Anti-Money Laundering and Countering the Financing of Terrorism Institutional Risk Assessment Guidelines

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Version : 26th January 2021

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1. Introduction

These guidelines are issued by the Financial Services Authority (the “Authority”), pursuant to section 57 (2) of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (the “AML/CFT Act”) with the aim of providing guidance to and assisting reporting entities in fulfilling their obligations under Section 32 (1) of the AML/CFT Act “*to identify, assess, understand and monitor its risks of money laundering and terrorism financing activities and take appropriate measures to mitigate the risks identified*”. It must be read in conjunction with the AML/CFT Act and Regulations; and any other directions or guidelines issued by the Authority.

In line with the requirements of the AML/CFT Act and as per international standards and best practices set by the Financial Action Task Force (“FATF”), reporting entities are required to manage their Money Laundering (“ML”) and Terrorist Financing (“TF”) risk exposure by adopting sound processes and monitoring efforts on a risk based approach. An appropriate risk-based approach begins with the acquisition of an in-depth and up-to-date awareness of the institution's risk exposure and an understanding of those risks. This assessment and understanding of the risks should inform AML/CFT internal control systems and procedures.

There are multiple benefits of an effective institutional risk assessment, however, this can only be achieved through proper understanding of the inherent risks faced by reporting entities and the commitment of the reporting entities in ensuring that the identified risks are managed effectively.

Conducting an institutional risk assessment is not a stand-alone task. It involves developing a risk rating methodology in order to create an institutional risk assessment model that is in line with the business of the respective licensee. Based on the ML/TF risks identified, reporting entities should develop policies, controls and procedures that would enable them to manage and mitigate the identified risks effectively. These policies, procedures and controls should be monitored and enhanced, if necessary. When assessing the ML/TF risks, consideration should be given to all the relevant factors before determining the level of overall risk and appropriate level of mitigation measures to be applied.

2. Scope

These guidelines which are supported by legislative requirements and international norms and best practice principles, set out the minimum standards that the Authority expects reporting entities to adopt and develop adequate and effective ML/TF risk assessment frameworks. However, given the differences that exist in the size, nature and scope of business activities conducted, reporting entities should adopt standards which are commensurate to its risks exposure and business profile. As such, the Authority will consider the different circumstances of each reporting entity when assessing the adequacy of its adopted risk assessment framework.

The Authority is cognizant of the fact that there are many effective methods and formats that reporting entities can adopt in completing a ML/TF risk assessment. It is the responsibility of the management of reporting entities to decide on the appropriate method or format, based on its size, scope and risk profile. However, whatever format the management chooses to implement for conducting its risk assessment, it should be relevant, clear and easy-to-understand by all relevant parties.

The Authority emphasises that the contents of these Guidelines and the examples provided herein are neither intended to, nor should be construed as, an exhaustive treatment of the subject and may, after consultation with such persons or bodies as appear to be representative of the interests concerned, revise these Guidelines by revoking, varying, amending or adding to its content.

The Guidance provided herein is not legally binding but it is persuasive. Where a licensee follows guidance provided in these Guidelines, this would tend to indicate compliance with the legislative provisions, and vice versa.

3. Obligation to Conduct Risk Assessments

Section 32 (1) of the AML/CFT Act requires that reporting entities identify and assess ML/TF risks and take appropriate measures to mitigate same. The understanding and management of risk by reporting entities plays a crucial role in helping them adapt their approach to meet the ever evolving standards of the financial services sector. It ensures greater understanding of the areas of a business that are the most exposed to risk and therefore allows reporting entities to take preventive measures, prioritise actions and protect their business from unforeseen hazards.

The primary objective of a ML/TF risk assessment is to manage the ML/TF risks by identifying the general and specific ML/TF risks faced by reporting entities, determining how the identified ML/TF risks could be mitigated through reporting entities' AML/CFT program and establishing the residual risks that remain. This would allow reporting entities to have a clear understanding of the inherent ML/TF risks they face during the course of their business conduct, including the vulnerabilities to which they are exposed. A well-implemented and documented risk assessment should act as a first step and serve as the foundation stone of a risk-based approach ("RBA") to the AML/CFT regime of reporting entities.

The results of a risk assessment can be used by reporting entities for the following purposes:

(i) ensure that the Board of Directors and senior management are made aware of the key risks, control gaps and remediation efforts;
(ii) assist Board of Directors and senior management in understanding how the structure of the AML/CFT compliance program aligns with reporting entities' risk profile and develop risk mitigation strategies;
(iii) identify control gaps for enhancement of AML/CFT compliance program and make informed decisions about the risk appetite of reporting entities;
(iv) assist senior management in the implementation of AML/CFT controls and ensure that the allocation of resources and priorities are aligned with the identified risks; and
(v) ensure regulators are made aware of the key risks, control gaps and remediation efforts across different reporting entities.

The risk assessments undertaken should be documented in order to be able to demonstrate the basis, kept up to date and have appropriate mechanisms to provide risk assessment information to competent authorities.

4. Obligations of The Board and Senior Management Vis-À-Vis Risk Assessments

As stated in section 3, reporting entities are required to identify and assess ML/TF risks and take appropriate measures to mitigate same. The Board and senior management (or in the case of sole traders, the sole trader) are ultimately responsible for complying with this requirement.

Board and Senior management[1]'s leadership abilities and commitment to the prevention of ML/TF risks are important aspects when implementing a risk-based approach to combat ML/TF risks. The Board and senior management should encourage regulatory compliance and ensure that employees abide to internal procedures, policies, practices and processes aimed at risk mitigation and control.

Given the responsibilities on the Board and senior management and considering that AML/CFT risk management forms an integral part of the risk and compliance management framework of reporting entities, the Board should remain informed of potential AML/CFT risks (reports should be made on an ongoing basis, in a timely and accurate manner), to ensure that it is well placed to make informed decisions.

Responsibilities of the board vis-à-vis the institutional risk assessment include:

(i) approving and overseeing appropriate policies for risk management;
(ii) determining the licensee's risk appetite;
(iii) establishing internal controls; and
(iv) being in active engagement with the senior management of the reporting entity.

