

Checklist on AML/CFT for Law Firm, Foreign Law Firm, Joint Law Venture and Foreign Lawyers

Name of Law Practice:

Matter No:	
Name of Client:	
Subject Matter:	
Date of Record:	
Filed By:	

This Checklist is designed to assist legal professionals and law practices in their compliance with the Financial Intelligence and Anti-Money Laundering Act 2002, Prevention of Corruption Act 2002, Prevention of Terrorism Act 2002, United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, Convention of the Suppression of the Financing of Terrorism Act and the Financial Intelligence and Anti-Money Laundering Regulations 2018. You are required to refer to the guidelines/guidance as issued by the Attorney General’s Office. Law Firm, Foreign Law Firm, Joint Law Venture and Foreign Lawyers are ‘reporting person’ under the law.

Nature and scope of your law practice

Does your Law Practice prepare for, or carry out transactions for his client concerning the following activities?

	Yes	No	N/A
Buying and selling of real estate			
Managing of client money, securities or other assets			
Management of bank, savings or securities accounts			
Organization of contributions for the creation, operation or management of legal persons such as a company, a foundation, a limited liability partnership or such other entity as may be prescribed			

Creating, operating or management of legal persons such as a company, a foundation, an association, a limited liability partnership or such other entity as may be prescribed, or legal arrangements, and buying and selling of business entities			
Acting as a formation agent of a legal person with a view to assisting another person to incorporate, register or set up as the case may be a company, a foundation, a limited liability partnership or such other entity as may be prescribed			
Acting or causing another person to act, as a director, or as a secretary, as a partner or in any other similar position as the case may be of a legal person such as a company, foundation, a limited liability partnership or such other entity as may be prescribed			
Providing a registered office, a business address or an accommodation, a correspondence or an administrative address for a legal person such as a company, a foundation, a limited liability partnership or such other entity as may be prescribed			
Acting or causing for another person to act as a nominee shareholder for another person			
Please list any other activities not listed above which your law practice engages in:			

A. Risk-Based Approach to Supervision

1. Have you taken into account the following risk factors when assessing your own ML/TF risk?

	Yes	No	N/A
1.1 Nature, scale and complexity of the activity of the reporting person			
1.2 Product/service risk			
1.3 Nature, scale, complexity and location of			

the customer's activities			
1.4 Reliance on third parties			
1.5 Technological developments			
1.6 Outcome of the NRA			
1.7 If any of the answers is No and/or N/A, please give reasons:			

2. Do you conduct the following CDD measures where and when?

	Yes	No	N/A
2.1 Establishing a business relationship with a customer			
2.2 A transaction in an amount equal to above 500,000 rupees whether conducted as a single transaction or several transactions that appear to be linked			
2.3 A domestic or cross-border wire transfer			
2.4 Doubts exist in relation to the customer identification information			
2.5 There is a suspicion of money laundering and terrorism financing involving the customer or the customer's account			
2.6 Apply enhanced due diligence when the risks are higher			
2.7 Apply simplified due diligence when the risks are lower as identified in the NRA report			
2.8 Apply CDD measures as prescribed and specified by a supervisory authority			
2.9 If any of the answers is No and/or N/A, please give reasons:			

3. Methods of verification when customer is a natural person: the following details must be provided

	Yes	No	N/A
3.1 Full legal name (marital name or former legal name)			
3.2 The date and place of birth			
3.3 The nationality			
3.4 The current permanent address			
3.5 Any other information as may be specified by the relevant supervisory authority or regulatory body			
3.6 If any of the answers is No and/or N/A, please give reasons:			

4. Methods of verification when customer is a legal person or legal arrangements: the following details must be provided

	Yes	No	N/A
4.1 The nature of the business			
4.2 The ownership and control structure			
4.3 Legal form			
4.4 Name			
4.5 Proof of existence			
4.6 Powers that regulate and bind the customer			
4.7 Names of all relevant persons having a senior management position in the legal person or arrangement			
4.8 Address of the registered office, if different, principal place of business			
4.9 If any of the answers is No and/or N/A, please give reasons:			

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5. Other forms of verification

