



AML/CFT GUIDELINES FOR MONEY SERVICES BUSINESSES



Issue No. 44

July 2016

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- ◇ ***AML/CFT Guidelines for the Management of Risks Related to Money Services Businesses***

Overview

In recent years tougher regulatory scrutiny over the implementation of AML/CFT laws has seriously impacted money services businesses (MSBs) globally, threatening their relationship with the conventional banking sector.

MSBs include a wide variety of businesses that offer services such as check cashing, transfer of money or monetary value, pay day advances and many other services that can be found in the various classes provided in section 5 (2) of the Money Services Business Act., Cap 21.21. This sector serves a number of critical functions, including facilitating remittance flows that provide an important source of income to some of the “unbanked” and “self-banked” communities around the globe who may never use or be able to afford traditional banking services.

Because of the clientele this sector mainly targets (the disadvantaged) they have been traditionally known not to collect detailed information on their clients, undoubtedly posing a challenge for ML/FT controls resulting in increased risk, in a de-risking environment. Hence, the reason MSB banking relationships are threatened.

The Way Forward for MSBs

A system of reducing risk exposure to money laundering by implementing proper sound internal controls and Know Your Customer Procedures are very important for money services businesses. International Standards and Guidelines such as the FATF Recommendations, along with national AML/CFT legislation that have adopted these standards, offer effective and clear guidance to the MSB sector that will strengthen their ties to the conventional banking system. Following are the recommendations most relevant to the sector.

Recommendation 10 – Customer Due diligence

Financial institutions should be required to undertake customer due diligence (CDD) measures when:

- (i) establishing business relations;
- (ii) carrying out occasional transactions:
 - (i) above the applicable designated threshold (USD/EUR 15,000); or
 - (ii) that are wire transfers in the circumstances covered by the Interpretive Note to Recommendation 16;
- (iii) there is a suspicion of money laundering or terrorist financing; or
- (iv) the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.



The CDD measures to be taken are as follows:

- (a) Identifying the customer and verifying that customer's identity using reliable, independent source documents, data or information.
- (b) Identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner, such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements, this should include the financial institutions' understanding of the ownership and control structure of the customer.
- (c) Understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship.
- (d) Conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customers, their business and risk profile, including, where necessary, the source of funds.



When performing elements (a) and (b) of the CDD measures specified under Recommendation 10, financial institutions should also be required to verify that any person purporting to act on behalf of the customer is so authorised, and should identify and verify the identity of that person.

Higher risks factors

There are circumstances where the risk of money laundering or terrorist financing is higher, and enhanced CDD measures have to be taken. When assessing the money laundering and terrorist financing risks relating to types of customers, countries or geographic areas, and particular products, services, transactions or delivery channels, examples of potentially higher-risk situations (in addition to those set out in Recommendations 12 to 16) include the following:



(a) Customer risk factors:

- the business relationship is conducted in unusual circumstances (e.g. significant unexplained geographic distance between the financial institution and the customer);
- non-resident customers;
- legal persons or arrangements that are personal asset-holding vehicles;
- companies that have nominee shareholders or shares in bearer form;
- businesses that are cash-intensive;
- the ownership structure of the company appears unusual or excessively complex given the nature of the company's business.

(b) Country or geographic risk factors:

- countries identified by credible sources, such as mutual evaluations or detailed assessment reports or published follow-up reports, as not having adequate AML/CFT systems.

Enhanced CDD measures

Financial institutions should examine, as far as reasonably possible, the background and purpose of all complex, unusually large transactions, and all unusual patterns of transactions, which

have no apparent economic or lawful purpose. Where the risks of money laundering or terrorist financing are higher, financial institutions should be required to conduct enhanced CDD measures, consistent with the risks identified. In particular, they should



increase the degree and nature of monitoring of the business relationship, in order to determine whether those transactions or activities appear unusual or suspicious. Examples of enhanced CDD measures that could be applied for higher-risk business relationships (such as PEPs FATF Rec. 12) include:

- obtaining additional information on the customer (e.g. occupation, volume of assets, information available through public databases, Internet, etc.), and updating more regularly the identification data of the customer and the beneficial owner;
- obtaining additional information on the intended nature of the business relationship;
- obtaining information on the source of funds or source of wealth of the customer;
- obtaining information on the reasons for intended or performed transactions;
- obtaining the approval of senior management to commence or continue the business relationship;
- conducting enhanced monitoring of the business relationship, by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination;
- requiring the first payment to be carried out through an account in the customer's name with a bank subject to similar CDD standards.

In our next issue we will continue with more FATF Recommendations relevant to the MSB operators.

Sources

- * *The Money Services Business Act, Cap 21:21*
- * *The FATF Recommendations (Updated October 2015) - http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf*
- * *FATF Guidance for a Risk-Based Approach For Money or Value Transfer Services*

