

Snapshot: BVI AML/CFT Returns

Insights - 20/03/2024

What is an AML/CFT Return?

An AML/CFT Return refers to the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Return, which is an annual reporting requirement for certain BVI regulated entities that was introduced in 2021 under the Financial Services (Prudential and Statistical Returns) (Amendment) Order 2021 (Order).

Who has to file an AML/CFT Return?

The Order requires certain BVI regulated entities, including BVI approved managers and investment business licensees, to prepare and submit an AML/CFT Return by 31 March in each calendar year.

Specifically, an AML/CFT Return has to be filed with the BVI Financial Services Commission (BVI FSC) by the following BVI regulated entities (Licensees):

- (i) approved investment managers - approved by the BVI FSC pursuant to regulation 7 (1) of the Investment Business (Approved Managers) Regulations, 2012
- (ii) investment business licensees – licensed by the BVI FSC pursuant to Section 6 (2) of the Securities and Investment Business Act, 2010
- (iii) a person holding a licence issued by the BVI FSC pursuant to any of the following:
 - Section 10 (1) of the Banks and Trust Companies Act, 1990
 - Section 4 (3) of the Company Management Act, 1990
 - Section 8 (2) of the Insurance Act, 2008
 - Section 476 of the Insolvency Act, 2003
 - Section 9 (2) of the Financing and Money Services, 2010

(iv) a person holding a licence issued by the BVI FSC as an insurance manager or insurance intermediary pursuant to section 40 (2) of the Insurance Act, 2008

Do BVI funds have to file an AML/CFT Return?

No, BVI funds do not have to file an AML/CFT Return.

When is the AML/CFT due to be filed?

The AML/CFT Return has to be filed annually with the BVI FSC by 31 March in each year.

What period does an AML/CFT Return cover?

The AML/CFT Return covers the period from 1 January to 31 December in the calendar year prior to the filing date.

How is the AML/CFT Return filed?

The AML/CFT Return has to be filed by a Licensee on the BVI FSC's dedicated portal. Visit the portal: [BVI FSC - VIRRGIN Returns](#).

Prior to filing, if not already registered, a Licensee needs to register on the portal as a new user. This is the [FSC user guide](#), which includes a step-by-step guide on how to file an AML/CFT Return.

Is it possible to obtain an extension to the filing date?

Yes, a Licensee can apply to the BVI FSC for a 30 day extension for the filing of the AML/CFT Return.

An extension application must be made in writing to the BVI FSC at least seven days before the filing deadline - that is by 24 March in the relevant year, given the filing deadline is 31 March.

In considering whether or not to grant the extension, the BVI FSC will have regards to certain matters as set out in the Order, including whether or not the Licensee has any outstanding prior returns or penalties and the compliance culture of the Licensee.

Is there a penalty for late filing?

Yes, the BVI FSC may levy an administrative penalty for late filing of the AML/CFT Return of

US\$400 for the first thirty days and US\$100 for each additional month or part month during which the return remains outstanding.

The administrative penalty that may be levied also slightly increases if a filing extension was granted and the AML/CFT Return is still not filed within the extended period. In that case, the administrative penalty for late filing is US\$600 and US\$100 for each additional month or part month during which the return remains outstanding.

What does the AML/CFT cover?

Questions in the AML/CFT Return are broken down into the following sections: corporate governance, record keeping, risk profile, distribution channels, customer exposure, PEPs, targeted financial sanctions, risk monitoring, AML/CFT audit function, third-party reliance, geographic exposure, suspicious activity reporting and other issues.

Does a Licensee have to file an AML/CFT Return if it has been licensed for less than a year?

Yes, all Licensees have to file an AML/CFT Return and there are no available exemptions. However, if a Licensee has been licensed for less than a year, then the filing will cover the period from the date of licensing to 31 December in the year prior to filing.

If a Licensee has not yet commenced business at the time of filing, we would suggest noting this in the "other issues" section of the filing.

What should a Licensee do if it becomes aware of a mistake in the AML/CFT Return?

It is the Licensee's responsibility to ensure that the information provided in the AML/CFT Return is accurate and complete. The AML/CFT Return must be fully completed and will not be considered to be properly filed if that is not the case, or if it contains any materially inaccurate or misleading information.

If a Licensee becomes aware that the filed AML/CFT Return contains inaccurate or misleading information then, within five days of becoming aware of such fact, it must notify the FSC in writing and provide the accurate and complete information.

Practical tips for the filing

The guidance notes provide that:

- All monetary amounts should be reported in US dollars with exact figures, without rounding
- Any request for a date must be imputed in the British short format (ie dd/mm/yyyy)
- Where a query does not apply, insert "N/A" in response, or in the case of a numerical request, insert the figure "0"

We suggest that a Licensee registers on the BVI FSC's dedicated portal in good time before the filing date, to allow sufficient time for the registration to be processed and/or to deal with any issues that may occur during the registration process.

As good corporate governance, we recommend that a Licensee passes director resolutions approving the content of the AML/CFT Return.

| How Ogier can help?

Please feel free to contact your usual Ogier or Ogier Global contact if you have any questions or require assistance in relation to AML/CFT Returns.

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