



**The Revised AML/CFT Guidance Notes
GACO AML Masterclass Workshops 2007**

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Outline

- Introduction to the revised Guidance Notes on AML/CFT systems of control
- The notes and 3MLD
- Main themes arising

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How we got here



- 1st Money Laundering Directive
- FATF Recommendations
- 1st IMF/FATF Review
- 2nd Money Laundering Directive
- FATF Revised Recommendations +9 Special Recommendations on TF
- 2nd IMF/FATF Review
- 3rd Money Laundering Directive



Consultation Process

- May 2006 with discussion paper
- Nov 2007 Consultation Paper with responses to discussion paper
- June 2007 revised consultation paper with revised draft Guidance Notes
- October 2007 publication of near final version
- November 2007 final version published
- December 2007 given effect

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Structure of the Notes

- 128 Pages, 12 Chapters
- 1st two Chapters are introductory and legal
- Jurisdiction's Threat Matrix
- Statements of Principle
- Everything else expands on the six Statements of Principle.
 - Requirements are marked & numbered
 - Also marked is where firms need to pay special attention.
- Compliance Report

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What's changed?

Before

- One size fits all
- "Brain" not required
- Emphasis on KYC documentation
- MLRO was responsible

Now

- No two systems will be the same
- Emphasis on practical application of Risk-Based
- Documentation of the application of a methodology
- Senior management takes responsibility

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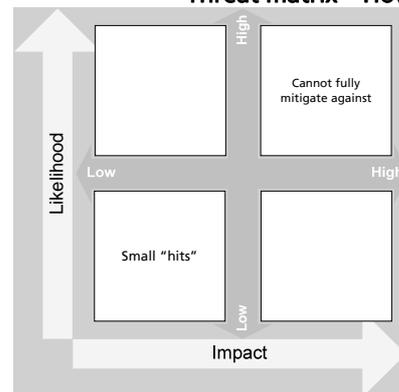


Threat Matrix

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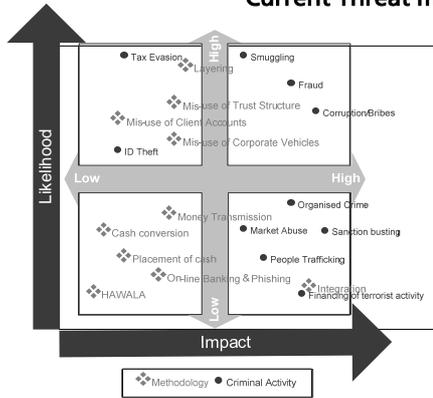
Threat matrix – How it works



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Current Threat matrix



Firm's threat matrix

- Each firm will need to document its own threat assessment from which it's AML/CFT measures will need to be demonstrably linked. (R1)



The new approach

- Statements of Principle
 - The Notes outline the basis for compliance with the six Statements of Principle
- Risk based is the default
 - Firms need to take a view of how to comply with the requirements
 - Prescriptive approach is only taken in given scenarios
 - A minimum standard is prescribed throughout
 - Firms need to document their thought processes
 - Senior management is accountable for the translation of the requirements into practice
 - Firms need not adopt the risk framework outlined in the notes if their existing systems already capture and mitigate the risks
 - A firm's practice must match the methodology adopted
 - This is not a zero tolerance regime



Statements of Principle



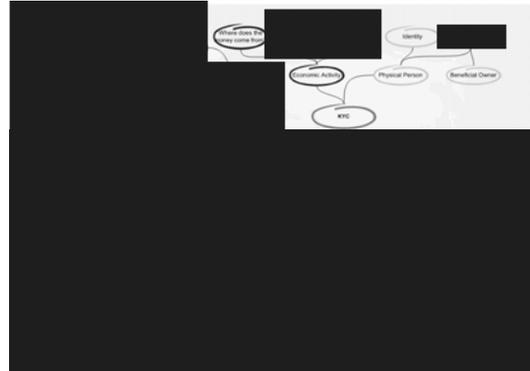
Statements of Principle

- SP1 The senior management of a firm is responsible for ensuring that the systems of control operated in the firm appropriately address the requirements of both the legislation and these guidance Notes.
- SP2 Firms must adopt a risk-based approach to these statements of principle and their requirements.
- SP3 All firms must know their customer to such an extent as is appropriate for the risk profile of that customer.
- SP4 Effective measures must be in place that require firms to have both internal and external reporting requirements whenever money laundering or terrorist financing is known or suspected.
- SP5 The firm will establish and maintain effective training regimes for all of its officers and employees.
- SP6 Firms must be able to provide documentary evidence of their compliance with the legislation and these Notes.

