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Growing Asia's Markets

Best Practices for KYC/AML

February 2024 (update from June 2018)

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ASIFMA is an independent, regional trade association with over 170 member firms comprising a diverse range of leading financial institutions from both the buy and sell side including banks, asset managers, accounting and law firms, and market infrastructure service providers. Together, **we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia.** ASIFMA advocates stable, innovative, and competitive Asian capital markets that are necessary to support the region's economic growth. We **drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice.** Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the U.S. and AFME in Europe, ASIFMA also provides insights on **global best practices and standards to benefit the region.**

1. OVERVIEW

1.1 Many of the challenges of Know-Your-Client / Anti-Money Laundering ("**KYC/AML**") implementation remain high on the global agenda. Differing guidelines and regulations among jurisdictions in Asia as well as divergent interpretation of these guidelines and regulations among financial institutions ("**FIs**") have led to fragmentation, inconsistencies, and varying practices amongst firms. In this regard, FIs have started to adopt a forward looking, client-centric and digitised approach to reduce the resource challenges associated with meeting KYC/AML requirements.

1.2 This February 2024 edition of the paper is an update to the previously published June 2018 'ASIFMA Best Practices for AML/KYC' paper, it takes into account the changes made to the KYC/AML guidelines applicable to Hong Kong and Singapore since 2017. Both of these regimes also closely align with the Financial Action Task Force Recommendations.

1.3 Challenges in resourcing and dealing with regulatory changes remain. According to a 2020 survey[1] conducted by LexisNexis among 1,015 financial crime compliance decision makers across four regions[2], the average annual cost of financial crime compliance per organisation has increased significantly, and the projected total cost of financial crime compliance across all the FIs surveyed was US$213.9 billion. Apart from increasing costs, more institutions are facing a broader set of due diligence challenges with increased regulatory requirements that involve harsher penalties for non-compliance.

1.4 To address these challenges, this paper proposes a set of best practices to harmonise and standardise the application of certain key areas of KYC/AML requirements in Asia, based on input and industry feedback from a focused working group of ASIFMA members from both the buy side and sell side. The objective of this paper is to help industry participants gain an understanding of current best practices in the market and to drive harmonisation and standardisation in the area of KYC/AML in the Asia-Pacific region.

1.5 The primary intent of the industry study was to obtain an overview of market practice to determine, based on the feedback from survey respondents, what constitutes good practice in relation to KYC practices and associated controls. The best practices were drafted on the back of this survey and were based on specific input and industry feedback gathered over the course of several focused working group meetings with the industry.

1.6 These best practices have been drafted as generally as possible to be jurisdiction-neutral, although reference was largely drawn from industry consensus of best practices currently applied by members in Hong Kong and Singapore.

1.7 The working group identified the following key areas where it would be most useful to develop best practices:

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1 LexisNexis, True Cost of Financial Crime Compliance Study Global Report, June 2021, available at this link.

2 APAC, EMEA, LATAM and North America.

1.7.1 identification and verification of customers and their beneficial owners;

1.7.2 obtaining information when looking to establish a business relationship;

1.7.3 identification and verification of persons purporting to act on behalf of customers;

1.7.4 the timing of due diligence measures;

1.7.5 the application of simplified client due diligence ("**CDD**") measures;

1.7.6 the monitoring of business relationships;

1.7.7 factors to consider in developing a risk-based approach ("**RBA**");

1.7.8 use of intermediaries or third parties to carry out CDD; and

1.7.9 aspects of CDD documentation.

2. OVERALL RISK ASSESSMENT

2.1 FIs are expected to adopt a RBA to identify, assess, monitor, manage and mitigate money laundering and terrorist financing ("**ML/TF**") risks. This includes conducting:

2.1.1 institutional/enterprise-wide risk assessments to understand how and the extent to which the FI is vulnerable to ML/TF risks[3]; and

2.1.2 customer risk assessments to assess the ML/TF risks associated with a customer or a proposed business relationship.

2.2 In conducting institutional and customer risk assessments, FIs should holistically take into account relevant risk factors such as (i) country risk, (ii) customer risk, (iii) product, service and transaction risk, (iv) delivery and distribution channel risk, and (v) other risks that the FI is exposed to, depending on the specific circumstances.

2.3 The results of the institutional/enterprise-wide risk assessments inform FIs of the design and implementation of appropriate anti-money laundering and counter-financing of terrorism ("**AML/CFT**") systems. Initial customer risk assessments inform FIs of the level of CDD measures, and the level and type of ongoing monitoring, that should be applied.

3. CDD MEASURES – IDENTIFICATION OF CUSTOMER

3.1 Determining who is the customer

3.1.1 General

Depending on the specific circumstances of each customer, the following overarching non-exhaustive approaches may be used to determine who the 'customer' is:

(A) the party providing instructions to the FI; or

(B) the party that contracts with the FI.

