



QFCRA Practice Note 2007-2

Regulation No. 3 of 2005, the QFC Anti Money Laundering Regulations

Correspondent Banking

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Section 1 Introduction

- 1.1 The Qatar Financial Centre Regulatory Authority (“**Regulatory Authority**”) was established under Qatar Financial Centre Law No. 7 of 2005 and is the independent financial services regulator of the Qatar Financial Centre (“QFC”).
- 1.2 The statutory objectives of the Regulatory Authority (as contained in the QFC Financial Services Regulations (Regulation No. 1 of 2005)) include:
 - (a) the promotion and maintenance of efficiency, transparency and the integrity of the *QFC*;
 - (b) the promotion and maintenance of confidence in the *QFC* of users and prospective users of the *QFC*;
 - (c) the prevention, detection and restraint of conduct which causes or may caused damage to the reputation of the *QFC*, through appropriate means including the imposition of fines and other sanctions;
 - (d) the provision of appropriate protection to those licensed to carry on business at the *QFC* and their clients and customers; and
 - (e) minimising the extent to which the business carried on by a *Person* carrying on *Regulated Activities* can be used for the purposes of or in connection with *Financial Crime*.
- 1.2 The Regulatory Authority in accordance with, and in pursuit of, those particular statutory objectives is committed to ensuring that effective, robust requirements are implemented to detect and prevent money laundering and the financing of terrorism.
- 1.3 To achieve this aim the QFC AML Regulations and the Qatar Financial Centre Regulatory Authority Anti Money Laundering Rulebook (“**AML Rulebook**”) place certain obligations on *Relevant Persons*.
- 1.4 The purpose of this practice note is to:
 - (a) provide information and assistance to *Relevant Persons* regarding the correspondent banking provisions of the QFC AML Regulations and the AML Rulebook;
 - (b) enable *Relevant Persons* to build upon existing anti money laundering and terrorist financing policies and procedures; and
 - (c) assist *Relevant Persons* develop comprehensive due diligence programs to enhance controls in relation to correspondent banking.

- 1.4 This practice note uses certain terms that are defined in the glossary of the Interpretation and Application Rulebook (*INAP*) available through the Regulatory Authority website (www.qfcra.com/publication). Defined terms are identified throughout this practice note by the italicisation of the term.
- 1.5 The QFC AML Regulations and AML Rulebook are available on the Regulatory Authority website (www.qfcra.com/legislation).

Section 2 Correspondent Banking

- 2.1 A correspondent banking relationship involves the provision of banking services by one financial institution (the *Correspondent Bank*) to another financial institution (*Correspondent Banking Client*), where the financial institutions carry on activities or business at or through permanent establishments in different countries.
- 2.2 It is also possible for one bank to open a *Correspondent Account* with another bank that already has an existing correspondent banking facility. This process is generally referred to as “nesting” the underlying bank sometimes being referred to as a second tier *Correspondent Banking Client*.
- 2.3. The banking services provided by the *Correspondent Bank* may involve the provision of cash management services, international funds transfers, check clearing, foreign exchange services, loans and letters of credit.

Section 3 Correspondent Banking & Money Laundering Risk

- 3.1 A *Correspondent Bank* will typically provide a range of services to a number of *Correspondent Banking Clients* who issue instructions on behalf of their respective customers to the *Correspondent Bank*.
- 3.2 Correspondent banking can facilitate the flow of substantial funds through several different financial institutions without providing a single picture of the persons and/or entities involved. This can make it difficult to detect illegal activity.
- 3.3 Accordingly, *Relevant Persons* must establish and maintain due diligence policies, procedures, systems and controls to identify and manage risks in relation to *Correspondent Banking*, particularly when Correspondent Banking Clients are located in jurisdictions presenting high risks of money laundering or terrorist financing.
- 3.4 The *Correspondent Bank* will typically have no direct relationship with the underlying parties to the transactions and therefore needs to take appropriate steps to verify the identity of the underlying parties to the

transactions and determine the nature and purpose of those transactions.

