Implementation of an effective AML/CFT system

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Disclaimer

- *This part of presentation aims to raise the audience's awareness of how to implement an effective AML/CFT system. It does not cover all the statutory requirements applicable to insurance institutions. Insurance institution should seek its own professional legal advice in ensuring its compliance with the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance and Guideline on Anti-Money Laundering and Counter-Terrorist Financing.*

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Chapter 1 – Overview

1.4: Purposes –

a. General background on ML/TF and the applicable legislation
b. Guidance in designing and implementing AML/CFT systems so as to meet statutory & regulatory requirements

Chapter 1 – Overview

1.6 – 1.7:

- **Not exhaustive** list of means
- But if departure from the Guideline, FIs will have to stand **prepared to justify** such to IA with documented rationale

Chapter 2 – AML/CFT systems

2.2: **establish** & **implement** AML/CFT systems, taking into account risk factors (2.3-2.8)

2.1 & 2.9:

AML/CFT systems = internal P&P + Controls*

* senior management oversight
* appointing CO & MLRO
* compliance & audit function
* staff screening & training

Chapter 3 – Risk-Based Approach

3.4, 3.6: assess ML/TF risks of customers by assigning a **risk rating** to the customers; **adjust** risk assessment from time to time

3.5: consider risk factors:

- country
- customer
- product/service
- delivery/distribution channel

3.8: record keeping and **justification**

Chapter 3 – Risk-Based Approach

DON'Ts

- No risk assessment conducted on customers with ratings assigned (3.4)

- Risk assessments conducted, but not recorded and documented (3.8)

Chapter 4 – CDD measures

4.1.3: **CDD measures**

a. customer

b. beneficial owner (BO)

c. purpose & intended nature of the business relationship (unless obvious)

d. person purports to act on behalf of the customer

e. beneficiary (4.4a.1)

Chapter 4 – Timing of identification & verification of identity

4.7.1: Complete CDD before establishing any business relationship, except:

- 4.7.4 & 4.7.5a – conditions *including* ML/TF risks are effectively managed etc.
- 4.7.8 – **complete verification** within the specified timeframe
  - » 30 working days
  - » 90 working days
  - » 120 working days

Chapter 4 – Keeping customer information up-to-date & relevant

4.7.12, 4.7.12a:

- *on trigger events*
- **annual review** for all high risk customers
- what constitutes a trigger event should be **clearly defined in FI's policies and procedures**

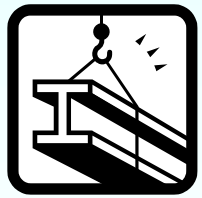
Chapter 4 – Legal Persons & Trusts

4.9.4: for a customer other than a natural person, FI should fully **understand its legal form, structure and ownership**

4.9.9: **record the name of directors** and verify the identity of directors on a risk-based approach

Chapter 4 – High risk situations

4.11.1: FI must, in any situation that by its nature presents a **higher risk of ML/TF**, take **additional measures** to mitigate the risk of ML/TF



4.13.9: effective procedures for determining whether a customer/BO of a customer is a PEP

Chapter 4 – Customer Due Diligence

DOs

- Keep clear copies of customer identification documents (4.1.3)
- Clear list of trigger events upon which CDD information should be reviewed (4.7.12)

DON'Ts

- Continue business relationship notwithstanding requisite CDD measures remained incomplete (4.7.1 & 4.7.8)
- Not trying to understand the legal form, structure and ownership of corporate customers (4.9.4)

Chapter 4 – Customer due diligence

DON'Ts

- Not record the names of all directors (4.9.9)
- Information not obtained/action not carried out as required under Company's AML/CFT policy, e.g. EDD for high risk customers (4.11.1)
- Threshold applied on PEP screening (4.13.9)
- Accuracy of database of screening programme was questionable (4.13.9)
- Loose standard in accepting supporting documents of income proof / occupation proof

