised Entity’s AML/CFT/CPF compliance programme, whether by an internal audit function or external auditor, provides the opportunity to identify existing deficiencies and gaps in controls.

Independent testing of the AML/CFT/CPF compliance programme ultimately determines the adequacy of a supervised entity’s compliance program and how well it functions. Any such audit ought to be independent in nature so as to provide assurance of the integrity of the audit process and credibility of its findings. Regular testing of the AML/CFT/CPF compliance programme enables the Supervised Entity to take corrective action at the earliest opportunity.

Regulation 10 (2) (a) of the FORs requires that an external auditor, when reviewing a supervised entity’s compliance program, evaluate compliance with relevant legislation and guidelines and submit reports and recommendations, annually or with such frequency specified by the supervisory, to the relevant Board of Directors and Supervisory Authority.

Regulation 10(2) (b) of the FORs requires an internal auditor, when performing his function, to ensure that policies, procedures and systems are in compliance with the requirements of the FORs and that the level of transaction testing is in line with the risk profile of the customer.

INTERNAL AUDIT

Internal Audits are conducted as part of a supervised entity’s audit program by its Internal Audit function. It often consists of an in-house department staffed with persons who possess the requisite knowledge, skillset and qualifications to competently test the accuracy, efficiency and adequacy of the organisation’s or business’ AML/CFT/CPF controls and systems. This internal audit function is required to be separate from all other departments and ought to have no involvement in the entity’s AML/CFT/CPF risk assessment or establishing, implementing, or maintaining the entity’s AML/CFT/CPF compliance program. The internal audit function reports directly to a designated committee and board of directors of the supervised entity.

The functions of the internal audit include the following:

1. Reviewing AML policies, controls, training records, risk assessment, and more
2. Testing the effectiveness of existing AML procedures and their application
3. Understanding and analysing the automated systems used by the firm
4. Interviewing staff
5. Reviewing files
6. Making recommendations for changes and drafting an audit report
7. Conducting a review to ensure implementation of the recommendations

EXTERNAL AUDIT

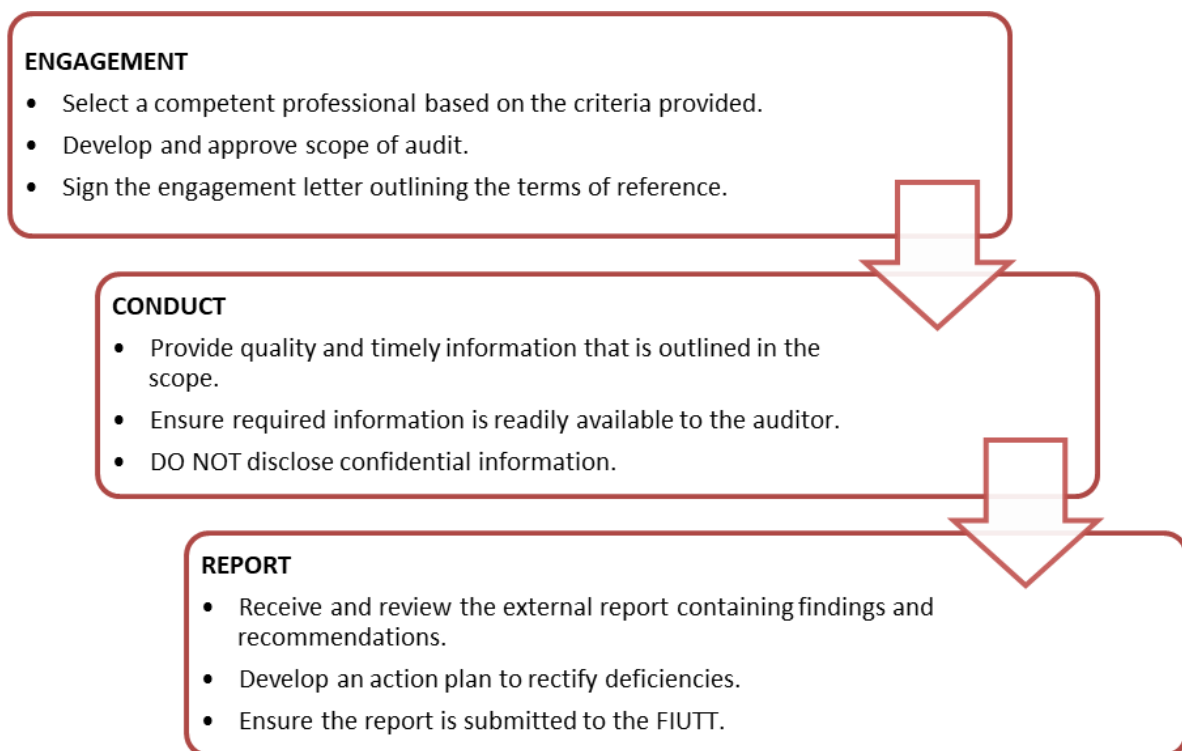
An external AML/CFT/CPF audit is usually conducted by a third-party service provider hired by the supervised entity. In reviewing the compliance program, the external auditor is required to evaluate compliance with the relevant legislation and guidelines.

