



AML/CFT NEWSLETTER

ISSUE 4 DECEMBER 2021



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HIDING IN PLAIN SIGHT STRATEGY - BENEFICIAL OWNERSHIP CONCEALMENT

The concealment of beneficial ownership continues to be a major strategy utilized by criminals. One of the primary challenges with this is, in many cases the strategy employed is not necessarily illegal. Anonymity is a money launderer's prized possession. Money launderers deliberately opt for anonymous and complex corporate structure to aid with the obscuring of corporate vehicles for the primary purpose of hiding their identity and the true purpose and source of funds processed through the account. Concealment of the beneficial ownership allows money launders to easily store, transfer and access their funds. While beneficial ownership may sound like an industry buzz word, this strategy referred to as "hiding-in-plain sight," where criminals leveraging global trade and commerce infrastructures to appear legitimate, is not new.

The Financial Action Task Force (FATF) Guidance on Transparency and Beneficial Ownership October 2014 defines ‘beneficial owner’ as a 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 persons who exercise ultimate effective control over a legal person or arrangement.

The Challenge

Accessing a company’s profiling information may be easy, which includes; identifying the names of directors and staff, company location, and contact information. However, identifying the persons owning and controlling the company may sometimes be comparable to “finding a needle in haystack”. Some of the main contributing factors include:

- 1) Absence or inadequate beneficial ownership requirements and guidelines within legislation;
- 2) Absence of the application of a risk-based approach to acquiring beneficial ownership information; and
- 3) Difficulty in accessing adequate and up-to-date beneficial ownership information.

The Fix

Compliance with FATF Recommendation 24

As a starting point, countries should understand and apply FATF Recommendation 24 - Transparency and Beneficial Ownership of Legal Persons. The FATF requires that countries take measures to prevent the misuse of legal persons for money laundering (ML), terrorist financing (TF) and proliferation financing (PF).

Recommendation 24 requires competent authorities to obtain, or have access in a timely fashion to, adequate, accurate and current information on the beneficial ownership and control of companies and other legal persons (beneficial ownership information that are created in the country).

As part of the process of ensuring that there is adequate transparency regarding legal persons, the recommendation requires countries to have mechanisms that:

- (a) Identify and describe the different types, forms and basic features of legal persons in the country.

- (b) Identify and describe the processes for:
 - (i) the creation of those legal persons; and
 - (ii) obtaining and recording of basic beneficial ownership information.

- (c) Make the above information publicly available.

- (d) Assess the ML and TF risks associated with different types of legal persons created in the country.

Following its October 2021 plenary meeting, the FATF released its proposed revised version of Recommendation 24, to further strengthen the international standards on beneficial ownership as part of its continued efforts to fight against the abuse of anonymous and complex structures. This issue is of global concern, hence the FATF engaged stakeholders to provide feedback on the proposed changes by 3 December 2021 in view of releasing the revised Recommendations.

The revisions propose inter alia:

Accessing Beneficial ownership information

The establishment of a compulsory beneficial ownership registry or an alternative system that also enables access by competent authorities to accurate, adequate and up-to-date information on beneficial ownership.

Application of a risk-based approach for foreign legal persons

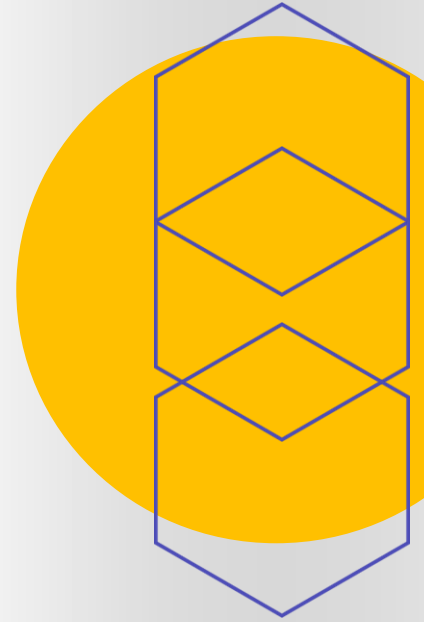
To reduce occurrences of beneficial ownership concealment through cross-border ownership structures, countries would be required to assess the ML risks associated with foreign-created legal persons, and take appropriate steps to manage and mitigate those risks through the application of a risk-based approach.

Prevention of abuse of bearer shares

Implement measures to prevent the abuse of bearer shares and nominee arrangements. Bearer shares without any traceability and associated warrants should be subject to additional controls, without inadvertently applying excessive controls to traceable and legitimate uses of such instruments. The FATF also proposes that countries should use any additional supplementary measures that are necessary, to ensure that the beneficial ownership of a company can be determined.

