



INSURANCE COMMISSION
OF THE BAHAMAS



GUIDELINES FOR THE **COMPLIANCE** **FUNCTION**

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1. INTRODUCTION

- 1.1. As the supervisory body for the insurance sector, the Insurance Commission of The Bahamas (the Commission) is committed to promoting effective governance, regulatory compliance, and sound risk management practices across all insurance sector participants.
- 1.2. The Commission issues these guidelines pursuant to section 234 of the Insurance Act, *Ch.347* (the Act), and section 46 (3) of the External Insurance Act, *Ch. 348* (“EIA”) to assist insurers with the establishment of a comprehensive framework for an effective Compliance Officer (CO) function. These guidelines will also provide additional clarity regarding the Commission’s expectations of the compliance function and gives key points relevant to the Anti-Money Laundering/Countering the Financing of Terrorism/Countering Proliferation Financing obligations of Compliance Officers.
- 1.3. These Guidelines should be read in conjunction with the Commission’s *AML-CFT-PF Guidelines*, and the Group of Financial Services Regulators’ *Countering Proliferation Financing Guidelines* as they detail the related requirements and obligations for registrants and licensees. Moreover, the Commission’s Guidelines for Assessing General Fitness and Propriety, and the Guidelines on Corporate Governance and Oversight Assessment Criteria, should also be read as they provide insight to persons in control functions.¹

2. SCOPE

- 2.1. These guidelines are applicable to all registrants and licensees under the Act and EIA.

3. GLOSSARY

AML	Anti-Money Laundering
CFT	Countering the Financing of Terrorism
CPF	Countering Proliferation Financing
CDD	Customer Due Diligence
EDD	Enhanced Due Diligence
EIA	External Insurance Act
FITRR	Financial Intelligence (Transactions Reporting) Regulations 2001
FTRA	Financial Transactions Reporting Act 2018
FTRR	Financial Transaction Reporting Regulations 2018
POCA	Proceeds of Crime Act 2018

¹ A function that has a responsibility in an insurer or intermediary to provide objective assessment, reporting and/or assurance.

STR	Suspicious Transaction Report
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4. COMPLIANCE FUNCTION

- 4.1. The compliance function serves to ensure that an institution meets its legal, regulatory, and supervisory obligations. Pursuant to the FTRA all financial institutions are to appoint a compliance officer. In accordance with section 3 (1) (b)(i) and (ii) of the FTRA, long-term insurers and external insurers fall within the definition of financial institutions and are therefore mandated to appoint a CO. Additionally, the FTRR requires long-term insurers engaged in financial intermediary services to appoint a Money Laundering Reporting Officer (MLRO). The appointed MLRO must satisfy the requirements of fitness and propriety. Long-term insurers and external insurers may combine the roles of CO and MLRO, depending on the size, nature, complexity, and risk profile of the entity.²
- 4.2. General insurers, are not classified as financial institutions under the FTRA, and as such, are not obligated to appoint a CO. Notwithstanding, regulation 14 of the FTRR imposes an obligation on general insurers to file a Suspicious Transaction Report (STR) with the Financial Intelligence Unit (FIU) where there is suspicion that a proposal, proposer, or circumstances involves the proceeds of criminal conduct, constitutes identified risk,³ or is related to an offence under POCA (including attempts to evade enforcement provisions). Given this statutory reporting obligation, the Commission requires general insurers that have not appointed a CO to appoint a Designated Reporting Officer (DRO) to carry out the compliance and reporting functions.
- 4.3. Intermediaries may also be required to appoint a CO based on the size, nature, and complexity of their operations. Where an intermediary's business is smaller in scale or presents limited complexity, the Commission may permit the principal or responsible officer to perform the compliance function, subject to the Commission's ongoing oversight. In such cases, the principal or responsible officer will be required to undergo Commission mandated AML/CFT/CPF training annually to ensure continued compliance with applicable legislation, regulations, and guidelines.
- 4.4. No person may be appointed to the roles of DROs, COs, and MLROs without prior approval from the Commission. Further, all DROs and MLROs are required to be registered with the FIU, and intermediaries must submit a copy of the FIU registration to the Commission as evidence of compliance.

² The Commission has MLRO Guidelines also, they are mentioned here as the CO of certain institutions may act as MLRO (by combining the roles).