Regulation 10(2)(a) of the FORs further requires that the external audit report be submitted to the FIUTT by the external auditor upon completion. This external audit report is utilised by the FIUTT, in its capacity as AML/CFT/CPF Supervisory Authority, to:

- detect irregularities and weaknesses in the supervised entity's development and implementation of AML/CFT/CPF controls;
- verify the supervised entity's compliance with AML/CFT/CPF regulations;
- determine and assess the supervised entity's level of AML risk and thereby facilitates a risk-based supervisory approach when assisting the entity towards achieving AML compliance; and
- identify shortcomings in the FIUTT's regulatory oversight;

As such, this Guidance Note is intended to guide Supervised Entities in their selection of a competent external auditor and to provide clarity on the purpose and scope of the External Audit so as to ensure the submission of comprehensive external audit reports to the FIUTT.

The diagram below illustrates the three main activities involved when engaging the services of an External Auditor.



1. ENGAGEMENT

To effectively achieve the objectives of the External Audit, the auditor or competent professional, selected by the Supervised Entity, is required to be specifically trained and qualified to undertake the required functions (*see Regulation 10 (5) of the FORs*).

For the purpose of this Guidance, a competent professional is an Attorney-at-Law, Accountant, or any person other than an Auditor, who possess the qualifications and experience necessary to competently and accurately conduct an AML/CFT/CPF Audit (see below).

The FIUTT recommends that the following factors be considered in the selection of an auditor or competent professional:

a. Qualifications, Experience and Reputation of External Auditor

The auditor or competent professional should have qualifications in AML/CFT/CPF and the conduct of AML/CFT/CPF Audits. It should be noted that qualifications for the conduct Financial Audits do not by itself indicate that a person has knowledge and experience conducting AML/CFT/CPF audits.

The auditor or competent professional ought to possess a sound knowledge in AML/CFT/CPF laws and regulations in Trinidad and Tobago and the FATF Recommendations and as evidenced by certification and/or sufficient experience in AML/CFT/CPF. The auditor or competent professional must also have previous experience in conducting AML/CFT/CPF audits and possess relevant knowledge of best practices within the supervised sector(s) being audited. Expertise acquired in varying environments (e.g. at a Regulator, Supervisory Authority or Financial Institution) would be an asset.

The auditor must also possess the highest level of integrity and competence, which should be verified through references and background checks.

b. Independence of Auditor

The auditor must provide a fair and unbiased assessment. The selected individual must be able to objectively test effectiveness, identify deficiencies and recommend appropriate measures for improvement of the supervised entity's AML/CFT/CPF system.

To secure objectivity, the auditor ought not be an individual that has previously provided other AML/CFT/CPF services to the Supervised Entity for whom he/she is now conducting the external audit. Such services may have included, but are not limited to consultancy for or the development of the compliance programme or conducted a risk assessment, as these activities may influence the results of the audit.

c. **Scope of the Audit**

Each sector and supervised entity is unique and as such, a "one-size fit all" approach cannot be adopted when conducting the external audit. **The scope of the external audit should therefore be dependent on the entity's nature of business (products and services provided, methods of payments used, volume of transactions, etc.) and risk profile.**

The Compliance Officer of the supervised entity should determine, and seek senior management's approval of, the scope of the external audit to test compliance with AML/CFT/CPF laws and guidance issued by the FIUTT. The external audit should include an assessment of the supervised entity's compliance programme for compliance with the obligations in accordance with the following laws as well as [Guidelines published by the FIUTT](#):

- (a) Proceeds of Crime Act, Chapter 11:27;
- (b) The Financial Obligations Regulations, 2010;
- (c) Anti-Terrorism Act, Chapter 12:07;
- (d) The Financial Obligations (Financing of Terrorism) Regulations, 2011;
- (e) the Financial Intelligence Unit of Trinidad and Tobago Act, Chapter 72:01;
- (f) the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011; and
- (g) the Economic Sanctions Act Chap. 81:05 "the ESA" and consequential Orders "(Economic Sanctions (Implementation of United Nations Resolutions on the Democratic People's Republic of Korea) Order, 2018 and Economic Sanctions (Implementation of United Nations Resolutions on the Islamic Republic of Iran) Order, 2023".