It is the responsibility of the Board to ensure that senior management is taking necessary steps to identify, measure, monitor and manage the AML/CFT risks including implementing strategies to mitigate these risks. Senior management is in turn responsible for establishing and communicating a strong awareness of, and need for effective internal controls, policies and procedures within the organisation.

In addition to the broad principles outlined above, the Board and senior management should:

- take measures to identify, assess, understand and monitor ML and TF risks and take appropriate measures to mitigate the risks identified;
- take into account the outcome of National Risk Assessment and any regulatory guidance issued by the relevant supervisory authority;
- identify and assess ML and TF risks in relation to development of new products or business practices or new technologies for both new and existing products;
- document the outcomes of the risk assessment, regularly update it and submit same to the appropriate supervisory authority and law enforcement agency upon request; and
- establish and maintain internal control systems and procedures that is appropriate to the risks identified and commensurate with the nature and size of the business.

5. Role of National Risk Assessment Report in Institutional Risk Assessments

National Risk Assessments ("NRA") are conducted to identify, assess and understand ML/TF threats and vulnerabilities faced by a particular nation. Identifying, assessing, and understanding ML/TF risks is an essential part of the implementation and development of a national anti-money laundering /

[1]For licensees that are Sole traders, where reference is made to the board or senior management, "the sole trader" shall be substituted for board and senior management

countering the financing of terrorism regime, which includes laws, regulations, enforcement and other measures to mitigate ML/TF risks. The results of a national risk assessment can provide useful information to reporting entities to support the conduct of their own risk assessments.

Within the NRA, sectoral assessments provide a detailed view of inherent vulnerabilities and control effectiveness of a nation's key sectors. Significance of the NRA report makes it a critical source of information contributing to a reporting entity's institutional risk assessment. Information provided by the NRA can help a reporting entities identify and evaluate country-specific risks. In doing so, reporting entities can determine how those risks might impact their business and what steps they can take to manage or mitigate those risks

In Seychelles, following the approval and adoption of the Seychelles' NRA report by the Cabinet in April 2018, same was disseminated to all public and private stakeholders and was made available to the public via publication on the website of the Ministry of Finance. The primary objective for disseminating the NRA report is to apprise all the stakeholders of the main sources and drivers of the ML/TF risks in order to develop effective risk-based policies and actions and allocate the available resources in the most efficient way to mitigate the identified ML/TF risks to Seychelles.

Reporting entities should consider the findings of the NRA report of Seychelles that is relevant to their sector whilst conducting their institutional risk assessment, as areas determined by the NRA report that represents a high money laundering risk cannot be over-ruled in the risk assessment process of a reporting entity.

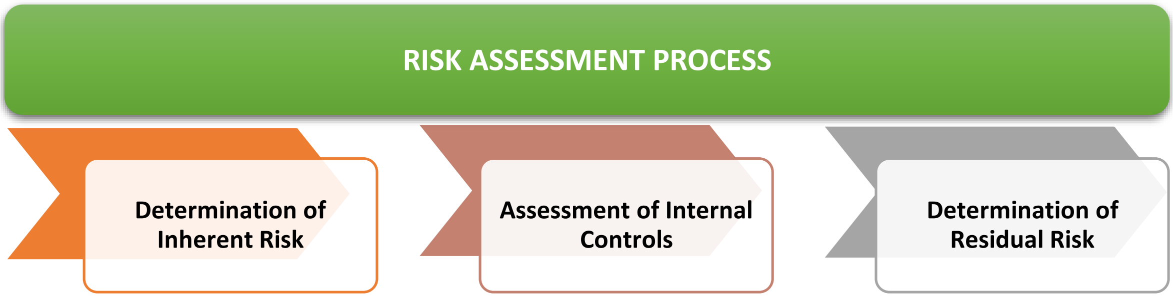
6. Risk Assessment Process

A reporting entity should consider all relevant inherent ML/TF risk factors to determine their risk profile, assess the internal controls in place and arrive at the residual risk as part of the risk assessment process. In assessing the risks, reporting entities should take into account the outcome of any risk assessment carried out at national level and any regulatory guidance issued by the Financial Intelligence Unit ("FIU") and the Authority. Reporting entities should assess whether the residual risk is within their established risk appetite.

In a nutshell, a successful assessment involves the following three steps:

(i) determination of inherent risks;
(ii) assessment of internal controls; and
(iii) determination of residual risks.

The following flow diagram provides an indication of the process:



6.1 Determination of Inherent Risk

Inherent risks represent the exposure of reporting entities to ML/TF risks in the absence of any internal control system.

To assess the inherent risks faced by reporting entities, the following risk categories should be considered:

(i) Customers;
(ii) Products and Services offered;
(iii) Delivery channels;
(iv) Geographic locations; and
(v) Other qualitative risk factors

6.1.1 Customers

Certain category of customers poses a higher ML/TF risk than others, especially when combined with higher risk products, services or geographic locations. Reporting entities, therefore, must understand the risks associated with their customers. When assessing a customer risk, it is essential that reporting entities establish criteria for identifying high-risk customers. The following factors can be used to establish the customer risk:

- Customer type;
- Ownership structure;
- Industry / Nature of business activities;
- Past activities;
- Political / Government role;
- Product usage;
- association with high net worth individuals; and
- Transactional activity.

Reporting entities should consider that certain categories of customers pose a perceived higher risk, such as, Politically Exposed Persons ("PEPs") who are generally considered as a higher risk of ML / TF when operating in countries with higher levels of bribery and corruption.

6.1.2 Products and Services Offered

Certain products and services are vulnerable to ML/TF risk due to their nature. As such, during the risk assessment process, it is the responsibility of reporting entities to identify and assess the inherent ML/TF risks associated with the products and services they offer. The assessment should include the existing products and services and those under development or to be launched, such as future product offerings, in order to assist the management of reporting entities to gauge if the existing AML/CFT controls will be sufficient to manage the risks arising out of the new product or if any additional controls are necessary.

The following broad categories should be considered when assessing product and services risk:

- the level of transparency, or opaqueness of the product, service or transaction;
- the complexity of the product, service or transaction; and
- the value or size of the product, service or transaction.