[3] FIs should take into account any relevant national ML/TF risk assessment (e.g. Singapore's National ML/TF Risk Assessment Report) that identifies certain sectors (such as the wealth management sector) and prevailing crime types etc that may present higher ML/TF risks.

3.1.2 **Funds and fund managers**

(A) **Determining who is the customer**

Party providing instructions to FI and/or exercising influence and control

Ordinarily, this will be the fund manager (in the context of funds) which has been delegated decision-making authority by the fund. If the party providing instructions is acting as an agent, then identity information of the underlying client would be required.

Party contracting with FI

This approach would mean that:

(1) if a fund manager contracts with a FI on behalf of an investment vehicle or fund, then simplified due diligence ("**SDD**") can be performed on the fund manager provided that the fund manager has performed CDD on the fund. It may be possible to obtain limited KYC information on the fund; and

(2) if an investment vehicle or fund contracts with a FI, then CDD/SDD (as appropriate) should be applied to the investment vehicle or fund, depending on the legal form of the investment vehicle or fund. In this context, a fund manager should be regarded as a person purporting to act on behalf of a customer if it has the authority to place an order on behalf of an investment vehicle or fund.

(B) **Equivalently regulated fund manager**

Where an equivalently regulated fund manager provides instructions to a FI, CDD can be performed on the fund manager rather than the fund itself. Equivalent jurisdiction is defined in the Anti-Money Laundering Ordinance (Cap. 615) ("**AMLO**") as meaning:

(1) a jurisdiction that is a member of the Financial Action Task Force ("**FATF**"), other than Hong Kong; or

(2) a jurisdiction that imposes requirements similar to those imposed under Schedule 2 of the AMLO.

Limited information should still be collected in respect of the fund on a risk-based basis.

(C) **Fund manager which is not equivalently regulated**

Where a fund manager is not equivalently regulated, then full CDD should be performed on both the fund manager and the underlying fund unless:

(1) SDD can be performed in Hong Kong under Schedule 2, Part 2, para 4 of AMLO or in Singapore under the relevant SDD provisions; or

(2) the FI can place reliance on a third party that performs the CDD as specified in Singapore and Hong Kong laws and regulations.

(D) **Where the fund is customer**

Where the fund is considered the customer for AML/CFT purposes, FIs should nonetheless identify the fund manager and verify the fund manager's identity due to the instructions issued and control exercised by the fund manager.

(E) **Capacity in which FI acts**

Where a FI is acting as:

(1) a prime broker, clearing broker, settlement agent or custodian, both the fund and the fund manager (due to instructions being provided by and control exercised by the fund manager) should be considered as customers; or

(2) an executing broker only, the fund manager (and not the investment vehicle / fund) should be considered as the customer.

3.1.3 **Trusts**

A similar approach should be adopted with respect to trusts. That is, the trustee should be considered the contracting party and thus the customer, although certain identification and verification information with respect to the trust should also be obtained.

3.1.4 **Third parties**

For third parties such as brokers, market infrastructures (such as clearing houses and exchanges), custodians and agent banks, KYC/CDD steps would still be required. Steps to be taken may include:

- perform SDD and check that the entity exists;
- confirm correct contact details;
- screen for negative news;[4] and
- confirm the third party is equivalently regulated and not a sanctioned party.

(A) **For third party brokers:**

(1) obtain licence proof to determine its regulated or licensed status from the relevant authorities. If the licensed status cannot be ascertained, escalate to compliance for further review;

(2) for Level 1 KYC:

(a) obtain proof of existence – constitutional documents such as a certificate of incorporation or registration of a company search from the register. For equivalently regulated FIs ("**ERFI**") or listed companies, obtain the latest printout from the regulator's or exchange's website which should evidence the full name and that it is currently regulated or listed and its stock code;

(b) a list of all controllers or directors – where a client has appointed corporate directors, it is required to identify the individuals of the corporate director who have been designated with the executive authority to perform directorate duties for the client;

[4] FIs should have in place proper screening procedures and policies. Such procedures and policies should minimally: (i) provide for adequate senior management oversight, (ii) provide sufficient guidance to staff on how to carry out the screening process, (iii) set out screening parameters and databases, and (iv) provide guidance on alert resolution when there are adverse search results.

(c) a list of beneficial owners:

(i) FIs may decide not to identify low-risk beneficial owners if the shareholder is an ERFI in an equivalent jurisdiction or a listed company with an approved exchange;

(ii) beneficial owner profile is required for a natural person including recent employment history (key roles or appointments), primary business activities, nationality and permanent residency and source of wealth (estimated net worth, assets and notable shareholdings); and

(iii) where there is a known nominee shareholder, it is required to identify the actual beneficial owner for whom the nominee shareholder is holding the shares on behalf of; and

(d) conduct Worldcheck screenings and adverse media checks via Google, Lexis Nexis, Factiva or any other relevant sources on all identified parties above;

(3) for Level 2 KYC, to be applied where there are positive matches from screenings and adverse news:

(a) further information to elaborate on issues or to corroborate the documentation received via Level 1 KYC;

(b) further documentation to verify the authenticity of the information gathered in Level 1 KYC; and

(c) engagement of a reputable external investigation agency to investigate into or review an entity or individual with a particular focus on financial crime or reputational risks.

