



Compliance Officer Application Processing Guidelines

CENTRAL BANK OF SEYCHELLES
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1.0 Introduction

A designated compliance function with a Compliance Officer forms the second line of defence in an institution, providing guidance and oversight over the first line. They ensure that institutions comply with external regulatory and legal requirements as well as internal policies and manuals. In order for the compliance function to be effective, Compliance Officers must have the appropriate experience and qualifications and also understand their roles and responsibilities within the organisation. For there to be uniformity in the suitability of Compliance Officers appointed, the Anti-Money Laundering and Countering the Financing of Terrorism Act (AML/CFT Act), 2020, has prescribed for the mandatory requirements when appointing the individual.

Furthermore, in accordance with Section 34 (1) and Section 34 (3) of the AML/CFT Act, 2020, every reporting entity shall appoint a Compliance Officer and an Alternate Compliance Officer subject to the Supervisory Authority's approval. As such, reporting entities have to submit their applications for prospective Compliance Officers to be vetted as fit and proper by the Central Bank of Seychelles (CBS).

Along the same line, the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Regulations¹, 2020 provides for the time limit for approval of the Compliance Officer. As per Part V, Regulation 9 of the said regulation, the time taken by the supervisory authority to approve the application of a Compliance Officer and alternative Compliance Officer, shall not exceed 60 days, and the time taken for processing the application shall be excluded from the period provided under section 34 (1) of the Act. These guidelines aim to provide reporting entities with instructions regarding the timeframe within which to submit a Compliance Officer application for approval by CBS including procedures in the event of rejection, applicable exemptions, assessment of fitness and propriety of proposed applicants, suspension/revocation of approval granted and the possibility for appeal by the reporting entity against the decision taken by the supervisory authority.

2.0 General Guidance for submission of Applications

The following guidance applies to all reporting entities² under the regulatory purview of CBS:

- a) Application submission
 - a. *New license*

¹ Henceforth, reference to regulation refers to the AML/CFT Regulations 2020.

² Banks, Bureau de Change Class A and Class B, Housing Finance Company, Development Bank of Seychelles, Credit Unions, Payment System Providers.

Reporting entities shall submit a completed Compliance Officer application to CBS for consideration, 60 days prior to commencement of operations (for a new license) or to the planned appointment of a new Compliance Officer.

b. Resignation/removal of current CO

Reporting entities shall submit a completed application for appointment of a new Compliance Officer to CBS, 90 days from the last working day of the current Compliance officer.

- b) CBS will review the application and advise if further information is required, and also approve or reject the application within 60 days.
- c) Where requests for further information are made, the application shall be put on hold until such time that the information/document has been provided.
- d) Where an application remains on hold without reasonable justification or official extension for a period of more than 30 days following a request for information, CBS shall close the application and notify the licensee in writing that the application has been closed.
- e) Where the reporting entity wishes to proceed with an application after receiving a notice made pursuant to guidance 2.0 (d), it shall within 14 days of the date of the notice, make a written submission to CBS to request that the application be re-opened. CBS shall not consider any request made pursuant to this direction after the 14-day timeframe.
- f) Where CBS favourably considers a request made pursuant to guidance 2.0 (e), it may request for information to be resubmitted.
- g) In the event that an application is rejected by CBS, the reporting entity has 30 days to submit a new application.
- h) For new licensees, when CBS,
 - i. rejects an application for the Compliance Officer and the reporting entity submits a new application, the reporting entity has to extend its commencement date until a Compliance Officer is approved.
 - ii. approves an application, the reporting entity has 30 days as per section 34 (1) of the AML/CFT Act, 2020, to appoint the Compliance Officer.
- i) For existing reporting entities, when CBS rejects an application for the Compliance Officer and the reporting entity submits a new application, the Alternate Compliance Officer must

assume the role of the Compliance Officer, until such time that the new Compliance Officer has been appointed. This is subsequent to Regulation 14.

- j) Reporting entities must ensure that a completed application is submitted to CBS as per the form at Annex I, at the time specified in these guidelines for effective processing of their applications. Particular attention should be paid to the Notes section of the form, which outlines the necessary documentation to be submitted along with the Application form. Reporting entities should ensure that **all** documents are submitted in the appropriate manner so as to facilitate processing.
- k) Reporting entities should bear in mind the requirements of a Compliance Officer as per section 34 of the AML/CFT Act, 2020, Regulation 11(1) and the First Schedule of the AML/CFT Regulations, 2020, and AML/CFT (Amendment) Regulations, 2020, when submitting applications for Compliance and Alternate Compliance Officers.