6.1.3 Delivery Channels

Certain delivery channels may increase ML/TF risk as they contribute to challenges when it comes to understanding the identity and activities of customers. Therefore, reporting entities must consider the risks associated with the way the products and services are delivered to the customers. Certain delivery channels such as, non-face to face, may pose a higher ML/TF risk as they increase the challenge of verifying the customer's identity and activities.

The following broad categories should be considered when assessing the risk of delivery channels:

- the extent to which the business relationship is conducted on a non-face-to-face basis;
- use of introducers or intermediaries and the nature of their relationship with the reporting entity; and
- any other third party involvement and the nature of this involvement.

6.1.4 Geographic Location

Identifying geographical locations that may pose a higher risk is a core component of any inherent risk assessment. Reporting entities should seek to understand the risks associated with different geographical locations in order to evaluate the specific risks associated with doing business in or offering products / services in certain geographical location.

As such, the risk assessment must consider the risks associated with jurisdictions in which reporting entities operate as well as the risks associated with jurisdictions in which the customers of reporting entities conduct business. Reporting entities should conduct an analysis to understand their geographic footprint and determine customers within each country. This analysis can be based on one or all of the following:

- domicile;
- nationality and/or
- incorporation.

The geographic risk can also result from the following:

- ineffective AML/CFT measures;
- high levels of organised crime;
- prevalence of bribery and corruption;
- association with TF;
- conflict zones and their bordering countries; and
- production and/or transnational shipment of illicit drugs.

When assessing the geographical location risk, reporting entities should consider country reports from international organisations that identify countries that are subject to economic sanctions, those known to be supporting international terrorism and those with deficiencies in combatting ML/TF, such as a list of high risk and other monitored jurisdictions published by:

- FATF list of high-risk and non-cooperative jurisdictions;
- FATF mutual evaluation reports;
- European Union AML and tax blacklists;
- United Nations Office on Drugs and Crime ("UNODC") reports;
- Transparency International Corruption Perception Index;
- Organisation for Economic Cooperation and Development's ("OECD") country risk classification
- U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") sanctions list including the Specially Designated Nationals and Blocked Persons List ("SDN"); and / or
- Basel AML Index (an independent annual ranking that assesses the risk of ML/TF around the world).

6.1.5 Other Qualitative Risk Factors

Reporting entities may also consider other qualitative risk factors that can affect their inherent risk, during the ML/TF risk assessment. Some of the factors that should be considered are:

- Expected revenue growth;
- Integration of IT systems;
- Recent AML/CFT compliance personnel turnover;
- Reliance on third party providers to perform compliance program requirements and responsibilities (outsourcing);
- Recent or planned acquisitions;
- Recent initiatives related to AML/CFT compliance matters;
- Recent relevant enforcement actions / penalties;
- Emerging trends that are signaled by the FIU; and
- National risk assessments.

The factors listed above are for indicative purposes only and should not be viewed as exhaustive as many other factors could contribute to other qualitative ML/TF risks.

Examples of sector specific risk indicators have been enclosed as Annexures to these Guidelines to assist reporting entities in gaining a more practical understanding of what would constitute as risk indicators for the above mentioned categories. The Authority stresses that the examples provided through the annexures should not be treated as an exhaustive treatment of the subject matter and it is the responsibility of reporting entities to ensure that it identifies all relevant risks relating to its specific business.

6.2 Determination of Inherent Risks - Sole Traders[2]

In view of the simpler nature of operations of sole traders, such reporting entities may consider the criteria mentioned below which would allow them to conduct a simplified risk assessment of their business. Prior to applying the simplified procedure, the sole trader should examine its business to determine whether a simplified approach is justified or whether the sole trader should apply the full scope of these Guidelines. Where the sole trader identifies through analysis of trends and patterns or identification of emerging risks that the simplified process would not provide an adequate assessment of its ML/TF risks, it shall apply the full assessment process.

6.2.1 Customers

For the purpose of the ML/TF risk assessment, defining the type of customer based on the reporting entity's criteria will determine whether a particular customer poses a lower or higher risk.

Categories of customers that may indicate a lower risk are:

- Customers who are subject to requirements to combat ML/TF, have effectively implemented those requirements and are effectively supervised or monitored to ensure compliance with those requirements.
- Public companies listed on a stock exchange and subject to disclosure requirements (either by stock exchange rules or through law or enforceable means), which impose requirements to ensure adequate transparency of beneficial ownership.
- Public administrations or enterprises.

Categories of customers that may indicate a higher risk are:

- The business relationship is conducted in unusual circumstances (e.g. significant unexplained geographic distance between the entity and the location of the customer).
- Non-resident customers.
- Customers where the structure or characteristics of the entity or relationship makes it difficult to identify the true owner or controlling interests.
- Customers that have nominee shareholders or shares in bearer form.
- Businesses that are cash intensive such as, casinos, bureau de change etc.
- Charities and other "not-for profit" organisations (operating on cross border basis), which are not subject to any form of monitoring or supervision.
- Indirect relationships through intermediaries who are not (or not sufficiently) subject to AML/CFT measures or who are not supervised.
- Customers who are PEPs or their close associates.
- Occasional customers transacting above the threshold.
- Ownership structure of the customer appears unusual or excessively complex given the nature of the company's business.

[2] A sole trader is an individual who is the sole owner of a business that is neither a partnership nor a company where there is no legal distinction between the owner and the business entity.

Questions to consider when risk assessing customers, both new and existing, include:

(a) Are they a trust or other legal person?
(b) Has the beneficial ownership of the customer been identified?
(c) Are they specified in the Act as requiring enhanced due diligence?
(d) Are they involved in occasional or one-off activities/transactions above a certain threshold?
(e) Do they use complex business structures that offer no apparent financial benefits?
(f) Are they a PEP?
(g) Are they a cash-intensive business?
(h) Are they involved in businesses traditionally associated with high levels of corruption?
(i) Do they have an unexplained or hard to verify source of wealth and/or source of funds?
(j) Do they conduct business through, or are they introduced by, gatekeepers such as accountants, lawyers, or other professionals? (Refer to your relevant sector in the national risk assessment for more information on gatekeepers.)
(k) Are they a non-profit organisation?
(l) Have they been identified in the NRA, FIU/supervisory authority's guidance material or sector risk assessment as presenting a higher ML/TF risk?