	Yes	No	N/A
5.1 Do you use documents which are independent and from a reliable source for example a passport etc...			
5.2 Do you use electronic verification to verify the identity of your client. If your answer is Yes, what CDD measures do you apply to mitigate the AML/CFT risks			
5.3 Do you have non-face-to-face clients. If Yes, please provide below the measures adopted to identify and verify the identity of your clients and explain below what CDD measures do you apply to mitigate the AML/CFT risks			
5.4 Do you use other verification methods, if so, please list and explain all of them below			
5.5 Does your staff have adequate training to identify forged documents? If your answer is No, please explain below what your institution is doing to address this problem			
5.5 Please provide your detailed explanation here:			

6. Beneficial owner in relation to a natural person

	Yes	No	N/A
6.1 Do you have customers who are natural persons			
6.2 Do you identify the beneficial owner in relation to a customer, and take reasonable measures to verify the beneficial owner's identity so that you are satisfied that you know who the beneficial owner is?			

6.3 When a natural person is identified as a beneficial owner, do you obtain the following identification information?			
(a) Full name			
(b) Date of birth			
(c) Nationality			
(d) Unique identification number and document type			
6.4 where there are indications that the customer who is a natural person is not acting on his/her behalf, do you make appropriate enquiries to identify the beneficial owner of the customer?			
If any of the answers is No and/or N/A, please give reasons:			

7. Beneficial owner in relation to a legal person

	Yes	No	N/A
7.1 Do you have customers that are legal person?			
7.2 For a customer that is a legal person, if there is no natural person who falls within the definition of beneficial owners, do you identify the relevant natural persons who hold the position of senior managing official in the legal person, and take reasonable measures to verify their identities?			
7.3 If the ownership structure of a customer involves different types of legal persons or legal arrangements, do you pay attention to who has ultimate ownership or control over the customer, who constitutes the controlling mind and management of the customer?			
If any of the answers is No and/or N/A, please give reasons:			

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8. Beneficial owner in relation to a trust or other similar legal arrangement

	Yes	No	N/A
8.1 Do you have customers that are trusts or other similar legal arrangements?			
8.2 For trusts, do you identify the settlor, the protector (if any), the enforcer (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate control over the trust, and take reasonable measures to verify their identities?			
8.3 For other similar legal arrangements, do you identify any natural person in equivalent or similar positions to beneficial owner of a trust stated in 8.2 and take reasonable measures to verify the identity of such person?			
8.4 For a beneficiary of a trust designated by characteristics or by class, do you obtain sufficient information concerning the beneficiary to satisfy yourself that you will be able to establish the identity of the beneficiary at the time of payout			
8.5 For a beneficiary of life insurance that is identified as a natural or legal person or arrangement, do you obtain sufficient information concerning the beneficiary to satisfy yourself that you will be able to establish the identity of the beneficiary at the time of payout			
If any of the answers is No and/or N/A, please give reasons:			

9. Ownership and control structure

	Yes	No	N/A
9.1 For a customer who is not a natural person, do you understand its ownership and control structure, including identification of any intermediate layers?			

9.2 Where a customer has a complex ownership or control structure, do you obtain sufficient information to satisfy yourself that there is a legitimate reason behind the particular structure employed?			
Please provide an explanation for your answers:			

10. CDD on customer before or during the course of establishing business relationship

	Yes	No	N/A
10.1 Have you obtained satisfactory information from all new customers/beneficial owners as to the intended purpose and reason for opening the account or establishing the business relationship, and record the information on the account opening documentation?			
10.2 Do you always complete verification of the identity of a customer and any beneficial owner of the customer before or during the course of establishing a business relationship?			
10.3 In the event that doubts exist about the adequacy and/or veracity of an existing customer, do you proceed by identifying and verifying the identity of the customer and beneficial owner before the customer is allowed to conduct any further business?			
10.4 If you allow verification of the identity of a customer and any beneficial owner of the customer be completed after establishing the business relationship, would this be on an exception basis only and with the consideration of the following:			
(a) any risk of ML/TF arising from the delayed verification of the customer's or beneficial owner's identity can be effectively managed;			
(b) it is necessary not to interrupt the normal conduct of business with the customer;			
(c) verification is completed as soon as reasonably			

practicable;			
(d) adopt appropriate risk management policies and procedures concerning the conditions under which the customer may utilise the business relationship prior to verification.			
(e) if verification cannot be completed within the reasonable timeframe set in your risk management policies and procedures, do you terminate the business relationship as soon as reasonably practicable, refrain from carrying out further transactions, assess whether this failure provides grounds for knowledge or suspicion of ML/TF and consider making an STR to the FIU?			
If any of the answers is No and/or N/A, please give reasons:			

