ST. KITTS BRANCH
Financial Services Regulatory Commission

NewsLetter

August 2019
Issue No. 64

Risk Based Approach-Accountants

In 2017, the Financial Action Task Force (FATF) first introduced a guidance document titled "*Risk Based Approach to Combating Money Laundering and Terrorist Financing*" outlining the importance of implementing the risk-based approach as part of the Anti Money Laundering/Countering the Financing of Terrorism (AML/CFT) program in international banking and other sectors. This document was revised in 2019.

The FATF Recommendations 10, 11, 12, 15, 17, 18 to 23 apply to all Designated Non-Financial Businesses and Professions (DNFBPs). In the case of Accountants, these Recommendations apply in the following situations:

- Buying and selling of real estate;
- Managing of client money, securities or other assets;
- Management of bank, savings or securities accounts;
- Organization of contributions for the creation, operation or management of companies; and
- Creation, operation or management of legal persons or arrangements and buying selling of business entities.

The objectives of the FATF Recommendations as they relate to Accounting Professionals is consistent with their ethical obligation as professionals to avoid assisting criminals or facilitating criminal activity.

What is the Risk Based Approach?

The Risk-Based Approach (RBA) to Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) is fundamental to the effective implementation of the FATF Recommendations. It requires countries, competent authorities and DNFBPs, including Accountants, to implement a RBA to:

1. Identify the existence of risk(s) the profession is exposed to;
2. Undertake an assessment of the risk(s); and
3. Develop strategies to manage and mitigate the identified risk(s).

Understanding of the RBA

Risk is defined as the possibility of some adverse event occurring and the likely consequences of this event.

Supplementary Information

- The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against Money Laundering (ML) and Terrorist Financing (TF).

- The FATF has developed a series of Recommendations that are recognized as the international standard for combating ML/TF. The Recommendations form the basis for a coordinated response to these threats to the integrity of the financial system and to help ensure a level playing field.

- Designated Non-Financial Businesses and Professions (DNFBPs) is defined to include Accountants. This refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to 'internal' professionals that are employees of other types of businesses, nor to professionals working in government agencies, who may already be subject to AML/CFT measures.

TOPICS DISCUSSED

Risk Identification and Assessment

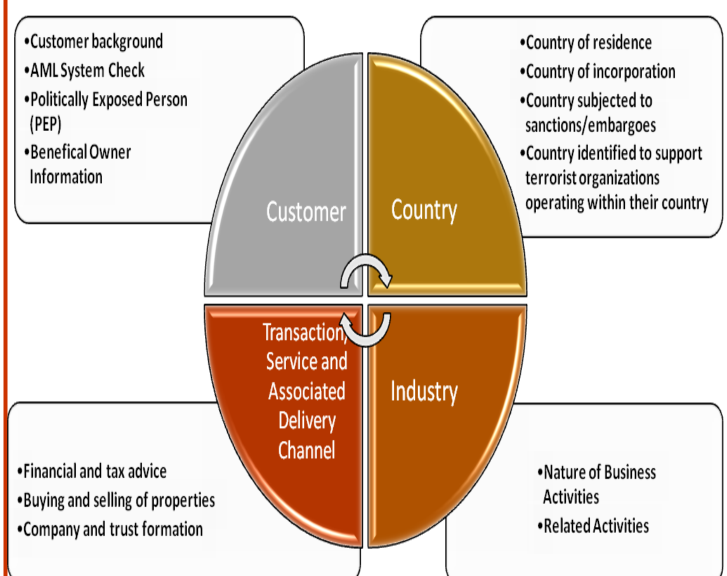
Before establishing a client relationship or accepting an engagement, the Accounting Professional must have controls in place to address the risks arising from this relationship. During the initial onboarding process and throughout the relationship with each client, Accounting Professionals are required to perform AML/CFT and Know Your Customer (KYC) risk assessments to determine the clients' overall ML/TF risk.

This will assist in determining the level of risk that can range from low to high, contingent upon the threat attributed to any of the risk factors highlighted below.

Risk Factors:

ML/TF risk can be organized into four (4) main categories but are not limited to those listed below. The most common risk criteria for the Accounting Professionals are as follows:

- Customer
- Country/Geographical
- Transaction/Services and Associated Delivery Channel
- Industry



Identifying these risk factors will assist in prescribing an appropriate risk rating. The weight assigned to each of the categories (individually or in combination) to ascertain the overall risk rating of each client is based on the risk factors highlighted above. The applied rating will determine the appropriate level of Customer Due Diligence (CDD) [whether normal, simplified or Enhanced Due Diligence (EDD)] and mitigation process that the accounting professional can adopt to reduce the compliance risk.

Risk Mitigation (Initial and ongoing Customer Due Diligence (CDD), Politically Exposed Persons (PEPs), Ongoing monitoring of clients and specified activities)

DNFBPs including Accounting Professionals are exposed to vulnerabilities of ML/TF and proliferation of weapons of mass destruction and consequently being sanctioned. Therefore, it is of utmost importance and necessary to adopt preventative measures that will ensure effective mitigation.

What is Customer Due Diligence (CDD) and Enhanced Due Diligence (EDD)?

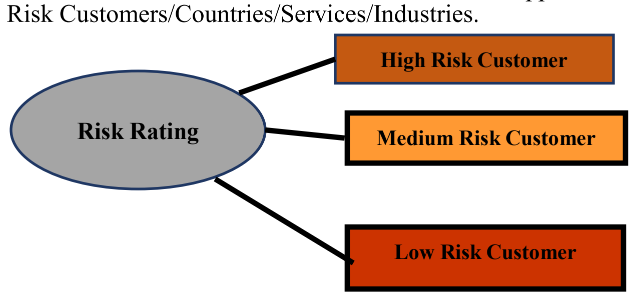
CDD is a KYC process of doing background checks/investigations on a customer to assess the risk he/she poses, before engaging in a business relationship.

