

Broker-Dealer AML Program Checklist/Gap Analysis

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I. GENERAL REQUIREMENTS

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u> ¹	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
AML Program Components and Documentation	> Has the Firm established an AML Compliance Officer (“AMLCO”) to develop AML policies and procedures and oversee the AML Program?	Substantive	Substantive
	> Does the Firm have written policies and procedures designed to achieve compliance with the BSA? ²		
	> Is the Firm’s AML Program tested	Documentary	Documentary

¹ Every FINRA member should maintain a written AML Program that establishes the substantive elements required by FINRA.

² The Firm’s policies, practices and procedures with respect to its AML obligations should be specified in its written AML Compliance and Supervisory Procedures (“CSPs”).

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<p>annually by an independent party?</p> <ul style="list-style-type: none"> > Does the Firm conduct AML training annually for Registered Persons (“RPs”), Supervising Principals (“SPs”) and employees? > Has the Firm’s AML Program been approved by senior management? Does the AML Program evidence this approval? 		
FINRA Contact System	<ul style="list-style-type: none"> > Is the AMLCO identified by the Firm in the FINRA Contact System? > Do the CSPs describe the procedure for submitting to FINRA, FinCEN and other government agencies notification of a change of AMLCO? > Do the CSPs describe how the Firm reviews the contact information, updates the information in the FINRA Contact System, and responds to FINRA requests?³ 	Substantive	Substantive
		Documentary	Documentary

³ The CSPs should specify that the Firm will update the AMLCO contact information promptly but in any event not later than 30 days following any change in the information; review and, if necessary, update the contact information within 17 business days after the end of each calendar year; and comply with any FINRA request for such information promptly, but in any event not later than 15 days following the request.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
Role of the AML Compliance Officer	<ul style="list-style-type: none"> > Are the duties of the AMLCO set out in the CSPs? 	Substantive	Substantive
	<ul style="list-style-type: none"> > Does the AMLCO routinely evaluate AML notices from the U.S. Treasury Department, FinCEN, the SEC, FINRA and other relevant organizations for their applicability to the Firm? Does the AMLCO take appropriate steps to amend the CSPs, communicate regulatory changes to RPs (as appropriate), and ensure that business practices are adjusted? Does the AMLCO maintain documentation evidencing these steps? 	Documentary	Documentary

II. REPORTING OBLIGATIONS

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u> ¹	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
Currency Transaction Report (CTR)	<ul style="list-style-type: none"> > Does the Firm accept cash or cash equivalents?⁴ > Does the AML Compliance Department conduct periodic surveillance of incoming cash, cashier's checks and money orders? Do the CSPs specify the person(s) responsible for performing these functions, when they are performed and how they are documented? 	Substantive	Substantive
	<ul style="list-style-type: none"> > Does the Firm have a written procedure for filing CTRs for qualifying transactions?⁵ Do the CSPs specify that a CTR must be filed within 15 days of a qualifying transaction and a copy retained for a period of 5 years? 	Documentary	Documentary

⁴ If not, the Firm should have a written procedure advising RPs that they must refuse customer attempts to deposit cash/cash equivalents and report such attempts to the AMLCO. The Firm's audit process also should include sampling of customer files for evidence of cash acceptance.

⁵ CTRs (and FBARs below) are filed with the IRS, although the CTR/FBAR forms are available for download from the FinCEN website. FinCEN also encourages electronic filing of BSA forms through its secure "BSA E-Filing" network.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
Currency and Monetary Instruments Transportation Report (CMIR)	<ul style="list-style-type: none"> > Does the Firm permit receipt of bearer instruments from outside the U.S.?⁶ > Does the Firm export bearer instruments? > Does the Firm have a written procedure for monitoring compliance with its policy regarding bearer instruments? Do the CSPs specify the person(s) responsible for performing this function, when it is performed and how it is documented? 	Substantive	Substantive
	<ul style="list-style-type: none"> > Does the Firm have a written procedure for filing a CMIR if it discovers receipt of a bearer instrument from outside the U.S. in an amount exceeding \$10,000? Do the CSPs specify that the CMIR must be filed within 15 days of receipt of the instrument if no report was made of its shipment? > Does the Firm have a written procedure for filing a CMIR if it exports a bearer instrument in an amount exceeding \$10,000? Do the CSPs specify that the CMIR must be filed on the day of 	Documentary	Documentary