11. CDD on existing customers

	Yes	No	N/A
11.1 Do you apply CDD requirements to customers and beneficial owners with which a business relationship has already commenced by having regard to the following factors:			
(a) the basis of materiality and risk depending on the type and nature of the customer			
(b) the business relationship			
(c) products or transactions			
(d) previous CDD measures			
(e) adequacy of information obtained			
11.2 Do you apply CDD measures in relation to existing customer when:			
(a) there is an indication that the identity of the customer or the beneficial owner has changed;			

(b) any change in transactions which are not reasonably consistent with his knowledge of the customer;			
(c) any change in the purpose or intended nature of his relationship with the customer;			
(d) any other matter which might affect the assessment of ML/TF in relation to the customer.			
If any of the answers is No and/or N/A, please give reasons:			

12. Simplified Due Diligence (SDD) on customers

	Yes	No	N/A
12.1 Have you conducted SDD instead of full CDD for your customers?			
12.2 Before applying SDD on any customer, have you performed an assessment to ensure that it is consistent with the findings of the National Risk Assessment report and/or any risk assessment findings of your regulatory body?			
12.3 Do you refrain from applying SDD when you suspect or has reasonable grounds to suspect that the customer is involved in ML/TF, or when the transaction being conducted by the customer is being carried out on behalf of another person engaged in ML/TF?			
If any of the answers is No and/or N/A, please give reasons:			

13. Enhanced Due Diligence (EDD) on customers

	Yes	No	N/A
13.1 Do you perform EDD when:			

(a) a higher risk of ML or TF has been identified			
(b) through supervisory guidance, a high risk of ML/TF has been identified			
(c) and where a customer or applicant for business is from a high third country			
(d) dealing with correspondent banking relationships			
(e) A reporting person discovers that the customer has provided false or stolen information, identification documentation and proposes to continue to deal with that customer			
(f) The customer is a PEP			
(g) In the event of any unusual or suspicious activity			
If any of the answers is No and/or N/A, please give reasons:			

14. Inability to perform CDD on customers

	Yes	No	N/A
14.1 When you are unable to conduct CDD on your customer, do you apply the following actions? :			
(a) do not open the account			
(b) do not commence the business relationship			
(c) do not perform a transaction			
(d) terminate the business relationship			
(e) file an STR			
If any of the answers is No and/or N/A, please give reasons:			

15. Record keeping

	Yes	No	N/A
15.1 Do you maintain proper records of your customers and their transactions?			
15.2 Do you ensure that all books and records are kept with respect to customers and transactions for such time specified?			
15.3 Do you keep records of both domestic and international transactions that are sufficient to permit reconstruction of each individual transaction for both account holders and non-account holders?			
15.4 Do you keep copies of all suspicious transaction report made to the FIU?			
15.5 Do you keep all necessary records in such a form which enable the prompt reconstruction of each individual transaction?			
15.6 Do you keep all CDD information and transaction records in a manner which can swiftly be made available to the FIU or any relevant regulatory/supervisory body upon request?			
If any of the answers is No and/or N/A, please give reasons:			

16. Obligation to report currency transaction

	Yes	No	N/A
16.1 Do you submit a report to the FIU within the prescribed time limit of any currency transaction equal to or above 500,000 rupees either conducted? :			
(a) as a single transaction			
(b) Several transactions that appear to be linked			
If any of the answers is No and/or N/A, please give reasons:			

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17. Third party reliance

	Yes	No	N/A
17.1 Do you rely on another regulated/supervised/monitored person to perform CDD measures?			
17.2 Do you refrain from relying on a third party based in a high-risk country?			
17.3 Do you ensure that when you rely on a third party that is part of the same financial group that? :			
(a) the group applies CDD and record keeping requirements and programmes against ML and TF with the laws and Regulations of Mauritius			
(b) the implementation of those CDD, record keeping and programmes against ML/TF is supervised at group level by a competent authority			
(c) any higher country risk is adequately mitigated by the group's policies to combat ML/TF			
If any of the answers is No and/or N/A, please give reasons:			

18. High risk third country and PEPs

	Yes	No	N/A
18.1 Does your Risk Based Approach identify and categorise ML/TF risks at the customer level and establish reasonable measures based in risks identified?			