(B) **For agent banks and custodian banks:**

(1) obtain licence proof to determine its regulated or licensed status from the relevant authorities. If the licensed status cannot be ascertained, escalate to compliance for further review;

(2) undertake red flag screenings which consist of basic checks on the entity to ensure the name is not subject to any sanctions or serious criminal-related issues, for example, by:

(a) conducting a sanction check using Worldcheck; and

(b) conducting an adverse media check using Google, Lexis Nexis, Factiva or any other relevant sources.

(C) **For clearing house and exchanges:**

(1) for client counterparty, conduct full KYC of ERFI or listed company. KYC requirements should be based on risk rating of the customer:

(a) where a client counterparty is determined to be low risk, such as where the customer is an approved exchange in an equivalent jurisdiction, to obtain:

(i) proof of regulated status from the regulator website for regulated financial institutions ("**RFIs**") and proof of listed status from the exchange's website;

(ii) phone number and address proof of the entity;

(iii) source of wealth where there are doubts as to the source of wealth;

(iv) list of all controllers; and

(v) board resolution authorizing list of all authorised signatories ("**AS**") / power of attorney ("**POA**");

(b) where a client counterparty is determined to be medium risk, to obtain:

(i) proof of regulated status from the regulator website for RFI and proof of listed status from the exchange's website;

(ii) phone number and address proof of the entity;

(iii) evidence of source of wealth, such as audited financials;

(iv) list of all controllers;

(v) list of 25% or more beneficial owners and their IDs (please note that if there are other risk factors, there may be a requirement to also identify and verify the beneficial owners who own less than 25%);

(vi) board resolution authorising list of all AS / POAs; and

(vii) Wolfsberg Questionnaire (for RFI only);

(c) where a client counterparty is determined to be high risk, to obtain:

(i) proof of regulated status from the regulator website for RFI and proof of listed status from the exchange's website;

(ii) phone number and address proof of the entity;

(iii) evidence of source of wealth, such as audited financials;

(iv) list of controllers and their IDs;

(v) list of 10% or more beneficial owners and their IDs;

(vi) board resolution authorising list of all AS / POAs and their IDs; and

(vii) Wolfsberg Questionnaire (for RFI only);

(d) for intermediary counterparties, where an account is not set up as a client counterparty and is set up for booking and settlement only, conduct Level 1 KYC and Level 2 KYC if applicable (refer to KYC requirements of Level 1 and 2 KYC under the third party brokers section above).

3.2 Determining whether a customer is a new customer

3.2.1 Historical customers

Where a FI has previously off-boarded a customer and then subsequently seeks to onboard that customer again, the customer should be treated as a new client and new documents should generally be obtained as shareholders, directors, authorised signatories etc. could have changed in the interim. However, it may be possible to refer to some documents previously obtained from the customer such as the certificate of incorporation.

3.3 **Recording names of all directors**

All directors should be identified. The best practice is to identify 'controllers' of the customer. This would be required anyway in a Foreign Account Tax Compliance Act ("**FATCA**") / Common Reporting Standard ("**CRS**") context where FIs would require this information.

4. CDD MEASURES – VERIFICATION OF CUSTOMER

4.1 Fund and fund manager context

With regard to verification processes, where the investment vehicle/fund is considered the customer, verification should include obtaining information and documents to verify the following:

4.1.1 **in respect of publicly traded funds:**

(A) the entity's existence;

(B) its publicly traded status, including identifying the name of the exchange it is listed on;

(C) the names of controlling management and directors of the fund;

(D) written confirmation from the investment vehicle/fund/fund manager that there is no individual investor holding more than a 25% interest in the fund (assuming that the publicly traded fund is listed on an exchange where it is subject to regulatory disclosure requirements, and requirements relating to adequate transparency in respect of its beneficial owners that are imposed through stock exchange rules, law or other enforceable means); and

(E) if there are any individual investors who hold more than a 25% interest in the fund, identifying such investors and undertaking reasonable risk-based measures to verify their identity;

4.1.2 **in respect of equivalently regulated funds** (where such fund is managed by a financial institution that is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF):

(A) the entity's existence;

(B) its regulated status, for example by obtaining a copy of the applicable regulator's register;

(C) the names of controlling management and directors of the fund;

(D) written confirmation from the investment vehicle/fund/fund manager that there is no individual investor holding more than a 25% interest in the fund; and

