Anti-Money Laundering & Counter-Terrorism Financing (AML-CTF) Policy

Background and Rationale

Money laundering and terrorism financing have been identified as a major threat to the international financial services community.

BLOM BANK FRANCE Group and its foreign branches and subsidiaries have thus implemented a fully comprehensive AML-CTF policy and have elaborated AML-CTF procedures and tasks in each site and every country in order to be compliant with the country’s rules and regulations as well as with Head Office’s complying rules.

BLOM BANK FRANCE is registered, authorized and based in France, by its organization and procedures the whole group complies with its obligations under the legislation currently in force in the fight against money laundering and against terrorism financing.

French and European legislations are of a primary importance to the Bank but also are the FATF/GAFI, UN and OFAC provisions. The Bank has adopted the French and European legislation requirements as a statement of the minimum standards to be adopted by all overseas branches and subsidiaries.

Legal and Regulatory Framework

Mainly three sets of rules and principles apply to BLOM BANK FRANCE group.

- The national framework principally refers to the French Order n°2009-104 of January 30th 2009 relative to the prevention of the use of the financial system for the purposes of money laundering and terrorism financing, which subjects to declaration to TRACFIN (the regulatory specific body under the jurisdiction of the French Ministry of Economy and Finance) all the operations about which the bank knows, suspects or has good reasons for suspecting that they result from offences which are liable to a above one year prison sentence.

- This national legislative frame is completed by the European framework and its transposition into the French national legal system. This framework is principally composed of:
- The third European directive (2005/60/CE of December 26th 2005) on anti-money laundering and terrorism financing, which repeals and replaces the two previous ones;
- The Regulation (CE) n° 2580/2001 of December 27th 2001 and its modifications;
- The Regulation (CE) n°881/2002 of May 27th 2002 and its modifications;
- The Regulation (CE) n°1889/2005 of October 26th 2005 relating to the control of cash money entering in and leaving the European Community;
- The Regulation (CE) n°1781/2006 of November 15th 2006 relating to the information concerning the ordering person of a funds transfer and transposing the special Recommendation VII of the FATF.

- The international framework ruled by the FATF recommendations (40+9).

Policy purpose

In order to fight money laundering, combat terrorism finance, detect tax fraud and protect its reputation BLOM BANK FRANCE sets out an AML-CTF policy.

This policy includes stringent Know Your Customer (KYC) norms regarding customer acceptance, which covers customer identification and verification, customer risk assessment, transaction filtering, transaction monitoring, unusual or suspicious activity reporting, and the rejection or ending of business relationships.

AML-CTF also includes the necessary training and awareness of the staff to implement the above.

AML-CTF policy and KYC norms advocate a risk based approach. This approach allows for the possibility to use different measures and controls in different situations and risks levels, depending on the customers or customers segments, their background, their business activities, their products and services needs, the sources and nature of funds or assets, and the geographies involved.

Policy scope

This policy applies to all the Bank’s overseas entities. Where local legislation is more stringent, local requirements will apply in addition with this Policy. Meeting the requirements of this Policy is considered of paramount importance and takes precedence over other commercial aspects of managing our customer relationships.
Policy objectives

The objectives of this Policy are:

- To prevent use of the Bank’s products and services for money laundering, terrorism financing or for tax fraud purposes;
- To prevent damage to the Bank’s name and reputation by association with money launderers or terrorism financiers;
- To ensure that the Bank complies with anti-money laundering and counter financing of terrorism legislations/regulations wherever it does business.

Policy scales

The policy includes specific requirements with regard to amongst other things:

- The appointment of an AML-CTF Reporting Officer;
- Procedures regarding the identification of customers by applying KYC Norms;
- The classification of customer’s accounts in terms of AML-CTF risk based approach;
- Additional due diligence concerning high risk customers;
- Procedures concerning cash and checks controls;
- Reporting of suspicious transactions and freezing of assets;
- Implementing internal controls for the prevention of the money laundering risk;
- Regular internal and external inspection and auditing of compliance with the AML-CTF procedures;
- Procedures for training of employees on AML-CTF requirements.