18.2 Do you consider the following risk factors when determining the ML/TF risk rating of customers? :			
(a) country risk-customers with residence in or connection with the below high-risk jurisdictions			
(b) countries identified by the FATF as jurisdictions with strategic AML/CFT deficiencies			
(c) countries subject to sanctions, embargoes or similar measures issued by international authorities (e.g the UN)			
(d) countries which are vulnerable to corruption			
(e) countries that are believed to have strong links to terrorist activities			
(f) customers whose behavior or nature might present a higher ML/TF risk because the public profile of the customer indicates involvement with, or in connection to, PEPS			
(g) complexity of the relationship, including use of corporate structures, trusts, and the use of nominee and bearer shares where there is no legitimate commercial rationale			
(h) undue levels of secrecy with a transaction			
(i) involvement in cash-intensive businesses/high net worth clients			
(j) nature, scope and location of business activities generating the funds/assets, having regard to sensitive or high-risk activities			
(k) the origin of wealth (for high risk customers and PEPs) or ownership cannot be easily verified			
(l) services that inherently have provided more anonymity			
(m) ability to pool underlying customers/funds			
18.3 Do you adjust your risk assessment of customers from time to time based upon information received from a competent authority, and review the extent of the CDD and ongoing monitoring to be applied?			
If any of the answers is No and/or N/A, please give reasons:			

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B. Policies, controls and procedures

19. Policies, controls and procedures

	Yes	No	N/A
19.1 Have you established appropriate compliance management arrangements to facilitate the implementation of AML/CFT systems?			
19.2 If yes to the above, do the compliance arrangements include oversight by your senior management and appointment of a Compliance Officer and Money Laundering Reporting Officer (MLRO)?			
19.3 Is your senior management responsible for implementing effective AML/CFT system that can adequately manage the ML/TF risks identified?			
19.4 Has your senior management appointed a Compliance Officer at the senior management level to have overall responsibility for establishment and maintenance of the AML/CFT systems?			
19.5 Has your senior management appointed a senior staff member as the Money Laundering Reporting Officer to act as the central reference point for suspicious transaction reporting?			
If any of the answers is No and/or N/A, please give reasons:			

20. Training of Compliance Officer (CO) and Money Laundering Reporting Officer (MLRO)

	Yes	No	N/A
20.1 Do you ensure that CO and MLRO are:			

(a) appropriately qualified with sufficient AML/CFT knowledge			
(b) independent of all operational and business functions			
(c) of a sufficient level of seniority and authority within your firm			
(d) provided with regular contact with, when required, direct access to senior management to ensure that senior management is able to satisfy itself that the statutory obligations are being met and that the business is taking sufficiently effective measures to protect itself against the risks of ML/TF			
(e) fully conversant with the firm's statutory and regulatory requirements and the ML/TF risks arising from your business			
(f) capable of accessing on a timely basis, all available information (both from internal and external sources)			
(g) equipped with sufficient resources, including staff and appropriate cover for the absence of the CO and MLRO (deputy CO and MLRO, who should, where practicable, have the same status)			
If any of the answers is No and/or N/A, please give reasons:			

21. Compliance Officer

	Yes	No	N/A
21.1 Does the Compliance Officer assume the following responsibilities? :			
(a) developing and/or continuously reviewing your firm's AML/CFT systems, including (where applicable) any group wide AML/CFT systems, to ensure they remain up to date, meet current statutory and regulatory requirements, and are effective in managing ML/TF risks arising from your firm's business			

(b) overseeing all aspects of your firm's AML/CFT systems which include monitoring effectiveness and enhancing controls and procedures where necessary			
(c) communicating key AML/CFT issues with senior management, including, where appropriate, significant compliance deficiencies			
(d) ensuring AML/CFT staff training is adequate, appropriate and effective			
If any of the answers is No and/or N/A, please give reasons:			

