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STRENGTHENING AML/CFT CONTROLS AND PRACTICES TO DETECT AND MITIGATE RISKS OF MISUSE LEGAL PERSONS / ARRANGEMENTS AND COMPLEX STRUCTURES

30 August 2023

INTRODUCTION

On 30 August 2023, the Monetary Authority of Singapore (“**MAS**”) published a paper setting typologies and supervisory expectations to uphold strong Anti-Money Laundering and Countering the Financing of Terrorism (“**AML/CFT**”) controls. These inspections were prompted by MAS’ surveillance efforts, which identified several Financial Institutions (“**FIs**”) involved in potentially concerning fund flows through legal entities and complex structures.

The paper covers three areas: 1) typologies and supervisory observations; 2) customer due diligence; and 3) ongoing monitoring.

The MAS integrated case studies aim to enhance industry awareness and assist financial institutions in conducting gap analyses and mitigating risks. The MAS also recommends FIs to take into consideration previous information papers published by the MAS.¹

Though the paper does not impose new regulatory obligations on FIs, instead urging them to evaluate them against the practices and supervisory expectations outlined in the paper. In doing this, FIs should conduct a comprehensive gap analysis, taking into consideration the risk profile associated with their business operations and clientele. If gaps are found, FIs are recommended to communicate those to the senior management.

Should FIs identify any deficiencies within their frameworks and controls, MAS advises FIs to swiftly identify and implement targeted corrective or improvement actions.

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¹ [Effective Practices to Detect and Mitigate the Risk from Misuse of Legal Persons – Published June 2019](#)
[Guidance for Effective AML/CFT Transaction Monitoring Controls – Published September 2018](#)
[Effective Use of Data Analytics to Detect and Mitigate ML/TF Risks from the Misuse of Legal Persons – Published June 2023](#)

TYPOLOGIES AND OBSERVATIONS

Typologies Observed

Entities and complex structures utilised in wealth management could be exploited for illicit activities, such as:

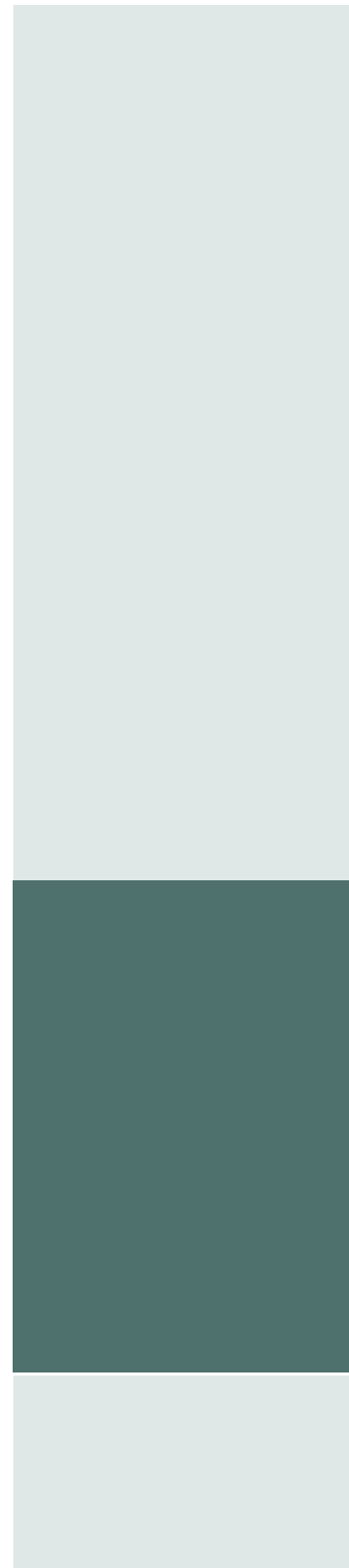
- a) enabling pass-through or round-tripping transactions lacking evident economic rationale. In certain instances, these transactions were conducted with affiliated entities or entities falsely claiming to be in the same industry to give the appearance of legitimacy; and
- b) establishing intricate ownership structures without apparent legitimate jurisdictions, but rather with the primary intent of concealing the actual beneficial ownership.

Supervisory Observations

FIs have established distinct policies, procedures, and controls to actively detect potential misuse of legal entities/arrangements (including front/shell companies) and to mitigate risks linked with complex structures. Additionally, certain FIs have integrated Data Analytics (“DA”) to augment their existing continuous monitoring mechanisms, aiding in the identification of customers with a higher likelihood of misuse.

MAS Expectations

Although the review did not uncover widespread deficiencies, the MAS observed instances of implementation lapses stemming from inadequate oversight and a shortage of risk awareness and vigilance in recognising atypical warning signs.



CUSTOMER DUE DILIGENCE (“CDD”)

FIs are mandated to ascertain and authenticate the identities of Beneficial Owners² (“BOs”) concerning a customer. In cases where the customer is not an individual, FIs must also endeavor to comprehend the customer’s business, as well as its ownership and control framework.