⁶ If not, the Firm should maintain a system/exception report to identify receipt of bearer instruments from outside the U.S. or develop an audit module to monitor compliance with the policy.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u> ¹	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	shipment?		
Report of Foreign Bank and Financial Accounts (FBAR)	<ul style="list-style-type: none"> > Does the Firm have a financial interest in, or signatory or other authority over, customer accounts in foreign countries? > Does the Firm have foreign proprietary accounts? > Does the Firm have written procedures for identifying and monitoring foreign proprietary and customer accounts custodied outside the United States? > Does the Firm have a written procedure for filing a FBAR with FinCEN if it discovers a financial interest in or authority over an account in a foreign country with assets exceeding \$10,000? Do the CSPs specify that a FBAR must be filed annually by 06/30 of the succeeding year if the account exceeds \$10,000 at any time during the year, and that a record of the information on the account must be retained for a period of 5 years? > Does the Firm's audit process 	Substantive	Substantive
		Documentary	Documentary

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u> ¹	<u>Findings</u> <u>(Substantive/Documentary)</u>	<u>Recommendations</u> <u>(Substantive/Documentary)</u>
	include a module for checking whether foreign accounts are being maintained?		
Suspicious Activity Report by the Securities and Futures Industries (SAR-SF)	<ul style="list-style-type: none"> > Do the CSPs require that RPs and SPs report suspicious activity to the AMLCO? > Does the AML Compliance Department monitor accounts/ exception reports for unusual or suspicious activity? > Does the AML Compliance Department maintain an investigation log to document suspicious activity investigations? Do the CSPs describe the procedure for documenting in the investigation log the due diligence carried out in connection with such investigations, including the circumstances in which each investigation is initiated, the details of the investigation, the information assembled and the manner in which the investigation is resolved? 	Substantive	Substantive
	<ul style="list-style-type: none"> > Do the CSPs provide that the AMLCO will file a SAR within 30 days of any transaction suspected to involve unlawful activity? 	Documentary	Documentary

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<ul style="list-style-type: none"> <li data-bbox="449 293 903 418">> Do the CSPs specify that the Firm will retain copies of SARs and any supporting documentation for 5 years? <li data-bbox="449 456 903 646">> Do the CSPs specify that SAR filings will be kept confidential (except that the Firm may share information with its clearing broker to determine which will file a SAR)? <li data-bbox="449 683 903 971">> Do the CSPs specify that a SAR will be released to federal law enforcement agencies <i>only</i> if the Firm receives an email from a federal law enforcement email address; written letter of request with a clear signature on law enforcement stationery; or a subpoena? 		

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u> ¹	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
Report of Blocked or Rejected Transactions	<ul style="list-style-type: none"> > Do the CSPs specify that, within 48 hours of the opening of a new account, the AML Compliance Department will check to ensure that the customer does not appear on the OFAC list? > Do the CSPs specify that, within 48 hours of a change to the OFAC list, the AML Compliance Department will check to ensure that existing customers do not appear on the revised list? 	Substantive	Substantive
	<ul style="list-style-type: none"> > Is guidance provided in the CSPs to assist RPs and operations personnel in identifying accounts and/or transactions that may be subject to being blocked? Are RPs and other personnel directed to address any questions to the AML Compliance Department? > Does the Firm's clearing broker also monitor accounts, securities and transactions for possible OFAC violations? > Do the CSPs specify that if the Firm determines that a customer, or someone with or for whom the customer is transacting business, is on an OFAC list, or is from, or engaging in transactions with a person or entity located in an 	Documentary	Documentary

