

By email

19 October 2023

To Senior Executive Officer (SEO) of FSRA Authorised Firms
Cc: Recognised Functions

Dear SEO,

Thematic Review on Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Overall Observations

Background

Following FSRA's letter sent to all Authorised Persons (APs) on 3 April 2023 the FSRA has now completed the Thematic Review on Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Overall Observations ('the Review'). This letter sets out the overall observations arising from the Review.

Scope

The scope of the Review was to evaluate the effectiveness of the firms' AML/CFT and TFS controls environment to ensure compliance with the ADGM Rules and Regulations, along with the relevant UAE Federal Legislation.

The Review included an assessment of all APs across all activity types and business models. The scope intended to cover the following key areas:

- a) Governance and Senior Management oversight over AML/CFT and TFS risks
- b) Design and implementation of a robust risk-based framework of the AP in respect of the key areas listed below in accordance with FSRA's AML Rulebook, Cabinet Resolution No.10 of 2019, Cabinet Resolution No.24 of 2022 and Cabinet Resolution No. 74 of 2020
 - a. Customer Due Diligence (onboarding, periodic and event driven reviews)
 - b. Name Screening (Sanctions, PEP and Adverse Media)
 - c. Transaction Monitoring
 - d. Suspicious Activity Reporting

Approach adopted

The Review incorporated a risk-based approach to ensure a comprehensive quantitative assessment of APs activities followed by a detailed onsite qualitative assessment of a smaller sample of firms.

The following steps were followed:

1. The first stage included an industry wide survey, circulated to all APs with active financial services permissions and focused on the quantitative assessment of APs in terms of client numbers, client profile, client risk exposure, volumes of business and geographic coverage.
2. The second stage consisted of an analysis of the underlying data using a defined assessment methodology, including analysis of APs responses in line with set criteria to select a sample of firms for detailed onsite review.

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3. The third stage was the completion of an onsite focused thematic assessment for a selected sample of APs. This element covered the operational execution of the AML/CTF and TFS framework and associated systems and controls.

Key Findings

Overall, there have been improvements in the internal controls, systems and procedures for financial crime prevention across the AP population since the previous review conducted in 2022. The FSRA expects all firms to continue to enhance their frameworks in line with the nature, scale and complexity of their business.

This review has identified certain areas for increased attention and diligence across all firms to ensure that continued improvements are made in relation to FSRA AML/CTF requirements. The key areas for ongoing focus are set out in the Appendix. These observations are not to be interpreted as Rules, but all APs are expected to assess their own frameworks in these areas to identify further enhancements, if required.

Ongoing enhancements are required to ensure and evidence that systems and controls are risk based and operating effectively particularly as business activities continue to develop and grow. The ongoing enhancement of the governance, risk management and controls framework, will remain an area of regulatory focus and should continue to be a core priority for senior management of all AP. Further regulatory reviews are to be expected in this area on an ongoing basis.

Next Steps

FSRA places responsibility on Senior Management of the APs to ensure their Financial Crime Prevention framework is commensurate with the nature, scale and complexity of its business activities and the financial crime risks it is exposed too. Senior Management should carefully review the findings and observations outlined in this letter to identify areas where enhancements may be required. Where specific concerns in relation to specific APs have been identified, these will be addressed directly with the AP concerned.

FSRA will continue to monitor firms' practices in this area and address any identified areas for improvement and, where necessary, take appropriate regulatory action.

Yours Sincerely,

Mary Anne Scicluna
Senior Executive Director - Supervision
Financial Services Regulatory Authority