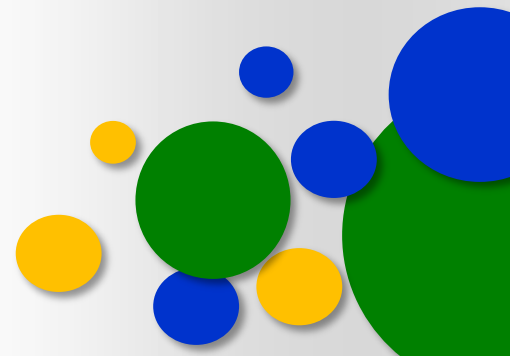
What should Licensed Financial Institutions do?

- Understand legislative requirements as it relates to their operating jurisdictions.
- Establish and maintain reasonable customer due diligence and enhanced due diligence measures taking into consideration the country's regulations, international best practices and risk appetite, to understand the ownership structure and identify and verify beneficial ownership information.
- Make a determination based on the information obtained (or not obtained) as to whether an entity poses heightened ML/TF/PF risk. Entities identified as posing a heightened level of risk should be subjected to enhanced due diligence measures which are reasonably designed to enable compliance with the requirements of the legislation and international best practices. This may include, reasonably understanding the purpose for opening the account, the sources and uses of funds to be transacted on the account, and where necessary, understanding the relationship between the customer and the beneficial owner.
- Monitor accounts and transactions to assess whether transactions are in keeping with expected activities, particularly where a customer has been identified as posing a heightened level of risk.
- Sharing of information within entities as permitted by legislation.



MEET OUR NEW TEAM MEMBER!

Suzette Lewis - is an Examiner I in the AML Supervisory Unit. She brings to the role over twelve (12) years of regulatory and supervisory experience in the financial services industry with specialized knowledge of the insurance, pension and the money services business sectors. Suzette holds a BSc in Economics and Accounting and a Masters in Finance.



REGULATORY UPDATES

Anguilla and the Commonwealth of Dominica removed from the EU list of non-cooperative jurisdictions

On 5 October 2021, Anguilla and the Commonwealth of Dominica were removed from the European Union's (EU) list of non-cooperative jurisdictions for tax purposes.

The countries were placed on the list due to failure to meet the EU's tax transparency criteria of being ranked as at least 'largely compliant' by the Organisation for Economic Co-operation and Development (OECD) Global Forum regarding the exchange of information on request. The delisting was preceded by the forum's decision to grant these jurisdictions a supplementary review on this matter. Pending the granted supplementary review, Anguilla and the Commonwealth of Dominica were included in the state of play document, which covers jurisdictions that do not yet comply with all international tax standards, but that have committed to implementing good tax governance principles.

Nine jurisdictions remain on the EU list of non-cooperative jurisdictions - American Samoa, Fiji, Guam, Palau, Panama, Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu.

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<https://www.consilium.europa.eu/en/press/press-releases/2021/10/05/taxation-anguilla-dominica-and-seychelles-removed-from-the-eu-list-of-non-cooperative-jurisdictions/>

Revised FATF Guidance on Virtual Assets and VASPs

In October 2021, the FATF released updated guidance to assist countries and the private sector with the application of its risk-based approach to virtual asset (VA) activities and virtual asset service providers (VASPs).

The FATF has continued to review and update this guidance based on feedback received from the industry. Importantly, the FATF acknowledges function over form and explains that VA activities should be analysed based on the services provided rather than whether they fit into the specific wording of the definitions. The guidance discusses decentralised finance (DeFi) and applications (DApps), peer-to-peer (P2P) transactions and also provides certain measures countries may take to mitigate these risks. The guidance also discusses the implementation of the "travel rule" and recommends VASPs that make transfers in cryptocurrency over USD\$1,000 share certain identifying details about the recipient.

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<https://www.fatf-gafi.org/media/fatf/documents/recommendations/Updated-Guidance-VA-VASP.pdf>



Outcomes FATF Plenary 19-21 October 2021



On 21 October 2021, the FATF released updates to its list of Jurisdictions under Increased Monitoring, or the “Grey List.” In the update, Jordan, Mali, and Turkey were added whilst Botswana and Mauritius were removed. There was no change to FATF’s High-Risk Jurisdictions subject to a Call for Action. The FATF’s “Grey List” and “Black List” are commonly used to assess ML/TF/PF geographic risk and country risk rating. Therefore, licensed financial institutions (LFIs) should consider whether they need to update their country risk ratings in response to these updates.