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<p>embargoed country or region, the Firm will reject the transaction(s) and/or block the customer's assets and file a blocked assets and/or rejected transaction form with OFAC within 10 days? Do the CSPs describe the procedure for doing so?</p> <ul style="list-style-type: none"> > Do the CSPs make clear the distinction between <i>blocked</i> and <i>rejected</i> transactions, and the forms to be filed in respect of each? > Do the CSPs specify that Reports of Rejected Transactions must be retained for a period of 5 years, and Reports of Blocked Transactions must be retained for the period the property is blocked and for 5 years after the property is unblocked? 		
Annual Report of Blocked Property	<ul style="list-style-type: none"> > Do the CSPs specify that the AMLCO will file with OFAC by 09/30 each year, a report of any blocked property held as of 06/30 of that year? 	Substantive	Substantive
	<ul style="list-style-type: none"> > Do the CSPs specify that annual reports of blocked property will be retained for the period the property is blocked and for 5 years after the property is unblocked? 	Documentary	Documentary

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u>¹	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
Emergency Reporting to the Government by Telephone	> Do the CSPs specify that the Firm will notify the appropriate law enforcement authority, such as the local office of the IRS Criminal Investigation Division or the FBI, immediately upon discovering any criminal or other behavior requiring immediate attention?	Substantive	Substantive
	> Do the CSPs specify that the AMLCO will call the OFAC Hotline and may also contact the Financial Institutions Hotline, an office of the U.S. Attorney, an FBI office, and the local SEC office? ⁷	Documentary	Documentary

III. RECORDKEEPING REQUIREMENTS

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u>¹	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
Purchases of Bank Checks and Drafts, Cashier's Checks, Money Orders and Traveler's Checks for \$3,000 or More	> Do the CSPs specify that the Firm will obtain certain information from, and verify the identification of, purchasers of bank checks and drafts, cashier's checks, money orders and traveler's checks for \$3,000 or more in currency, in the	Substantive	Substantive

⁷ Reference should be made in the CSPs to the SEC *SAR Alert Message Line*. The CSPs should make clear, however, that calling the message line does not relieve the Firm of its obligation to file a SAR or to notify an appropriate law enforcement authority.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
in Currency	<p>event that such instruments are issued by the Firm?</p> <p>> Do the CSPs specify that no report is required but a record of the information must be retained for a period of 5 years?</p>	Documentary	Documentary
Extensions of Credit Greater than \$10,000 (Unsecured)	<p>> Do the CSPs specify that the Firm must retain for a period of 5 years a record of the names and addresses of recipients of credit, the dates and amounts extended and the nature or purpose thereof, in the event that credit in an amount greater than \$10,000 is extended by the Firm?</p>	Substantive	Substantive
		Documentary	Documentary
Transfers of Currency, Checks, Securities or Credit Greater than \$10,000 Into or Outside of the U.S.	<p>> Does the Firm rely on reports provided by its clearing broker regarding fund or security transfers?</p> <p>> Does the Firm have a written procedure for monitoring whether its clearing broker is performing the required recordkeeping requirements with respect to money transfers?</p> <p>> Do the CSPs specify that the Firm will retain for a period of 5 years a record of the advice, request or instruction resulting in or intended</p>	Substantive	Substantive
		Documentary	Documentary

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	to result in a transfer of currency, checks, securities or credit greater than \$10,000 into or outside of the U.S.?		
Transfers of \$3,000 or More Under the Joint and Travel Rules	<ul style="list-style-type: none"> > How are federal fund wire transfers for customers conducted? 	Substantive	Substantive
	<ul style="list-style-type: none"> > Are the systems designed to comply with the electronic transfer of funds rules when processing disbursements on behalf of the Firm? > Do the CSPs specify that for transfers of \$3,000 or more the Firm will retain the transmittal records for a period of 5 years? 	Documentary	Documentary

