



**Customer Due Diligence Guide No. 1 Of 2011  
(CDD-G/1/2011)**

**For**

**ENTITIES SUPERVISED BY THE FINANCIAL INTELLIGENCE UNIT**



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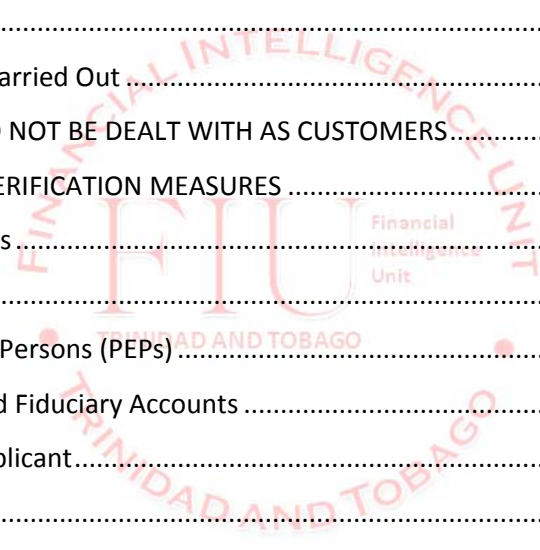
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## 1. INTRODUCTION

Part III of the Financial Obligations Regulations 2010 (“the FOR”) sets out the necessary approach to customer due diligence (“CDD”) procedures which a financial institution (“FI”) or listed business (“LB”) must follow when it undertakes a financial transaction for a customer. These procedures seek to ensure that comprehensive identification information is available about the persons and individuals with whom the FI or LB conducts business as one measure in combating money laundering and terrorist financing.

The FOR set out the CDD measures and the various situations in which CDD should be applied. The FOR embodies a risk base policy for determining the extent of CDD measures to apply in any given situation. This means that a FI or LB must assess the risks of money laundering and terrorist financing relevant to its business operations. The FI or LB must determine the high risk activities/business to which it may be exposed, taking into consideration factors such as:

- (i) the type of customer;
- (ii) the type of products/services/transaction the customer is using or conducting;
- (iii) the geographical areas of the customer’s operations; and
- (iv) the delivery channels to the customer.

**The FI or LB will then focus its resources on the areas it has identified as the greatest risk to its business. The extent of CDD measures the FI or LB applies must be appropriate in view of its assessment of the risks.**

## 2. Purpose of this Guide

This **CUSTOMER DUE DILIGENCE GUIDE No 1 of 2011,(CDD-G/1/2011)**, is intended to assist non-regulated Financial Institutions and Listed Businesses (“supervised entities”), of which the Financial intelligence Unit is the Supervisory Authority, in meeting the Customer identification, verification and monitoring obligations prescribed in the FOR. **CDD-G/1/2011** is provided as a general guide and it is intended not to replace but to be interpreted within the context of the FOR as well as the AML/CFT laws of Trinidad and Tobago. All supervised entities must have a clear understanding of their obligations under the FOR as well as under Trinidad and Tobago’s AML/CFT legal regime.

**CDD-G/1/2011** is intended to assist you, the Supervised Entity in determining the following:

- (i) what is CDD;
- (ii) when it is required;
- (iii) what level of CDD is required in various situations;
- (iv) if CDD cannot be carried out what action must be taken;
- (v) the circumstances where it is permissible to rely on third parties to conduct CDD;
- (vi) the persons with whom no dealings must be undertaken; and
- (vii) Identification and Verification measures.

## 3. WHAT ARE CDD MEASURES?

CDD relates to the concepts of identification and verification. Simply put, you must satisfy yourself that you know with whom you are dealing, and you do so with the best available information.

- 3.1 Firstly, CDD is identifying the customer and verifying his identity on the basis of documents, data and information obtained from reliable and independent sources.
- 3.2 Secondly, where there is a beneficial owner who is NOT the customer, CDD is identifying that beneficial owner and verifying his identity so you are satisfied that you know who is the individual or person who is the intended beneficiary of the transaction. The beneficial owner is the person who owns or controls an account or who exercises ultimate control over a company or legal arrangement or who benefits from the transaction.
- 3.3 And thirdly, CDD is obtaining information on the purpose and intended nature of the business relationship.

#### 4. WHEN IS CDD REQUIRED?

**Timing:** Client identification and verification should be completed **before** establishing a business relationship or **before** completing a transaction for occasional customers or **before** completing a transaction for a non-resident customer. Therefore, supervised entities are required to have a written customer/client acceptance policy outlining the procedures to be followed in determining whether to establish a business relationship or complete a transaction.