Appendix 1

Observations and Themes	
AML Rule 1.3 - Responsibility for compliance with the AML Rulebook	<p>The FSRA places significant reliance on the appropriate governance framework in place to manage relevant risks related to AML and CTF. The FSRA expects all APs to have in place an end-to-end documented framework with demonstrable evidence of involvement and oversight by the Governing body and Senior Management. All APs should be able to demonstrate, inter alia:</p> <ul style="list-style-type: none"> • Clearly defined roles and responsibility of Senior Management within the AML/CFT policy or framework documents • Close involvement and oversight of AML/CTF risks and controls, for example approvals for business risk assessment (including risk appetite), AML/CTF policies, and higher risk clients and transactions. • Ensuring that there is robust management information on Financial Crime Risks, activity and that actions have been completed to address identified deficiencies. • Use of Internal Audit to provide independent assurance on the effectiveness (design and operating) of the AML/CTF systems and controls.
AML - 6. Business Risk Assessment	<p>The Business Risk Assessment is a fundamental pillar of the AML/CTF framework for all APs.</p> <ul style="list-style-type: none"> • All firms are required to ensure that their respective BRA is comprehensive, systematic, and sufficiently broad to cover all elements set out in the rules and guidance of AML 6.1.1. The assessment should be supported, where required, with supporting evidence and quantitative data applicable to the firms' nature, scale and complexity. It is also important to test the effectiveness of the controls established to mitigate the risks identified in the BRA. • All firms are expected to ensure that their respective BRA is covering all relevant components. This includes conducting assessments that cover not only AML business risks but also extending to include assessment of the potential risks associated with terrorist financing and proliferation financing. • It is also important to ensure material new business activities, business lines or products, new technologies, client segments etc are sufficiently assessed, with supporting controls, to ensure that any additional AML/CTF risks are identified and mitigated (AML 6.1.3). • It is beneficial for all firms, following their BRA exercise, to have a clearly communicated and monitored risk appetite commensurate with the nature scale and complexity of its business.



<p>AML 7 Customer Risk Assessment and</p> <p>AML 8 Customer Due Diligence</p>	<ul style="list-style-type: none"> • When conducting a customer risk assessment all firms must ensure that all relevant risk factors are considered when determining the risk rating to be adopted. In particular, APs should ensure the relevant risk factors set out in AML 7.1.2 and 7.1.3 are considered and included within the methodology or system, to ensure the risk rating applied is robust and appropriate. • When determining the degree of CDD that is required based on allocated risk profiles, APs must ensure that all information obtained is valid and appropriately verified. In particular, the requirements set out in AML 8.4 must be appropriately verified with supporting evidence and kept up to date on an ongoing basis. Key areas include AML 8.4 (c) relating to Source of Funds and Source of Wealth. • After determining the frequency for conducting periodic review of a client's file, it is important for APs to diligently carry out these reviews on time in accordance with Rule 8.6. • Firms are also reminded of the FSRA'S AML Requirements regarding customers' residential address (AML 8.3.2(2)). Whilst we note certain other sources are available such as geolocation tools, which can be a useful additional measure, they are not to be used as substitutes for the requirement to obtain and verify the residential address of each of its clients.
<p>AML 9 – Reliance on a Third Party and Outsourcing of AML Compliance</p>	<ul style="list-style-type: none"> • While it is permissible within the Rulebook to outsource certain activities all APs must ensure that any outsourced activity remains their responsibility (including within its own Group). This includes ensuring appropriate due diligence is conducted when selecting the provider and that ongoing effectiveness reviews are conducted by the APs. This is particularly relevant when utilizing specialized systems and screening providers to ensure the system provided is commensurate with the nature scale and complexity of the AP.
<p>AML 11 Sanctions</p>	<ul style="list-style-type: none"> • In relation to sanctions screening, it is important to ensure that APs have a clear understanding of their screening parameters, particularly when using a third-party provider. For example, APs should be fully aware of the data elements being screened and the lists against which the screening is conducted. • Screening systems (including those of third-party providers) should be reviewed for effectiveness on a periodic basis. • Reviews, actions and closure of screening alerts should be conducted in a timely manner and in line with the Targeted Financial Sanctions Guidance issued by the Executive Office for Control & Non-Proliferation (EOCN).
<p>AML 14 - Suspicious Activity and Transaction Monitoring</p>	<ul style="list-style-type: none"> • Effective CDD measures provide the basis for recognizing unusual and suspicious activity. Such activity will often be one that is inconsistent with a customer's expected or known activity, or with the normal business activities for that type of account or customer.



	<ul style="list-style-type: none">• In relation to transaction monitoring of high-risk customers and transactions, while firms can, and do, in certain cases conduct certain elements of their transaction monitoring activities manually, it is important to ensure the approach adopted remains commensurate with the scale of the underlying business activity and volume.• Firms are encouraged to move towards automation of screening activities, together with ensuring appropriate scenario testing and calibration is conducted, and is supported with appropriate resources.
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