IV. SHARING OF INFORMATION WITH FEDERAL LAW ENFORCEMENT AGENCIES AND OTHER FINANCIAL INSTITUTIONS

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
Responding to FinCEN Requests under Section 314(a) of the PATRIOT Act	<ul style="list-style-type: none"> > Do the CSPs specify that, upon receiving a FinCEN 314(a) request, the AMLCO will search internal records for any accounts maintained by the named suspect during the preceding 12 months and any transactions conducted by or on behalf of the named suspect during the preceding 6 months? > Do the CSPs specify that the AMLCO would respond to a Section 314(a) request, if a match was found, within 2 weeks of the request? 	Substantive	Substantive
	<ul style="list-style-type: none"> > Does the Firm maintain procedures to protect the security and confidentiality of FinCEN requests, <i>such as those</i> established to satisfy the requirements of Section 501 of the Gramm-Leach-Bliley Act? Do the CSPs describe, as appropriate, the specific procedures employed (e.g., the use of secured systems and the maintenance of files in locked drawers)? > Do the CSPs specify any practices adopted by the Firm with respect 	Documentary	Documentary

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<p>to Section 314(a) requests, e.g., consulting with the Firm's general counsel prior to responding to such requests?</p> <p>> Do the CSPs specify that changes to the Firm's point of contact information on FinCEN's 314(a) distribution list will be made by updating the Firm's AML compliance contacts (primary and alternate) in the FINRA Contact System? Do the CSPs identify the person(s) responsible for making the changes?</p>		
Voluntary Information Sharing With Other Financial Institutions under Section 314(b) of the PATRIOT Act	<p>> Does the Firm share AML information with affiliates and other financial institutions, including its clearing broker? Does the AMLCO file annual notices to that effect with FinCEN?</p>	Substantive	Substantive
	<p>> Prior to sharing information, does the AMLCO verify that the other institution is registered on the most current FinCEN 314(b) list? Do the CSPs describe the way in which verification of registration is made and evidenced (e.g., by printing a copy of the verification and retaining the copy on file)?</p>	Documentary	Documentary

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u> ¹	<u>Findings</u> <u>(Substantive/Documentary)</u>	<u>Recommendations</u> <u>(Substantive/Documentary)</u>
	<ul style="list-style-type: none"> > Does the Firm employ strict procedures with respect to shared information, including segregating the information from the Firm's other books and records and limiting access thereto? 		
The 120 Hour Rule	<ul style="list-style-type: none"> > Do the CSPs specify that the AMLCO will provide information requested by a Federal banking agency within 5 days (120 hours) of a request or by the specified due date, whichever is the sooner? Do the CSPs describe the procedures for evidencing compliance with the 120 Hour Rule by, e.g., creating a file of the request, and initialing and dating the response? 	Substantive	Substantive
		Documentary	Documentary

V. CUSTOMER IDENTIFICATION PROGRAM (“CIP”)

AML Requirement	Firm Practice/Policy/Procedure¹	Findings (Substantive/Documentary)	Recommendations (Substantive/Documentary)
Required Information and Documentation	<ul style="list-style-type: none"> > Do the CSPs provide that RPs must collect specified information prior to opening a new account? > Do the CSPs specify the identifying information that must be obtained for the different types of accounts maintained by the Firm? > Do the CSPs include procedures for authenticating account opening information?⁸ 	Substantive	Substantive
	<ul style="list-style-type: none"> > Do the CSPs state that RPs must not open accounts for customers who refuse to provide the information requested, or who appear to have intentionally provided misleading information? Are RPs directed to contact the AMLCO in such instances? Do the CSPs specify that the AMLCO will determine whether to file a SAR? > Do the CSPs specify the procedure for supervisory review of new accounts? 	Documentary	Documentary

⁸ The Firm may consider a third-party vendor service such as those provided by McDonald Information Service (MIS) or Lexis-Nexis to confirm the authenticity of data for selected accounts.