#### 5. THE LEVEL OF CDD MEASURES REQUIRED

A supervised entity must be able to demonstrate that the extent of CDD applied to a customer is appropriate in regard to the requirements of the FOR and in view of its assessment of the risks of money laundering and terrorist financing to its business. Since CDD measures are to be applied on a risk sensitive basis, it is expected that the extent of CDD will vary depending on the level of risk ascertained. In situations of higher risk further CDD will be appropriate as compared with situations of normal risk.

##### 5.1 Initial CDD measures

- i. In particular the FOR requires that initial CDD measures must be applied to a customer:
- ii. When establishing a new business relationship;
- iii. When carrying out a one off or an occasional transaction of TT \$ 90,000 or more;
- iv. When carrying out two or more transactions which together total TT \$90, 000 or more and the transactions appear to be linked;
- v. When carrying out a wire transfer of TT \$6, 000 or more; and
- vi. When carrying two or more wire transfers which together total TT \$ 6,000 or more and the transactions appear to be linked.

##### 5.2 When are ENHANCED CDD measures required?

Generally, Enhanced CDD ("EDD") measures require you to obtain fuller information including additional evidence of identity, better forms of verification, the source of

wealth and source of funds and in certain situation the permission of senior management before establishing the relationship.

EDD will be appropriate in higher than normal risk situations as identified in the FOR and in the situations **you have identified as the greatest risk to your business**.

In particular **EDD must be applied:**

- i. Where the client or Beneficial Owner is a Politically Exposed Person (PEPs).
- ii. Where the applicant for business acts or appears to act in a representative capacity (an agent of a principal).
- iii. Where the applicant for business acts or appears to act in a representative capacity (an agent) for a non resident customer (his principal).
- iv. Where you know or suspect money laundering or terrorist financing
- v. In Trusts and fiduciary relationships.
- vi. in the situations **you have identified as the greatest risk to your business** e.g. cash intensive clients, customers purchasing high value goods such as cars, jewellery, real estate, nonresident customers.
- vii. Where the client comes from a Jurisdiction considered to be high risk (e.g. countries identified by the Financial Action Task Force (FATF) as Non-Compliant or not Sufficiently Compliant with its recommendations; from a Country in which the production or transportation of illegal drugs maybe taking place, from a Country with known or suspected terrorist activities, etc).
- viii. In Non face-to-face business relationships or transactions.

### 5.3 Retrospective due diligence

CDD must be conducted periodically on all existing customers. The appropriate time frame may be that agreed upon by the industry. Enhanced ongoing monitoring is also required in all high risk situations identified at 5.2 above.

## 6. EXCEPTIONS

In LIMITED circumstances under the FOR, a supervised entity is released from the obligation to obtain evidence of customer identity as identified at 5 above. The main exception arises where the supervised entity obtains business through an introducer and relies on the introducer to obtain and maintain identity evidence of a third party.

The main exception applies where the supervised entity:

- i. Carries out a ONE-OFF transaction with a third party; and
- ii. The third party acts in a representative capacity; and
- iii. An introduction was provided by a person (“the introducer”)who has given written assurance that the evidence of the identity of the third party has been recorded and is maintained by him; and
- iv. The introducer identifies the third party.

**7. Where CDD cannot be carried Out**

In situations where you cannot obtain satisfactory evidence of the identity of the Customer i.e. there may be persons who do not satisfy your CDD measures bearing in mind the timing of its application and the exceptions, you must:

- i. Not carry out the transaction for the customer (one-off transaction )
- ii. Not establish a business relationship (new business)
- iii. Discontinue the business relationship (existing business)

AND report the matter to the Compliance Officer.

**8. PERSONS WHO SHOULD NOT BE DEALT WITH AS CUSTOMERS**

Supervised Entities must have in place monitoring systems to ensure that business transactions are not carried out:

- i. Where satisfactory evidence of identity has not be obtained as 7 above
- ii. With shell banks
- iii. With anonymous accounts
- iv. For Persons from countries which have been placed on FATF’s list of “Non Cooperative Countries or Territories”.
- v. For Persons designated as terrorist entities by the Security Council of the United Nations (“the UN List”).

The FATF List and UN List are available on the FIU’s Website.

**9. IDENTIFICATION AND VERIFICATION MEASURES**

All Supervised Entities are required to know the identity of their clients as well as the purpose for which the business relationship was established. The FOR set out basic requirements.