22. Money Laundering Reporting Officer

	Yes	No	N/A
22.1 Does the MLRO have oversight of the following functions? :			
(a) review of internal disclosures and exception reports and, in light of all available relevant information, make a determination of whether or not it is necessary to make a report to the FIU			
(b) maintenance of records related to such internal reviews			
(c) provision of guidance on how to avoid tipping off			
If any of the answers is No and/or N/A, please give reasons:			

23. Employee screening

	Yes	No	N/A
23.1 Do you establish adequate and appropriate screening procedures in order to ensure high standard when hiring employees?			
If any of the answers is No and/or N/A, please give reasons:			

24. Group wide application of CDD measures

	Yes	No	N/A
24.1 Does your firm have overseas branches and subsidiary undertakings?			
24.2 Do you have a group wide application of AML/CFT systems to ensure that all of your firm's overseas branches and subsidiary undertakings that carry on the same business have procedures in place to ensure compliance with the requirements in the home jurisdiction?			
24.3 If the AML/CFT requirements in the jurisdiction where the overseas branch or subsidiary undertaking of your firm is located (host jurisdiction) differ from those of the home jurisdiction, do you require that branch or subsidiary to apply the higher of the two requirements, to the extent that the host jurisdiction's laws and regulation permit?			
24.4 In the case where the host jurisdiction's laws and regulations do not permit the branch or subsidiary of your firm to apply the higher AML/CFT requirements, have you done the following? :			
(a) inform the home supervisors			
(b) take additional measures to effectively mitigate ML/TF risks faced by the branch or subsidiary as a result of its inability to comply with the requirements			

24.5 To the extent permitted by the laws and regulations of the jurisdictions involved and subject to adequate safeguards on the protection of confidentiality and use of information being shared, including safeguards to prevent tipping-off, have you implemented the following through your firm's group wide AML/CFT systems?			
(a) sharing information required for the purposes of CDD of ML/TF risk management			
(b) provision to your firm's group level compliance, audit and/or AML/CFT functions, of customer, account, and transaction information from your firm's overseas branches and subsidiary undertakings that carry on the same business for AML/CFT purposes			
If any of the answers is No and/or N/A, please give reasons:			

C. Targeted Financial Sanctions

25. Targeted Financial Sanctions

	Yes	No	N/A
25.1 Are you able to apply targeted financial sanctions where a party is either designated by the National Sanctions Committee or listed by the UN and follow without delay a prohibition to deal with funds or other assets of a designated party or listed party and/or making funds or other assets available to a designated party or listed party?			
25.2 Are you able to provide information about the funds or other assets of your customer to the National Sanctions Secretariat, in the event that this customer is designated by the National Sanctions Committee or listed by the UN?			
25.3 If the answer is yes to the above, do you then submit a report to the National Sanctions Secretariat regardless of whether any funds or other assets were identified and file an STR to the FIU?			

If any of the answers is No and/or N/A, please give reasons:

D. Documentary evidence

Law Firms may be required to provide documentary evidence on the above.

Table of acronyms

AML/CFT	Anti-money Laundering/Countering the Financing of Terrorism and proliferation
AGO	Attorney General's Office
CDD	Customer Due Diligence
DNFBP	Designated Non-Financial Businesses and Professions
EDD	Enhanced Due Diligence
ESAAMLG	Eastern and Southern Africa Money Laundering Group
FATF	Financial Action Task Force
FI	Financial Institution
FIAMLA	Financial Intelligence and Anti-Money Laundering Act 2002
FIAML Regulations	Financial Intelligence and Anti-Money Laundering Regulations 2018
FIU	Financial Intelligence Unit
LPP	Legal Professional Privilege
MER	Mutual Evaluation Report
ML	Money Laundering
MLRO	Money Laundering Reporting Officer
NRA	National Risk Assessment
PCPs	Policies, controls and procedures
PEP	Politically Exposed Person
POCA	Prevention of Corruption Act 2002
POTA	Prevention of Terrorism Act 2002
RBA	Risk Based Approach

Rec	Recommendation
Reg	Regulation
SAR	Suspicious Activity Report
STR	Suspicious Transaction Report
CSP	Company Service Providers
TF	Terrorist Financing
UN Sanctions Act	United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019
UNSCR	United Nations Security Council Resolutions