6.2.2 Geographic Location

There is no general definition based on which particular countries or geographical areas can be categorised as low or high risk. The factors which may define if a specific country or geographical area is more vulnerable to ML/TF, may include different criteria for low and high risk categories as stated below.

Factors that may indicate a lower risk are:

- Countries or geographic areas identified by credible[3] sources as having effective AML/CFT systems.
- Countries or geographic areas identified by credible sources as having a low level of corruption or low criminal activity.

Factors that may indicate a higher risk are:

- Countries identified by credible sources as not having adequate AML/CFT systems.
- Countries or geographic areas subject to sanctions, embargoes or restrictive measures issued, for instance, by the United Nations, the European Union or the United States.
- Countries or geographic areas identified by credible sources as lacking an appropriate system of preventing money laundering and/or terrorist financing.
- Countries or geographic areas identified by credible sources as providing funding for or supporting terrorist activities.
- Countries or geographic areas identified by credible sources as having a high level of corruption, or other criminal activity or that have designated terrorist organisations

[3] Credible sources refer to information that is produced by reputable and universally recognised international organisations and other bodies that make such information publicly and widely available. In addition to the FATF and FATF-style regional bodies, such sources may include, but are not limited to, supra-national or international bodies such as the International Monetary Fund, the World Bank and the Egmont Group of Financial Intelligence Units.

operating within their country.

6.2.3 Transaction or Delivery Channel, Product and Service

AML/TF risk assessment must take into account the potential risks arising from the transactions, products and services that the entity offers to its customers and the way these products and services are delivered to the customer.

Factors that may indicate a lower risk are:

- Specific lease products, life insurance policies with a low annual premium or a low single premium, consumer loans or savings products (low inherent risk because of the long term to realise benefits).
- Insurance policies for pension schemes if there is no early surrender option and the policy cannot be used as collateral.
- A pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages, and the scheme rules do not permit the assignment of a member's interest under the scheme.

Factors that may indicate a higher risk are:

- ML/TF risks which may arise from the application of new technologies.
- Anonymous transaction which may include cash or where source of funds always not known.
- Non-face to face business relationships or transactions.
- Payment received from unknown or unassociated third parties.
- New or innovative products or services that are not provided directly by the entity but are provided through channels of the entity.
- Gaming activities (e.g. horse racing, internet gambling etc.).
- Products that involve large payment/receipt in cash.
- Products such as, pre-paid cards, back-to back loans, trade finance, complex products, real estate transactions (higher risk due to their complexity or lack of transparency).
- Use of new technologies or payment methods not used in the normal course of business.

When assessing its transaction / delivery channel, product and service risk, the reporting entity needs to consider the following questions:

Does the reporting entity –

(a) have non-face-to-face customers (via post, telephone, internet or via intermediaries)?
(b) provide products/services via the internet?
(c) have indirect relationships with customers (via intermediaries/third parties)?
(d) provide its products/services via agents or intermediaries?
(e) provide its products/services to overseas jurisdictions which are not subject to adequate ML/TF supervision or regulatory oversight?

6.2.4 Other Factors

The NRA and sector risk assessments are useful sources of information when identifying how a reporting entity could be used for ML/TF. The reporting entity should also consider emerging trends that are indicated by the supervisory authority and/or FIU in their guidance when identifying risks in its business. Information on current ML/TF methods available on the FATF website / other international standard setting bodies can be relied upon when assessing the risk its business could be reasonably expected to face.

Given the evolving nature of AML/CFT expectations and requirements, sole traders should assess if new or emerging risks that significantly change their risk profile are identified. Sole traders should enhance their risk assessment when they observe any changes in the ML/TF risks of their business to determine the institution's risk profile and appropriate level of mitigation to be applied.

Method of Assessment

Reporting entities may utilise a risk matrix as a method of assessing risk in order to identify inherent risk factors that are low risk, those that carry medium but acceptable risk and those that carry a high or unacceptable risk of ML/TF. The reporting entities, in classifying the risk after taking into account its specificities, may also define additional levels of ML/TF risk.

A risk matrix is not static; it changes as the circumstances of the reporting entities' changes. A risk analysis will assist reporting entities to recognise that ML/TF risks may vary across customers, products / services, delivery channels and geographic location and thereby focus its efforts on high-risk areas in their business.

Reporting entities must ensure that the risk identification and analysis is appropriately documented in order to be able to demonstrate its basis, and be able to provide the risk assessment information to the Authority and law enforcement agencies, upon request.

Where reporting entities uses automated IT systems to allocate overall risk scores to inherent risk indicators and do not develop these in house but purchases them from an external provider, the reporting entity should understand how the system works and how it combines risk factors to achieve an overall risk score. A reporting entity must always be able to satisfy itself that the scores allocated reflect the licensees understanding of ML/TF risk and it should be able to demonstrate this to the competent authority.

Based on the findings of the risk assessment, reporting entities should adopt a risk-based approach to ensure that measures to prevent or mitigate ML/TF are commensurate with the risks identified. This will ensure efficient allocation of resources across the AML/CFT regime of reporting entities.

6.3 Assessment of Internal Controls

Internal controls are procedures or policies put in place by reporting entities to prevent their services from being used to facilitate ML/TF or to ensure that potential risks are promptly identified. Internal controls are also used to maintain compliance with regulations governing the activities of reporting entities.

After reporting entities have identified their inherent risks, they should proceed with assessing the quality of the existing AML/CFT controls in order to determine the operating effectiveness of the controls in managing the identified risks. The review of internal controls and test for effectiveness should be done on an on-going basis to assess whether any change in the inherent risk of reporting entities or residual risk necessitates enhancement of such controls. Internal compliance testing and independent audit testing should also be considered to determine the effectiveness of the AML/CFT controls.

