

ASSOCIATION OF INTERNATIONAL BANKS & TRUST
COMPANIES IN THE BAHAMAS

CODE OF CONDUCT

Approved by the
CENTRAL BANK OF THE BAHAMAS
January 11, 2002

1. PREAMBLE

1.1 The Association, recognising that The Bahamas is a leading international financial centre, has agreed this Code as being important to the financial supervision of this centre, the prevention and detection of money laundering and the preservation of confidentiality in the conduct of banking relationships.

2. OBJECTIVES

2.1 This Code is intended to:

Promote best international standards of banking practice as recognised by the Basel Committee on Banking Supervision and the Wolfsberg AML Principles;

Reaffirm the standards of confidentiality and privacy as required by law and good banking practice;

Evidence the Association’s commitment to the legal and regulatory framework governing the bank and trust company sector;

Maintain the position of The Bahamas as a leading international financial centre for the conduct of international banking.

3. PRINCIPLES

3.1 The guiding principles embodied in this Code are:

Cooperate fully with local judicial and regulatory authorities and operate in full compliance with applicable laws and regulations.

Know your customer.

Report suspicious transactions.

Develop a counter money laundering environment by procedures, training and awareness.

Maintain the confidentiality and privacy of

customer relationships in accordance with law.

Always act in a manner that preserves the good name and reputation of the industry and jurisdiction.

4. DEFINITIONS

4.1 In this Code and Preamble:

ASSOCIATION means the Association of International Banks and Trust Companies in The Bahamas.

BOARD means the Board of Directors of the Association.

CENTRAL BANK means the Central Bank of The Bahamas.

CODE means this Code of Conduct with regard to cooperation with judicial and regulatory authorities of The Bahamas, the exercise of due diligence and the maintenance of bank confidentiality.

FIU means the Financial Intelligence Unit of The Bahamas.

KYC means know your customer.

MEMBER means a member of the Association.

MLRO means Money Laundering Reporting Officer.

STR means suspicious transaction report.

4.2 The following abbreviations shall refer to the following laws of The Bahamas:

BTCRA – Banks and Trust Companies Regulations Act, 2000

FITRR – Financial Intelligence (Transactions Reporting) Regulations, 2001

FTRA – Financial Transactions Reporting Act, 2000

FTRR – Financial Transactions Reporting Regulations, 2000

PCA – Proceeds of Crime Act, 2000

5. COOPERATION WITH JUDICIAL AND REGULATORY AUTHORITIES AND COMPLIANCE WITH LAWS & REGULATIONS OF THE BAHAMAS

5.1 Every member will promptly comply with orders of a Bahamian court and the orders, directions, regulations and prescribed policies of the Central Bank, the FIU or other regulatory agency of The Bahamas with authority in relation to banks and trust companies. The rights of a member to seek a review, variation, discharge or clarification of an order, direction, regulation or policy are acknowledged.

5.2 Every member shall take care to ensure that its operations are in full compliance with applicable laws and regulations of The Bahamas.

6. KNOW YOUR CUSTOMER

6.1 Members shall verify the identity of a person seeking to become a customer in accordance with the requirements and procedure for so doing under the FTRA, FTRR, and guidelines as may be issued from time to time by the FIU.

7. SUSPICIOUS TRANSACTIONS REPORTING

7.1 Where any person conducts or seeks to conduct any transaction by, through or with a member and the member knows, suspects or has reasonable grounds to suspect that the transaction or proposed transaction involves proceeds of crime as defined by the PCA, the member shall make a STR in writing to the FIU, addressed to The Director, Financial Intelligence Unit, 3rd Floor, Norfolk House, Frederick Street, Nassau, Tel: 356-6327, Fax: 322-5551.

7.2 If the MLRO considers that a report should be made urgently (e.g. where an account is subject to a current investigation) initial notification to the FIU should be made by telephone, email, or other means but followed up in writing as soon as is practicable after the initial report. A STR should contain details (to the extent available) as specified in the Second Schedule of the FTRA and contain the grounds of suspicion.

7.3 Members must ensure that its customer who is the subject of the STR is not tipped off as to the making of the STR or the resulting investigation.

8. RETENTION OF RECORDS

8.1 A member must keep all records reasonably necessary to enable a transaction to be readily reconstructed by the FIU.

8.2 Transaction records must contain the following information:

- Nature of transaction
- Amount and currency denomination
- Date of transaction
- Parties to transaction
- Facility through which transaction conducted and other facilities involved (even if the other facilities provided by another institution)

8.3 Transaction records must be kept for at least 5 years after completion of the transaction while verification of identity records must be kept for 5 years after completion of the relationship.

8.4 Records must be kept in written English or in a form from which they could be readily converted into written English and may be stored on microfiche, computer disk or in other electronic form.

9. PROCEDURES, TRAINING AND AWARENESS

9.1 In accordance with regulations 3, 4, 5 and 6

of the FITRR, members shall establish and maintain written procedures for identification of facility holders and beneficial owners, for record keeping, for the internal reporting of suspicious activities and for the training of appropriate staff on money laundering prevention.