Policy application

All the Bank’s branches will implement policies and procedures to the standards required by the European and French legislation (or to any higher standard required by local legislation), which will:

- Identify and know their customers;
- Ensure that adequate records are kept and preserved;
- Provide training for relevant employees to enable them to understand and fulfill their obligations under the French legislation, or any other local requirements;
- Ensure that suspicious transactions are recognized and adequately reported to the AML-CTF Officer who will determine whether a report is to be made to the authorities;
- Provide the AML-CTF Officer with all reasonable access to the information that may be of assistance to him in carrying his duties;
- Ensure that all necessary controls and communications are in place and are operating effectively to prevent money laundering.

Each and every individual in the Bank is responsible for the enforcement and the respect of this Policy, especially when considering a customer for acceptance before entering into a relationship, and when handling each customer’s business during the life of the relationship.
The day-to-day custodian of the Policy is the Anti-Money Laundering Head at the Head Office who also controls the amendments required to this Policy as a result.

No changes to, or exceptions from, this Policy are allowed without the formal agreement of the Anti Money Laundering Compliance Officer at the Head Office.

The Anti Money Laundering Compliance Officer at the Head Office is responsible for ensuring that each entity complies with this Policy.

Sanctions

The article L.561-36 of the Code monétaire and financier states that the ignorance by a financial institution of its anti-money laundering obligations is subject to disciplinary sanction by the competent authorities, namely the French Autorité de contrôle prudentiel (ACPR) or the AMF (Autorité des Marchés Financiers). According to some specialists, these violations of the anti-money laundering obligations may also be subject to penal sanctions for the crime of money-laundering (because of the very broad definition of the crime of money-laundering and because the requirement of an intentional element have not been mentioned in the Penal code framing the crime of laundering money, even if this requirement is mentioned for all other crimes).

- For all executives of under ACPR supervision financial institutions the fact to avoid answering (after a formal notice) to information request of the ACPR or to block the ACPR in the fulfillment of its control mission or to provide the ACPR with false pieces of information is punishable with one-year imprisonment and a EUR 15 000 fine (L573-1-1 of the Code monétaire et financier).

- A EUR 22 500 fine is prescribed for agents or executives of a financial institution providing the suspected of money laundering person or a third party with the existence or the content of the suspicious transaction declaration to TRACFIN or to the continuation of the declaration (art. L.574-1 of the Code monétaire et financier).

- Money laundering, as defined by the Penal Code (art 324-1), is punishable with 5 years imprisonment and a EUR 375 000 fine. The sanction is raised to 10 years imprisonment and a EUR 750 000 fine if the offense is committed by a professional (article 324-2 of the Penal Code). The sanctions are more severe if the targeted operations result from drug trafficking (art. 222-38 of the Penal Code).

- The non-compliance with an European assets-freezing sanction is punishable with five years imprisonment (art. 459-1 bis of the Customs Code).

- The financing of a terrorist enterprise by providing, gathering or managing funds, securities or any other asset or by advising such an enterprise (with the intention to perpetrate
an attack using all or a part of these funds according to the definition of the article 421-2-2 of the Penal Code) is punishable with 10 years imprisonment and a EUR 225 000 fine.

Monitoring of transactions

Procedures were put in place to monitor customers’ transactions. The compliance Unit at the Head Office generates reports on a frequent basis to achieve this task.

Any transaction which does not fit within a customer’s transaction profile should be reviewed by the Anti Money Laundering Compliance Officer at the branch and the branch manager, to determine whether the circumstances give rise to any suspicion of money laundering.

Suspicious activity reporting

Any staff identifying an account, an activity or a transaction which he deems to be suspicious, must report that suspicion to the AML-CTF Officer and to the Branch Manager, through a written Suspicious Transaction Report (STR). The AML-CTF Officer will report the transaction to the Financial Intelligence Unit (TRACFIN in France).

Suspicious activity reporting should not be discussed with anyone other than the Anti Money Laundering Compliance Officers at the branch and the Head Office and with the branch manager – including the customer and other staff members – to avoid the risk of “tipping off”.

Maintaining and updating information

The information relating to customers (personal details, proof of beneficial ownership…) is kept during five years following the carrying-out of the transaction or the business relationship, as required by French Regulation.

Staff training

All employees having potential contact with customers or processing transactions on behalf of customers are required to undertake anti-money laundering training on a regular basis.