³ Criminal conduct and identified risk are both defined in the POCA.

5. RULES FOR THE COMPLIANCE FUNCTION

5.1. Independence, Authority, and Compliance

- 5.1.1. The compliance function must maintain full independence in the execution of their duties. The CO or DRO shall not be directly involved in the management or execution of activities in any business area where such involvement would create a conflict of interest or otherwise impair the CO's ability to perform their responsibilities objectively and without bias. Registrants and licensees must not engage in any activity that may detract from, interfere with, or compromise the independence, authority, or effectiveness of the compliance function.
- 5.1.2. The Board of Directors is responsible for approving the appointment and dismissal of the CO, and the CO must:
- Have direct and unrestricted access to the Board of Directors; Compliance and/or Audit Committee of the Board;
 - Operate independently from day-to-day operations;
 - Be empowered to act on findings to include the filing of suspicious activity or transaction reports, where necessary, and initiate remedial action;
 - Have unrestricted access to all records, systems, and personnel necessary for the role; and
 - Direct the Compliance (and MLRO where applicable) Reports to the Board of Directors; Compliance and/or Audit Committee of the Board for review and approval.
- 5.1.3. The CO must, as often as required but no less than once per quarter, present written Compliance reports to the Board which must include:
- An assessment of the key compliance risks the entity faces and the steps being taken to address them;
 - An assessment of how the various parts of the entity (e.g. divisions, major business units, product areas) are performing against compliance standards and goals;
 - Any compliance issues involving management or persons in positions of major responsibility within the entity, and the status of any associated investigations or other actions being taken;
 - Material compliance violations or concerns involving any other person or unit of the entity and the status of any associated investigations or other actions being taken; and
 - Material fines or other disciplinary actions taken by any regulator or supervisor in respect of the entity or any employee.

- 5.1.4. Moreover, the CO or DRO must actively monitor adherence to compliance with the relevant legislation in the Bahamas, which includes that of data protection if they are to act as Data Protection Officer under any related data protection legislation.

5.2. Physical Presence

- 5.2.1. The appointed CO or DRO must be physically present in The Bahamas.
- 5.2.2. External insurers that operate completely in another jurisdiction may seek the Commission's approval to appoint a CO who is a resident of that jurisdiction.

5.3. Conflicts of Interest

- 5.3.1. The compliance function must maintain impartiality and objectivity at all times to safeguard the integrity of the organization's operations and compliance with all applicable laws, rules, and regulations. The appointed CO or DRO must not perform any function or role within the organization other than that of the CO/DRO.
- 5.3.2. The compliance function should avoid any activities or responsibilities that could compromise or appear to compromise, their ability to act independently and objectively. Any potential or actual conflicts of interest, should immediately be disclosed to the Board or the relevant Board Committee.

5.4. Fitness and Propriety

- 5.4.1. The compliance function must meet the Commission's 'fit and proper' requirements given in the aforementioned fitness and propriety guidelines. The key elements are given below.

Moral Standing

- 5.4.2. An assessment of their honesty, integrity, and reputation. The CO or DRO must have been truthful and candid in their dealings with regulators and must be in good legal standing among other factors which may affect the Commission's assessment of their character.

Professionalism

- 5.4.3. A demonstration of their competence, capability, and qualifications. The CO or DRO must have sufficient knowledge and understanding of Bahamian laws and regulations, and global industry standards. The minimum requirements for the role are:
- Two years' experience, or at the discretion of the Commission, in AML/CFT/CPF compliance, audit or risk management in a financial institution;
 - Tertiary education in law, finance, economics, risk management, compliance, or a similar field;

- Membership in a relevant professional association, such as most of the associations administering the examinations for certification; and
- One of the following certifications:

Examination	Administered By
International Diploma in Anti-Money Laundering	Bahamas Institute of Financial Services (BIFS)
International Diploma in Governance, Risk and Compliance	BIFS
ICA Diploma in Financial Crime Prevention	ICA
Certified Anti-Money Laundering Specialist	Association of Certified Anti-Money Laundering Specialists (ACAMS)
Certified Financial Crime Specialist	Association of Certified Financial Crime Specialists (ACFCS)
Certified Risk Compliance Management Professional	International Association of Risk and Compliance Professionals (IARCP)
Certified Risk Compliance Management Professional in Insurance and Reinsurance	IARCP
Associate, Insurance Regulatory Compliance	Life Office Management Association (LOMA)

5.4.4. If the prospective CO or DRO has an examination or qualification not listed above, the Commission may review and approve same on a case-by-case basis if relevant. Moreover, the Commission may require an interview if the prospective CO fails to meet the experience threshold.