AML/CFT controls are usually assessed across the following control categories:

- AML/CFT Corporate Governance, Management oversight and Accountability;
- Policies and procedures;
- Customer Due Diligence ("CDD"), Enhance Due Diligence, Simplified Due Diligence and Politically Exposed Persons;
- Previous other risk assessments;
- Management Information System ("MIS") / Reporting;
- Record keeping and retention;
- Designated AML/CFT Compliance Officer / Unit;
- Detection and Suspicious Transaction Report ("STR") filing;
- Monitoring and controls;
- Staff Training;
- Independent testing and oversight (including recent internal audit or other material findings); and
- Any other relevant controls.

The assessment of inherent risk and internal controls along with effective implementation of mitigating factors will improve the residual risk of reporting entities.

6.4 Determination of Residual Risk

Once reporting entities have assessed their inherent risks and the effectiveness of the existing controls in mitigating the identified risks, reporting entities should then proceed to determine the residual risk. Residual risk is the risk that remain after controls are applied and indicates whether the ML/TF risks posed by the reporting entities are being effectively managed. This may be determined by assessing whether the residual risk fall within the reporting entity's risk appetite and risk tolerance, where risk appetite refers to amount of risk an entity is willing to take and risk tolerance represents the application of risk appetite to particular objectives that is, the level of risk that an entity is prepared to handle per individual risk.

To evaluate the residual risk, reporting entities may adopt a 3 tier rating on a scale of High, Medium and Low or a 5-point rating scale of Low, Low to Medium, Medium, Medium to High and High. The following criteria could be considered to describe the level of residual risk applied to a 3 tier rating scale:

(i) ***Low residual risk***: The overall inherent risk of reporting entities based on the customers, products and services offered, delivery channels, geographic location and other qualitative factors is low and to medium where the mitigating controls are sufficient to manage the inherent risk;

(ii) ***Medium residual risk***: The overall inherent risk of reporting entities based on the customers, products and services ***offered***, delivery channels, geographic location and other qualitative factors is low to medium and where the mitigating controls are not adequate to manage this level of risk or the inherent risk is high and the mitigating controls are adequate to manage this inherent risk.

(iii) ***High residual risk***: The overall inherent risk of reporting entities based on the customers, products and services offered, delivery channels, geographic location and other qualitative factors is medium to high and where the mitigating controls are not sufficient to manage this inherent risk.

7. Documenting Results of Risk Assessment

The risk assessment methodology should be clearly documented including the rationale behind the risk rating assigned and approved by the Board of Directors of reporting entities.

The results of the risk assessment should describe the current residual ML/TF risk being assumed by reporting entities. It is important to determine whether the residual risk is equal to the risk appetite for ML/TF risk of reporting entities or whether the residual risk exceeds the reporting entities' risk appetite. In the latter case, necessary measures have to be put in place either to reduce the inherent risk or strengthen the internal control environment to ensure the residual risk falls within the risk appetite of reporting entities.

The results of the risk assessment, the methodology employed and any measures undertaken by reporting entities to manage the identified risks should be consolidated within a comprehensive report and communicated to the Board of Directors and senior management in a timely, complete and accurate manner to assist them in making informed decisions and ensuring that the resources, expertise and technology of reporting entities are aligned and effectively engaged in mitigating the identified risks.

Reporting entities shall submit the results of the updated risk assessment to the Authority and law enforcement agencies upon request, as provided under section 32 (5) of the AML/CFT Act.

8. Review and Update of ML/TF Risk Assessment

The risk assessment methodology must be flexible enough to adapt to changes that affect the risk level of reporting entities. To ensure that the risk assessment is current and up to date, reporting entities should perform the ML/TF risk assessment as an on-going exercise on a risk sensitive basis when there are certain trigger events such as, changes to circumstances in reporting entities, changes to existing inherent risk factors including assessment of any new service or product before offering same to the customers. This includes:

- a change in the nature of business relationship with a customer;
- a change in the beneficial owner of the customer;
- changes to the corporate structure or other control structures of a customer;
- changes in domestic regulatory requirements;
- changes to the risk levels of existing inherent risk factors;
- mergers and acquisitions affecting the risk profile of reporting entities.
- New services;
- New delivery channels for existing products and services;
- Using new technologies to provide services; and
- New or emerging risks that significantly change the risk profile of reporting entities.

9. Conclusion

Reporting entities, when conducting a risk assessment, does not necessarily have to follow the risk assessment processes in this guideline. As long as reporting entities are compliant with their obligations under the AML/CFT Act and other applicable laws or regulations, reporting entities can choose the risk assessment methodology that best suits the nature, complexity and size of their business. However, reporting entities should be able to explain and demonstrate to the Authority the adequacy and effectiveness of their risk assessment, AML/CFT procedures, policies and controls in place. In this regard, adequacy is described as how compliant the risk assessment of reporting entities is with various obligations of the AML/CFT Act whilst effectiveness is described as how well the practical application of the risk assessment of reporting entities meets the obligations of the AML/CFT Act.

Annexure 1

Insurance Sector[4]

Customers and Related Third Parties

Categories of customers whose business or activities may indicate a higher risk include:

- Customer base growth – Rapid growth and / or turn-over of customer base in terms of amount and customer diversity or a new campaign aimed at increasing the customer base significantly.
- Customers who are more difficult to identify (e.g. policy holder different from the insured and beneficiary and with no apparent relationships with them or third-party payer on the contract with no apparent relationship with the policy holder);
- Identity of customers, business activities and nature of customer's business;
- Business relationships with individuals who are PEPs or featuring in sanctions list or having adverse media coverage
- Customers who are associates or close relatives of PEP's
- Customer activity not consistent with the customer's known profile and lacks business rationale or economic justification causing economic losses (e.g. an early surrender for a large amount without understandable rationale or transactional activity causing economic losses)
- Number of customers currently involved in business activities deemed as high risk
- Customers linked to higher-risk countries
- Customers residing in countries considered uncooperative in providing beneficial ownership information.
- Difficulty in establishing customers source of wealth or source of funds
- Customers residing in or whose primary source of income originates from high-risk jurisdictions
- Customers involved in businesses associated with high levels of corruption
- Structures that make it difficult to identify the beneficial owner of the policy holder or of the beneficiary (e.g. trusts and other legal arrangements designated as beneficiaries of life policies, enabling a separation of legal ownership and beneficial ownership of assets);
- Customers using complex business structures with no apparent financial benefits;
- Using cash or other forms of payment vehicles fostering anonymity, payments from different bank accounts without explanation and payments received from unrelated third parties;
- Unclear or suspicious source of wealth and/or source of funds (large investment in a unit-linked product by a low-income person without a clear source of wealth);
- Customers being a non-government organization.