Chapter 5 – Ongoing Monitoring

5.1: Continuously monitor business relationship with a customer by:

- Review from time to time CDD documents, data and information to ensure **up-to-date** and **relevant**
- **Scrutinize transactions** with customers to ensure they are consistent with the customer's risk profile
- **Identify transactions** that are complex, large or unusual or patterns of transactions with no apparent economic or lawful purpose

Chapter 5 – Ongoing monitoring

5.10: Examination of transactions that are complex, large or unusual, or patterns of transactions which have no apparent economic or lawful purpose

- Findings / outcomes properly documented in writing
- Proper records of decision made, by whom, and rationale

Chapter 5 – Ongoing monitoring

DOs

- Detailed analysis on the inclusion of recommended suspicious indicators to the existing exception reporting system (5.1 & 7.14)

- Proper record of the staff who review exception reports (5.10)

Chapter 5 – Ongoing monitoring

DON'Ts

- Inadequate control on change of policy ownership, e.g. not ascertain the reason, no ongoing monitoring in place to identify unusual transactions (5.1)
- Non-specific record of nationality of customers in the customer database (5.1)

Chapter 6 – Screening

6.22: when to perform screening of customers

6.23: ensure proposed payments to designated parties are not made

6.25: screening results documented & recorded

Chapter 6 – Screening

DOs

- Proper documentation of the screening result evidencing the performance (6.25)

DON'Ts

- Screening conducted after insurance policy was issued (6.22)
- Screening not conducted on beneficiaries at time of payout (6.23)

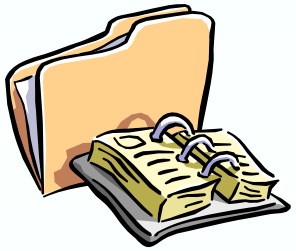
Chapter 7 – STR

7.16: disclosure to JFIU as soon as it is reasonable to do so

7.19: MLRO's roles (7.19-7.30, 7.33, 7.36)

- Central reference point for reporting suspicious transactions
- Sufficient status & adequate resources
- Active role; regular review of exception reports
- Keep proper records of deliberations and actions taken

7.25, 7.31, 7.32: reports made to MLRO and JFIU must be properly documented



Chapter 7 – STR

DOs

- Provide a reminder of the obligation regarding tipping off (7.26)
- Proper records of deliberation with supporting documents to substantiate the decision to / not to file an STR with JFIU (7.30)
- Respective departments keep their own logs of internal disclosure for proper audit trail (7.31)

Chapter 7 – STR

DON'Ts

- Unnecessary delay in reporting suspicious transactions (7.16)
- MLRO's duty of review of exception reports delegated to operations departments (7.21)
- Loose control on payment by third party, in particular where cash was involved

Chapter 8 – Record Keeping

Documents/information obtained during CDD

8.3a: **Original/copy of the documents**, and a record of data and information, obtained in the course of identifying and verifying the identity of customer/beneficial owner/beneficiary/persons who purport to act on behalf of the customer/connected parties

8.3b: For the purposes of EDD or ongoing monitoring

8.3c: On the purpose and intended nature of the business relationship

8.3d: In relation to the **customer's account** and **business correspondence** (e.g. insurance application form, risk assessment form)

Chapter 8 – Record Keeping

8.5: Transaction records which should be sufficient to

- **permit reconstruction** of individual transactions
- **establish a financial profile** of any suspect account or customer

Chapter 9 – Staff training

9.3: clear and well articulated training policy

9.6: training coverage

9.7: training packages tailored to different groups of staff (including agents)

9.9: training records

9.10: monitoring training effectiveness

Chapter 9 – Staff training

DOs

- Customerized training packages to staff of different departments (9.7)

DON'Ts

- Inadequate training to staff to maintain their AML/CFT knowledge and competence (9.3)
- Inadequate coverage of training materials (9.6)
- Assessment used was not comprehensive / ineffective to test understanding (9.10)

Thank You

For further enquiries,

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