(E) if there are any individual investors who hold more than a 25% interest in the fund, identifying such investors and undertaking reasonable risk-based measures to verify their identity;

4.1.3 **in respect of pension funds** (generally considered to be low risk)**:**

(A) the entity's existence;

(B) its pension fund status, for example by obtaining evidence that it is registered as a pension scheme; and

(C) the name of the relevant employer entity, although this may be difficult in practice as there may be multiple employers associated with a single pension scheme;

4.1.4 **in respect of other funds such as hedge funds which are not equivalently regulated, unless reliance is placed on an equivalently regulated third party such as a fund manager or administrator:**

(A) the entity's existence;

(B) the names of controlling management and directors of the fund;

(C) consider the investment/holding structure of the fund and determine a threshold level (eg. 25% interest in the fund), where the FI will identify any individual investor whose interest in the fund is above the threshold level and undertake risk-based measures to verify the identities of such individual investors; and

(D) if reliance is placed on an equivalently regulated third party, the FI should take steps to understand the degree and nature of CDD measures (including sanctions) that the equivalently regulated third party had applied to the underlying investors, and the FI should conduct its own CDD if the third party's CDD measures were found to be insufficient.

4.2 **Use of third-party search reports to verify**

4.2.1 For a Hong Kong incorporated company, a FI may verify information using the Hong Kong company search reports. Alternatively, a FI may obtain from the customer a certified true copy of a company search report certified by the company registry or a professional third party. Company search reports should have been issued within last 6 months.

4.2.2 Similarly, for a Singapore incorporated company, a FI may verify information by procuring the customer's Bizfile report from the Accounting and Corporate Regulatory Authority.

4.2.3 It is not sufficient for the report to be self-certified by the customer.

4.2.4 If a FI has obtained a company search report which contains information such as certificate of incorporation, company's memorandum and articles of association, etc., the FI is not required to obtain the same information again from the customer.

4.3 **Remote onboarding**

4.3.1 In the case of non-face-to-face onboarding, FIs should ensure that the measures and technology solutions adopted are recognised as acceptable forms of identification and certification to satisfy the required KYC/AML standards. For example, FIs should adopt appropriate and effective processes and technologies[5] to obtain customers' biometric data for authentication, and should adopt digital identification measures recognised in the relevant jurisdictions (e.g. iAM Smart in Hong Kong and MyInfo in Singapore). FIs should regularly review the effectiveness of such procedures and technologies.

4.3.2 FIs should also ensure any remote onboarding procedures adopted are no less effective and robust than face-to-face onboarding procedures.

4.3.3 FIs should consider whether supplemental measures should be implemented, for instance:

(A) arranging for a local branch (with equivalent standards of control procedure in place) to perform identification and certification procedures on an overseas client on behalf of the FI;

(B) holding real-time video conference that is comparable to face-to-face communication, in addition to providing electronic copies of identification documents;

[5] With reference to international standards and best practices such as ISO/IEC 19795 (Biometric performance testing and reporting) and ISO/IEC 30107 (Biometric presentation attack detection).

(C) using new technology solutions such as biometric technologies (e.g. fingerprint or iris scans, facial recognition), which should be linked incontrovertibly to the customer;

(D) verifying the customer's information against reliable and independent databases or performing a check sum digit test to identify data validation errors in the customer's identification documents; and

(E) requiring the customer to designate a bank account to make an initial deposit and conduct future deposits and withdrawals.

5. BENEFICIAL OWNERS OF CUSTOMERS – IDENTIFICATION AND VERIFICATION

5.1 Fund and fund manager context

5.1.1 FIs may adopt a RBA and consider if SDD can be applied or if they can rely on the CDD performed by a third party (such as the fund manager or administrator).

5.1.2 Where neither SDD nor reliance is available:

(A) the FI will need to consider the investment/holding structure of the fund and determine a threshold level (eg. 25% interest in the fund); and

(B) if the fund manager or administrator confirms there is an individual investor whose interest in the fund is above the threshold level, the FI will need to identify such investors and take reasonable measures to verify the identities of these investors using the relevant information or data obtained from reliable, independent sources.

5.1.3 In addition to identifying and verifying beneficial owners, FIs should take reasonable measures to verify the identity of any individual who exercises ultimate control over management of corporation.

5.2 Identifying and verifying companies with complex ownership or control structures

In view of the fact that there is no clear definition of what constitutes a 'complex' ownership or control structure, the following non-exhaustive list has been suggested as examples of when a complex ownership or control structure might be found to exist:

5.2.1 multiple levels of ownership for no apparent economic reason;

5.2.2 owning/controlling structures that are formed in multiple jurisdictions (and in particular, in offshore financial centres);

5.2.3 differing ownership and controlling entity types (e.g. personal holding companies, trusts, insurance companies, nominee agents or directors);

5.2.4 loop ownership structures;

5.2.5 excessive use of trusts or unincorporated entities in the ownership structure for no apparent economic reason;

5.2.6 use of nominee shareholders and/or directors; and

5.2.7 multiple shareholders with shareholding percentage slightly lower than the relevant beneficial owner thresholds (e.g. 9.99%).