3.0 Application for a Sole Compliance Officer³

- a) Pursuant to Regulation 8(2), reporting entities with five (5) staff or less may apply to CBS to have a sole Compliance Officer appointed, provided;
 - that the reporting entity shall not be required to appoint an alternative compliance officer along with the compliance officer
 - further that a sole trader shall not be required to appoint an alternative compliance officer and he or she shall be the sole compliance officer.
- b) An application made pursuant to Regulation 8(2) should be made in writing and should clearly detail the reasons why the application is being made.
- c) Where the reporting entity no longer meets the criterion of Regulation 8(2) (i.e. the reporting entity has more than 5 staff), it shall undertake the necessary to appoint an Alternate Compliance Officer in accordance with section 34 of the Act.
- d) The reporting entity shall immediately inform the respective supervisory authority when the Compliance Officer is absent from his/her duties advising of the alternate arrangements which has been made.

³ The purpose of this exception is not to permit reporting entities concerned to conduct business to a lower regulatory standard but to recognise that due to the size and scope of certain reporting entities and by virtue of the way in which their business is structured, it is may not be practical to appoint an Alternate Compliance Officer.

4.0 Assessment of Fit and Proper

- a) CBS exercises judgement and discretion in determining whether individuals are fit and proper, and shall have regard to the criteria provided by section 34(2) of the Act and Regulation 11(1) & (3).
- b) In making a successful determination of the fitness and propriety of an individual, holding of academic/professional qualifications may not be sufficient, unless it can be established that the individual has the requisite knowledge or work experience⁴.
- c) CBS may request for further information/documents relating to the application, to be provided. Where such requests are made, the application shall be put on hold until such time that the information/document has been provided.
- d) For the duration of the transitional period provided by Regulation 24, where an individual does not entirely meet the criteria provided by the First Schedule of the Regulations, that is the individual either does not have the required experience or the relevant qualification, CBS shall grant a conditional fit and proper approval subject to specific terms and conditions.
- e) Where conditional fit and proper determinations are issued, the reporting entity retains the responsibility of ensuring that the set terms and conditions are met. To facilitate monitoring by CBS, the reporting entity should submit an update of the progress made by the applicant every three (3) months.
- f) A reporting entity may withdraw a fit and proper application 7 days after submission of the application, provided that written notification is made to CBS. Where such a request is made, the application documents submitted shall not be returned to the reporting entity. The reporting entity shall submit a new application 30 days from the date from which it withdrew the previous application.
- g) Further to the documents submitted by the reporting entity, the applicant has to attend an interview⁵ session with CBS as part of the fit and proper assessment. To note, the interview will be recorded for record keeping.

⁴ Subject to transitional provision of Regulation 24.

⁵ May be conducted physically or virtually.

5.0 Suspension/Revocation of Approval Granted

As per Regulation 10, the Supervisory Authority may suspend or withdraw the approval granted for the appointment of Compliance Officer or an Alternate Compliance Officer under the Regulation.

- a) CBS may upon giving reasonable written notice to a licensee, revoke an approval granted for Compliance or Alternate Compliance Officers.
- b) Prior to revoking its approval, CBS shall give written notice to the reporting entity, of its intention to revoke the approval granted and shall provide the grounds upon which it intends to revoke the approval.
- c) Further to guidance 5.0 (b), the reporting entity, shall submit a written notice to show good reason why the approval should not be revoked. This shall be done within 14 days of the date of the notice issued under guidance 5.0 (b). In the event that the reporting entity does not submit its written notice, CBS shall revoke the approval granted.
- d) Where CBS revokes its approval, the reporting entity shall be notified of the fact in writing.
- e) The reporting entity shall within 30 working days of the date of receiving the written notice for revocation, submit to CBS an application for its proposed Compliance Officer or Alternate Compliance Officer, as the case may be.

6.0 Appeal Against Decision of the Supervisory Authority

- a) A reporting entity aggrieved by a decision of CBS may appeal the decision in the manner prescribed by Regulation 20.

7.0 Conclusion

The role of a Compliance Officer is central to the proper functioning of an institution as it provides the focal point of all compliance matters and ensures that the institution is operating at higher than optimum standards. As such, reporting entities must ensure that the potential Compliance and Alternate Compliance Officers are fit for purpose and will be effective in undertaking the compliance duties in accordance to the laws and the institution's policies.

A reporting entity or an individual that contravenes these directions, presents grounds for CBS to take relevant enforcement action against the reporting entity or the relevant person as provided under the relevant legislation. It is therefore pertinent that necessary guidance is sought in the event of any concern or uncertainty in respect of the provisions of these Guidelines.

Annex I: Application Form for Appointment of a Compliance and Alternate Compliance Officer.



