

SAMOA NATIONAL POLICY ON ANTI-MONEY LAUNDERING, COUNTER TERRORIST AND PROLIFERATION FINANCING



The Money Laundering
Prevention Task Force

Samoa AML/CTF National Policy

Correctly and actively applied, anti-money laundering (AML), counter terrorist financing (CTF) and proliferation financing (PF) systems have the potential to reduce both the incidence and the harm caused by all forms of financially motivated crime, money laundering, terrorism and proliferation of weapons of mass destruction.

This National Policy, prepared by the AML/CTF Task Force (“Task Force”) and issued by the Money Laundering Prevention Authority (MLPA) sets the course and provides the guiding principles that are the basis of the AML /CTF/PF Strategy and national AML/CTF efforts for the next four years.

This policy has, at its core, the Financial Action Task Force (FATF) Recommendations, the National Risk Assessment (NRA) 2014 and the collective capabilities of the agencies of the Task Force. To be effective, an AML/CTF system must have the capacity to detect money laundering, terrorist financing and proliferation financing as well as disrupting such activities, deterring offenders and would-be offenders and preventing repetition of offences or similar types of offences.

Compliance with FATF Recommendations

The FATF recommendations are the global AML/CTF/CPF standards and provide the most up-to-date insights into addressing money laundering, terrorist financing and proliferation financing around the world.

Samoa authorities will, within resource constraints, apply the FATF recommendations, propose updates to laws as the recommendations evolve and, as much as possible, include the recommendations within normal workplace practices.

Prosecution of Money Laundering and Restraint of Proceeds of Crime

The investigation and prosecution of money laundering and the restraint and confiscation of proceeds of crime are significant deterrent and disruption activities and are key indicators of effectiveness under the FATF evaluation processes.

Samoa authorities will, as a matter of policy, pursue these twin objectives whenever considering action in relation to profit-motivated crime.

A System with Prevention at its Core

Anti-money laundering at its inception was intended to address financially motivated offending that law enforcement, through the use of traditional methods, could not. The MLPA and the Task Force recognise the reality that law enforcement and regulators in Samoa, as in most parts of the world, are not resourced sufficiently to investigate and prosecute all offences that are committed.

A reduction in the crimes that cause harm to Samoans and foreign nationals, must come primarily through prevention - by ensuring that money laundering, terrorist financing and proliferation financing is as close to impossible as our AML/CTF/CPF system can make it.

Where absolute prevention is not practicable then our system must deter or disrupt such offending so as to make it as difficult and as expensive as possible for offenders to profit from their crimes, fund terrorism or fund the proliferation of weapons of mass destruction.

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Money laundering, terrorist financing and proliferation financing offences detected in Samoa will be examined to ascertain whether preventative measures can be put in place to ensure that such offences cannot be repeated by the same offender or replicated by others.

Where preventative measures are developed such recommendations will, upon endorsement by the Task Force, be put in place in a timely manner so as to reduce the potential harm to others in the future.

A Pro-active System

The Task Force recognises that the detection, prevention, disruption and deterrence of money laundering, terrorist financing and proliferation financing cannot be left to chance, nor can it be left solely to private enterprise and financial institutions.

Detection

Detection of money laundering, terrorist financing and proliferation financing must be a pro-active activity on the part of all agencies of the Task Force.

Recent international experience has shown that detection of money laundering, if left solely to financial institutions, is not only ineffective and haphazard but risks diverting attention away from larger-scale money laundering toward small-scale more obvious forms of money laundering.

AML/CTF/CPF efforts cost financial institutions money, both in terms of the resource required to detect and report it, but also in lost profits when for example, turning away profitable business to prevent laundering. A significant number of financial institutions have been shown in recent years to have not only failed to detect or report money laundering but have actively engaged in money laundering and sanctions avoidance for profit.

Agencies of the Task Force acknowledge that the detection of these offences can be assisted by financial institutions but cannot be left solely to them and as such the Task Force agencies will train their staff to understand money laundering, terrorist financing and proliferation financing. Agencies of the Task Force will however provide such assistance as is practicable to the entities that they regulate, or engage with, to detect ML/TF and PF.

Agencies will also actively search their own data holdings periodically for indicators of ML/TF/PF and either unilaterally act on such information or share the information with the other agencies of the Task Force in order to facilitate disruption, deterrence and/or prevention of those offences.