Section 4 Risk Based Approach to Due Diligence

- 4.1 Relevant Persons are required to adopt a risk-based approach when assessing any business relationship or Transaction with respect to its specific Money Laundering risk and the information and evidence that might be required or validated for this purpose.
- 4.2 A Relevant Person must take specific and adequate measures to address the higher risk of Money Laundering which might arise from correspondent banking relationships (AML Rulebook, Appendix 2).
- 4.3 A Relevant Person should establish even more stringent due diligence measures in relation to Correspondent Banking Clients that are high risk or are from a high risk jurisdiction.
- 4.4 A high risk Corresponding Banking Client may include but is not limited to:
 - (a) an Off-Shore Bank;
 - (b) a bank that has been identified as deficient in applying anti-money laundering or terrorist financing principles, or which has been subject of an investigation or any criminal or civil proceedings relating to money laundering or terrorism financing; or
 - (c) a bank organised under the laws of a high risk jurisdiction.
- 4.5 A high risk jurisdiction includes, but is not limited to:
 - (a) a country or jurisdiction that has been designated as non-cooperative or non-compliant with international anti-money laundering principles or procedures by an intergovernmental group or organisation, including but not limited to FATF;
 - (b) a country or jurisdiction known to have high levels of public or private sector corruption; or
 - (c) a country or jurisdiction known to be drug producing or drug transit country.

Section 5 Risk Assessment & Due Diligence

- 5.1 Article 12 of the QFC AML Regulations sets out the requirements for Relevant Persons in respect of establishing and managing correspondent banking relationships.

5.2 When establishing and managing correspondent banking relationships Relevant Persons are required to comply with the:

- (a) Customer Identification requirements in Article 9 of the QFC Regulations (and Rule 3.8 and Appendix 1 of the AML Rulebook);
- (b) Risk Assessment requirements in Article 15 of the QFC AML Regulations (and Appendix 2 of the AML Rulebook); and
- (c) Due Diligence requirements in Article 12(2) of the QFC Regulations.

5.3 In addition to the specific matters set out in the QFC AML Regulations and the AML Rulebook, Relevant Persons should consider assessing the following matters in conducting due diligence:

Correspondent Banking Client Identity

- (a) the Ownership, control and management structures of the Correspondent Banking Client and any parent company, including whether a Politically Exposed Person has ownership or control of the Correspondent Banking Client or any parent company;
- (b) the *beneficial owners* who have a controlling interest in the Correspondent Banking Client;
- (c) whether the Correspondent Banking Client is duly organised, registered, licensed and/or authorised;

Correspondent Banking Client Risk

- (d) the nature of the Correspondent Banking Clients business, including its product and customer base;
- (e) the country of residence of the Correspondent Banking Client;
- (f) the country of residence of any parent company of the Correspondent Banking Client;
- (g) intended purpose of the Correspondent Account;
- (h) the adequacy of the Correspondent Banking Clients AML/CTF controls and internal compliance practices;
- (i) the level to which the Correspondent Banking Client applies the FATF Recommendations;

- (j) whether the Correspondent Banking Client maintains correspondent accounts, the details of such accounts maintained and the adequacy of the Correspondent Banking Clients internal anti money laundering controls;
- (k) the Correspondent Banking Clients financial position;
- (l) the reputation and history of the Correspondent Banking Client, including its business history and compliance history;
- (m) the reputation and history of any parent company of the Correspondent Banking Client;
- (n) whether the Correspondent Banking Client has been the subject of an investigation or any criminal or civil proceedings relating to money laundering or terrorism financing;
- (o) the senior management of the Correspondent Banking Client and whether there have been any recent changes in ownership or senior management;

Jurisdiction Risk

- (p) the primary regulatory body overseeing the Correspondent Banking Client and the existence and quality of any AML/CTF regulation in the Correspondent Banking Client's country of residence;
- (q) the primary regulatory body overseeing the parent Company of the Correspondent Banking Client, the existence and quality of any AML/CTF regulation in the Correspondent Banking Clients parent company's country of residence, where the parent company has group-wide control within which the Correspondent Banking Client operates;
- (r) the overall Money Laundering strategies of the Correspondent Banking Clients country of residence;
- (s) whether the Correspondent Banking Client's home jurisdiction (including government, regulators and other relevant authorities) sufficiently apply the FATF Recommendations;
- (t) whether the Correspondent Banking Clients home jurisdiction has high levels of public or private sector corruption;
- (u) whether the Correspondent Banking Clients home jurisdiction is known to be drug producing or drug transit country;

- (v) whether the Correspondent Banking Client's home jurisdiction has been classified as having inadequacies in their anti Money Laundering regulations;
- (w) whether the Correspondent Banking Client's home jurisdiction has any secrecy or data protection laws that would prevent access by the Relevant Person to relevant data;

Politically Exposed Persons

- (x) whether the Correspondent Banking Client is involved with a Politically Exposed Person, or with the family members or close associates of a Politically Exposed Person.