Additionally, the FATF agreed to release for consultation, the proposed revisions to its Recommendation 24 on beneficial ownership of legal persons to ensure greater transparency about the beneficial ownership of legal persons, and take action to mitigate the risks. In light of the recently released Pandora Papers these proposed revisions are intended to improve the quality of beneficial ownership information available to law enforcement and other authorities in a timely manner, facilitate international cooperation, and improve transparency around public procurement to combat corruption.

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<http://www.fatf-gafi.org/publications/fatfgeneral/documents/outcomes-fatf-plenary-october-2021.html>

CFATF re-rating of Antigua and Barbuda

Following the assessment of Antigua and Barbuda’s measures against ML and TF, the country has taken actions to strengthen its AML/CFT framework. The jurisdiction has been under enhanced monitoring since the adoption of its Mutual Evaluation Report in 2018.

In line with the Caribbean Financial Action Task Force (CFATF) Procedures for the Fourth Round of Mutual Evaluations (MEVAL), the country reported back to the CFATF on the actions it has taken since its MEVAL and its 2nd Enhanced Follow-up Report.

Consequently, to reflect the progress of Antigua and Barbuda, the CFATF has re-rated the country in relation to Recommendation 7 from Non-Compliant (NC) to Partially Compliant (PC); Recommendations 22 and 40 from PC to Largely Compliant (LC); Recommendations 28 and 37 from PC to Compliant (C.); and Recommendation 2 from LC to C. Antigua and Barbuda is now Compliant with 11 Recommendations and Largely Compliant on 25.



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<https://www.cfatf-gafic.org/home/cfatf-news/730-antigua-and-barbuda%E2%80%99s-progress-in-strengthening-measures-to-tackle-money-laundering-and-terrorist-financing>



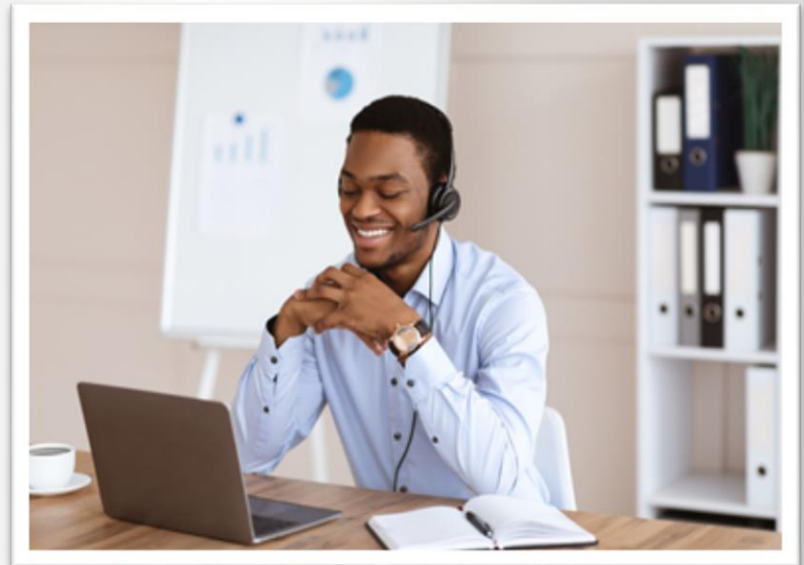
ECCB CORNER

Keeping you updated with the latest ECCB initiatives and developments.

ECCB-ACAMS ENTERPRISE MEMBERSHIP PROGRAMME

As part of its role to provide ongoing guidance and training to (LFIs in Anti Money Laundering, Combating the Financing of Terrorism and Proliferation Financing (AML/CFT/CPF), the ECCB has subscribed to an Enterprise Membership with the Association of Certified Anti-Money Laundering Specialists (ACAMS) for a limited number of participants. Under the Enterprise Membership, participants will have access to unlimited webinars offered by ACAMS, and will not be required to pay the annual ACAMS membership fees, while maintaining continuing professional development credits.

An invitation was also extended to the Eastern Caribbean Currency Union (ECCU) national authorities. Where applicable, these participants will benefit from discounted certification costs, should they intend to pursue the CAMS designation, seminars and conferences. The Membership Program will be launched in January 2022.



WORLD BANK RBA TOOLKIT MODULE 5 - PUBLIC/ PRIVATE SECTOR CONSULTATION

The ECCB and the ECCU national authorities continue to benefit from the receipt of technical assistance from the World Bank for the Risk-Based Approach (RBA) Toolkit, geared towards strengthening the risk-based supervision of AML/CFT. The RBA Toolkit includes a suite of seven interrelated modules and templates, which can support AML/CFT supervisors in developing practical skills to create an effective regulatory environment. The World Bank is currently moving forward with Module 5 of the RBA Toolkit training, which will include public and private sector interactions. Accordingly, on 15 November 2021, the first of three interactive sessions was held with the banking sector. The workshop included presentations from the FATF, World Bank and the International Finance Corporation.

