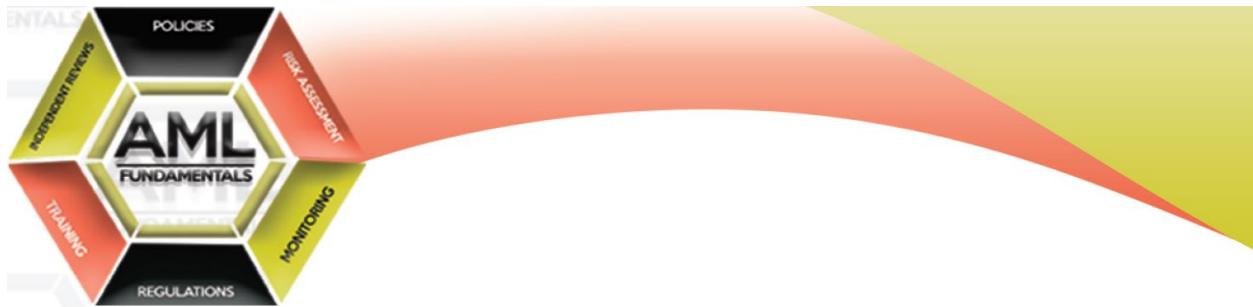




Customer Due Diligence: Are Financial Institutions Approach Sometimes Unreasonable?

On August 17, 2022, while scrolling through my Twitter feed, I came across a tweet by @kellyKatharin which read: *"In the bank to reactivate a dormant account. I need a JP to sign and stamp a paper that says that I am who my drivers license says I am. I'm physically in branch. I offer to lodge money to reactivate it. That won't do."*

Having read the tweet, I began to sympathize with Kelly, while at the same time given my own knowledge of the customer due diligence requirements of financial institutions (FIs), was also moved to consider if FIs approach in seeking to comply with the requirements of the law, is at times unreasonable, if not nonsensical.

What is customer due diligence?

Customer Due Diligence

FIs are compelled under law to have in place policies and procedures which enables them to know their customers (Know Your Customer – KYC Compliance). Customer due diligence (CDD) therefore is the process through which the FI gets to know you and me. While this legal obligation is underpinned by the Proceeds of Crime Act, the Proceeds of Crime (Money Laundering) Regulations and respective guidance notes from their respective regulators¹, this information becomes important where FIs must protect the integrity of their systems to guard against fraudulent transactions and identity theft.

The essence of the CDD process is to establish the identity of the customer, satisfactorily. Often, this is achieved by the customer presenting a valid and acceptable form of identification, of which government issued identification would take primacy. Where there are errors or discrepancies, official government documents such as birth certificate, marriage certificate or deed poll documents would be necessary to reconcile identity. There are also occasions where a Justice of the Peace might be required to vouch for the individual's identity.

@KellyKatharin's Case

Taking the tweet at face value, and without greater details of the exchange between the bank's representative and Kelly, was the request for a JP to validate her identity necessary, if she presented a valid government issued identification? To answer this question, we are guided by the Bank of Jamaica (BOJ) guidance notes, which guides deposit taking institutions in the creation of their own policies and procedures as it concerns minimum standards.

¹ Jamaica has two regulators within the financial services sector: the Bank of Jamaica (responsible for deposit taking institutions, cambios and remittance businesses and now micro finance sector) and the Financial Services Commission (responsible for the insurance, pensions, and the securities industries).



BOJ Guidance Notes

At Section V of the guidance notes which addresses KYC compliance, and specifically paragraph 119, the BOJ indicates: *'financial institutions must be aware that the best identification documents for natural persons are those that are the most difficult to obtain illicitly. Positive identification must be obtained from documents issued by reputable sources which may include any one of the following:*

- (a) Valid driver's license.*
- (b) Current valid passport.*
- (c) Current valid voter's identification card.*
- (d) Signed (known) employer identity card or valid worker's identification from a known employer.'*

At paragraph 121, it goes on to speak to alternative forms of identification, which includes some forms of documents executed by a JP in relation to a natural person's identity.

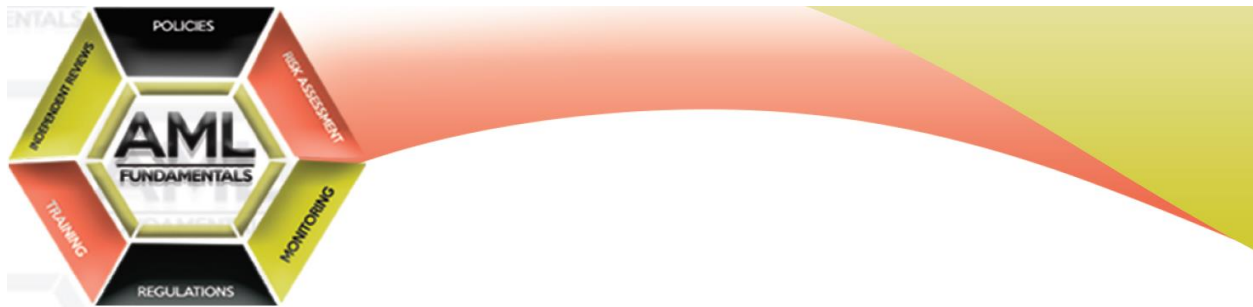
In view of the above guidance relied upon, and with the assumption that the tweet represents the essence of the bank's request, one could conclude that the ask by the bank seems unreasonable, relying on the BOJ guidance notes. Given the absence of greater details however, we would only be able to speculate why the driver's license presented was not accepted to validate her identity and reactivate her dormant account. It is however to be borne in mind that bank's will ultimately decide on their own CDD processes, using the BOJ's guidance notes as guide. Subject to customer risk assessment, and the need for enhanced due diligence, more will be asked of each individual customer, and or a certain group of customers (high risk) to meet policy prescriptions in keeping with the risk based approach which FIs must observe.

Appearance of Rigidity

In their fulfillment of the requirements of the law, FIs are expected to train and retrain staff on an ongoing basis on their policies and procedures, particularly as it concerns anti-money laundering. My own experience informs that there are occasions where team members interacting with customers, adhere with reverence to the letter of the law. That is, they do not veer away from what is written in black and white in codified policies. With the knowledge that not every nuanced situation can be captured in a policy document, it is important that the training process reinforces possible occasions where discretion can be employed, or where customer facing agents should consult with team leads or the compliance function directly within FIs, prior to communicating a position to customers with finality. There are occasions wherein an alternate approach can be taken which complies with the spirit of the law and what it aims to achieve, which a policy document doesn't explicitly capture, and which might not have been conveyed during training.

Financial Inclusion

The BOJ is tasked with the responsibility of the National Financial Inclusion Strategy (NFIS). Among its key pillars is financial access and usage. No doubt, this pillar continues to be adversely impacted by the average customer's access to banking, particularly among the underbanked. Notwithstanding the introduction of



simplified due diligence which created the space for reduced KYC requirements to open basic accounts, there is yet need for further revisions to the framework under which FIs operate to increase access and usage within the population. As highlighted in the NFIS brochure in respect of AML/CFT² proposed action “Review and revise AML/CFT framework to ensure an adequate balance between financial inclusion and financial integrity.”

An aspect of financial inclusion should also speak to knowledge of the framework within which FIs must operate, among the population. An element of the discomfort often faced by users of FIs is that they are unaware or have little appreciation of the strictures under which FIs must operate. If knowledge is indeed power, then maybe this element of financial inclusion aimed at elucidating users of FIs would go a far way towards bridging the gap between access and usage.

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² Anti-Money Laundering/Counter Financing of Terrorism