5.3 Wealth management vehicles

FIs ought to be cognisant of the additional ML/TF risks when dealing with legal structures/arrangements used for the purpose of wealth management (such as family offices) established for the benefit of the beneficial owners. FIs should obtain a clear understanding of the purpose of the legal

structure/arrangement used, and assess whether there is a legitimate purpose for the use of complex structures/arrangements. In particular, FIs should seek to adequately understand and identify key controllers behind the structures/arrangements used, beyond obtaining the ownership structure which may only depict the legal owner of the entity.[6]

6. CDD – ESTABLISHING BUSINESS RELATIONSHIP

6.1 Obtaining information as to intended purpose and reason – Fund context

FIs should take reasonable measures to understand:

6.1.1 the nature and purpose of the fund (e.g. pension fund, hedge fund, private equity fund, etc.);

6.1.2 the fund's investment objectives and strategies; and

6.1.3 the nature of the products and services being provided to the fund.

7. CDD – PERSON PURPORTING TO / APPOINTED TO ACT ON BEHALF OF THE CUSTOMER ("PPTA")

7.1 Identifying and verifying identity of PPTA

7.1.1 Legal persons (e.g. corporates) are represented by their directors and/or authorised signatories. Where directors and/or authorised signatories act as PPTA, the FI should identify and verify these individuals according to the individual standard (by obtaining at least the following information – full name, unique identification number, residential address, date of birth, and nationality).

7.1.2 The FI should verify the above information by checking against reliable, independent source data, documents or information (eg. government-issued identity cards or passports, independent company registries, published or audited annual reports).

7.1.3 Where there is a long list of natural persons appointed as PPTA (e.g. a list comprising more than 10 authorised signatories), the FI should identify and verify at a minimum those natural persons who will deal directly with it.

7.1.4 Where a business relationship with a legal person is assessed to be low ML/TF risk, such that SDD is applicable, FIs could verify the PPTAs' identities by reference to a list of PPTAs, whose identities and authority to act have been confirmed by a department or person within the customer which is independent to the PPTAs (e.g. compliance, audit or human resources).

7.2 Verifying authority of PPTA to act on behalf of customer

A POA and or board resolution or similar written authorization should be obtained to see that the PPTA has authority to do so. That POA or board resolution or similar written authorization should identify that the person is representing the customer.

7.3 Fund and fund manager context

A FI should take the following steps to satisfy itself of the authority of a fund manager to act on behalf of the fund:

7.3.1 for execution only activity, such authority may be confirmed through standard terms of business issued to the fund manager and/or the investment management agreement, as well as establishment of a fund sub-account by the fund manager;

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[6] FIs should take note of prospective customers that withdraw their applications due to an inability or unwillingness to provide requisite CDD information, and consider the need to file a suspicious transaction report for such cases.

7.3.2 for other trading activity / products, understanding authority to act may be confirmed through:

(A) legal contractual agreements in place, such as International Swaps and Derivatives Association ("**ISDA**") Master Agreement;

(B) if the fund manager is equivalently regulated, by written confirmation from the fund manager itself;

(C) independent and reliable sources available in public domain such as regulatory filings or prospectus documentation; and/or

(D) documentary evidence such as copy of investment management agreement.

8. CROSS-BORDER CORRESPONDENT RELATIONSHIPS

8.1 FIs are required to carry out additional due diligence[7] and risk mitigating measures for cross-border correspondent relationships[8], where a FI ("**Correspondent Institution**") conducts business for or on behalf of customers through a FI in another jurisdiction ("**Respondent Institution**") without direct relationships with the underlying customers. The additional due diligence requirements include:

8.1.1 gathering sufficient information about the Respondent Institution to understand fully the nature of its business, and to determine its reputation and quality of supervision;

8.1.2 assessing the Respondent Institution's AML/CFT controls;

8.1.3 obtaining senior management approval before establishing new correspondent relationships;

8.1.4 understanding the respective AML/CFT responsibilities between the Correspondent Institution and the Respondent Institution;

8.1.5 where the underlying customers have direct access to the correspondent account, taking steps and being satisfied that the Respondent Institution has conducted CDD on the underlying customers, and is able to provide the relevant CDD information upon request by the Correspondent Institution.