Criminals often seek to mask their true identity by using complex and non-transparent ownership structures. The purpose of the CDD is to know and understand a client's true identity and business activities so that ML/TF risks can be properly identified and managed. Essentially CDD is, therefore, a vital part of AML/CFT defenses.

EDD is a KYC process that provides a greater level of scrutiny of potential business partnerships and highlights risk that cannot be detected by normal/simplified CDD. EDD is therefore applicable for clients who are classified as high risk.

The FATF regards Politically Exposed Persons (PEPs), their immediate family members and close associates as high risk clients because their positions and affiliations are susceptible to potential abuse for ML/TF and are therefore subjected to the EDD process.

Accounting Professionals should apply simplified CDD measures for Low Risk Customers/Countries/Services/Industries. Normal/ Standard CDD should be applied for Medium Risk Customers/ Countries/Services/Industries. EDD should be applied for High Risk Customers/Countries/Services/Industries.



Ongoing Monitoring

Ongoing monitoring procedures involve regular review and analysis of client activities (including enquiries into source of funds, if necessary) to make sure they are consistent with the client's operations and initial risk rating.

Ongoing monitoring of an existing business relationship should be carried out on a risk-related basis, to ensure that the Accountants are aware of any changes in the client's identity and risk profile established at the onboarding stage/client acceptance.

This ongoing monitoring process ensures that documentation and information collected are kept up-to-date and relevant by undergoing reviews of existing records.

The following events should prompt the Accounting Professional to update CDD information:

- A change in the client's identity;
- A change in beneficial ownership of the client;
- A change in the service(s) provided to the client;
- A change in the geographic location or physical address;
- A change in the client's source of wealth;
- Information that is inconsistent with the business of the client;
- Significant change in the client's business activity (includes new operations in a new country);
- Client appears on watch/sanctions list(s); and
- Suspicion or cause for concern (where doubt arises with the veracity of information provided, etc)

The list above is not exclusive.

Additional Requirements of Accounting Professionals

In addition to CDD, Accountants are also required to comply with the following requirements:

- Record Keeping;
- Procedures for the assessment of new products, business practices and technologies;
- Reliance on Third Parties for conducting CDD procedures;
- Reporting of Suspicious Transactions;
- Internal control systems (screening procedures for employees, ongoing training programs and independent audit function);
- Compliance Management Systems (including the appointment of Compliance Officer (CO) at a management level); and
- Business relationships and transactions emanating from high risk countries.

Suspicious Transaction Reporting

In accordance with Regulation 11 of the Anti-Money Laundering Regulations, 2011 (AMLR) and Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 (ATR) the Accounting Professional must report any suspicious activity that may be linked to ML/TF to the Financial Intelligence Unit (FIU).

The Regulations require Accountants to take appropriate steps to identify any activity that is deemed to be suspicious. If suspicion arises, this suspicion must be reported within 24 hours to the FIU.

These Regulations also requires the Accountants to appoint a CO or a Money Laundering Reporting Officer (MLRO) who is tasked with the responsibility of reporting all suspicious activities by filing a Suspicious Transaction Report (STR).

The following are examples of suspicious activities which should be monitored by the Accounting Professionals:

- The client does not show concern in incurring losses or realizing extremely low profits in comparison with persons/entities engaged in the same business. The client remains persistent in pursing his/her activities.

- High volume of foreign transfers from/to the client's accounts or the sudden increase of revenue and cash which is inconsistent with his/her usual income, without any justification.

- Client's receipt of cash or high value cheques which are not consistent with his/her profession or the nature of his/her activity/business. The transactions come from persons who are not clearly or justifiably connected to the client.

- Unjustified amounts or deposits in the client's account whose origin or cause is difficult to identify.

Kindly refer to FSRC's previous Newsletter Editions on the following related topics:

- ***April 2019, Issue No. 60 - "Professional Money Laundering - Individuals, Organizations, Networks"***
- ***October 2018, Issue No. 54 - "Enterprise Risk Assessment"***
- ***August 2018, Issue No.52 - "Financial Intelligence Unit, the Catalyst for AML/ CFT"***
- ***February 2018, Issue No. 46 - "Client Screening, Sanctions Lists"***
- ***January 2018, Issue No. 45 - "Responsibilities of an Effective Compliance Officer"***
- ***November 2017, Issue No. 43 - "Recording Keeping"***
- ***March 2017, Issue No. 35 - "Know Your Employee (KYE)"***
- ***November 2016, Issue No. 31 - "KYC Risk Assessment"***

All newsletters can be found on our website: www.fsrc.kn

Internal Controls and Governance

For there is to be an effective risk-based approach, the Accounting Professionals should embed the risk -based process within their internal controls. The internal policies and procedures are largely dependent on the internal control system. In accordance with Regulation 3(8) of the AMLR, this should encompass:

- Establishing and maintaining policies and procedures to guide the firm. These should be approved by Senior Management or the Board of Directors;

- Developing, delivering and maintaining a training program for employees;

- Provide regular review of the Risk Assessment and Management process; and

- Designate n Compliance Officer and implement a compliance program.

REFERENCES

* FATF Guidance for a Risk-Based Approach - Accounting Profession
* FATF Recommendations
* Anti-Money Laundering Regulations, 2011 (AMLR)
* Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 (ATR)