Financial Standing

- 5.4.5. The CO must have a history of responsible financial behaviour (consistent repayment of debts incurred) and must not have been declared bankrupt.
- 5.4.6. Registrants and licensees should take steps to ensure staff remains fit and proper by implementing ongoing monitoring and assessment processes. This may involve regular performance reviews, training and development, periodic background checks, and monitoring for potential conflicts of interest.

6. GROUP-WIDE COMPLIANCE

6.1. Compliance Officers whose companies are part of a group of entities must ensure that group-wide AML/CFT/CPF policies, procedures, and controls are in place to mitigate identified risk, which must meet or exceed the requirements of the Commission. The policies, procedures and controls should permit the sharing of information group-wide for

the purpose of performing due diligence and risk management. COs who conduct group-wide compliance should have the authority to request account and transaction information from branches and subsidiaries to carry out their compliance duties⁴.

7. OUTSOURCING OF THE COMPLIANCE FUNCTION

7.1. Entities are permitted to outsource its compliance functions, however, the company must obtain written approval from the Commission **prior** to outsourcing. The outsourced firm or individual must be competent, independent, and meet the requirements of guidelines issued by the Commission and relevant laws applicable to the company, including data protection. Moreover, the Commission will require a due diligence review prior to approval.

7.2. The following must be submitted to the Commission:

- Name and address of the proposed CO or DRO;
- Telephone and email contacts;
- Affiliations of the proposed CO or DRO to the registrant or licensee and its parent or affiliated companies, if any;
- Evidence that the proposed CO or DRO has sufficient knowledge, resources, and the necessary capacity to meet obligations; and
- Outsourcing contract(s) (which must have been reviewed and approved by the Board).

7.3. The registrant or licensee must ensure that the outsourced provider meets performance expectations and maintains security and data privacy standards as **the registrant or licensee retains responsibility for the compliance function, but the Commission reserves the right to enforce against the contracted party.**

Outsourcing Contract

7.4. The outsourcing contract must clearly describe all material aspects of the arrangement, including the rights, responsibilities and expectations of all parties. This also includes:

- That the contract is governed by and in accordance with the laws of The Bahamas;
- Confidentiality of clients' information according to the laws of the Bahamas;
- Inspection of the records by the registrant or licensee and its authorized representatives; and
- The Commission's right to access the registrant or licensee's documents, including any notes made by the CO., among other potential terms.

⁴ See Section 21 of the FTRA.

7.5. The registrant or licensee shall have ultimate responsibility for any failure of the engaged party to carry out its obligations under the contract.

8. KEY AML/CFT/CPF DUTIES OF THE COMPLIANCE FUNCTION

I. Risk Assessment:

- Conduct regular risk assessments to identify potential money laundering, terrorist financing and proliferation financing risks within the organization; and
- Implement controls to mitigate identified risks.

II. Establish Board Approved, Risk-Based, Written AML/CFT/CPF Policies, Procedures and Controls for:

- Risk assessments;
- CDD or EDD;
- Monitoring of customer activities and transactions;
- Record Keeping;
- Suspicious Transaction Reporting;
- Training employees and the Board;
- Screening employees to ensure high standards are maintained when hiring officers;⁵
- Testing of compliance with policies and procedures; and
- Reviewing and updating AML/CFT/CPF policies, procedures and controls.

III. Record Keeping:

- Maintain comprehensive records of AML/CFT/CPF compliance activities and findings (for at least seven years); and
- Ensure records are clear, accurate, and easily accessible.

IV. Training and Education:

- The CO or DRO should receive AML/CFT/CPF training at least once per year;
- The CO or DRO must maintain their required continuing professional development (CPD) hours for their approved certification(s);
- Provide ongoing training for employees on AML/CFT/CPF laws and internal policies and procedures;
- Ensure that training materials are up-to-date and relevant to the organization's operations; and
- Assess the effectiveness of training programs and make improvements as needed.

