



BVIFSC Thematic Inspection Initial Findings -

Reliance on Third Parties/Introduced Business Relationships

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Introduction

Trust and Corporate Services Providers (TCSPs) represent a large percentage of the BVI's financial services industry. A material portion of TCSPs rely on Third Parties (also referred to as Introduced Business Relationships) to facilitate business.

The BVI's AML/CFT regime is comprehensive of its coverage of reliance on Third Parties. Provisions can be found in the Anti-Money Laundering and Terrorist Financing Code of Practice (AMLTF Code), and the Anti-Money Laundering Regulations (AML Regulations); specific references to which are highlighted within this document. Additional guidance can also be found in the Explanatory Notes in the AMLTF Code. Some of the more specific legislative requirements are listed in Table 1 below.

Table 1 – Key Legislative Provisions relating to Reliance on Third Parties

Legislative Reference	Requirement
AMLTF Code of Practice – section 31	Reliance on third parties
AMLTF Code of Practice – section 31A	Contents of Written Agreements
AMLTF Code of Practice – section 31B	Testing of Business Relationship
AML Regulations – regulation 4	Identification procedures in relation to new and continuing business relationships
AML Regulations – regulation 7	Reliance on third parties
AML Regulations – regulation 7A	Third party business relationship agreement
AML Regulations – regulation 7B	Obligation to test business relationship

As the regulator, the Commission recognises that Introduced Business Relationships provide positive benefits, including the ability for service providers to achieve economies of scale in attracting business. However, these relationships also present significant risks. These risks can be presented in several ways, that ultimately result in a TCSP unknowingly being used to create and service legal persons and legal arrangements for bad actors seeking to advance their criminal activities. Such risks include a lack of transparency in the beneficial ownership and control of legal persons and legal arrangements.

The Commission's 2024/25 Inspection Plan will cover a number of themes, including the continuation of its review of Reliance on Third Parties, which is the focus of this document. The Commission is providing this findings' report as guidance to alert TCSPs of gaps observed, as well as regulatory requirements that should be reviewed to achieve a high level of compliance.

Risks in Context

TCSPs face several risks based on the nature of their business activities. For example, while it is the case that the majority of persons who use the arrangement of introduced business to form business relationships and transact business globally do so for legitimate purposes, there are those that tend to abuse the regime for criminal purposes. In such cases, beneficial ownership and/or control could be obscured to mask illicit activities including ML, TF, PF, sanctions evasion, fraud and other financial crimes. The use of Introduced Business Relationships heightens such risk as these relationships are susceptible to abuse if not properly and effectively administered. On this basis, it is important for TCSPs to ensure transparency and accountability when engaging in such relationships.

It is, therefore, vital for TCSPs to have robust policies and procedures in place to achieve effectiveness in their compliance measures and risk mitigation strategies including those relating to Introduced Business Relationships. Importantly, a TCSP's compliance function ultimately rests with its Board of Directors. This is clearly set out in the Regulatory Code, 2009, and specifically, at section 26, which sets out the requirement for establishing and maintaining clearly defined policies for the effective management of all risks. Therefore, an effective Board should ensure that the TCSP's compliance function and risk mitigation strategies are subject to review and are regularly updated to address evolving risks and typologies impacting their business, as well as support implementation of effective compliance measures such as those related to Reliance on Third Parties.

Observations from Thematic – Reliance on Third Parties/Introduced Business Relationships

The findings from inspections conducted evidenced varying compliance with the statutory requirements for Introduced Relationships. Some TCSPs evidenced sound compliance practices, particularly where it pertained to the suitability of, and due diligence conducted on a Third Party. Further, there seems to be a clear trend towards less reliance on third party introductions and in

some cases TCSPs are requiring all third party introducers to provide all CDD information and documentation.

A high level of compliance was observed in TCSPs' ability to identify and provide evidence of the beneficial owner including the controller of a legal person or arrangement subject to third party introduction. However, other areas were assessed as being non-compliant, which the Commission considers must be addressed holistically within the TCSP sector.

