

Key Aspects of an AML/CTF system

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14 September 2012



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The Government of the Hong Kong Special Administrative Region

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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/CTF 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



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Observation

- Some requirements under AMLO/Guideline are not incorporated in the AML/CTF policies and procedures without justification
- Reliance on insurer's AML/CTF policy

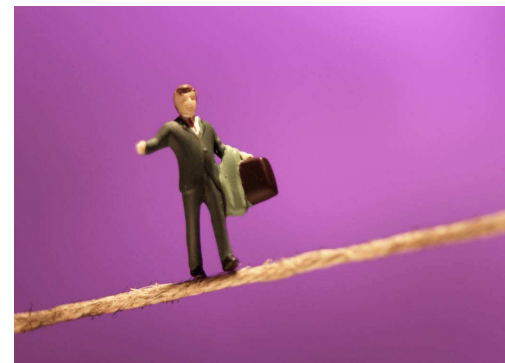
(Ref: Guideline paragraph 1.7)



Chapter 3 – Risk-Based Approach

RBA: **identify & categorize** ML/TF risks
and apply **corresponding measures**

3.2: - **determine** extent of CDD measures &
ongoing monitoring, using RBA
- measures **must** comply with the AMLO
requirements

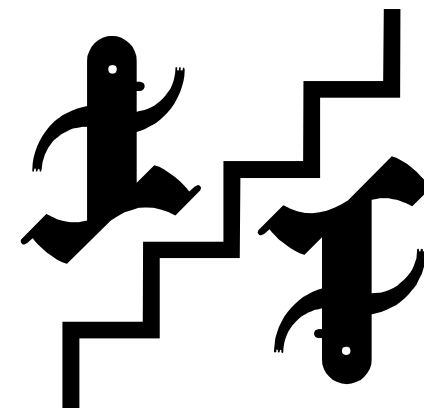


Chapter 3 – Risk rating on customer

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**



Observation

- Risk assessment methodology not laid down
- No documentary evidence that risk assessments were conducted on customers and that ratings were assigned.

(Ref: Guideline paragraph 3.4 & 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

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

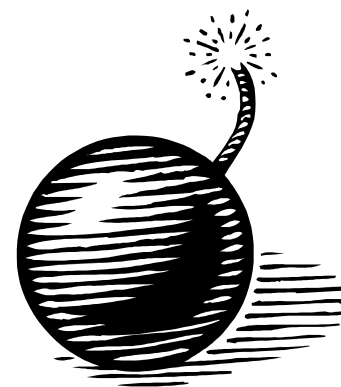
- 4.7.4 & 4.7.5a – conditions *including* ML/TF risks are effectively managed etc.
- 4.7.8 – **complete verification** within the specified timeframe
 - » 30 working days
 - » 90 working days
 - » 120 working days



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

4.7.12, 4.7.12a:

- on *triggering events*
- **Annual review** for all high risk customers



Chapter 4 – Simplified Customer Due Diligence (SDD)

4.10.1: SDD=**CDD** except not required to identify & verify BO; **but** ongoing monitoring is **still required**.

Applicable to specific customers (4.10.3) & specific products (4.10.15)

4.10.2: **No SDD when –**

- suspicion of ML/TF
- doubts the veracity & adequacy of information previously obtained



Chapter 4 – Enhanced Due Diligence (EDD)

4.11.1: Any high ML/TF risk situation, apply EDD –

- Additional customer info; regular profile updates
- Additional info on the intended nature of the business relationship, source of wealth and funds
- Senior management's approval
- Enhanced monitoring



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Observation

- Missing copies of customers' identification documents
- Identity cards' images were not legible
- Utility bills used as address proof were issued beyond 3 months
- Address shown on address proof is not the same as the one stated in the application form

(Ref: Guideline paragraph 4.1.3 & 4.8.10)



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, unusually large in amount or of an unusual pattern, or have no economic or lawful purpose



Chapter 6 – Screening



Prohibitions - UNSO(6.3), UNATMO(6.13,6.14),
WMDO(6.17)

6.4, 6.16: IA's circulars to FIs on designated persons
& entities

6.18: required "Screening" against up-to-date list

6.21: accessibility by staff

6.22: when to perform screening

6.25: screening results documented & recorded

6.26: file STR



Observation

- No evidence that PEP / terrorist checking (such as making reference to publicly available information and screening against current terrorist and sanctions designations) was performed against the customers.
- Use of third party vendor to conduct comprehensive screening

(Ref: Guideline paragraph 4.13.9, 6.20 & 6.22)



Chapter 7 – STR

7.7: Sufficient guidance for staff (including agents); ref annexes I & II for e.g. of suspicious transactions

7.19: MLRO; its roles (7.19-7.30, 7.33, 7.36)

- Central reference point for reporting suspicious transactions
- Sufficient status & adequate resources
- Active role
- Take reasonable steps to consider all relevant information

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



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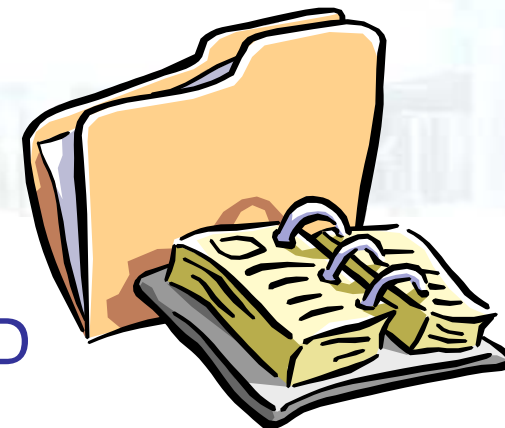
Observation

- Not all staff including agents are made aware of the identity of the MLRO

(Guideline paragraph 7.23)



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



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Observation

- Misconceptions by insurance agencies and brokers that copies of identification documents were not required to be kept if they had already been sent to the insurer

(Ref: Guideline paragraph 8.3 & 8.4)



Chapter 9 – Staff training

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

9.9: training records

9.10: monitoring the training effectiveness



Observation

- Inadequate training to staff to maintain their AML/CFT knowledge and competence
- Training records showing who have been trained, when the staff received training and the type of the training provided were not kept

(Ref: Guideline paragraph 9.3 & 9.9)



Observation

- Some outdated and incorrect information was noted in the training materials.

(Ref: Guideline paragraph 9.2)

- Customized training for different groups of staff

(Ref: Guideline paragraph 9.7)





Thank You



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