ANTI-MONEY LAUNDERING AND COMBATTING THE FINANCING OF TERRORISM OBLIGATIONS FOR REGULATED ENTITIES

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AML/CFT/PF Obligations Outline

1. Risk based approach – Institutional Risk Assessments

2. Customer Due Diligence

3. Compliance Programme

4. Suspicious transaction reporting, Large Cash Transaction Reports

6. UN Sanctions Screening and Implementation of Targeted Sanctions

7. Penalties for Non-compliance

AML/CFT/PF Institutional Risk Assessments

- Risk Based Approach (RBA) a requirement as per FATF Rec1.
- RBA is at 3 levels (National, Sectoral and Institutional levels)
- MLPC Act (9:24) Sec.12B: Every financial **institution shall:**
  a) assess the money laundering and terrorist financing risks to which it is exposed, and shall maintain adequate records thereof.
  b) implement prescribed AML/CFT measures, commensurate with the identified risks;
  c) review and update its risk assessment regularly to take into account material changes in risk factors and shall maintain records of such reviews and updates
  d) Before launching any **new product, service or business practice**, and before the **use of any new technological innovation**, for both new and existing products, shall assess and document the ML/TF risk posed by such, and put in place adequate measures to mitigate the risk

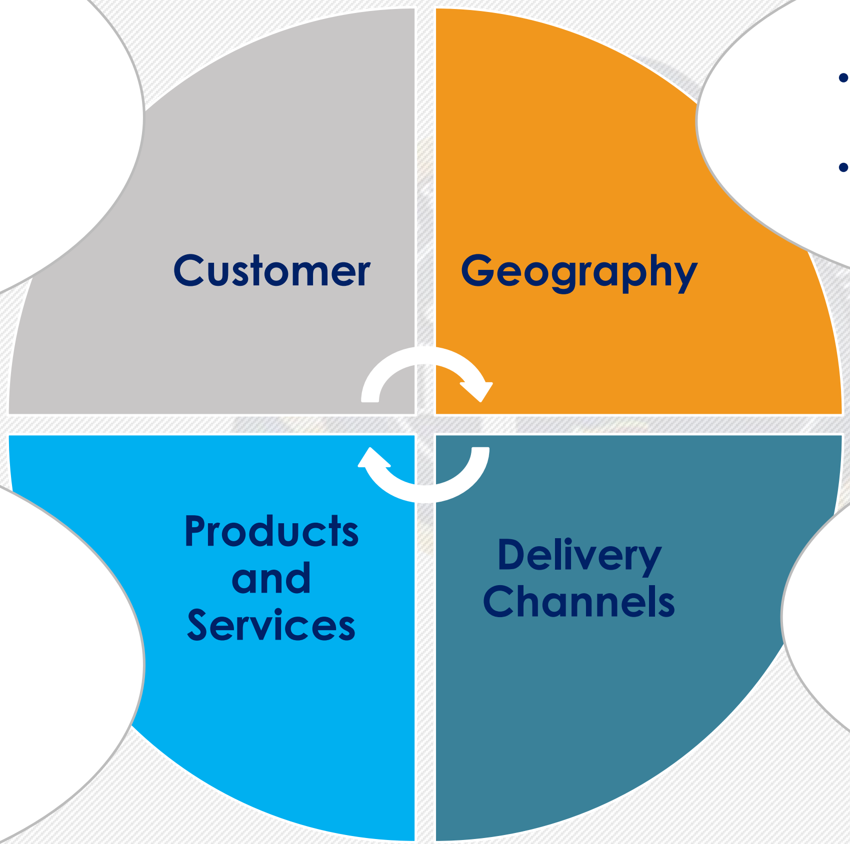
AML/CFT/PF Institutional Risk Assessments

- FIU issued ***Guidance on Implementation of Targeted Financial Sanctions relating to Terrorism and Proliferation Financing –July 2021***
- RBA requires financial institutions to identify, assess and understand the TF and PF risks to which they are exposed, and to take commensurate measures to mitigate such risks.
- The TF/PF risk assessment should be conducted as part of the institutional risk assessment (IRA).
- The IRA must consider the TF and PF risks that the institution can be exposed to, directly or indirectly.
- Risk factors are informed by **business model and risk appetite** of an entity

Risk Factors and Indicators

- **PEPs (statutory)**
- High net worth clients
- Non-resident (including from High risk countries

- Cross border risk – High risk jurisdictions
- Domestic – crime hot spots



- Products that offer premium refunds upon cancellation
- High cash value products
- Acceptance of frequent payment outside normal premium/payment schedule