**9.1 Face-to-Face Clients**

**9.1.1 Individuals**

When establishing a business relationship with a new client, the following measures should be taken:

- i. Identify and verify the client’s identity using at least one (1) original form of reliable, independent source document.
  - Reliable documents include, but are not limited to, any **valid** form of Government Issued Identification<sup>1</sup>.

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<sup>1</sup> Drivers license, passport or ID card. Identification documents which do not bear photographs or signatures are **not** considered appropriate evidence of identity. Some flexibility could be given to certain classes of clients (such as the elderly, the disabled, students and minors) who may not be able to produce the usual types of evidence of identity

- Client identification data should include :
  - Full Name/ Names;
  - Permanent address<sup>2</sup> and proof of same;
  - Date and Country of Birth;
  - Nature and place of business/occupation;
  - Occupational income;
  - Signature;
  - Information on the purpose and intended nature of the business relationship or transaction;
  - Source of funds; and
  - Any other information deemed appropriate by the supervised entity.
- ii. Reasonable measures should be taken to identify, verify and record the identity of the beneficial owner
- iii. Closely monitor the transactions undertaken through the course of the business relationship, to ensure that the transactions being conducted are consistent with the FI or LB's knowledge of the client, their business and risk profile including, where necessary, the source of funds.

Where not already instituted, measures i to iii should be applied to existing clients, who have established a business relationship with the supervised entity, at the earliest point of subsequent business interaction.

#### 9.1.2 *Business Customers*

When establishing a business relationship with a new business client, the following measures should be taken:

- i. Identify and verify the entity's identity, legal status and the nature of its business. This should include **at minimum**, duly certified documents showing the:
  - Name of the Business;
  - Address of Registered office;
  - Country of Incorporation;

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such as a driver's license, passport or ID card. However, in those circumstances the flexibility given should not sufficiently compromise the anti-money laundering and anti terrorism procedures recommended in this document.

<sup>2</sup> A Post Office Box number is Not an acceptable address

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- A signed Director's Statement outlining the nature of the company's business; and
  - Information on the purpose and intended nature of the Business relationship.
- ii. Identify and verify the identity of key functionaries and Beneficial Owners within the entity using reliable source documents. Information gathered should include:
- Names of Directors, Secretary and officers, partners;
  - Copies of identification documents for at least two (2) Directors and the authorized account signatories;
  - Duly Certified Copies of Powers of Attorney or other authorities, affecting the operation of the account, given by the Directors in relation to the company; and
  - Evidence of the authority to enter into the business relationship if necessary (for example, a copy of the Board Resolution authorizing the account signatories).
- iii. The supervised entity may request the following additional information depending on the nature of the propose business relationship or transaction:
- Articles of Incorporation or continuance;
  - Certificate of Incorporation or continuance;
  - Company By-Laws;
  - Partnership Deed (where applicable);
  - Management accounts for the previous three years or other proof of the source of funds to be used in the transaction; and
  - Identity of shareholders holding more than 10 per cent of the paid up share capital.

Verification and documentation of the key functionaries should be conducted on a periodic basis, to ensure that client information remains current.

The supervised entity must Closely monitor the transactions undertaken through the course of the business relationship to ensure that the transactions being conducted are consistent with the supervised entity's knowledge of the client, his business and risk profile including, where necessary, the source of funds (i.e. where the amount of a desired transaction crossed a minimum threshold).



Where not already instituted, measures i to iii should be applied to existing clients, who have established a business relationship, at the earliest, point of subsequent business interaction.

## 9.2 Foreign Customers

Where the business relationship involves a non resident customer, the supervised entity must obtain a Reference from the foreign customer's Bank. In addition to applying the CDD measures above, the supervised entity should:

- i. Gather sufficient information about the customer to understand fully the nature of the customer's business and to determine from publicly available information the reputation of the customer.
- ii. Determine that the customer is effectively supervised by the competent authority in its jurisdiction, including whether the customer has been subject to a money laundering or terrorist financing investigation or other regulatory action.
- iii. Determine that the customer has anti-money laundering and terrorist financing controls.
- iv. Consider whether approval from senior management should be required before establishing such a relationship.