Products and Services Offered

Higher risk indicators under this category include products / services:

- that appears outside the customer's normal range of financial means (age, income or employment history)
- using a single, large premium payment, especially when payment is made through unusual methods
- That are associated with high risk payment (e.g. products that favour international customers, cash, third parties and complex payment arrangements)

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[4] FATF (2018), Guidance for a Risk-Based Approach for the Life Insurance Sector, FATF, Paris, www.fatf-gafi.org/publications/fatfrecommendations/documents/rba-life-insurance.html

- with termination features without concern for the products investment performance
- being terminated early while the termination does not make good economic sense
- that favour anonymity or products that can readily cross international borders, or are easily transferable
- which allow early surrender and have a surrender value;
- that allow disguise or conceal the beneficial owner of customers
- that permit disguise or conceal the source of wealth or funds of customers
- that allow payments to third parties
- that commonly involve receipt or payment in cash
- that been identified in the NRA, FIU or Supervisory Authority guidance material, or any Sector Risk Assessments as presenting a higher ML/TF risk
- that allow the customer to engage in transactions with minimal oversight by the institution;
- having an especially high transaction or investment value
- having unusual complexity

Delivery Channels

Factors related to delivery channel risk that may be considered by reporting entities as indicators of higher risk include:

- reporting entities having indirect relationship with customers through such as non-face-to-face or involvement of third parties, including intermediaries (such as Brokers, Agents, sub-agents)
- Intermediaries serving high-risk customers without appropriate risk mitigating measures
- Intermediaries with a history of non-compliance with laws or regulation or that have been the subject to relevant negative attention from credible media or law enforcement
- Intermediaries that have less sophisticated AML/CFT controls in place
- Reliance on Intermediaries for CDD purposes
- Role of intermediaries in handling customers' funds
- Intermediaries which manage the investments and the flow of funds on behalf of the customer on their own accounts (e.g. life insurance policy sold by intermediaries accepting cash payments and / or payments on their own accounts)

Geographic Risk

Factors pertaining to geographic risk that may be considered as indicators of higher risk include:

- Products and services that are marketed or sold in higher ML/TF risk countries
- Offshore Financial Centres
- Intermediaries that are
- owned and/or controlled by persons established in higher ML/TF risk jurisdictions because of its prior experiences or other factors (e.g. legal considerations, or allegations of official corruption)
- based in a high-risk country identified as providing funding or support for terrorist activities or that have designated terrorist organisations operating within them
- countries subject to sanctions, issued by international organisations such as the United Nations Organisation
- from countries subject to the Office of Foreign Assets Control (OFAC) sanctions, including state sponsors of terrorism
- from jurisdictions or countries monitored for deficiencies in their regimes to combat ML/TF

by international entities

- Customers, beneficiaries, policy holders are based in or linked to higher ML/TF risk countries, or reside in considered to be uncooperative in providing beneficial ownership information

Annexure 2

Securities Sector[5]

In identifying and assessing indicators of ML/TF risk to which reporting entities are exposed, a securities provider should consider the following inherent factors as mentioned below:

Customer / Investor Risk

Categories of customers / investors whose business or activities may pose a higher risk include:

- Customer who is sanctioned by the relevant national competent authority for non-compliance with the applicable AML/CFT regime and is not engaging in remediation to improve its compliance
- Customer who is a PEP or customer's family members or close associates are PEPs, including where a beneficial owner of a customer is a PEP
- Customer who resides in or whose primary source of income originates from high-risk jurisdictions (regardless of whether that income originates from a cash-sensitive business
- Customer who resides in countries considered to be uncooperative in providing beneficial ownership information
- Customer who acts on behalf of third party and is either unwilling or unable to provide consistent information and complete documentation thereon
- Customer who has been mentioned in negative news reports from credible media, particularly those related to predicate offences for ML/TF or to financial crimes
- Customer's transactions indicate a potential connection with criminal involvement, typologies or red flags provided in reports produced by the FATF or national competent authorities (e.g. FIU, law enforcement agencies etc.)
- Customer who is also a securities provider, acting as an intermediary or otherwise, but is either unregulated or regulated in a jurisdiction with weak AML/CFT oversight
- Customer who is engaged in, or derives wealth or revenues from, a high-risk cash-intensive business
- The number of STRs and their potential concentration on particular client groups
- Customer who is a legal entity whose ownership structure is unduly complex as determined by the securities provider or in accordance with any regulations or guidelines
- Customers who have sanction exposure
- Customer who has a non-transparent ownership structure

Product / Service / Transactions Risk

Products and services that may indicate a higher ML/TF risk include:

- Products or services that may inherently favour anonymity or obscure information about underlying customer transactions
- The geographical reach of the product or service offered, such as those emanating from higher risk jurisdictions
- Products with unusual complexity or structure and with no obvious economic purpose
- Products or services that permit the unrestricted or anonymous transfer of value (by payment or change of asset ownership) to an unrelated third party, particularly those residing in a

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[5] FATF (2018), Guidance for a Risk-Based Approach for the Securities Sector, FATF, Paris, www.fatf-gafi.org/publications/fatfrecommendations/documents/rba-securities-sector.html

higher risk jurisdiction

- Use of new technologies or payment methods not used in the normal course of business by the securities provider
- Products that have been particularly subject to fraud and marker abuse, such as low-priced securities
- The purchase of securities using physical cash
- Offering bank-like products, such as cheque cashing and automated cash withdrawal cards
- Securities-related products or services funded by payments from or instructions given by unexpected third parties, particularly from higher risk jurisdictions

Geographic risk

Factors pertaining to geographic risk that may be considered as indicators of higher risk include:

- Countries / areas identified by credible6 sources as providing funding or support for terrorist activities or that have designated terrorist organisations operating within them
- Countries identified by credible sources as having significant levels of organised crime, corruption or other criminal activity, including source or transit countries for illegal drugs, human trafficking and smuggling and illegal gambling
- Countries subject to sanctions, embargoes or similar measures issued by international organisations such as the United Nations Organisations
- Countries identified by credible sources as having weak governance, law enforcement and regulatory regimes, including countries identified by the FATF statements as having weak AML/CFT regimes and for which financial institutions should give special attention to business relationships and transactions

Delivery Channel Risk

Factors related to delivery channel risk that may be considered as indicators of higher risk include:

- products or services distributed directly through online delivery channels should identify and assess the ML/TF risks that may arise in relation to distributing its products or services using this business model
- The risk assessment process for online delivery risk should be performed when reporting entities develop new products and new business practices
- Use of intermediaries –

  (i) Intermediaries suspected of criminal activities, particularly financial crimes or association with criminal associates
  (ii) Intermediaries located in a higher risk country or in a country with a weak AML/CFT regime
  (iii) Intermediaries serving high-risk customers without appropriate risk mitigating measures
  (iv) Intermediaries with a history of non-compliance with laws or regulation or that have been the subject of relevant negative attention from credible media or law enforcement agencies
  (v) Intermediaries that have failed to attend or complete AML/CFT training programmes requested by the reporting entities

[6] Credible sources refers to information that is produced by reputable and universally recognised international organisations and other bodies that make such information publicly and widely available. In addition to the FATF and FATF-style regional bodies, such sources may include, but are not limited to, supra-national or international bodies such as the International Monetary Fund, the World Bank and the Egmont Group of Financial Intelligence Units.

(vi) Intermediaries that have weak AML/CFT controls or operate sub-standard compliance programmes, i.e. programs that do not effectively manage compliance with internal policies and/or external regulation or the quality of whose compliance programmes cannot be confirmed

Annexure 3

Gambling Sector[7]

Customer Risk

Categories of customers whose activities may pose a higher risk include:

- Customers that are PEPs
- Customers who are high spenders who gamble a relatively large amount of money over a period of time including casual customers who gamble a relatively large amount of money on a limited number of occasions (even during a single visit)
- Customers engaged in high value gambling that is inconsistent with reporting entities information about customers' known level or sources of assets and / or income, or understanding of customers' occupations evidenced in reporting entities records
- Use of third parties to avoid CDD undertaken at a threshold e.g. to break up large amount of cash
- Customers that purchase large amount of chips with currency at table games, engage in minimal or no play, and then redeem the chips for large denomination bills
- Customer profile (e.g. regular visitors or members, tourists)
- Customers opening multiple player accounts with different names at the same casino to hinder reporting entities ability to track their gambling activities under the same customer name

Product and Service Risk

Products and services that pose higher risk include but not limited to the following:

- Peer to peer gaming such as Poker where player collusion could be evident
- Gaming where two or more persons place opposite, equivalent stakes on even, or close to even, stakes
- Gaming machines which can be used to lander stained or fraudulent bank notes or for refining of smaller denomination in to larger ones
- Types of financial services offered, such as currency exchange, by reporting entities

Geographic / Country Risk

Factors pertaining to geographic risk that may be considered as indicators of higher risk include:

- Dealing with customers that are associated with high risk countries or jurisdictions with poor or insufficient AML/CFT measures
- Customers from countries where the levels of bribery and corruption, tax evasion and organised crime activity are prevalent
- Customers from countries which are conflict zones or having presence of, or support of terrorism and /or organised people trafficking

[7] FATF (2008), RBA Guidance for Casinos, FATF, Paris, https://www.fatf-gafi.org/media/fatf/documents/reports/RBA%20for%20Casinos.pdf

Transaction Risk

Potential transaction risks that indicate higher risk include:

- Proceeds of crime – there is a risk that the money used by high spenders would have arisen from illegal activities such as cheque fraud, debit / credit card fraud, narcotics trafficking or theft
- Customers may use a casino to exchange large amounts of illicit proceeds denominated in small bills for larger ones that are easier to hide or transport
- Cash deposits by customers which are considered relatively large either in relation to reporting entities average receipts or what is known about a customer's financial status
- Customers being used as "mules" by criminals which allows for the opportunity to indirectly introduce criminal proceeds into reporting entities legitimate financial systems
- Customers purchasing and cashing out large volumes of casino chips with little or no gaming activity as this exposes reporting entities to the risk of layering and refining[8]

Delivery Channel Risk

Factors related to delivery channel risk that may be considered as indicators of higher risk include:

- Use of third parties or agents, dealing on behalf of other person(s), to circumvent CDD mechanisms

[8] Refining is the changing of an amount of money from smaller denomination bills into larger ones.

Annexure 4

Fiduciary Sector[9]

In identifying and assessing indicators of ML/TF risk, reporting entities under the Fiduciary sector should consider the following inherent factors as mentioned below:

Customer Risk

The key risk factors in respect to customer risk that reporting should consider are:

- Customer base that includes industries or sectors where opportunities for ML/TF are particularly prevalent
- Customers who are PEPs or persons closely associated with or related to PEPs who are considered as higher risk clients
- Customers where the structure or nature of the entity or relationship makes it difficult to identify in a timely manner the true beneficial owner or controlling interests or clients attempting to obscure understanding of their business, ownership or the nature of their transactions, such as:

  (i) Unexplained use of shell and/or shelf companies, front company, legal entities with ownership through nominee shares, control through nominee or corporate directors, legal persons or legal arrangements splitting company incorporation and asset administration over different countries, all without any apparent legal or legitimate tax, business, economic or other reason
  (ii) Unexplained use of informal arrangements such as family or close associates acting as nominee shareholders or directors without any apparent legal or legitimate tax, business, economic or other reason
  (iii) Use of trust structures for tax evasion or to obscure ownership in order to place assets out of reach to avoid future liabilities