Internal Reporting

9.2 Specific reference is made to regulation 5, FITRR. A member is required to identify and appoint a suitably qualified and experienced officer of its institution as a MLRO who shall be registered with the FIU. In appropriate cases a member should also appoint a Deputy, who should be a staff of similar status and experience to the MLRO. The MLRO should be well versed in the different types of transactions which the member handles and which may give rise to opportunities for money laundering. The MLRO shall be responsible for receiving internal reports of knowledge or suspicion of money laundering, considering such report (and permitting him access to all relevant information for such consideration) and where appropriate making a STR to the FIU.

9.3 Additionally, regulation 5, FITRR requires the appointment of a senior officer as a Compliance Officer to ensure that the member is in full compliance with the laws of The Bahamas.

9.4 The MLRO and the Compliance Officer may or may not be the same person.

Training & Awareness

9.5 All staff at all levels must be made aware of the identity of the MLRO and his Deputy. Further, the procedure and reporting chain for making an internal report to the MLRO of knowledge or suspicion of money laundering should be well communicated.

9.6 Members should have formal procedures to ensure that all staff are fully educated in the KYC requirements and appreciate the serious

nature of the background against which the anti-money laundering laws have been made. Additionally, they should be aware of their own personal obligations and liability under the law should they fail to adhere to the internal reporting procedures.

9.7 All new employees who will be dealing with customers or transactions should be introduced to the counter money laundering and internal reporting procedures and training in the recognition of suspicious transactions.

9.8 The Compliance Officer and MLRO should receive in-depth and ongoing training on all aspects of the counter money laundering law and the member's internal policies and be responsible to ensure that all relevant employees receive refresher training to maintain the prominence of money laundering prevention and the related obligations.

Monitoring of business relationships

9.9 Members should have systems and controls in place to monitor on an ongoing basis the activity on all accounts. This monitoring could be based on exceptions rather than on all transactions. The purpose of the monitoring is for members to be vigilant for any significant changes or inconsistencies in the pattern of transactions. Inconsistency is measured against the stated and original purpose of the accounts. Possible areas to monitor could be:

- Transaction type
- Frequency
- Amount
- Geographical origin/destination
- Account signatories

9.10 Effective monitoring may be achieved through a combination of computerised and human manual solutions. A corporate compliance culture, and properly trained, vigilant staff through their day to day dealing with customers, will form an effective monitoring method as a matter of course. Computerised approaches may include the setting of "floor levels" for monitoring by amount.

10. CONFIDENTIALITY AND PRIVACY

10.1 Members will scrupulously maintain the confidentiality of its customers banking affairs in accordance with and subject to the requirements of law. Specifically, members shall have due regard for the requirements of the BTCRA, section 15, which imposes a statutory obligation of bank confidentiality and delimits the statutory exceptions to such obligation.

10.2 All records that a member is required to keep under the provisions of the FTRA and FTRR must be destroyed as soon as practicable after the expiration of the period for which it is required to be kept.

11. AVOIDANCE OF ACTS VIOLATING FISCAL OR FOREIGN EXCHANGE LAWS

11.1 Members shall not knowingly commit any acts in any foreign country that would be an offence under the fiscal or exchange control laws of that country, and in particular shall not accept cash deposits in any foreign country that might constitute such an act. Members shall not provide clients with false attestations or documentation for the purpose of evading the fiscal or exchange control laws of any country.

12. ADVERTISING

12.1 The advertisements issued by members whether in The Bahamas or abroad, shall not be misleading and shall be of such a nature in form and content as to reflect the good name of The Bahamas as a reputable international financial centre.

13. COMPLIANCE WITH CODE AND MEMBERSHIP

13.1 By membership in the Association, each member adopts and agrees to comply with the requirements of the Code.

13.2 The Board is authorised to withhold or withdraw membership from any bank or trust company which fails or refuses to adhere to this Code. Any such measure by the Board shall be promptly reported to the Central Bank. Additionally, it shall be a condition of membership that a member is a bank and/or trust company licensee in good standing with the Central Bank. Membership shall cease automatically upon a revocation of such licence.

14. MISCELLANEOUS

14.1 This Code explains supplements and reinforces but in no way supersedes the applicable law and regulations of The Bahamas.

14.2 This Code has been approved by a resolution adopted at a General Meeting of the Association held 5th July 2001 with the written approval of the Central Bank.

14.3 This Code shall be a public document and the Board may circulate it and arrange such publicity as the Board deems appropriate for it to become generally known in The Bahamas and abroad.

14.4 The Board or any member is authorised to propose any modification to this Code in furtherance of the stated objectives and which appears necessary or desirable in light of experience.

14.5 Save for minor modification to correct technical, drafting or typographical deficiencies which may be made by the Board, any modification to this Code shall be made by resolution adopted at a General Meeting of the Association. ■