## 9.3 Politically Exposed Persons (PEPs)<sup>3</sup>

In addition to the measures outlined above, a FI or LB should ensure that it has appropriate risk management systems to determine whether the Customer, an account holder or beneficial owner is a politically exposed person (PEP) as defined in the FOR. In the case of PEPs the supervised entity should ensure that:

- i. Senior management approval is obtained for establishing business relationships with each PEP client.
- ii. It takes reasonable measures to establish the source of wealth/funds.
- iii. It conducts enhanced ongoing monitoring of business relationships. This should include, but is not limited to, greater oversight of the PEPs account, which may involve the use of management information systems to monitor accounts for changes in patterns of behaviour and more stringent know your customer procedures to determine the individual's source of wealth, reputation and a greater understanding of the PEPs anticipated account activity.

## 9.4 Trust, Nominee and Fiduciary Accounts

A supervised entity who establishes trust and/or nominee accounts on behalf of its clients should engage the CDD process as outlined above as well as obtain:

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<sup>3</sup> PEPs are individuals who are or have been entrusted with prominent public functions e.g. Heads of State or Government, politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials, and immediate family and close friends of the individual.

- i. evidence of the trust relationship i.e. Trust Deed
- ii. the nature and purpose of the trust
- iii. verification of the identity of the Trustees

#### 9.5 Representative Applicant

9.5.1 WHERE it appears that the applicant for business (“the agent”) is acting for and on behalf of a customer, the supervised entity must:

- i. request written assurance from the agent that the identity of the customer has been recorded in accordance with CDD measures;
- ii. request **two (2) forms** of evidence of the identity of the customer in accordance with the CDD measures above;
- iii. ensure that the agent has legal authority to act for the customer; and
- iv. verify the authenticity of the identification documents provided by the agent.

9.5.2 WHERE it appears that the applicant for business (the agent) is acting for and on behalf of a customer **based in another country, the supervised entity must not** process the transaction UNLESS it has reasonable grounds for believing that the applicant is

- i. regulated by an overseas supervisory authority; or
- ii. based in or incorporated in a jurisdiction where there are laws giving effect to the FATF 40+9 recommendations.

#### 9.6 Introducers

Where a client has been referred to the supervised entity for the purpose of establishing a business relationship, the supervised entity should ensure that the introducers are “fit and proper” and exercise the necessary due diligence measures. However, the supervised entity remains ultimately responsible for knowing its clients and must adhere to the CDD processes as outlined in measures above.

#### 9.7 Third Party Reliance

A supervised entity may rely on a third party to apply CDD measures provided that the third party consents. Since the Supervised entity remains liable for any failure in the application of CDD measures it should be satisfied that the third party is:

- i. Of reputable character, integrity and reliability;
- ii. Regulated and supervised and has measures/procedures in place to comply with CDD requirements in line with these guidelines;
- iii. Willing and able to provide copies of identification data and other relevant documentation relating to the CDD requirement without delay upon request in establishing a business relationship.

Where a supervised entity is unable to acquire copies of identification and other relevant documentation relating to the CDD requirements without delay, upon request from a third party, the supervised entity is responsible for performing the CDD processes.

**10. Non- Face- to-Face Clients**

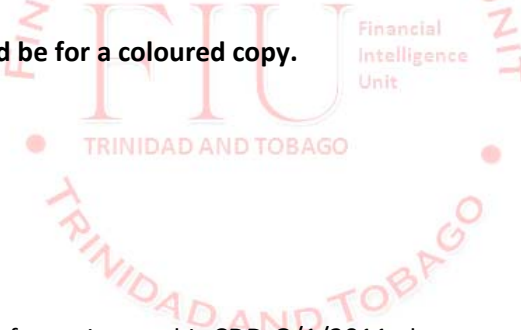
Supervised entities may encounter situations where the customer does not present himself when conducting transactions. This may occur with services provided electronically. All guidelines identified above for face-to-face clients apply to non-face-to-face clients but additionally, supervised entities must put know-your-customer policies in place to address the specific concerns associated with non face-to-face business relationships or transactions. The information at 9.2 may be instructive.

**11. Documents**

Generally, the identification documents produced should be originals. However, where it is impractical or impossible to obtain sight of original documents for identification purposes, a copy is acceptable if:

- i. it has been certified by a suitable certifier<sup>4</sup> as being a true copy of the original document and that the photograph is a true likeness of the client;
- ii. the certifier signs the copy document (printing his name clearly underneath) and has also clearly indicated his position or capacity, together with a contact address and telephone number; and
- iii. the certifier produces his original Identification documents.

**The preference should be for a coloured copy.**



**CONTACT DETAILS**

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<sup>4</sup> A certifier must be a suitable person, such as a lawyer, accountant, and commissioner of affidavits, notary public, manager or director of a bank or credit union or member of the judiciary.