AML Requirement	Firm Practice/Policy/Procedure¹	Findings (Substantive/Documentary)	Recommendations (Substantive/Documentary)
Verification of Identity	<ul style="list-style-type: none"> > Do the CSPs specify that RPs must verify the customer's identity using documentary evidence, non-documentary evidence or both? > Does the Firm have specific risk-based procedures for verifying the identity of an account?⁹ Do the CSPs specify the additional due diligence measures to be applied to higher risk accounts, such as obtaining both documentary and non-documentary evidence, or obtaining permission from the AMLCO to open the account? 	Substantive	Substantive
	<ul style="list-style-type: none"> > Do the CSPs specify the circumstances in which the Firm will seek information about the person(s) having authority or control over an account?¹⁰ > Do the CSPs specify that verification must be carried out before an account is opened? > Does the Firm provide notice to 	Documentary	Documentary

⁹ The Firm should establish specific, risk-based methods for account verification, which, at a minimum, consider the circumstances of the account holder, the nature of the account and the business transacted in the account. Specific parameters for each of these areas should be identified in the CSPs and communicated to SPs and RPs in policy memoranda.

¹⁰ The Firm should establish procedures for obtaining information about persons having authority or control over accounts, including signatories, if deemed necessary after assessing the risk associated with such accounts. The control person(s) should be identified on the New Account documentation.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<p>customers that the Firm is requesting information from them to verify their identities?</p> <ul style="list-style-type: none"> > Do the CSPs specify that if an RP cannot form a reasonable belief that he/she knows the true identity of a customer, the RP will not open the account and will contact the AMLCO? Do the CSPs specify that the AMLCO will determine whether to file a SAR? > Does the Firm have procedures for monitoring performance of due diligence for higher risk accounts as identified on the New Account documentation? Does the Firm have an audit module to review the due diligence performed for new account verification to determine whether heightened risk-based procedures were necessary and, if they were employed, whether the measures taken were adequate under the circumstances? 		

AML Requirement	Firm Practice/Policy/Procedure¹	Findings (Substantive/Documentary)	Recommendations (Substantive/Documentary)
Consulting Government Provided Lists of Known or Suspected Terrorists	> Do the CSPs provide that, within a specified period of time after an account is opened, the AMLCO will check that the customer does not appear on the OFAC list?	Substantive	Substantive
	> Do the CSPs specify how often a review of new accounts is carried out? ¹¹	Documentary	Documentary
Coordination with Other Financial Institutions - Reliance on Another Financial Institution to Perform All or Part of the CIP	> Do the CSPs specify whether the Firm may rely on another financial institution (including an affiliate) to perform some or all of its CIP? If so, do the CSPs specify that:	Substantive	Substantive
	(i) such reliance must be reasonable under the circumstances; (ii) the other financial institution is regulated by a Federal functional regulator and has implemented an AML compliance program; (iii) the other financial institution	Documentary	Documentary

¹¹ The Firm should have a system into which all relevant AML screening lists are downloaded and compared against customer records to identify potential matches. The system should be used for 1) checking existing accounts against the latest version of the lists, 2) checking new accounts opened, and any account for which customer data has been updated, against the latest version of the lists, and 3) checking accounts against the section 314(a) list distributed bi-weekly from FinCEN.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u>¹	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<p>has entered into a contract with the Firm requiring it to certify annually that it has implemented its AML program, and that it will perform specified requirements of the Firm's CIP; and</p> <p>(iv) the AMLCO approves of such reliance in writing.</p>		
Recordkeeping	<ul style="list-style-type: none"> > Do the CSPs specify how RPs record identification information for new customers?¹² > Do the CSPs specify how RPs record all non-documentary verification, including keeping data regarding contacts, dates of inquiry <i>etc.</i>? > Does the Firm have a written procedure for making and maintaining records of the measures used to identify customer accounts controlled by persons other than the identified account holder? > Does the Firm have a written 	Substantive	Substantive
		Documentary	Documentary

