

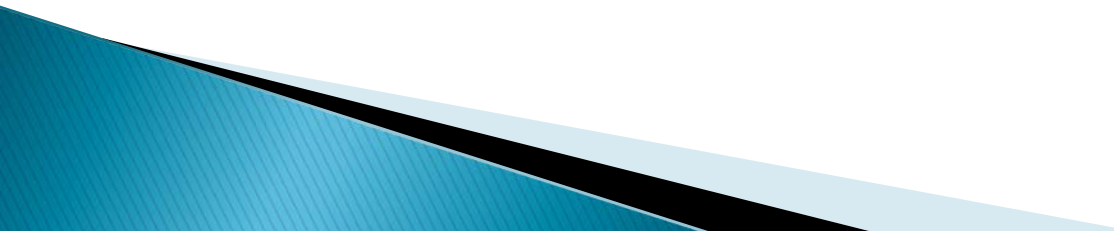
Financial Institutions' Obligations and the Legal Profession

Jambar / GLC CLE Seminar

Presented by: Judith Romeo



Agenda

- ▶ Compliance Programme
 - ▶ Professional Intermediaries
 - ▶ Obligations of Financial Institutions
 - ▶ Know Your Client
- 

Compliance Programme

POCA (MLP) Regulations, 2007 r. 5

- ▶ Financial institutions are required to implement a Compliance Programme to ensure they take active, effective and ongoing steps to prevent and detect money laundering.

Professional Intermediaries

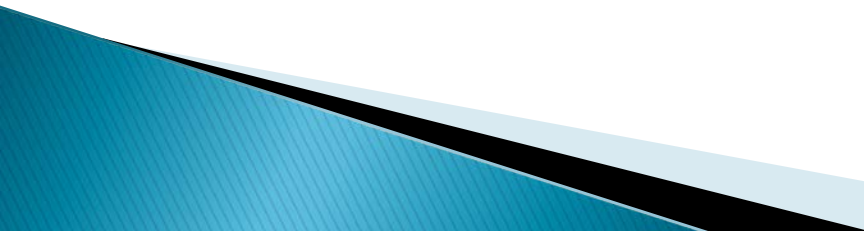
- ▶ As defined in the BOJ Guidance Notes:
 - Pension Funds
 - Unit Trusts and other fund managers
 - Lawyers
 - Securities dealers and stock brokers;
managing single or pooled accounts held on deposit
or in escrow for clients

Obligations of Financial Institutions

- ▶ Ensure proper identification of customers including:
 - Parties who may have a beneficial interest in a transaction;
 - Parties who may have a beneficial interest in the account;
- ▶ If the account is being held on behalf of a single client, the identity of that client **must** be ascertained.

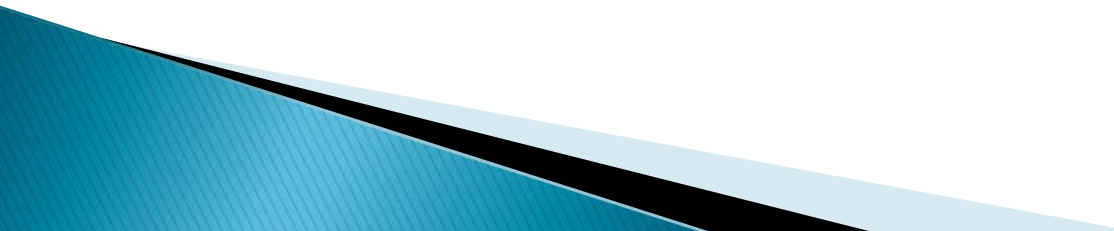
Obligations of Financial Institutions

Information required from **all customers** includes:

- ▶ True name (Identification);
 - ▶ Tax Registration Number (TRN);
 - ▶ Correct permanent address and postal address if different;
 - ▶ Date and place of birth;
 - ▶ Nationality;
 - ▶ At least 2 referees;
 - ▶ Source of funds / source of wealth;
 - ▶ Contact numbers .
- 

Obligations of Financial Institutions

Identification of Bodies Corporate:

- ▶ Certificate of Incorporation / Registration;
 - ▶ Articles of Incorporation or Partnership Deed;
 - ▶ Financial statements;
 - ▶ Identification of the individuals that ultimately own or control the principal;
 - ▶ Tax Compliance Certificate;
 - ▶ Source of funds / wealth.
- 

Pooled Accounts

Where pooled accounts have been identified, a financial institution may consider relying on the professional intermediary's due diligence, if the following is applicable:

- ▶ Sound documented due diligence practice in line with standards in the BOJ Guidance Notes;
- ▶ The financial institution can verify the reliability and effectiveness of policies in place for customer due diligence, anti-money laundering and anti-terrorist financing.

Trust Arrangements

- ▶ For Trust arrangements:
 - The identity of all parties and beneficiaries must be determined and recorded -
 - Trustee
 - Settlor
 - Grantor
 - Source of funds or source of wealth
 - Purpose and terms of the trust arrangement

Record Keeping

POCA (MLP) Regulations, 2007 r. 14

- ▶ Financial institutions are required to maintain customer identification records, and records relating to transactions carried out by each customer for at least 5 years after the termination of the business relationship or after the transactions have been completed whichever occurs later.

Retrospective Review

To ensure that all existing customer information remains up-to-date and relevant, financial institutions are required to put measures in place for accounts:

- ▶ To be reviewed at least 5 years from the date the account was established and at minimum 5 year increments thereafter.

Retrospective Review

- ▶ Reviews are also to be conducted:
 - Where any transaction involves / exceeds the prescribed amount;
 - Where a transaction is carried out by means of wire transfer;
 - Where there is any change in ownership or control;
 - When doubt arises as to the true identity of the client or the beneficial owner;
 - Where there is any doubt as to the veracity or adequacy of previously obtained evidence of identity.

Know Your Client



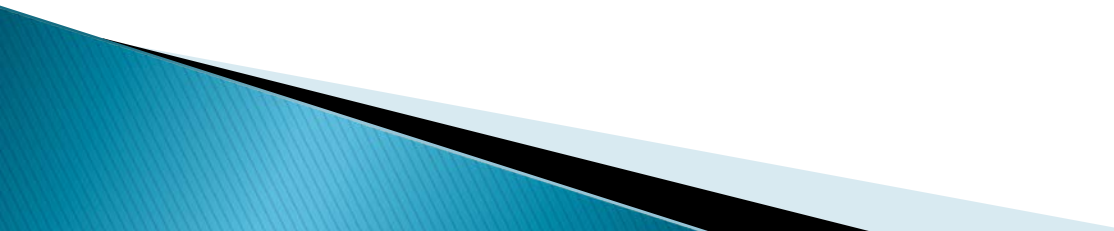
Know Your Client

- ▶ Identify clients and maintain copies of identification on file;
- ▶ If the client is not a natural person:
 - Obtain proof of incorporation, or formal evidence of establishment;
 - Identify the persons that own and control the client;
 - Ensure that any person purporting to act on behalf of the client is identified and duly authorized.

Remember that ID includes a client's **TRN**.



Know Your Client

- ▶ Implement risk-based client due diligence:
 - Pay attention to complex, unusual large transactions;
 - ▶ Ensure that you understand the client's circumstances and nature of business;
 - ▶ Determine and record the purpose for the proposed business relationship.
- 

Thank You