Observations revealed that FIs make efforts to grasp the ownership and control framework of the customer, particularly when complex structures and arrangements are involved. This is done to identify the BOs and assess whether these setups pose heightened risks related to ML/TF. However, in certain cases, a lack of explicit guidance and insufficient risk awareness among staff members led to oversight by FIs in accurately determining the genuine BOs. As a result, the legitimacy of such arrangements was not properly assessed.

Actions Taken to Enhance AML/CFT Controls

To rectify the deficiencies in CDD, FIs have:

- a) improved training and comprehensive guidance for staff members to empower them in recognising and flagging potential issues in customer information and declarations, especially pertaining to complex ownerships and structures; and
- b) conducted further assessment when encountering uncommon and unusual complex structures to determine the legitimacy of the customer.

MAS Expectations

MAS expects FIs and their frontline personnel to acquire sufficient information to comprehend and evaluate the existence of legitimate justifications for complicated ownership or control arrangements, particularly for bespoke wealth management structures. Such an evaluation forms an integral part of CDD and is essential in determining whether more rigorous assessment and monitoring of ML/TF risks are warranted. To meet these expectations, FIs must:

- a) thoroughly educate front-line staff about indicators associated with the use of complex ownership and control structures to ensure proper follow-up and risk evaluations;
- b) conduct additional checks and verification in cases where there are uncertainties regarding the information provided by the customer;
- c) establish transparent accountability and procedures to facilitate the timely escalation of concerns regarding ownership structures or BOs details; and
- d) implement appropriate and timely risk-mitigation measures to address these concerns.

² BOs refer to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those natural persons who exercise ultimate effective control over a legal person or arrangement. Only a natural person can be an ultimate beneficial owner, and more than one natural person can be the ultimate beneficial owner of a given legal person or arrangement.

ONGOING MONITORING

As part of the ongoing business relationships, FIs must carefully examine transactions to verify their alignment with the FIs understanding of the customer.

MAS observations indicated that FIs have established suitable systems and controls that alert them to peculiar transactions. To ensure the efficiency of transaction monitoring (“**TM**”) controls, it is vital that FIs guarantee that their staff are sufficiently trained to recognise, analyse, and appropriately respond to unusual transactions.

Actions Taken to Enhance AML/CFT Controls

To address the gaps in ongoing monitoring, FIs have:

- a) strengthen the feedback mechanisms to ensure that observed CDD gaps during investigations are promptly escalated to the appropriate party for thorough review;
- b) provided additional guidance and training to staff to enhance their awareness of risks and enable them to identify business activities with their ML/TF risk;
- c) furnish TM investigators with the necessary DA tools and pertinent sources of financial crime information for comprehensive alert investigation;
- d) enhanced the protocols for sharing information across Business Units (“**BU**s”); and
- e) established explicit accountability for decisions to guarantee that significant ML/TF risk concerns are communicated to other BUs and escalated promptly.

MAS Expectations

FIs should:

- a) possess a thorough comprehension of account purposes and anticipated transactions. This aids in evaluating whether business relationships involving escrow agents may present heightened concerns in ML/TF during the onboarding process. Risk assessment should factor in aspects such as transaction complexity, frequency, and the presence of a clear and legitimate economic purpose for the arrangement. When deemed necessary, additional checks should be conducted;
- b) remain vigilant for warning signs and unusual transaction or patterns. This applies to various situations, including escrow arrangements. Scrutiny should be exercised to determine if there are any substantial financial crime concerns associated with the parties involved or any suspicions warranting the filing of a Suspicious Transaction Report (“**STR**”) and/or the application of other risk-mitigating measures;
- c) aim to eliminate information silos for effectively managing ML/TF risks. FIs should consistently evaluate the effectiveness of current controls and processes to stay abreast of evolving threats and typologies; and
- d) exercise heightened awareness regarding atypical transactions involving intricate structures and affiliated entities. Conducting the appropriate level of additional due diligence is imperative to prevent being utilized as a conduit for layering potentially illicit funds.

CONCLUSION

MAS' review found that FIs have generally established frameworks and controls to identify customers, including BOs with shell company characteristics, and have implemented enhanced measures for higher-risk cases. However, FIs must remain vigilant and continue efforts to improve their risk awareness and AML/CFT controls. They should evaluate their controls against MAS' inspection findings and provided guidance, taking necessary steps to address any identified gaps. It is also crucial for staff to stay updated on evolving risks related to misuse of legal entities and complex structures for timely risk detection and escalation.

FIs should pay particular attention to understanding customers' Source of Wealth ("**SOW**") and transactions when risk concern arises, promptly filing a suspicious transaction report where applicable.

Senior management should closely oversee control effectiveness and uphold high risk management standards. FIs are encouraged to review existing controls and consider integrating DA for enhanced risk detection capabilities.

Contacts

Mark Jacobsen
Founder
Integrium

E mark@integrium-sg.com

Dewansh Raheja
Manager
Integrium

E dewansh.raheja@integrium-sg.com

Integrium Pte. Ltd.
63 Chulia Street
#15-01
Singapore 049514
www.integrium-sg.com