The Evolution, Development, and Crucial Role of the AML/CFT Compliance in Mauritius.

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Before the implementation of Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) laws and regulations, financial institutions operated within a very limited framework. The focus of AML/CFT, at that time, be it in Mauritius or elsewhere, was on drug trafficking. Record-keeping was basic and focused on operational efficiency rather than anti-money laundering measures and the absence of automated screening systems also made it difficult to detect high-risk customers or suspicious activities. At the time there was also no globally recognized standards for combating money laundering (ML) or terrorist financing (TF) and as a result limited international cooperation creating exploitable gaps for criminals.

The establishment of the Financial Action Task Force (FATF) in 1989 by the G7 marked the beginning of a concerted effort to fill these gaps, leading to the current commitment of over 190 jurisdictions to implement and comply with FATF standards.

The landscape of AML/CFT compliance has since evolved in response to growing financial complexities and global challenges. Corporate scandals such as the HSBC scandal in 2012 and the Panama Papers leak in 2016 have further underscored the necessity of strong compliance frameworks. For financial institutions in Mauritius, the drive to enhance compliance culture has been particularly critical, especially following the country's inclusion and subsequent removal from the FATF grey list, reflecting its commitment to adhering to international standards and safeguarding financial integrity.

Prior to Mauritius being placed on the grey list Mauritius had launched the National Risk Assessment (NRA) in response to the Mutual Evaluation Report (MER) in 2019. The assessment was set up to identify, understand, and assess ML and TF risks, whilst also complying with FATF international standards.

Despite these efforts, Mauritius was still placed on the FATF grey list for strategic deficiencies in effectiveness, leading to enhanced monitoring and stricter regulations for financial institutions.

In order to understand the AML/CFT compliance framework in Mauritius and the road to being removed from the FATF grey list one needs to understand the regulatory framework that laid the foundation for where we are today. The Financial Services Development Act 2001 initiated the integration of offshore and onshore business activities in Mauritius and established a single regulatory authority, the Financial Services Commission (FSC), for non-banking financial services.

The Companies Act 2001 also replaced the outdated 1984 Act to support the country's objective of becoming a leading International Financial Centre (IFC). Modeled after New Zealand's progressive company legislation, it aimed to create an effective, efficient, and investor-friendly framework. The Trust Act was also enacted in 2001 this legislative bundle aimed at developing and enhancing Mauritius's reputation as a business and financial services hub.

Later on, the Securities Act 2005 was also enacted. It was modified to better align with non-bank financial services. The acts aim was to enhance market integrity, investor confidence, and efficiency on the financial market operations whilst also emphasizing transparency through annual reports. This act also established the FSC as the regulatory authority overseeing securities exchanges, clearing and settlement facilities, and securities trading systems.

The Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA) was also introduced addressing specifically money laundering, combating the financing of terrorism, and enhancing financial security. FIAMLA played and continues to play a vital role in safeguarding the financial system against any illicit activities alongside the Financial Intelligence and Anti-Money Laundering Regulations 2018 (FIAMLR) which were enacted in 2018 providing detailed guidelines and procedures on how to implement FIAMLA, the regulations also specify practical requirements for AML/CFT compliance (e.g. Customer Due Diligence).

FIAMLA has also made amendments with the time to address any loopholes or grey areas. For example, requiring financial institutions and relevant professions to document their risk assessment, reporting persons are also required to have in place policies, controls and procedures that evidence how they are actively mitigating any risks of money launder and terrorism financing. The introduction of FIAMLA and FIAMLR has managed to address and uphold the rule of law serving as a cornerstone of the AML/CFT framework.

Regardless of all the framework put up and prior to the FIAMLA being amended the FATF still found strategic deficiencies in the AML/CFT framework in Mauritius. This then led to the swift amendment of the AML/CFT framework whereby the United Nations (Financial Prohibitions, Arms Embargo, and Travel Ban) Sanctions Act 2019 was also enacted enabling the Mauritian government to implement targeted sanctions as well as address measures imposed by the United Nations Security Council under Chapter VII of the Charter of the United Nations. The National Sanctions Secretariat also now serves as the focal point for UN sanctions-related matters, including targeted financial sanctions related to proliferation financing while issuing guidelines on the implementation of these targeted financial sanctions under the 2019 Act.

Financial institutions were also tasked with fostering an environment where compliance is integrated into everyday operations. At AXIS there is a constant demonstration of our commitment to having an exemplary compliance posture. This can be evidenced through our commitment of having AXIS as a thought leader by the provision of regular training programs which has been crucial in keeping all employees informed about the latest regulatory requirements and best practices. AXIS has also leveraged advanced technology for monitoring and reporting any ML/TF offences, in turn creating transparent record-keeping which has proved to be invaluable in identifying and mitigating risks.

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It is evident that compliance is an ongoing process and regular reviews and updates to policies and procedures ensure that organizations remain effective and responsive to new challenges.

In an era where reputational risk can significantly impact business success, demonstrating a proactive approach to compliance can be a key differentiator in a competitive market. Compliance is therefore not a one-man job or the compliance department/officer's obligation alone, it requires participation from all parties involved in the day-to-day operations of financial institutions.The placing of Mauritius on the grey list served as a wakeup call but our walk in effectively applying the law does not stop there but it is rather an everyday obligation that cannot be strayed away from at any point. As a daily practice we all need to ask ourselves, are we rightly implementing the AML/CFT framework, and how can we ensure its continuous improvement?

We should also keep in mind that, as a minimum, we have a duty to uphold the law and the regulators have the same duty and they have evidenced this through the several cases which have unfolded with time and enforcement actions taken against organizations and persons who have failed to meet their obligations. As Albert Einstein once said, "The world is not dangerous because of those who do harm but because of those who look at it without doing anything." As responsible organizations in the fight against money laundering and terrorist financing, it is key that there is commitment to maintaining the highest levels of compliance, not only to avoid regulatory repercussions but also to contribute to a secure and reputable financial environment in Mauritius.

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