V. Continuous Testing and Review of AML/CFT/CPF Policies, Procedures and Controls:

⁵ See Section 19 of the FTRA.

- Regularly review and update the AML/CFT/CPF policies, procedures and controls to reflect changes in laws and regulations;
- Investigate any potential compliance breaches thoroughly; and
- Report findings to Senior Management and the Board and recommend corrective actions.

VI. Reporting to Supervisory Authorities and the Board:

- Maintain open lines of communication with regulatory authorities;
- Ensure timely reporting of compliance-related information to authorities, not solely limited to AML/CFT/CPF information; and
- Regularly report compliance activities and findings to the Board.

9. NOTIFICATION TO THE COMMISSION

9.1. Registrants and licensees must immediately⁶ notify the Commission of the resignation or removal of a CO or DRO. Moreover, the compliance function must notify the Commission of anything affecting their ability to carry out their duties independently as soon as they become aware of it.

10. REPLACEMENT OF THE COMPLIANCE FUNCTION

10.1. A registrant or licensee who has terminated their CO or DRO, or whose CO or DRO has resigned, must provide the Commission with the timeline and plan to replace the compliance function and designate a person who is to act as a CO or DRO until the function is replaced. The Commission reserves the right to implement a timeframe for the replacement of the compliance function if the Commission deems that the plan is inadequate given the size, nature, and complexity of the entity.

11. EXIT INTERVIEW

11.1. When a CO or DRO resigns, is terminated, or otherwise leaves the registrant or licensee, the CO must complete an Exit Interview with the Commission to ensure there are no gaps and that the CO feels free to speak with the regulator, especially if there were concerns about any deficiencies that may exist. This is not included as the firm's exit interview.

⁶ No later than 24 hours.

12. TRANSITION AND IMPLEMENTATION

12.1. To facilitate orderly compliance with these guidelines, the following transition arrangements apply:

12.1.1. Insurers will be allowed an implementation (transition) period of up to six (6) months, while intermediaries will be allowed an implementation (transition) period of up to twelve (12) months.

12.1.2. The Commission reserves the discretion to determine and vary the applicable transition period, having regard to the size, nature, and complexity of the relevant registrants and licensees within each category.

APPENDIX: CONFIDENTIAL COMPLIANCE FUNCTION APPROVAL FORM

The following fields are to be answered regarding the prospective Compliance Officer (*or Designated Reporting Officer where applicable*) and Money Laundering Reporting Officer.

1. Name:
2. Former name(s) by which you may have been known, if applicable:
3. Name of the registrant or licensee:
4. Personal address:
5. Personal email address:
6. Personal telephone:
7. Qualifications:
8. Years of experience in this field:
9. Provide full details on the duties and responsibilities attached to the position:
10. Do you currently hold a regulated function within a body corporate or financial institution?
Yes ☐ No ☐

If yes, please provide full details, including name of regulator, country, application or licensee type, date approved, date approval ceased and the reason:
11. Do you have any pending applications with any other financial services regulator in The Bahamas or any other jurisdiction?
Yes ☐ No ☐

If yes, please provide the name(s) of the other financial services regulator(s) and the capacity in which you have made application:
12. Which institutions have you been a controller, shareholder, director, executive officer, senior official/officer or compliance officer/MLRO at any time during the past 10 years? Give relevant dates.

13. Have you at any time been convicted of any crime, excluding –
- a. Any minor offence committed when you were under 18 years of age, unless the same offence was committed within the last 10 years; or,
 - b. Any minor road traffic offence?

Yes ☐ No ☐

If yes, provide the details of the court by which you were convicted, the offence, the penalty imposed, and the date of conviction:

14. Have you, in The Bahamas or any other jurisdiction, been censured, disciplined, warned as to future conduct, or made the subject of a court order at the instigation of any regulatory authority or any professional body to which you belong or belonged, or have you ever held a practicing certificate subject to conditions?

Yes ☐ No ☐

If yes, please provide details:

15. Have you, or has any body corporate, partnership, or unincorporated institution with which you are, or have been, associated with or otherwise, been the subject of an investigation, in The Bahamas or any other jurisdiction, by or at the instigation of a government department or agency, professional association, or other regulatory body?