8.2 The Correspondent Institution should also consider the following factors:

8.2.1 the business group to which the Respondent Institution belongs, country of incorporation, and the countries or jurisdictions in which subsidiaries and branches of the group are located;

8.2.2 information about the Respondent Institution's management and ownership, reputation, major business activities, target markets, customer base and their locations;

8.2.3 the purpose of the services provided to the Respondent Institution and expected business volume; and

8.2.4 the potential use of the account by other respondent institutions in a 'nested' correspondent account relationship (ie. where the correspondent account relationship is used by a number of other respondent institutions through their relationships with the Respondent Institution).

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[7] See the ASIFMA sample cross-border correspondent relationship baseline due diligence questionnaire (accessible here: https://www.asifma.org/wp-content/uploads/2022/05/2022-04-baseline-ddq-questions-.pdf) and the sample extensive due diligence questionnaire (accessible here: https://www.asifma.org/wp-content/uploads/2022/05/annex-1-extensive-xbcr-ddq-april-2022.pdf).

[8] Depending on the jurisdiction, correspondent relationships typically refer to the Correspondent Institution providing banking services or account services to the Respondent Institution. Such services may include dealing in securities, dealing in future contracts, or leveraged foreign exchange trading.

8.3 Once the Correspondent Institution obtains adequate information (as required above) to establish a correspondent account relationship, such information should continue to be updated on a periodic basis thereafter.

8.4 **In-scope business relationships**

Example of a typical in-scope business relationship is where the Correspondent Institution provides its services to a Respondent Institution, and the underlying customers of that Respondent Institution are not customers of the Correspondent Institution. The transactions are initiated by the underlying customers, not the Respondent Institution.

8.5 **Out-of-scope business relationships**

Where a FI that is a domestic asset management firm is under a delegated mandate conferred by a FI in another jurisdiction, i.e. the transactions are initiated by the domestic asset management firm based on a delegated mandate rather than by the customer (the overseas delegating FI), such relationships do not attract additional due diligence requirements.

8.6 **Cross-border correspondent relationships with affiliates**

A business relationship with an overseas affiliate may be an in-scope relationship if the underlying customers of the overseas affiliate (i.e. the Respondent Institution) are not customers of the FI (i.e. the Correspondent Institution). Although additional due diligence requirements apply, the process may be streamlined where there is effective implementation of group AML/CFT policy and group-wide AML/CFT systems, and such systems are supervised at the group-level by a competent authority.

8.7 **Asset managers - platform fund distribution**

The use of the platform fund distribution model may be considered nested correspondent relationships. Additional due diligence requirements may apply where the sub-distributor is able to place orders directly with the asset manager, and the asset manager is able to identify and differentiate the orders from a sub-contractor.

9. THIRD-PARTY DEPOSITS AND PAYMENTS

9.1 **Identifying third-party deposits and payments**

FIs should clearly define, in policies and procedures approved by senior management:

9.1.1 the monitoring systems and controls to identify third-party deposits and payments into accounts maintained with the FI (e.g. FIs may obtain supporting documents from customers to ascertain whether deposits came from third parties); and

9.1.2 the exceptional and legitimate circumstances under which third-party deposits and payment requests may be accepted, having regard to the customer's profile and normal commercial practices.

9.2 **Due diligence process for assessing third-party deposits and payments**

Not all third-party payors and payees pose the same level of ML/TF risk. FIs should take reasonable measures on a RBA to verify the identities of third party payors or payees and ascertain their relationship with the FIs' customers.

9.2.1 Examples of third-party payors or payees generally considered to pose relatively low risk include:

(A) immediate family members (e.g. a spouse, parent or child)[9];

(B) beneficial owners and affiliated companies of corporate customers[10];

(C) regulated custodians; or

(D) lending institutions.

9.2.2 Examples of situations considered to pose higher risks (e.g. where FIs should exercise extra caution) may include situations where:

(A) the relationship between the customer and the third-party payor or payee is hard to verify;

(B) the customer is unable to provide details of the identity of the third-party payor or payee for verification before a deposit or payment is made; or

(C) one third-party payor is making payments for several seemingly unrelated customers.

FIs are encouraged to require customers to designate accounts held in their own names or the names of acceptable third parties for making of all deposits and withdrawals.

For cross-border deposits and payments, FIs should identify cross-border payments that lack information relating to the wire transfer originator or information relating to the wire transfer beneficiary. If the identity of the wire transfer beneficiary had not been previously verified, the FI (as the beneficiary FI) should identify and verify the identity of the wire transfer beneficiary.

FIs should also implement appropriate internal risk-based policies, procedures and controls for determining when to execute, reject or suspend cross-border deposits and payments that lack the required payor information or required payee information, and the appropriate follow-up action.

9.3 Delayed due diligence on the source of a deposit or evaluation of a third-party deposit

As a general rule, FIs should perform due diligence on the source of a deposit and evaluate any third-party deposit before settling transactions with the deposited funds. However, FIs may, in exceptional situations, complete the third-party deposit due diligence after settling transactions with the deposited funds provided that (a) any risk of ML/TF arising from the delay in completing the third-party deposit due diligence can be effectively managed; (b) it is necessary to avoid interruption of the normal conduct of business with the customer; and (c) the third-party deposit due diligence is completed as soon as possible after settling transactions with the deposited funds.