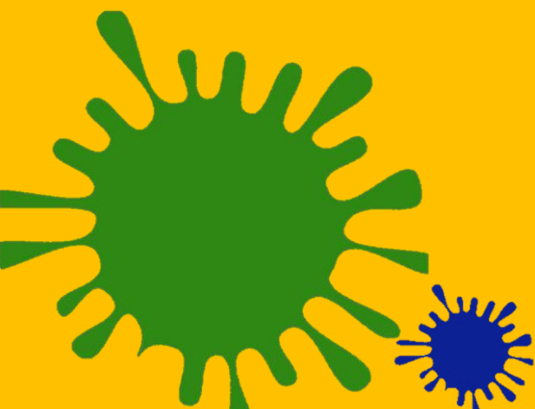


COVID-19 RELATED RISKS & VULNERABILITIES

Criminals continue to exploit the opportunities created by the pandemic across the globe. Financial institutions are therefore encouraged to remain vigilant and apply the necessary controls to manage and mitigate the following COVID-19 related ML/TF risks and vulnerabilities:

- General fraud in public tenders and embezzlement of funds destined to combat COVID-19;
- Fraud in contracts for the acquisition of hand gels and masks, medications and diagnostic tests for COVID-19;
- Overpricing of the sale of medical equipment to the detriment of public accounts and society;
- Purchases of unlicensed medical equipment;
- Increased misuse of online financial services and virtual assets to move and conceal illicit funds;
- Increased cyber-related scams, in particular email and SMS phishing schemes, business email compromise scams and ransomware attacks;
- Changing financial behaviours, in particular a rise in remote transactions, with impacts on financial institutions' ability to detect anomalies;
- Increased unemployment and transactions increases the risks that vulnerable citizens will be exploited as money mules;
- Exploitation of vulnerable groups through means such as human trafficking;
- Increased use of unregulated financial services;
- The misuse of non-profit organisations; and
- Criminals and terrorists increased involvement in new cash-intensive and high-liquidity lines of business both for the laundering of proceeds of crime and to fund their operations.

Source: FATF Update: COVID-19-related Money Laundering and Terrorist Financing (2020).



PROLIFERATION FINANCING RED FLAGS

- A transaction involves a person or entity in a foreign country of proliferation concern;
- The customer or counter-party or its address is similar to one of the parties found on publicly available lists of “denied persons” or has a history of export control contraventions;
- Customer activity does not match business profile, or end-user information does not match end-user’s business profile;
- A freight forwarding firm is listed as the product’s final destination;
- Order for goods is placed by firms or persons from foreign countries other than the country of the stated end-user;
- Circuitous route of shipment (if available) and/or circuitous route of financial transaction;
- Trade finance transaction involves shipment route (if available) through countries with weak export control laws or weak enforcement of export control laws;
- Transaction involves possible shell companies (e.g. companies do not have a high level of capitalisation or displays other shell company indicators);
- Transaction involves persons or companies (particularly trading companies) located in countries with weak export control laws or weak enforcement of export control laws; and
- Pattern of wire transfer activity that shows unusual patterns or has no apparent purpose.



Source: FATF GUIDANCE ON COUNTER PROLIFERATION FINANCING - The Implementation of Financial Provisions of United Nations Security Council Resolutions to Counter the Proliferation of Weapons of Mass Destruction (2018).

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<https://www.fatf-gafi.org/publications/financingofproliferation/documents/guidance-counter-proliferation-financing.html>



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2. Recommendation 1 of the FATF 40 Recommendations stipulates that “Countries should apply a Risk-Based Approach (RBA) to ensure that measures to prevent or mitigate ML and TF are commensurate with the risks identified”. How many steps are there when implementing a RBA?

- A. 5
- B. 4
- C. 6
- D. 7

4. Which FATF Recommendations require countries to comply with the United Nations Security Council Resolutions relating to the suppression and prevention of TF in addition to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing?

- A. Recommendations 5 and 6
- B. Recommendations 6 and 7
- C. Recommendations 4 and 7
- D. Recommendations 7 and 8

1. In which year did the Monetary Council agree for the ECCB to assume full responsibility for AML/CFT supervision of all institutions licensed under the Banking Act?