Section 6 Further Due Diligence Steps

6.1 In assessing the money laundering/terrorist financing risks posed by a Correspondent Banking Client, particularly one that is high risk or from a high risk jurisdiction (refer to paragraph 4), Relevant Persons should consider taking the following steps:

- (a) obtain the Correspondent Banking Client's annual report and financial statements (audited if available);
- (b) review the applicable laws and regulations regarding the prevention of Money Laundering/Terrorist Financing in the Correspondent Banking Clients home jurisdiction;
- (c) meet with senior management of the Correspondent Banking Client;
- (d) document the respective AML/CTF responsibilities of the Correspondent Banking Client
- (e) review reports by bank rating agencies regarding the Correspondent Banking Client;
- (f) determine the expected level of activity of the Correspondent Banking Client through the Correspondent Account;
- (g) request general information on the Correspondent Banking Client categories of customers, including such categories as Shell Banks, Offshore Banks, PEP's and other correspondent banking clients;
- (h) for privately held Correspondent Banking Clients, ascertain the identity of each of the owners of the Correspondent Banking Client and perform an appropriate level of due diligence with regard to such owners;

- (i) review publicly available information to determine whether the Correspondent Banking Client has been the subject to a money laundering or other criminal investigation, criminal indictment or conviction, any civil enforcement action based on violations of anti money laundering laws or regulations or any investigation, indictment, conviction or civil enforcement action relating to financing of terrorists; and
- (j) undertake ongoing assessments of countries that carry the highest risk of money laundering or terrorists financing.

Section 7 Payable Through Accounts

7.1 Where a correspondent banking relationship involves the maintenance of “payable through accounts” Relevant Persons should be satisfied that:

- (a) proper due diligence measures have been performed on its customers;
- (b) there is direct access to the accounts of the Correspondent Banking Client; and
- (c) the Correspondent Banking Client is able to provide relevant customer identification data upon request to the Relevant Person.

Section 8 Customer Information

8.1 Article 12(2)(B) of the QFC AML Regulations requires a Relevant Person to ensure that the Correspondent Banking Client has verified the identity of, and performs on-going due diligence on, its customers having direct access to the Correspondent Account and that the Correspondent Banking Client is able to provide customer due diligence upon request to the Relevant Person.

8.2 Rule 3.12.1 of the AML Rulebook requires a Relevant Person to verify if any secrecy or data protection law exists in the country of the Correspondent Banking Client that would prevent access to relevant data.

8.3 A Relevant Person should consider avoiding a relationship with a Correspondent Banking Client in circumstances where customer information is not able to be readily obtained.

Section 9 Deficient Jurisdictions

9.1 Relevant Persons are required by Rule 3.15.1 of the AML Rulebook to pay particular attention to Transactions and business relationships with Correspondent Banking Clients in countries or jurisdictions that have

been identified as deficient, or against which any authority in the State has outstanding advisory notices, and must be aware of the background against which the assessments or recommendations have been made.

- 9.2 Relevant Persons must have arrangements in place to ensure that, when considering a Transaction or business relationship with a Correspondent Banking Client they obtain and make proper use of any relevant findings issued by any of the bodies listed at Article 14 of the QFC AML Regulations and those bodies listed at paragraph 15 of this practice note.

Section 10 Shell Banks

- 10.1 Relevant Persons are prohibited by Article 12(3) of the QFC AML Regulations from establishing a correspondent banking relationship with a Shell Bank.

- 10.2 The QFC AML Regulations defines a Shell Bank as:

A credit institution incorporated in a jurisdiction in which it has no physical presence, including meaningful mind and management, and which is not affiliated with a regulated financial group.

- 10.3 “Physical presence” in a country for the purposes of the Shell Bank definition means that the corporation carries on banking business at a physical place in that country and has at least one full-time employee who performs banking-related duties at that place

- 10.4 Where a Relevant Person becomes aware that a Correspondent Banking Client with which it is in a relationship is a Shell Bank, it must terminate the relationship immediately.

Section 11 Senior Management Sign Off

Relevant Persons should ensure that their *Senior Management* gives their final approval before it establishes any new correspondent banking relationships.

