



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO



FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO

MINISTRY OF FINANCE

FIUTT REFERENCE: GN/01/2021

GUIDANCE TO NON-REGULATED FINANCIAL INSTITUTIONS AND LISTED BUSINESS ON INDEPENDENT TESTING OF COMPLIANCE PROGRAMME

OVERVIEW

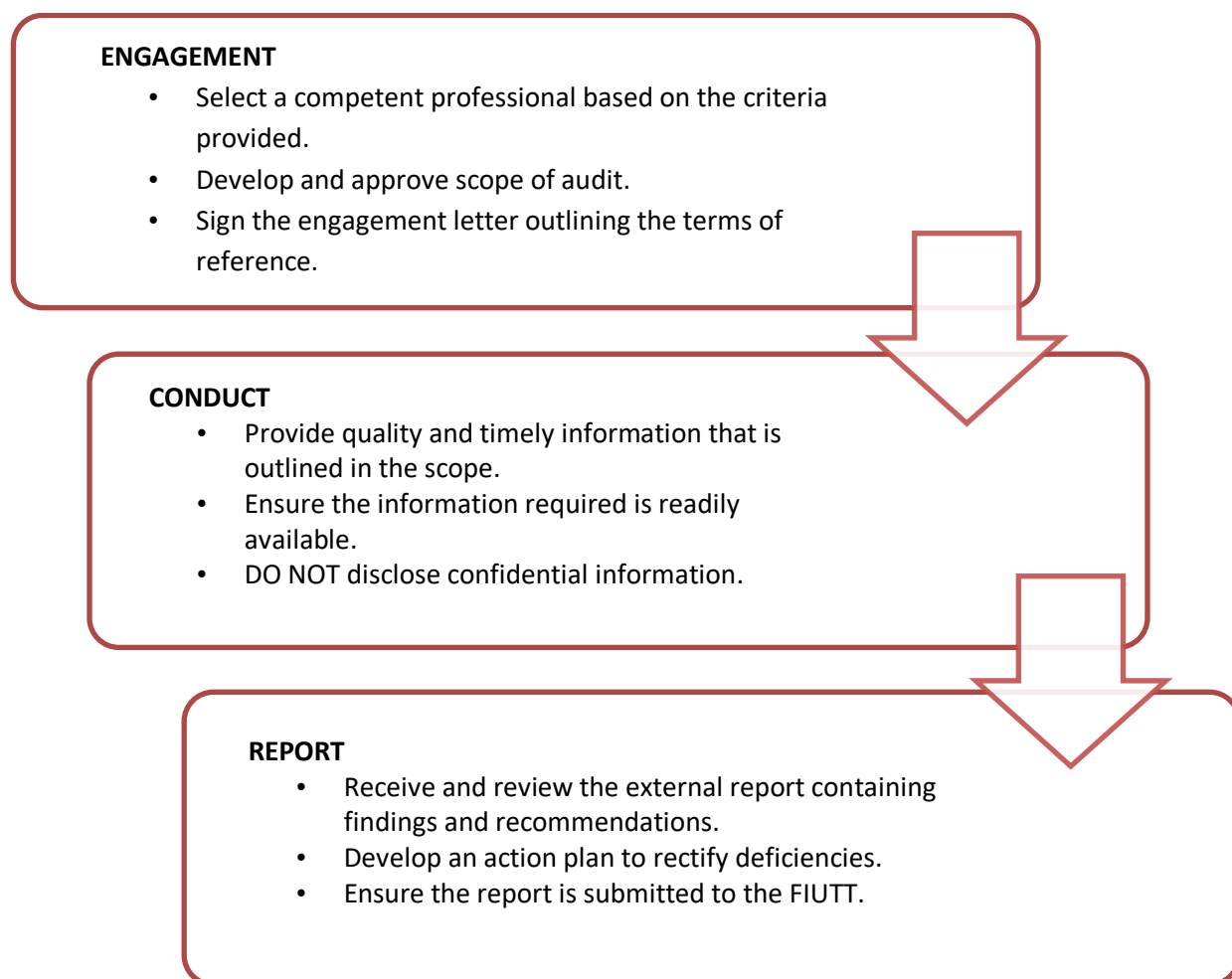
The Financial Intelligence Unit of Trinidad and Tobago ('FIUTT') refers to the Notice to Non-Regulated Financial Institutions (NRFIs) and Listed Business (LBs) on independent testing for compliance dated May 07, 2015. Regulation 10 (2) (a) of the **Financial Obligations Regulations, 2010 ('FORs')** requires every NRFI and LB to conduct an independent review of their anti-money laundering/counter financing of terrorism/counter proliferation financing (AML/CFT/CPF) Compliance Programme to evaluate compliance with the legislation and guidelines. A competent professional must conduct this independent review, otherwise referred to as an **External Audit**, annually or with such frequency as may be determined by the FIUTT.

The External Auditor **must** submit a copy of the External Audit report to the senior management and the FIUTT. The report is a useful tool for both the Regulator and the Supervised Entity, as it identifies compliance gaps and risks and also provides recommendations for improvement. Further, the FIUTT reviews the report to assess the quality of the test and obtain a true and fair view of the entity's implementation of the AML/CFT/CPF regime. The objective of the independent test is to:

- assess adherence with AML/CFT/CPF obligations;
- evaluate whether internal policies and procedures are adequate and effective;
- test the implementation of measures in accordance with the compliance programme approved by senior management; and
- provide adequate recommendations for gaps identified.

THE PURPOSE OF THIS GUIDANCE NOTE

This Guidance Note is intended to provide assistance to Supervised Entities in selecting a competent professional to conduct the independent test and understand the purpose and scope of the External Audit in accordance with Regulation 10 (2) (a) of the FORs. The following diagram illustrates the three key activities that will be discussed in this guidance.



1. ENGAGEMENT

Based on the objective of the independent test, the auditors or competent professionals selected by the Supervised Entity shall be specifically trained and qualified to undertake the functions (Regulation 10 (5) of the FORs). 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 should have qualifications in Law, Accountancy, Business Management or other relevant qualifications **and** sound knowledge of AML/CFT/CPF laws and regulations and FATF standards as evidenced by certification and/or sufficient experience in AML/CFT/CPF.

The auditor must 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 (Regulator or Financial Institutions) would be an asset.

The auditor must 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 entity's AML/CFT/CPF system.

To secure objectivity the auditor should not be an individual that has previously provided other AML/CFT/CPF services such as consultancy, 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 entity supervised by the FIUTT 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 entity should determine and seek management's approval of the external audit scope. As mentioned earlier, the external audit must test compliance with the AML/CFT/CPF laws and guidance issued by the Supervisory Authority. Therefore, the external audit should test compliance with the following obligations:

- Internal policies and procedures in accordance with the POCA, the ATA and the FIUTT Act and respective Regulations and 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, 2018". This includes customer due diligence, payment methods and record keeping obligations;
- Compliance Officer approval and functions in accordance with Regulations 3 and 4 of the FORs;

- Training and ongoing training provided to ALL directors, senior management and staff in accordance with Regulation 6 of the FORs; and
- Reporting obligations under the POCA, ATA and ESA and the Orders.

The following should not form part of the AML/CFT/CPF 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. 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.

e. Engagement Letter

The engagement letter agreed upon by the 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 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 entity. The 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 utilized 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. REPORT

The report on the external audit must be presented to the management of the entity in a timely manner. The report should include information on:

- 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.

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 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.

Compliance and Outreach Division
Financial Intelligence Unit of Trinidad and Tobago

28th January 2021

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