¹² For example, the CSPs should specify whether RPs are required to make copies of identification documentation used by individual customers and obtain and retain copies of corporate organizational documents for corporate customers.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<p>procedure for resolving substantive discrepancies discovered when verifying identifying information?</p> <ul style="list-style-type: none"> > Do the CSPs specify the circumstances in which the AMLCO must be notified of such measures? > Do the CSPs specify that records of all identification information obtained from customers will be retained for 5 years after the account has been closed; and records of documentary and non-documentary evidence, and descriptions of the verification of control persons and the resolution of substantive discrepancies, will be retained for 5 years from the time that they were created? 		

VI. CONTINUING DUE DILIGENCE - MONITORING ACCOUNTS FOR SUSPICIOUS ACTIVITY/RED FLAGS

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
Continuing Due Diligence - Monitoring Accounts For Suspicious Activity/Red Flags	<ul style="list-style-type: none"> > Do the CSPs specify that RPs must report red flag activity to the AMLCO? > Does the AML Compliance Department also monitor account activity for red flags? > Do the CSPs specify how account activity reviews are documented? > Does the AML Compliance Department use exception reports to review transactions and wire transfer activity to determine unusual behavior? If so, do the CSPs specify the procedure for reviewing exception reports, such as making notations in the margins if necessary, signing and dating the reports to evidence the review, and archiving the reports for 5 years? > Do the CSPs specify the measures that may be taken by the Firm after reviewing reported activity, such as the gathering of additional information by the AMLCO, contacting the government, freezing the account and/or filing a SAR? > Does the Firm's clearing broker also monitor new and existing 	Substantive	Substantive
		Documentary	Documentary

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u> ¹	<u>Findings</u> (Substantive/Documentary)	<u>Recommendations</u> (Substantive/Documentary)
	<p>accounts, registration of securities, asset turnover ratios and potential disbursements of funds or securities?</p> <p>> Do the CSPs specify the duties of RPs with respect to penny stock activity, such as reporting to the AMLCO any penny stock activity that appears to be part of a money laundering scheme?</p>		

VII. ENHANCED DUE DILIGENCE FOR SELECT ACCOUNTS

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure</u> ¹	<u>Findings</u> (Substantive/Documentary)	<u>Recommendations</u> (Substantive/Documentary)
Correspondent Accounts for Foreign Financial Institutions	> Does the Firm permit the establishment of correspondent accounts for foreign financial institutions? If not, do the CSPs make clear that the opening of such accounts is prohibited and describe the procedures for complying ¹³ and monitoring compliance ¹⁴ with the prohibition, including specifying the persons responsible for performing the	Substantive	Substantive
		Documentary	Documentary

¹³ For example, the Firm's systems may block new accounts with a foreign address.

¹⁴ For example, the Firm may operate a surveillance tool which seeks to detect foreign banks by identifying account names containing foreign "bank" derivative words.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<p>functions, when they are performed and how they are documented?¹⁵</p> <ul style="list-style-type: none"> > If the Firm permits the establishment of foreign correspondent accounts, do the CSPs specify the due diligence measures to be applied to such accounts, including conducting periodic reviews to determine whether the activity is consistent with the type, purpose and anticipated activity of the account? > Do the CSPs specify the measures that the Firm will take if it cannot perform due diligence with respect to such accounts, such as refusing to open an account, suspending an account, filing a SAR, or closing an account? > Does the Firm permit the establishment of special correspondent accounts? If so, do the CSPs specify the enhanced due diligence measures that will be taken with respect to such 		