For Supervised Entities which do not have an internal audit function, the external audit should also assess the Supervised Entity's procedures for compliance with the above mentioned laws and that the level of transaction testing done by the Supervised Entity on its customer transactions, is in line with its customer risk profiles. In such a scenario, the External Audit is required to also comprise of the elements of an Internal Audit.

The following **should not** form part of the AML/CFT/CPF external audit:

- Review of financial statements or a prudential assessment; and
- Details of suspicious activity/transaction reports submitted to the FIUTT.

Please note Section 55A (2) of the POCA states that a director or staff of a financial institution or listed business "shall not disclose the fact or content of such report to any person, and any person who contravenes this subsection commits an offence and is liable on summary conviction to a fine of five million dollars and imprisonment for five years".

d. [Filing an SAR/STR with the FIUTT](#)

In the circumstances where, during the conduct of an external audit, the auditor or competent professional has any suspicion or knowledge that a transaction is linked to the financing of terrorism, he or she must report same to the Compliance Officer of the supervised entity (*see Regulation 6 of the Financial Obligations (Financing of Terrorism) Regulations 2011*).

Similarly, should the auditor or competent professional, during the conduct of an external audit, have any suspicion or knowledge that a transaction is linked to money laundering, he or she is recommended to report same to the Compliance Officer of the supervised entity. Suspicions of ML, TF or PF formed by the auditor during the course of the External Audit **should not** form part of the External Audit Report.

e. [Audit Fees](#)

The fees charged should be commensurate with factors such as the amount of time required to complete the audit, the entity's size and nature of business and the volume of transactions conducted during the reporting period.

f. [Engagement Letter](#)

The engagement letter agreed upon by the supervised entity and the auditor is a contract that documents the terms and conditions of the external audit relationship. The document should also include a confidentiality clause particularly regarding the identity of the Compliance Officer and financial transactions of the business. The Supervised Entity may also consider whether it should include a clause requiring the auditor to submit the final External Audit Report to the FIUTT in accordance with Regulation 10(2)(a) of the Financial Obligations Regulations 2010.

The FIUTT will not endorse or recommend competent professionals to Supervised Entities as each report is subject to scrutiny to ascertain the quality of the test conducted by the external auditor.

2. [CONDUCT OF THE INDEPENDENT TEST](#)

Based on the confirmed scope of the external audit, the auditor will determine the sample of testing and make the request to the supervised entity. The supervised entity should appoint a point person to liaise with the external auditor throughout the period of the audit to ensure:

- a. All requests from the auditor are documented and do not breach any confidentiality rules;
- b. The auditor receives timely submission of information and documentation requested; and
- c. The auditor has a dedicated location in the office to operate and review documents.

There is no standard timeframe for the conduct of an external audit. The time utilised by the auditor is dependent on the nature and complexity of business of the entity, the volume of transactions conducted, the cash intensity. It is critical that the audit presents a true, fair and thorough assessment of the entity's AML/CFT/CPF compliance.

3. THE EXTERNAL AUDIT REPORT

The report on the external audit must be presented to the senior management of the supervised entity in a timely manner and it should include the following information:

- a. A summary on the depth of testing conducted;
- b. The auditor's findings in all areas of the agreed upon scope;
- c. The auditor's recommendations to senior management of the entity; and
- d. Management's Comments and Implementation Date for commitment to addressing deficiencies.

It is recommended that there be a direct line of communication between the external Auditor and senior management to preserve the credibility and reliability of the independent audit.

4. SUBMISSION TO THE FIUTT

The External Audit Report ought to be submitted **electronically via email (fiucompliance@gov.tt)** to the FIUTT by the external auditor within seven (7) days upon its completion. The Report submitted to the FIUTT should include comments made by the entity's Senior management, if any.

All Supervised Entities will receive feedback from the FIUTT after its review of the External Audits submitted. The FIUTT's feedback will state whether the External Audit meets the requirements of Regulation 10(2)(a) of the FORs and FIUTT's Guidelines, giving relevant recommendations or requesting information as evidence of remedial measures.

Supervised Entities should note that an inadequate External Audit can result in an inaccurate risk assessment of the supervised entity. The FIUTT will provide written feedback to the External Auditor where it has determined the report does not meet the legislative obligation.

Supervised Entities are advised to inform their hired external auditor of the obligations and requirements as stated within this Guidance Note.

OFFENCES

Please note that failure to conduct an external audit as specified in Regulation 10 of the FORs is an offence. A NRFI or LB which does not comply with the FORs, commits an offence and is liable on summary

conviction, to a fine of five hundred thousand dollars and to imprisonment for a term of two years and on conviction on indictment, to a fine of three million dollars and to imprisonment for a term of seven years. (See Section 57 of the POCA and Regulation 42 of the FORs)

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