

**NON-BANK FINANCIAL INSTITUTIONS REGULATORY  
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December 18, 2015

**NBFIRA 1/2/5-I (2)**

To: Principal Officers- Non-Bank Financial Institutions ("NBFIs")

Dear Sirs/Madams,

**DESIGNATION OF ENTITY COMPLIANCE OFFICERS FOR PURPOSES OF AML/CFT COMPLIANCE**

1. We refer to the captioned subject matter.
2. The Financial Intelligence Act ("FI Act") was passed in March 2009 and the Financial Intelligence Regulations ("FI Regulations") were published in June 2013. Both pieces of legislation commenced and became fully enforceable on June 2013. The object of the Act and its Regulations is to steer Botswana toward combatting financial crimes in particular Money Laundering and the Financing of Terrorism through the constitution of the Financial Intelligence Agency and the imposition of certain obligations on specified parties. All financial institutions under the regulatory purview of NBFIRA are defined as specified parties.
3. One of the ways in which the FI Act and Regulations ensures that the activities towards combatting financial crimes are implemented is to require that;
  - 3.1 Specified parties implement and maintain a customer acceptance policy, internal rules, programmes, policies, procedures or such controls as may be prescribed to protect their systems from financial offences. This is required by section 9(1) (a) of the FI Act.
  - 3.2. Section 9 (1) (b) then goes on to require that specified parties designate compliance officers at the management level who will be in charge of the implementation of internal programmes and procedures, including maintenance of records and reporting of suspicious transactions;
4. It is on the premise of the above FI Act provisions that NBFIRA requests that all entities that fall within the definition of a specified party designate an AML/CFT compliance officer at management level to be the entities compliance officer for purposes of complying with AML/CFT legislation and international best practice rules. Specified parties are given until February 12, 2016 to designate a compliance officer for purposes of AML/CFT compliance.
5. NBFIRA notes that some specified parties already have a compliance function, however, for AML/CFT compliance purposes, the role and responsibilities should be clearly defined and documented by the entities recruitment officer. Specified parties are required to screen the designated compliance officer to ensure that the officer is a fit and proper person with relevant knowledge and background. Thereafter, specified parties will be required to submit the details of the designated compliance officer to the respective regulatory departments for NBFIRA to perform an independent fit and proper assessment of the officer.

6. Kindly note that the FI Act makes specific reference to the designation of an officer at management level.
7. "Officer" in the above context means that any officer at management level can be designated as a compliance officer for purposes of AML/CFT compliance.
8. "Management" in this context refers to the AML/CFT compliance officer being at a level where s/he can report directly to the Board and/or Senior Management and has the resources, authority and decision making powers for purposes of the entity's AML/CFT compliance.
9. The AML/CFT compliance officer's role should not in any way conflict with any other role. "Conflict" in this context means that the officer must retain a level of independence as a second line monitoring and oversight function.
10. The roles and responsibilities of the designated AML/CFT compliance officer include but are not restricted to;
  - i. acting as the contact point responsible and liable for all AML/CFT compliance duties within the entity;
  - ii. the implementation of the internal AML/CFT compliance programmes and procedures, including reporting and proper maintenance of records;
  - iii. identifying and reporting suspicious transactions to the Financial Intelligence Agency ("FIA");
  - iv. carrying out ongoing monitoring of ML/TF within the entity including setting up of structures that will allow for continuity of ML/TF monitoring in the compliance officers absence;
  - v. ensuring that there is ongoing training of staff on AML/CFT and keeping records of the said training and attendees; and
  - vi. should at all times have full and timely access to customer identification data, transaction records and other relevant information.
11. The Board and/or Senior Management of specified parties are reminded of the importance of arming their designated AML/CFT compliance officer with the independence, resources and adequate authority to effectively carry out their duties. The FI Act and its Regulations make provision for steep penalties to be imposed on entities that fail to satisfy their AML/CFT obligations.
12. Specified parties are also reminded to ensure that they have a documented AML/CFT policy which has been approved by the entity's Board and/or Senior Management.
13. Kindly find attached hereto an acknowledgement form which must be signed by the entity's controller or key person and returned to NBFIRA on or before January 12, 2016.

Yours faithfully



Matlakala Raphaka

**ACTING DEPUTY CHIEF EXECUTIVE OFFICER- REGULATORY**