If a FI allows third-party deposit due diligence to be delayed in exceptional situations, it should establish a reasonable timeframe for the completion of the third-party deposit due diligence, and the follow-up actions if the stipulated timeframe is exceeded (e.g. to suspend or terminate the business relationship).

9.4 Third-party deposits in the fund and fund manager context

Deposits from any person other than the customer of the FI will be considered to be a third-party deposit.

9.4.1 Where the investment vehicle is a customer of a FI

Where the investment vehicle's bank account is operated by another payment service provider acting independently as a custodian, the funds deposited by the custodian are a third-party deposit.

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9 Where the third-party payors or payees are immediate family members who are also politically exposed persons ("**PEP**"), additional due diligence measures will apply.

10 Where beneficial owners of corporate customers are PEPs, additional due diligence measures will apply.

9.4.2 **Where the investor or distributor subscribing to a collective investment scheme ("CIS") is a customer of a FI**

Where the investor or distributor subscribes to a CIS with third-party funds, such funds will be considered third-party deposits.

10. WHEN CDD MEASURES MUST BE CARRIED OUT

10.1 Fund and fund manager context

Where a fund manager is not equivalently regulated and therefore CDD is required to be performed on both the fund manager and the fund, it may be difficult to perform full CDD measures on the fund in a securities trading context before business relations are established. This is because FIs may not necessarily know in advance which underlying funds the trade will be allocated to at the time of accepting trade instructions and/or it would be difficult to perform full CDD before trade settlement.

Block trades by fund managers also frequently involve allocations that are made after the trade is booked. It may be possible to perform 'light KYC' at the fund level (e.g. name of fund, domicile and link to the fund manager).

In the above circumstances, members can perform CDD on the fund manager and complete CDD on the fund within 30 days of trade execution on an exceptional and case-by-case basis.

11. SIMPLIFIED CUSTOMER DUE DILIGENCE

11.1 Investment vehicle – When SDD may not be applied

In respect of funds which are not regulated in an equivalent jurisdiction, unless reliance is placed on an equivalently regulated third party such as a fund manager or administrator, the following CDD should be performed:

11.1.1 confirming the entity's existence;

11.1.2 determining the names of controlling management and directors of the fund;

11.1.3 determining whether there are any individual investors who hold 25% or more of the interest in the fund and taking reasonable risk based measures to verify their identity (please note that if there are other risk factors, there may be a requirement to also identify and verify the beneficial owners who own less than 25%); and

11.1.4 if reliance is placed on an equivalently regulated third party, the FI should take steps to understand the degree and nature of CDD measures (including sanctions) that the equivalently regulated third party had applied to the underlying investors, and the FI should conduct its own CDD if the third party's CDD measures were found to be insufficient.

The above approach is only suitable if the investment/fund is the contracting party (i.e. deemed as FI's client). The investment vehicle can be in different legal forms (e.g. corporation, partnership, trust, etc.).

12. DUTY TO CONTINUOUSLY MONITOR BUSINESS RELATIONSHIPS

12.1 When to review information

In the situation where information is still outstanding at the time of review, the nature of the outstanding information needs to be considered. If it is a material piece of information such as information relating to the ownership structure of the customer or an ultimate beneficial owner, then the FI should consult compliance as to whether it can continue the relationship with the customer.

Alternatively, if the outstanding information is less significant, such as a missing certification, consider whether an extension can be granted.

12.2 **Reviewing information – High risk customers**

FIs should review all client documents at a minimum of every year for high-risk clients, or more frequent reviews if deemed necessary by the FI.

As part of ongoing monitoring, FIs should remain watchful of anomalous transaction spikes and unexpected fund flows with third parties or purportedly for business purposes, especially to or from higher risk jurisdictions. FIs are strongly encouraged to make use of data analytics to strengthen the monitoring for such unusual transaction patterns and to identify customer networks of concern.

12.3 **Reviewing existing CDD practices**

FIs should also periodically review their existing CDD practices in high growth areas and ensure that both front-line and control functions are functioning effectively. FIs should conduct additional quality assurance testing on key control areas relating to the identification of higher risk customers, and corroboration of the source of wealth and source of funds of customers. If existing CDD controls are found to be inadequate, FIs should promptly enhance their existing CDD practices to address the specific risks and ensure that higher risk customers continue to be identified for closer scrutiny.

