

Assessing ML/TF Risks for Lawyers

Walkers Auditorium

15th August 2019

6:00 to 8:30 p. m.

AML/CFT Risk Framework

- ❧ IO.1 - ML/TF risks are understood and actions taken to combat ML, TF and PF?
- ❧ Core Issue 3.2 - How well **CILPA/CARA** identify and maintain an understanding of the ML/TF risks **for Lawyers** as a whole, between sectors and types of institution, and of individual institutions?
- ❧ Core Issue 4.1 -How well do **Lawyers** understand their ML/TF risks and AML/CFT obligations?
- ❧ Core Issue 4.2 How well do **Lawyers** apply mitigating measures commensurate with their risks?

AML/CFT Risk Framework

⌘ Core Issue 5.2 – How well do the relevant competent authorities identify, assess and understand the vulnerabilities, and the extent to which legal persons created in the country can be, or are being misused for ML/TF?

Financial Sector Vulnerabilities

Thematic Area	Vulnerability Score (0.00 to 1.00) (Low to High)	Vulnerability Level
Insurance	0.54	Medium
Banking	0.61	Medium High
Securities	0.73	Medium High
Other Financial Institutions	0.57	Medium

DNFBP Sector Vulnerabilities

Thematic Area	Vulnerability Score	Vulnerability Level
Lawyers	0.56	Medium
Accountants	0.28	Medium Low
Real Estate	0.41	Medium
Dealers of Precious Metals and Precious Stones	0.41	Medium
Trust and Corporate Service Providers	0.57	Medium

MER ML/TF Risks for Lawyers

- ✧ Provision of services to private equity funds which are unsupervised
- ✧ High net-worth individuals and PEPs
- ✧ Cross border transfer and management of high value funds and assets (real estate)

Current Targeted Risk Assessments Underway

- ⌘ Legal persons and arrangements
- ⌘ Terrorism financing
- ⌘ Parts of the financial sector subject to no or limited supervision (Commodities & derivatives in the SEZ, SIBL EPs)
- ⌘ International components of risks faced by the jurisdiction as an international financial centre

Assessing Institutional Risk

✧ Develop a scale of low to high risk

- Low - 0.00 to 0.19
- Medium Low - 0.20 to 0.39
- Medium - 0.40 to 0.59
- Medium High - 0.60 to 0.79
- High - 0.80 to 1.00

✧ Assess ML, TF, and PF risks for

- Customers
- Countries or geographic areas
- Products, services and transactions
- Delivery channels

Higher Customer Risk

- ✂ PEPs and their family members and close associates.
- ✂ Clients who appear to be acting on somebody else's instructions without disclosing the identity of such person.
- ✂ Clients from high risk jurisdictions.
- ✂ Client companies that operate a considerable part of their business in or have major subsidiaries in countries that may pose higher geographic risk.
- ✂ Businesses that rely heavily on new technologies (e.g. online trading platform) may have inherent vulnerabilities to exploitation by criminals, especially those

Higher Risk Countries and Geographic Areas

- ✂ Providing funding or support for terrorist activities or that have designated terrorist organisations operating within them.
- ✂ 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.
- ✂ Subject to sanctions, embargoes or similar measures issued by international organisations such as the United Nations.
- ✂ Weak governance, law enforcement, and regulatory regimes, including countries identified by FATF statements as having weak AML/CFT regimes.
- ✂ Uncooperative in providing beneficial ownership information to competent authorities.

Financial Products, Services & Transactions

⌘ Hedge Funds

- Regulated, unregulated

⌘ Private Equity

- Investors and counterparties (such as investees when buying, and purchasers when selling)

⌘ Structured Finance

- Aircraft and other asset finance
- Asset-backed securities
- Bankruptcy remote special purpose vehicles
- Bond purchase and stripped coupon transactions using limited partnerships
- Capital markets issuance, including Tier 1 capital structures
- CDOs and CLOs including the structuring of risk retention vehicles

⌘ General Corporate

- Trading companies, joint ventures, holding companies, wholly owned subsidiaries, and captive insurance companies.

Higher Product Risks

- ⌘ Allowing redemption without limitation of time, amounts, etc.
- ⌘ Not associated with a regulated financial institution (such as an investment manager)
- ⌘ Involving new and emerging technologies and delivery channels
- ⌘ Relative size and complexity of product

Mitigation Measures for Higher Risks

- ⌘ Enhanced CDD
- ⌘ Enhanced ongoing monitoring
- ⌘ Enhanced internal policies, procedures and controls
- ⌘ Enhanced training, appropriate to the levels and functions of employees

The End

☞ Any questions?