APPLICATION
FOR
APPROVAL OF THE
APPOINTMENT OF A
COMPLIANCE OFFICER AND
ALTERNATE COMPLIANCE
OFFICER

NOTES TO APPLICANTS:

- A. This form should be completed by the reporting entity and submitted to CBS.
- B. An application for approval should be made by the reporting entity, not by the prospective Compliance Officer or alternate Compliance Officer.
- C. Sections A, F and G of this application shall be completed by each reporting entity in the group. Please print additional pages of these sections as necessary.
- D. Please ensure that the following documents are submitted in support of this application:
 - a. Certified copy of identification documents (for example, national identity card, passport identification page(s));
 - b. Certified copy of proof of residential address (for example a utility or landline telecom bill); not older than 3 months;
 - c. Certified copies of professional and educational qualifications;
 - d. Resume or curriculum vitae:
 - i. outlining the relevant qualifications and experience of the proposed Compliance Officer or alternate Compliance Officer; and
 - ii. including the names, addresses and telephone numbers of previous employers;
 - e. Police certificate or a sworn affidavit (where a certificate is not issued), not older than 6 months, as to the non-criminal record of the applicant for the past three years; However, first time Gainful Occupation Permit (GOP) holders will have to provide the above certificate from his/her country of origin, which is not older than 6 months.
 - f. Tax clearance certificate;
 - i. First time GOP holders will have to provide the above certificate from his/her country of origin, which is not older than 6 months.
 - g. Professional, personal and financial references:
 - i. The professional reference should be from a person who can speak to the experience and ability of the prospective Compliance Officer or alternate Compliance Officer, and should not be older than 1 year.
 - ii. The personal reference should be from a person who can vouch for the individual's conduct and character, and should not be older than 1 year.
 - iii. The financial reference relates to the Banker's reference, which can be provided by the applicant's personal bank, for an account which has been maintained for not less than 1 year> First time GOP holders would need to provide a financial reference form his/her banker in his/her country of origin.

(Note:

1. The Professional and Personal reference should not be from the same individual
2. Note: In relation to bullet (e), (f) and (g), the provision for first time GOP holders apply where an entity is unable to recruit a qualified applicant for the above posts locally)

h. Completed Personal Information from (Form attached); and in the instance whereby the applicant's spouse/partner, mother and father have deceased, the next of kin's names should be provided, stating the relationship with the applicant. The form should be completed for all connected persons, i.e. mother, father, spouse, children, or next of kin in the absence of the afore-mentioned.

i. PEP self-declaration form (Form attached);

SECTION A:

REPORTING ENTITY

This section should be completed by the reporting entity submitting the application form. Please print additional pages of this section as required.

1. Reporting Entity:

2. Physical Address:

3. Certificate/Licence Currently Held:

4. Who Should the Supervisory Authority Contact in Relation to this Application?

Name:

Position:

Telephone:

Email:

SECTION B:

PERSONAL DETAILS

This section should be completed by or on behalf of the prospective Compliance Officer or alternate Compliance Officer.

Name:

(Surname, First Name(s) Middle Name(s))

2. Previous Name(s) (If Any)

(Date of Change and Reason for Change)

3. Date of Birth:

(Day/Month/Year)

4. Place of Birth:

5. (A) Nationality:

(B) Country of Residence:

6. Identification Number:

Type of Identification:

(e.g., Passport, National Identity Number, etc.)

7. Current Address:

Date Resident at this Address from: Month/Year:

(If Address has changed in the last 10 years, please provide addresses for the last ten years on Additional pages attached to this form)

SECTION C:**EDUCATION & QUALIFICATIONS**

This section should be completed by or on the behalf of the prospective Compliance Officer or alternate Compliance Officer.

Education

Institution Attended	Degree/Qualification	Year Completed

Organisation/Association	Membership Status (Student, Associate, Fellow)	Member Since	Membership #

Attention

In the event that the proposed applicant does not meet the qualification requirement but qualifies to be approved with condition, the proposed applicant will be required to successfully complete a professional qualification course such as ACAMS or ICA. Same should be completed as per the stipulated deadline stated upon approval.

Therefore, by completing, signing and submitting the application form, both the applicant and the institution agrees to the above. In the event that the applicant is unwilling to further with the above course, the institution will not be able to proceed with the application. This is in view that the prerequisites to be appointed as CO as per the AML/CFT Regulations, 2020, includes having a BSc or BA in law, accounting, finance, business administration or a related field, or a professional certification.

SECTION D:

EMPLOYMENT

This section should be completed by or on the behalf of the prospective Compliance Officer and alternate Compliance Officer.