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AML/CFT Compliance Mind Map



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Senior Management



Senior Management's Responsibilities

- A senior manager must be allocated overall responsibility for establishment and maintenance of effective AML/CFT systems of control (R2a)
- Appropriate training is identified, delivered and maintained (R2b)
- Regular information is made available to senior management (R2c)
- Firm's risk management policies are appropriately documented (R2d)
- ML/TF risk is taken into account in the day-to-day management of the firm (R2e)
- MLRO has sufficient resources (R2f)
- Take remedial action identified in MLRO's annual report (R11)

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MLRO

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MLRO Responsibilities

- Oversight of AML/CFT activities (R3)
- Must be a Senior Person (R4)
- "Appropriate Person" for internal reports (R5)
- Contact Point with GFIU (R6)
- Must be located in Gibraltar (R7)
- Needs to keep written records (R8)
- Appropriate monitoring processes (R9)
- Submits annual report to senior management (R10)

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MLRO's Annual Report (R10)

- Cover sheet which includes (format included in the Notes);
 - Number and types of internal STRs and those passed to GFIU
 - Areas for improvement
 - Progress on remediation programmes
 - Outcomes of quality assurance audits
- Review of firm's threat assessment
- Chapter 12 from Notes

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Risk Based

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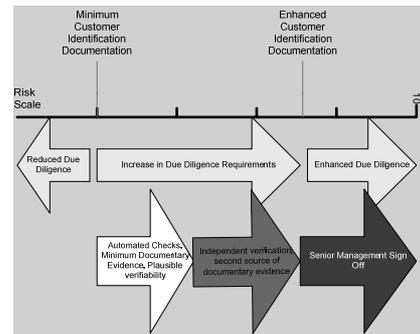
Risk Spectrum

- Simplified due diligence for low risk relationships stated in the Notes
- Enhanced requirements for high risk categories stated in the Notes
- Firm-based risk sensitive approach for all other relationships. The intensity of measures must be commensurate with the risk profile.

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Risk Scale



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Risk Profiling

- Every business relationship must be risk profiled taking into account the following 4 risk elements (R16);
 - Customer
 - Product
 - Interface
 - Country
 (Firms may decide to combine more than one of the above)
- Firms must have a documented methodology for assessing the risk profile of a business relationship (R17)

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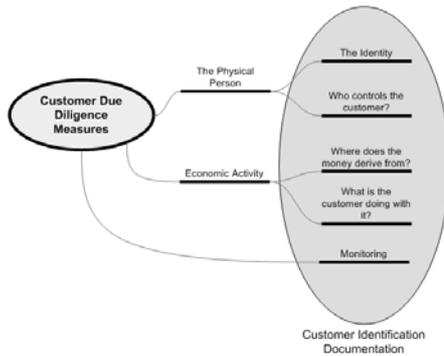


Customer Due Diligence

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What constitutes CDD? (R60)



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Major CDD issues to consider

- Electronic Verification of ID
- Beneficial Owner definition
 - Corporates
 - Management & Control
 - Ascertaining UBO
 - Trusts
 - Beneficiaries
- Complex Structures
- Proportionality V Risk Profile
- Documentation

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Transaction Monitoring



Transaction Monitoring (R96)

- Monitoring systems are required that;
 - flags up transactions and/or activities for further examination;
 - these reports are reviewed promptly by a senior independent person and where these raise a knowledge or suspicion of ML or TF, reported to the MLRO; and
 - appropriate action is taken on the findings of any further examination
- Need not be computer based.

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Reporting Requirements

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Reporting Requirements

- Reports must be made whenever ML or TF is known or suspected (*belief*) (R97)
- Internal process must include (R98);
 - Short reporting lines to MLRO
 - Consideration of each report against other information
 - No further processing of similar transactions unless MLRO is informed
 - If MLRO considers suspicious, a report to GFIU must be made
 - All reports must be documented include why the STR was or was not considered suspicious
 - Formal acknowledgment of internal reports including reminder of tipping off offences
 - Records to be kept for five years.

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Training Requirements

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Training Requirements (R2)

- Training must be Identified, Designed, Delivered and Maintained covering;
 - Legal and regulatory responsibilities
 - Role in handling criminal property and terrorist financing
 - How ML and TF risks are being managed
 - How to recognise ML and TF transactions and activities
 - The internal reporting processes

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Summary

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The rest of the workshop

- Practical application of risk management in an AML/CFT programme
- Getting to know the detail of the requirements of the notes
- Last session of the workshop will highlight how the FSC intends to approach its risk assessment work of firms
- “PARKING LOT” of unanswered questions

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