Areas that evidenced an average rating of non-compliant or partially compliant included the following:

- Agreements with Third Parties – Particularly in some cases agreements were deficient in content and were not updated having regard to more recent legislative changes.
- Testing of Agreements with Third Parties – Sufficient evidence was not provided in all cases that testing was conducted of the third-party relationships, including at the appropriate intervals, as determined by risk and the legislation.
- Reliance on Third Parties - This area assessed the suitability of the Introducers and the conduct of CDD/verification of such introducers. Whilst the compliance level was higher on average, some entities failed to make an appropriate assessment of the third party and undertake the relevant due diligence in respect of such third party in keeping with the legislative requirement.

These observations present material concerns regarding the level of effectiveness of compliance measures being implemented. TCSPs should consider the recommendations below together with the cited legislative references and the Explanatory Notes when undertaking business related to third party introductions.

Recommendations for compliance regarding Reliance on Third Parties

Any effective compliance framework requires a strong Corporate Governance Framework. Therefore, it is essential that Boards of Directors approve policies and procedures in relation to how the TCSP addresses Reliance on Third Parties. These policies should provide sufficient detail that sets out the requisite conditions required for a TCSP to enter a relationship, the manner in which the relationship will be monitored and triggering events that would result in termination of the relationship.

It is important that the Board reviews, approves and directs the implementation of robust policies and procedures that comply with financial services legislation and are geared towards effective compliance. In relation to Reliance on Third Parties, a TCSP's Board should ensure that there is clarity on all phases of a relationship with Third Parties. **Table 2** below sets out various

compliance considerations for Reliance on Third Parties that TCSPs should taking a consideration to address some of the deficiencies identified during inspections.

Table 2 – Compliance Considerations for Reliance on Third Parties

Business Aspect	Compliance Consideration
Due Diligence and Risk Assessment	Prior to commencing a Relationship, it is important to conduct due diligence of a Third Party before entering into an agreement. This assessment also includes verification of due diligence information, risk assessment of the Third Party and suitability of relationship.
Updating of Agreements with Third Parties	As a part of the ongoing monitoring of an existing business relationship, a TCSP should ensure that, amongst other things, when testing its relationship with a third party all agreements with Third Parties are reviewed on a risk-based approach to ensure compliance with the law.
Testing and Ongoing Monitoring of a Relationship	<p>TCSPs that rely on Third Parties are required to test those relationships to determine the level of adherence to the agreement and ensure that due diligence and other documents are being collected and adequately maintained. The frequency of testing would be based on the risk assessment of a subject Third Party but should be conducted every three years at a minimum. The AMLTF Code allows a TCSP to develop its approach for testing; however, the results of testing must be properly documented and available for review by the Commission.</p> <p>Where the results of tests evidence a low level of adherence with the agreement, non-compliance with the AMLTF Code, or inadequate maintenance of due diligence information, a TCSP should take action to address gaps in compliance or terminate the business relationship, ensuring that full CDD on all legal persons and legal arrangements subject to the relationship is undertaken.</p>
Termination of a Relationship	The termination of a relationship with a Third Party typically occurs after significant deficiencies are observed or following a triggering event or other issues which may increase the risk applied to that third party. It is important that the Board approved policies for termination procedures are clearly set out and implemented. Given the material inherent risks for continuing a relationship where significant deficiencies or some other event has occurred, the continuance of such a

	relationship would be based on internal controls, policies and procedures that have been ratified by the Board of Directors.
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Consequences of Non-Compliance

TCSPs are reminded to ensure that their policies and procedures are sufficiently robust to mitigate as well as to detect risks, and are guided to review their policies, procedures and current business practices to ensure effective compliance is being achieved in their engagement with Third Parties.

In keeping with the Commission's Enforcement Philosophy, identified deficiencies will be factored into enforcement actions taken where there are observations of poor or non-compliance. In such instances, enforcement actions and penalties will be taken that are proportionate and dissuasive.

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