- A. 2012
- B. 2015
- C. 2010
- D. 2016

3. In Issue 2 (June 2021) of the AML/CFT Newsletter, the featured article on ‘Regulation in the midst of a Natural Disaster’ was authored by the Director of the Financial Intelligence Unit of which country?

- A. Saint Vincent and the Grenadines
- B. Commonwealth of Dominica
- C. Saint Lucia
- D. Antigua and Barbuda

5. All suspicious transactions, including attempted transactions, should be reported regardless of the amount of the transaction:

- A. True
- B. False



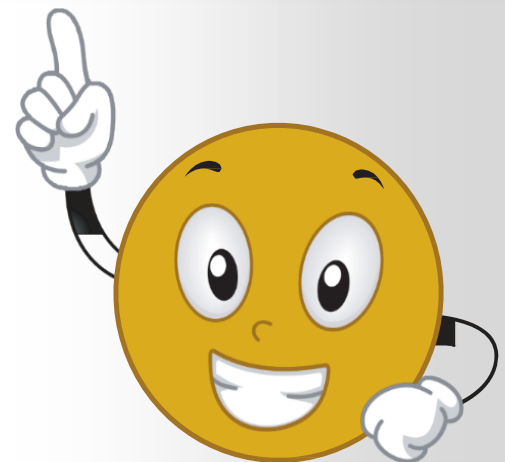
6. The ECCB launched its ML/TF/PF Prudential Return in May 2021 called the:
- A. PR10
 - B. PR14
 - C. PR06
 - D. PR12

Bonus Question

7. Which Eastern Caribbean country amended its Money Laundering (Prevention) Bill in December 2021 to name the ECCB as the authority responsible for the supervision of LFIs in relation to AML/CFT/CFP?
- A. Anguilla
 - B. Saint Vincent and the Grenadines
 - C. Saint Lucia
 - D. Grenada

Please make your submission to AMLSupervisoryUnit@eccb-centralbank.org.

The answers and winners will be published in the next issue of the newsletter!



REGULATORY BREACH

HSBC Fined GBP 63.9 Million for AML/CFT Deficiencies

HSBC is a member of the HSBC Group, which is one of the largest banking and financial service organization in the world operating in sixty-four (64) countries and territories. As part of its transaction monitoring procedure, HSBC used automated processes to monitor hundreds of millions of transactions per month to help identify potential instances of financial crime.

In December 2021, The Financial Conduct Authority (FCA) reported that it has imposed a fine of GBP 63.9 million. The FCA identified three (3) key areas of HSBC's transaction monitoring systems which revealed severe deficiencies from the period 31 March 2010 to 31 March 2018, this represented a period spanning eight (8) years.

HSBC failed to:

- Verify the accuracy and completeness of data inputted into and contained within its transaction monitoring systems;
- Update and adequately test the parameters within its systems which were used to determine whether a transaction was indicative of potential suspicious activity; and
- Assess whether the scenarios used to identify TF or AML considered relevant risks until 2014 and conduct relevant risk assessments for new scenarios after 2016.

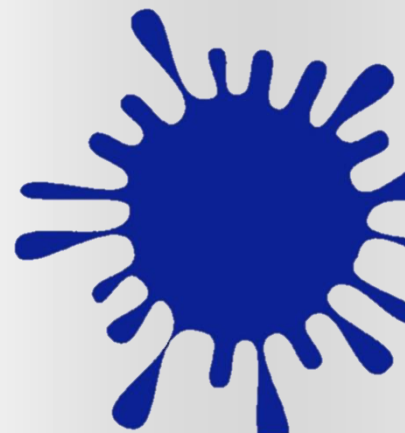
The FCA imposed a financial penalty of GBP 91.3 million on HSBC, however since the institution accepted the findings and agreed to settle the penalty on a timely basis, a 30.0 per cent discount was applied and the bank was fined GBP 63.9 million.

The FCA indicated that HSBC's transaction monitoring system remained ineffective for a prolong period of time despite the fact that the deficiencies were previously highlighted on several occasions. They further indicated that these deficiencies or failings exposed the community and bank to avoidable risks.

HSBC was also previously fined USD 1.92 billion by United States authorities in 2012 for deficiencies with its ML programme.

Lessons learnt

- Having a transaction monitoring system as part of an AML/CFT framework is critical, however LFIs must ensure that these systems are effective and relevant;
- Deficiencies in AML/CFT transaction monitoring can affect the "bottom line" of banks and result in reputational risks; and
- LFIs must ensure that deficiencies which are highlighted by the competent authorities or regulators are addressed or remedied on a timely basis.





The AML Supervisory Unit would like to wish you and your family a bright, healthy and prosperous

New Year!

We look forward to working with you in

2022



Thank you!

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