Yes ☐ No ☐

If yes, please provide details:

16. Have you, in The Bahamas or any other jurisdiction, been dismissed from any office or employment, or been subject to disciplinary actions by your employer or been barred from entry to any profession or occupation?

Yes ☐ No ☐

If yes, please provide details:

17. Have you failed to satisfy any debt adjudged due and payable by you, as a judgment under an order of a court, in The Bahamas or any other jurisdiction, or made any compromise arrangement with your creditors within the past 10 years?

Yes ☐ No ☐

If yes, please provide details:

18. Have you ever been declared bankrupt (either provisionally or finally) by a court, in The Bahamas or any other jurisdiction, or has a bankruptcy petition ever been served on you?

Yes ☐ No ☐

If yes, please provide details:

19. Have you, in connection with the formation or management of any body corporate, partnership or unincorporated institution, been adjudged by a court, in The Bahamas or any other jurisdiction, civilly or criminally liable for any fraud, misfeasance, or other misconduct by you towards such a body or company or towards any members thereof?

Yes ☐ No ☐

If yes, please provide details:

20. Have you ever been required to give evidence in any trial or proceedings involving fraud, misfeasance or other misconduct?

Yes ☐ No ☐

If yes, please provide details:

21. Has any body corporate, partnership, or unincorporated institution with which you were associated in a regulated function, in The Bahamas or any other jurisdiction, been compulsorily wound up, made subject to an administration order, or made any compromise or arrangement with its creditors or ceased trading while you were associated therewith, or has anything comparable to any of these events occurred under the laws of any other jurisdiction?

Yes ☐ No ☐

If yes, please provide details:

22. In carrying out your duties will you be acting on the directions or instructions of any other individual and/or financial institution?

Yes ☐ No ☐

If yes, please provide details:

23. Have you, a family member, or a close associate, at any time, been considered a PEP?

Yes ☐ No ☐

If yes, please provide details, include the names of the family member or close associate and the political positions held:

24. Do you, or any related party of whom you are aware, currently or prospectively plan to undertake business with this registrant or licensee?

Yes ☐ No ☐

If yes, please provide details:

25. Are you currently, or do you expect to be engaged, other than in a professional capacity, in any litigation in The Bahamas or any other jurisdiction?

Yes ☐ No ☐

If yes, please provide details:

26. Have you always been candid and truthful in all your dealings with any regulatory body, in The Bahamas or any other jurisdiction?

Yes ☐ No ☐

27. Have you demonstrated the readiness and willingness to comply with the requirements and standards of the regulatory systems and with relevant legal and professional requirements and standards?

Yes ☐ No ☐

28. Do you, at all times while acting in the capacity of a compliance officer, undertake to:

a. Act in good faith towards the registrant or licensee?

Yes ☐ No ☐

b. Avoid conflict between your other interests and the interests of the registrant or licensee?

Yes ☐ No ☐

c. Disclose conflicts of interest in a timely manner?

Yes ☐ No ☐

29. Please state any material information which you would consider to be relevant to the assessment of your application. Provide supporting documents as applicable.

Please attach two character references; resume/curriculum vitae; valid Government issued photo identification; valid police record (within 6 months); Board resolution or written approval of the prospective compliance officer / designated reporting officer; and certified proof of qualifications.

DECLARATION

I, _____, hereby declare the following:

This form consists of _____ pages, each initialed by me. The content of this form and declaration is true to the best of my knowledge and belief. I am aware that should I knowingly or intentionally supply false or misleading information herein, I may be liable to prosecution.

I undertake that, as long as I continue to be a Compliance Officer of a registrant or licensee, I will notify the Insurance Commission of The Bahamas of any material changes to or affecting the completeness or accuracy of the information supplied by me as soon as possible, but no later than 7 business days from the day that the changes come to my attention.

I know and understand the content of this declaration.

SIGNATURE: _____

DATE: _____

I certify that the above statement was taken by me and that the deponent has acknowledged that he/she knows and understands the content of this statement.

This statement was signed in my presence at: _____
on the _____ day of _____ (mm/yy)

Justice of the Peace/Notary Public Stamp