Name of Employer:

Telephone:

E-Mail:

Supervisor/Contact Person:

Address:

Date of Appointment:

Current Position:

Name of Regulator(s) (If Any):

Responsibilities:

Previous Employment

Please indicate positions held during the last ten years, listing the most recent appointment first. Please use additional pages as required.

Name of Employer:

Telephone:

E-Mail:

Supervisor/Contact Person:

Address:

Dates of Employment From/To:

Nature of Business:

Position Held:

Name of Regulator(s), if any:

Responsibilities:

Reason for leaving:

SECTION E:

FIT & PROPER

This section should be completed by circling either YES or NO.

Please list any incident or action in any jurisdiction, with the exception of minor traffic offences. Please note that no time restriction applies to the matters you are asked to disclose.

If the answer to any of the following questions is “YES”, please provide full details on a separate sheet. This section should be completed by or on the behalf of the prospective Compliance Officer and alternate Compliance Officer.

1. Have you been convicted of any criminal or civil offence by any court in the Seychelles or elsewhere? (Minor motoring offences may be omitted).

YES

NO

2. Do you have any criminal or civil charges pending?

YES

NO

3. Has any disciplinary, enforcement, disqualification or similar proceeding been taken against you by any professional body, regulatory body or association or are any such proceedings pending?

YES

NO

If “yes”, name the regulatory or professional body or association:

4. Have you been found guilty of conducting any unauthorised regulated activities or been investigated for possible conduct of unauthorised regulated activities?

YES

NO

5. Have you been the subject of any regulatory investigation or is any such investigation pending?

YES

NO

6. Has any application for your regulatory approval ever been refused?

YES

NO

7. Have you been obstructive, misleading or untruthful in dealing with a court, tribunal, official inquiry, regulatory or professional body?

YES

NO

8. Have you been the subject of any bankruptcy proceedings or filed for bankruptcy, entered into a compromise agreement or other similar arrangement with your creditors or had a receiver appointed in respect of any of your property?

YES

NO

9. Have you at any time failed to satisfy any personal or business-related debts due?

YES

NO

10. Have you been the subject of an investigation into allegations of misconduct or malpractice in connection with any business activity?

YES

NO

11. Have you ever been expelled or excluded from, or refused admission to, a professional body?

YES

NO

12. Have you been refused, restricted in, or had suspended, the right to carry on trade, business or profession for which a specific license, authorisation, registration, membership or other permission is required?

YES

NO

13. Have you ever been asked to resign, or been dismissed from any fiduciary office or position of trust?

YES

NO

14. Are you aware of any matter relating to your character, reputation or financial position that the respective supervisory authority may regard as relevant in considering this application?

YES

NO

15. Has any business with which you have been associated as a director, senior officer or officer ever entered a formal insolvency process or ceased trading whilst insolvent, while you were associated with it or within one year after your association ceased?

YES

NO

SECTION F:

RELATIONSHIP WITH REPORTING ENTITY

This section should be completed by the reporting entity.

1. Will the prospective Compliance Officer or alternate Compliance Officer be employed under a full-time contract of employment?

YES

NO

2. If the answer to 1. above is “no” provide details of employment with reporting entity.

3. What other positions or offices (if any) does or will the prospective Compliance Officer or alternate Compliance Officer hold with the reporting entity?

4. Does the prospective Compliance Officer or alternate Compliance Officer hold any shares in, or have any interest, legal or equitable, direct or indirect, in the reporting entity?

YES

NO

5. If the answer to 4 above is “yes” provide details of shareholding or other interest.

6. Is the prospective Compliance Officer or alternate Compliance Officer able, directly, to exercise more than 10% of the voting power of the reporting entity?

YES

NO

7. If the answer to 6 above is “yes” provide details.

SECTION G:

DECLARATIONS

The following declaration should be completed by the reporting entity in relation to the information provided in sections A and F.

The information provided in sections A and F is, to the best of our knowledge and belief, complete and true and there are no other facts or matters relevant to this application of which the supervisory authority should be aware.

We undertake to inform the supervisory authority forthwith, of any material changes to the information supplied on this application.

Signed on behalf of the applying reporting entity:

Name of Authorised Signatory:

Job Title / Position:

Signature:

Date:

The following declaration should be completed by the prospective Compliance Officer and prospective alternate Compliance Officer in relation to the information provided in sections B, C, D and E.

I certify that the information provided in sections B, C, D and E, is to the best of my knowledge and belief, complete and true and there are no other facts or matters relevant to this application of which the supervisory authority should be aware.

I undertake to inform the supervisory authority, forthwith, of any material changes to the information supplied on this application.

Name of prospective Compliance Officer or alternate Compliance Officer:

Signature:

Date: