NBFIRA AML/CFT Department is a specialist unit with a role to ensure NBFIRA meets its objective of deterring financial crime by preventing non-bank financial institutions from being under-mined by criminals. The Department coordinates the NBFIRA's efforts, standardizes control measures and gives guidance to the regulated entities.

3rd floor Exponential Building
Plot 54351 CBD,
Off PG Matante Road, Gaborone

Tel: +267 3102595 / 3686100
Fax: +267 310 2376 / 3102353

Website: www.nbfira.org.bw
E-mail: amlcft@nbfira.org.bw

Private Bag 00314
Gaborone, Botswana

Non-Bank Financial Institutions' Obligations in Terms of the Financial Intelligence Act

NBFIRA
Non-Bank Financial Institutions Regulatory Authority

The Financial Intelligence (Amendment) Act

The Financial Intelligence (Amendment) Act (FI Act) and Regulations (FI Regulations) were enacted for the primary purpose of combatting the money laundering, financing of terrorism and proliferation as well as other related activities.

The FI Act and Regulations were amended in 2018 for alignment with international standards. The amendments widened obligations for specified party, introduced stringent penalties for non-compliance, and broadened certain definitions such as suspicious transaction and prominent & influential persons among other changes. Specified Parties as defined by the FI Act include all Non-Bank Financial Institutions (NBFIs) as regulated by NBFIRA.

Obligations Imposed on Specified Parties/NBFIs by the FI Act

Governance[1] – NBFIs should designate an adequate AML/CFT&P compliance function and AML officer(s) (AMLCO) proportionate to the size and risk level of an entity. To enable the successful oversight of the AML function, the AMLCO must have sufficient independence from the business lines to prevent conflicts of interest and unbiased advice and counsel. Audits should be conducted to evaluate the effectiveness of the function, including where external auditors are used.

AML/CFT&P Risk Management System & Controls[2] – NBFIs should conduct institutional risk assessment, understand their risk and determine the level of controls to be implemented which should include AML/CFT&P policies, systems, internal procedures and rules.

Training[3] – NBFIs should train their staff members on AML/CFT&P at least once a year. The training content should emphasise obligations under the FI Act, Regulations, other relevant legislation, sector/entity-specific risks and international standards.

Due Diligence[4] – NBFIs should maintain strong processes for identification and verification (CIV) of their customers/business partners/beneficial owners, beneficiaries & their representatives, and their employees at least every 2 years depending on their risk profile. CIV should include proof of addresses, sources of income and wealth should be in place.

Processes and/or systems should be in place to screen business relationships for prominent & influential persons, sanctioned persons, high risk persons, businesses & countries.

Transactions & Monitoring[5] – There should be ongoing due diligence to monitor and understand business relationships and guard against dealings with sanctioned persons/countries, suspicious or uncharacteristic transactions and activities.

Reporting[6] – NBFIs must maintain reporting line for all Cash Transactions (CTR) and Wire Transfers (WTR) equal or above P10, 000, as well as Suspicious Activities (SAR) and sanctioned persons/countries with the Financial Intelligence Agency (FIA). CTR and WTR should be done no later than 2 working days, while SAR and feedback on sanctioned persons/countries should be reported no later than 5 working days.

Record Keeping[7] – Entities should develop strong and accessible record keeping systems and processes to retain records for at least 5 years after a transaction, and 5 years after end of business relationship.

**Footnotes below refer to specific sections of the FI Act as read with the FI Regulations.*

1. See FI Act sections 9(1)(a), (b), (c), (d), (e), (f), (g), (h)
2. See FI Act sections 9(1)(a), (e), (f), (g), (h)
3. See FI Act sections 9(2)(a)(ii), (b)
4. See FI Act sections 10, 10A, 10B, 10C, 10D, 10E, 10F, 10G
5. See FI Act, sections 9B & 9C
6. See FI Act, sections 17, 18, 19, 20, 21, 22 & 23
7. See FI Act, sections 11,12,13,14,15 & 16