- Unusual complexity in control or ownership structures without a clear explanation, where there are certain transactions, structures, geographical location, international activities or other factors are not consistent with the reporting entity's understanding of the customer's business or economic purpose behind the establishment or administration of the trust, company or other legal entity with respect to which the reporting entities are providing services
- Unusually high levels of assets or unusually large transactions compared to what might reasonably be expected of customers with a similar profile may indicate that a customer should be treated as higher risk
- The offer by the person giving instructions to the reporting entity to pay extraordinary fees for services, which would not ordinarily warrant such a premium
- The relationship between employee numbers/structure is divergent from the industry norm (e.g. the turnover of a company is unreasonably high considering the number of employees and assets compared to similar businesses)
- Sudden activity from a previously dormant customer without a clear explanation
- Payments received from un-associated or unknown third parties and payments for fees in cash where this would not be a typical method of payment

[9] FATF (2019), Guidance for a Risk-Based Approach for Trust & Company Service Providers (TSCPs), FATF, Paris, www.fatf-gafi.org/publications/documents/rba-trust-company-service-providers.html

- Customers who have funds that are obviously and inexplicably disproportionate to their circumstances (e.g. their age, income, occupation or wealth)
- Customers who appear to actively and inexplicably avoid face-to-face meetings or who provide instructions intermittently without legitimate reasons and are otherwise evasive or very difficult to reach, subsequent lack of contact
- Inexplicable changes in ownership
- Activities of the trust, company or other legal entity are unclear or different from the stated purposes under trust deeds or internal regulations of the company or foundation
- The legal structure has been altered frequently and/or without adequate explanation (e.g. name changes, transfer of ownership, change of beneficiaries, change of trustee or protector, change of partners, change of directors or officers)
- Management of any trustee, company or legal entity appears to be acting according to instructions of unknown or inappropriate person(s)
- Frequent or unexplained change of professional adviser(s) or members of management of the trustee, company or other legal entity
- The person giving instructions to the reporting entity is reluctant to provide all the relevant information or reasonable grounds to suspect that the provided information is incorrect or insufficient
- Customers who request that transactions be completed in unusually tight or accelerated timeframes without a reasonable explanation for accelerating the transaction, which would make it difficult or impossible for a proper risk assessment
- Customers who insist, without adequate justification or explanation, that transactions be effected exclusively or mainly through the use of virtual assets for the purpose of preserving their anonymity
- Customers with previous convictions for crimes that generated proceeds, who instruct specified activities to be undertaken on their behalf

Transaction / Service and Associated Delivery Channel Risk

Services which may be provided by reporting entities and which in some circumstances, risk being used to assist money launderers may include:

- Situations where advice on the setting up of legal persons or legal arrangements may be misused to obscure ownership or real economic purpose
- Services where reporting entities may in practice represent or assure the customer’s standing, reputation and credibility to third parties, without a commensurate knowledge of the customer’s affairs
- Services that are capable of concealing beneficial ownership from competent authorities
- Services that have deliberately provided, or depend upon, more anonymity in relation to the customer’s identity or regarding other participants than is normal under the circumstances and in the experience of the reporting entity
- Use of virtual assets and other anonymous means of payment and wealth transfer within the transaction without apparent legal, tax, business, economic or other legitimate reason
- Transactions using unusual means of payment (e.g. precious metals or stones)
- Successive capital or other contributions in a short period of time to the same company with no apparent legal, tax, business, economic or other legitimate reason
- Acquisitions of businesses in liquidation with no apparent legal, tax, business, economic or other legitimate reason
- Power of Representation given in unusual conditions (e.g. when it is granted irrevocably or in relation to specific assets) and the stated reasons for these conditions are unclear or illogical
- Transactions involving closely connected persons and for which the customer and/or its

financial advisors provide inconsistent or irrational explanations and are subsequently unwilling or unable to explain by reference to legal, tax, business, economic or other legitimate reason

- Situations where a nominee is being used (e.g. friend or family member is named as owner of property/assets where it is clear that the friend or family member is receiving instructions from the beneficial owner), with no apparent legal, tax, business, economic or other legitimate reason
- Commercial, private, or real property transactions or services to be carried out by the trust, company or other legal entity with no apparent legitimate business, economic, tax, family governance, or legal reasons
- Products/services that have inherently provided more anonymity or confidentiality without a legitimate purpose
- Existence of suspicion of fraudulent transactions, or transactions that are improperly accounted for. These might include:

  (i) Over or under invoicing of goods/services
  (ii) Multiple invoicing of the same goods/services
  (iii) Falsely described goods/services – over or under shipments (e.g. false entries on bills of lading)
  (iv) Multiple trading of goods/services.

- Any attempt by the settlor, trustee, company or other legal entity to enter into any fraudulent transaction
- Any attempt by the settlor, trustee, company or other legal entity to enter into any arrangement to fraudulently evade tax in any relevant jurisdiction

Geographic Location Risk

Factors pertaining to geographic risk that may be considered as indicators of higher risk include:

- When the following activities are connected to a higher risk country:

  (i) the origin, or current location of the source of funds in the trust, company or other legal entity
  (ii) the country of incorporation or establishment of the company or the trusts
  (iii) the location of the major operations or assets of the trust, company or other legal entity
  (iv) the country in which any of the following is a citizen or tax resident: a settlor, beneficiary, protector or other natural person exercising effective control over the trust or any beneficial owner or natural person exercising effective control over the company or other legal entity

- Countries/areas identified by credible sources as providing funding or support for terrorist activities or that have designated terrorist organisations operating within them
- Countries identified by credible sources as having significant levels of organised crime, corruption, or other criminal activity, including being a major source or a major transit country for illegal drugs, human trafficking and smuggling and illegal gambling
- Countries subject to sanctions, embargoes or similar measures issued by international organisations such as the United Nations
- Countries identified by credible sources as having weak governance, law enforcement, and regulatory regimes, including countries identified by FATF statements as having weak

AML/CFT regimes, in relation to which reporting entities should give special attention to business relationships and transactions

- Countries identified by credible sources to be uncooperative in providing beneficial ownership information to competent authorities, a determination of which may be established from reviewing FATF mutual evaluation reports or reports by organisations that also consider various co-operation levels such as the OECD Global Forum reports on compliance with international tax transparency standards