13. **RISK BASED APPROACH**

13.1 **Customer risk – Funds and fund managers**

13.1.1 The following list is of non-exhaustive factors that FIs may take into consideration when assessing the risk of a fund manager which is not equivalently regulated:

(A) history of operations and reputation of the fund manager, including its key controlling personnel;

(B) whether the fund manager has any relevant history of regulatory enforcement action for AML/CFT obligations;

(C) the ML/TF risks associated with the products/services provided;

(D) the nature of the type of funds managed by the fund manager;

(E) the risk profile of the underlying investor base;

(F) whether there have been any transactions associated with the fund manager that have given rise to a suspicious activity report;

(G) geographic risks applicable to the fund(s) and underlying investor base;

(H) escalation to business or compliance for review and acceptance of the risks; and

(I) ongoing assessment of the risk throughout the life of the relationship.

13.1.2 If a fund manager is not equivalently regulated, then full CDD should be performed on both the fund manager and the underlying fund unless:

(A) SDD can be performed under Hong Kong or Singapore laws (as applicable);

(B) if the fund or fund manager is not equivalently regulated, then it would be hard to argue that there was low risk; or

(C) the FI can place reliance on a third party as specified in the Hong Kong or Singapore laws and regulations.

13.1.3 Nevertheless, a number of factors that will need to be taken into account to apply such a RBA. For example, depending on the risk profile of the jurisdiction where the fund manager is regulated, the general nature of the funds managed by the fund manager and whether there are any suspicious indicators that ML/TF activities may be involved, enhanced due diligence may be required.

14. CARRYING OUT CDD MEASURES BY MEANS OF INTERMEDIARIES / THIRD PARTIES

14.1 Use of intermediaries for CDD

Unless an intermediary is from a FATF jurisdiction, FIs have to evaluate and determine which jurisdictions impose requirements 'similar' to those imposed in Hong Kong and/or Singapore.

14.2 Reliance on specified domestic intermediaries / third parties – FIs

14.2.1 To determine if a domestic intermediary satisfies the criteria for reliance, FIs should:

(A) make enquiries concerning the domestic intermediary's stature or the extent to which any group AML/CFT standards are applied and audited;

(B) review the AML/CFT policies and procedures of the domestic intermediary; and

(C) ensure that the domestic intermediary is able and willing to provide without delay, upon the FI's request, any data, documents or information obtained by the domestic intermediary with respect to the measures applied on the FI's customer, which the FI would be required or would want to obtain.

14.2.2 Examples of steps FIs can take to justify that they can place reliance on other ERFIs performing due diligence include:

(A) sending out a Wolfsberg Questionnaire;

(B) conducting a more formal review of AML policies and procedures of the ERFI;

(C) sending a letter asking for information about the ERFI's AML policies and procedures; and

(D) procuring confirmation from the ERFI that it is able and willing to provide to the FI its data, documents and any other CDD information on the FI's customer.

14.3 Suitability and reliability of intermediary

14.3.1 How to determine and document comparability with local laws

Non-exhaustive examples of data and information which may be used to determine that the particular jurisdiction where the intermediary is carrying on business or practising is equivalent include:

(A) Transparency International's Corruption Perceptions Index;

(B) whether the jurisdiction is on a tax 'black' or 'grey' list;

(C) FIs equivalently regulated by 'category A' parents;

(D) oversight by a body which demands compliance with AML standards (e.g. Office of the Comptroller of the Currency (OCC));

(E) reports issued by international organisations such as the Asia/Pacific Group on Money Laundering (APG) and the Caribbean Financial Action Task Force (CFATF);

(F) assessments performed by/professional advice received from external counsel; and

(G) basic comparison of KYC/AML laws and regulations.

15. DOCUMENTATION

15.1 Documents in foreign language

15.1.1 Persons suitably qualified to perform translations

Persons considered by members to be 'suitably qualified' to perform translations may include (the below list is non-exhaustive):

(A) persons who work in the FIs own group;

(B) equivalently regulated intermediaries;

(C) lawyers and accountants;

(D) translation companies;

(E) banker independent to customer relationships; and

(F) local office of the FI.

15.1.2 Translation of non-Latin names for screening

There are sophisticated screening tools which can screen in local non-Latin characters.

15.2 Independent suitable certifiers

Where certified copies of documents which are not identification documents cannot or will not be provided by customers, provided the sanctions and PEPs screening is clear, FIs may fall back to trying to obtain information from a public source (e.g. from Bloomberg or from Thomson Reuters).

16. CONCLUSION

16.1 Effective AML measures in the banking sector are essential to ensure that FIs can perform their gatekeeper roles and are able to conduct robust, risk-based KYC to manage ML/TF risks. We hope that these best practices serve as a guide to FIs to benchmark their existing practices against best practices standards in the industry, to drive harmonisation in the industry and in the region, and to ensure that international standards and obligations for KYC/AML are met.

16.2 It is important to note that these best practices have been prepared to suit the current regulatory requirements as of February 2024 and should be reviewed and revised regularly in accordance with amended laws, regulations and regulatory guidance as appropriate.

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