¹⁵ If the Firm permits any exceptions, the CSPs should describe the terms or exceptions for maintaining such accounts.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	accounts, including ascertaining the identity of the owners of private banks (and the nature and extent of their ownership), conducting enhanced scrutiny of the account, and determining whether the bank in turn maintains correspondent accounts for other foreign banks and, if so, identifying those banks and conducting related due diligence in respect thereof?		
Private Banking Accounts for Non-U.S. Persons/ Foreign Officials	<ul style="list-style-type: none"> > Does the Firm permit the establishment of private banking accounts for or on behalf of non-U.S. persons, including senior foreign officials, their family members and close associates? If not, do the CSPs make clear that the opening of such accounts is prohibited and describe the procedures for complying and monitoring compliance with the prohibition?¹⁶ 	Substantive	Substantive
	<ul style="list-style-type: none"> > If the Firm permits the establishment of private banking accounts for non-U.S. 	Documentary	Documentary

¹⁶ If the Firm permits any exceptions, the CSPs should describe the terms or exceptions for maintaining such accounts, e.g., that an exception must be made in writing by the AMLCO and in advance of the account being opened.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<p>persons/foreign officials, do the CSPs specify the due diligence measures that will be taken with respect to such accounts, including ascertaining the identity of the nominal and beneficial owners of any such account and the source of funds deposited into the account, as well as conducting enhanced scrutiny of any such account maintained by a senior foreign political figure (or family member or associate) in an effort to detect and report transactions that may involve the proceeds of foreign corruption?</p>		
Foreign Shell Banks	<p>> Do the CSPs make clear that the establishment of accounts for foreign shell banks is prohibited and specify the procedures for monitoring compliance with the prohibition, including identifying the person(s) responsible for performing this function, when it is performed and how it is documented?</p>	Substantive	Substantive
		Documentary	Documentary

VIII. AML TRAINING

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
AML Training	<ul style="list-style-type: none"> > Do the CSPs specify the types/ methods of AML training that are conducted periodically by the Firm?¹⁷ > Do the CSPs specify the records that will be maintained by the Firm showing the persons trained, the dates and the subject matter of the training? > Does the Firm does have a written procedure for managers to monitor attendance on training programs and identify and report to the AML Compliance Department those persons who have not completed AML training? 	Substantive	Substantive
	<ul style="list-style-type: none"> > Do the CSPs specify that the AML Compliance Department will review the Firm's operations to determine if there are RPs or employees who need additional or specialized training due to the nature of their duties?¹⁸ 	Documentary	Documentary

¹⁷ The CSPs should specify the person(s) or department(s) that determine the subject matter of AML training.

¹⁸ The AML training program should be tailored to cover differing or specialized training needs. The Firm should offer customized training, a new hire training program and a training program for operations personnel, as appropriate.

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<ul style="list-style-type: none"> > Does the AMLCO periodically evaluate the training program and materials to ensure that they reflect new developments in AML rules and regulations? > Does the Firm's audit procedure contain an AML module that monitors trends of specific AML findings to determine if additional training or action is needed? Does the AML Compliance Department receive copies of these reports? 		

IX. INDEPENDENT TESTING OF BROKER/DEALER PROCEDURES

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
Independent Testing of Broker/Dealer Procedures	<ul style="list-style-type: none"> > Is the Firm's AML program tested on an annual basis by either a qualified and independent employee of the Firm or by a qualified independent third party? Do the CSPs specify the timing of the audit and the person responsible for scheduling the audit? > Are findings reported to senior management and any resulting 	Substantive	Substantive

<u>AML Requirement</u>	<u>Firm Practice/Policy/Procedure¹</u>	<u>Findings (Substantive/Documentary)</u>	<u>Recommendations (Substantive/Documentary)</u>
	<p>recommendations addressed?</p> <ul style="list-style-type: none"> > Do the CSPs reflect the role of the AMLCO or any other persons in assessing audit results and recommendations arising therefrom and in implementing the same? > Do the CSPs provide that under certain circumstances the AMLCO may determine that testing more frequently than annually is warranted? 	Documentary	Documentary

This publication is a service to our clients and friends. It is designed only to give general information on the developments actually covered. It is not intended to be a comprehensive summary of recent developments in the law, treat exhaustively the subjects covered, provide legal advice, or render a legal opinion.

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