Agencies of the Task Force will periodically collate their collective data and cross-match information to minimise the risk of information silos failing to detect money laundering, terrorist financing or proliferation financing.

Where detection is being undertaken by financial institutions, agencies will periodically audit the processes and effectiveness of such efforts to ensure it is being undertaken in the spirit of the law.

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Deterrence

Deterrence requires a genuine perception of risk in the minds of offenders and would-be offenders that they will be identified, caught and/or punished.

Task Force agencies will actively seek out and engage in activities that emphasise and highlight the robustness of Samoa's AML/CTF/CPF systems in order to enhance the perception that those who engage in such offending, particularly facilitators and professional money launderers, have a very high risk of being detected and punished.

Disruption

Anti-money laundering, as a crime-fighting approach, was originally formulated to disrupt drug crime where other efforts had failed. Few, if any, law enforcement agencies are funded sufficiently to prosecute all offences that are committed or detected.

The intentional disruption of money laundering, terrorist financing and proliferation financing may take a number of forms including prosecution of offenders for money laundering, terrorist financing or proliferation financing and confiscation of illicit assets. It may also use other approaches to reduce the harm caused by these offences.

The Task Force Agencies will regularly review intelligence on offending and using means that are both legal and ethical, they will consider practicable measures of targeting of syndicates and entities in order to change offending behaviour by removing the ability, motivation or opportunity to continue offending.

Prevention

Prevention involves the development of strategies to stop others from following in the footsteps of previous offenders. The Task Force Agencies will regularly review intelligence on ML/TF/PF offending and formulate strategies to prevent repetition of ML/TF/PF offences or the commission of similar offences. Such preventative strategies will take into consideration the rights of individuals, due legal process, human rights and appropriate legal oversight and will prioritise known methods of offending that generate or facilitate the greatest volume of laundered/terrorist/proliferation funds before moving on to ML/TF/PF risks.

A System that is Regularly Tested

The Authority and the Task Force acknowledge the international experience that has shown that AML/CTF/CPF systems benefit from testing and correction. Just as computer networks are tested to ensure that they cannot be hacked, those who implement AML/CTF/CPF systems should also ensure that they are functioning as intended. Since money laundering, terrorist financing and proliferation financing are, by their very nature, hidden activities the volume of suspicious transactions reports (STRs), funds restrained or prosecutions for money laundering are not, on their own, sufficient measures of effectiveness.

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Regular testing of AML/CTF/CPF systems, with corrective actions put in place to correct identified deficiencies will be a feature of Samoa's system to ensure effectiveness. The testing procedures will be documented as will the corrective measures and the results of follow-up testing.

A Co-operative System

The fight against profit-driven crime such as drug supply, corruption, fraud and tax evasion, can only be effective if agencies with different powers, information and skills work closely together.

Task Force member agencies will share information and personnel freely in both formal and informal arrangements. The FIU in particular will continue to assist all members of the Task Force by sharing information as a source of intelligence whenever required.

A Focus on Facilitators

In terms of financially motivated crime, it is significantly more cost effective to change the behaviour of facilitators of money laundering than it is to change the behaviour of every predicate offender or would-be offender.

AML/CTF is at its least effective when applied to individual predicate offenders laundering their own proceeds. Conversely it is at its most effective when it is used to change the behaviour of those who launder the proceeds of multiple predicate offences from multiple offenders.

AML/CTF/CPF resources in Samoa will be applied in a manner that has the greatest possible impact. In this regard the focus of AML/CTF law enforcement and regulatory action should be, wherever possible, targeted towards the facilitators of money laundering (those who assist through the formation of companies for example) and those people, entities or syndicates that engage in the laundering of other people's proceeds.

High Risk Areas

In accordance with current FATF standards, Samoa will routinely conduct an assessment of ML/TF/PF risks. However, it is acknowledged that in some respects and from time-to-time certain money laundering activities will not just be a "risk" but a "certainty".

Task Force resources therefore will be applied to known money laundering activities before moving on to lower-order risks.

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List of Acronyms

AML – Anti-Money Laundering
CPF – Counter Proliferation Financing
CTF – Counter Terrorist Financing
FATF – Financial Action Task Force
MLPA – Money Laundering Prevention Authority
ML – Money Laundering
NRA – National Risk Assessment 2014
PF – Proliferation Financing
SFIU – Samoa Financial Intelligence Unit
STR – Suspicious Transaction Report
Task Force – Money Laundering Prevention Task Force
TF – Terrorist Financing