Section 12 Ongoing Due Diligence

- 12.1 Persons that conduct business with Correspondent Banking Clients must carry out and document regular risk assessments of the potential for the relationship to involve or facilitate money laundering or the financing of terrorism.

- 12.2 Article 12(2)(c) of the QFC AML Regulations (and Appendix 2 of the AML Rulebook) requires Relevant Persons to apply an intensified monitoring of Transactions processed through a Correspondent

Account in order to detect and report any suspicion of Money Laundering.

- 12.3 Relevant Persons should take particular care in assessing transactions from high risk Correspondent Banking Clients and from high risk jurisdictions. Similar care should also be taken in assessing Transactions with Correspondent Banking Clients in jurisdictions relieved from special scrutiny (i.e. taken off the FATF list of NCCT's).
- 12.4 Relevant Persons should have procedures and systems in place to identify and examine the background and purpose of Transactions that appear to have no apparent economic or visible lawful purpose, and to maintain written findings available to the relevant authorities.
- 12.5 Rule 3.8.2 of the AML Rulebook requires a Relevant Person to undertake a periodic review to ensure that Customer identity documentation is accurate and up-to-date.
- 12.6 The frequency and content of these ongoing reviews is a matter for the Relevant Person to determine, taking into account:
 - (a) the risk of money laundering or financing of terrorism identified in the Relevant Persons initial risk assessment or in the course of ongoing monitoring;
 - (b) any changes in the Relevant Persons "Know Your Customer Requirements";
 - (c) any significant Transactions expected to take place;
 - (d) any material changes in the business relationship with the Correspondent Banking Client including the types of Transactions carried out as part of that relationship (noting that the Relevant Person must have appropriate systems and controls to identify such changes); and
 - (e) any material changes in the nature or ownership of the Correspondent Banking Client.

Section 13 Documentation & Records

- 13.1 Relevant Persons must ensure that it documents and keeps, in accordance with its obligations under QFC Law, all relevant information, correspondence and documentation, including but not limited to that which is used:
 - (a) to verify a Correspondent Banking Clients identity;
 - (b) in the conduct of due diligence; and

- (c) to record all Transactions with the Correspondent Banking Clients.

Section 14 Suspicious Transaction Reporting

Relevant Persons should take particular steps to ensure that their policies, procedures and controls for identifying, monitoring, reporting and referring suspicious transactions specifically address Correspondent Account activity.

Section 15 Staff Awareness & Training

Relevant Persons should take particular steps to ensure that the regular information and training it provides pursuant to Article 17 of the QFC AML Regulations specifically addresses correspondent banking, either as part of general training, or through a programme tailored for those Employees involved in the conduct of the Relevant Persons correspondent banking business.

Section 16 International Resources

16.1 Relevant Persons should be proactive in obtaining and appropriately using available national and international information, for example suspect lists or databases from credible public or private sources with regard to Money Laundering and terrorist financing. The Regulatory Authority encourages Relevant Persons to perform checks against their Customer databases and records for any names appearing in such lists and databases as well as to monitor Transactions accordingly.

15.1 Relevant Persons should also ensure ongoing compliance with the Forty Recommendations of the Financial Action Task Force on Money Laundering, specifically, including without limitation:

- (a) Recommendation 7 which outlines due diligence measures financial institutions should take in relation to correspondent banking;
- (b) Recommendation 18 which outlines principles for dealing with Shell Banks; and
- (c) Recommendation 21 which requires financial institutions to give special attention to business relationships and transactions with persons from countries which do not or insufficiently apply the FATF Recommendations and to examine transactions with no apparent economic or visible lawful purpose.

15.2 The following is a non-exhaustive list of national and international organisations which publish material which may assist in the formation of due diligence processes for correspondent banking relationships:

- (a) The Egmont Group

www.egmontgroup.org

- (b) Financial Action Task Force (FATF)
www.fatf-gafi.org
- (c) International Monetary Fund (IMF)
www.imf.org
- (d) Joint Money Laundering Steering Group (JMLSG) Guidance Notes
www.jmlsg.org.uk
- (d) The New York Clearing House Association L.L.C. Guidelines for Money Laundering Policies and Procedures in Correspondent Banking
www.nych.org/docs/000592.pdf
- (e) Organisation for Economic Co-operation and Development (OECD)
www.oecd.org
- (e) The Wolfsberg Group – Principles for Correspondent Banking
www.wolfsberg-principles.com
- (e) The World Bank
www.worldbank.org

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