Non-face to face – online
Agents, Brokers,
Bancassurancers

Customer Due Diligence, Enhanced Due Diligence and Ongoing Monitoring

Sections 15-20 of the MLPC Act

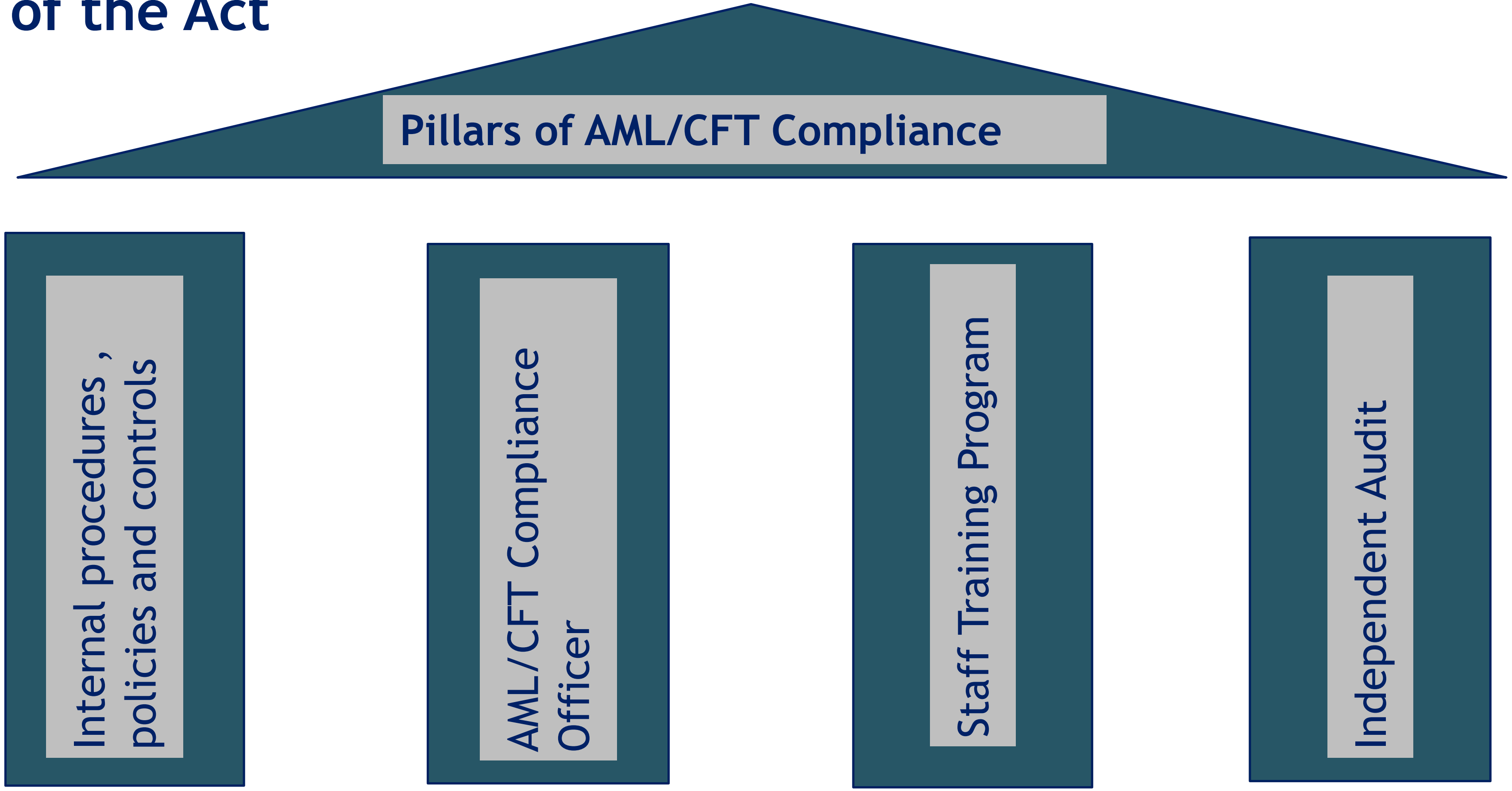
- A reporting entity should define clear CDD processes that will enable it to know its customers.
- Financial Institutions are required to apply all steps ((a-d), but the extent of application should be determined using a Risk Based Approach.

Stage (a)	Stage (b)	Stage (c)	Stage (d)
• Identifying and verifying customer identity	• Identifying the beneficial owner	• Purpose and intended nature of the business relationship	• Undertaking ongoing due diligence through scrutiny of transactions monitoring sources of funds

- Simplified Due Diligence – Applied for low risk customers
- Standard Due Diligence – Applied on moderate risk customers
- Enhanced due diligence - Applied for identified high risk customers (**PEPs, Non-resident Clients, NGOs, Trusts etc**)

Four Pillars of AML/CFT Compliance

- **Section 25 of the Act**



Obligation to Report Suspicious Transactions

a) Requirement in terms of **Section 30(1)** of the MLPC Act.
b) Reports are made in prescribed form through the GoAML platform, to the FIU.
c) Report shall be submitted to the FIU promptly, and not later than three (3) working days from the time when the suspicion arises

Section 31 (2) of the Act

- Prohibits a reporting entity from disclosing to its customer or to a third party the filing of a suspicious transaction report to the FIU.

Submission of Large Cash Transaction Reports

Section 30(6)- entities are required to submit threshold cash based reports

- FIU Directive Issued on 26 June 2021 – Thresholds
  - a) CTR ZWL250 000
  - b) EFT ZWL 500 000
  - c) IFR US$1 000
- CTRs must submitted monthly – on or before the 10th of each month
- CTRs must be submitted in compliance with any applicable directive issued by the FIU, regardless of whether or not the transaction is suspicious.
- If a transaction is suspicious and also meets the CTR reporting threshold, it must be reported **separately**, both as an STR and as a CTR.

Implementation of Targeted Financial Sanctions - United Nations Security Council Resolutions

- The United Nations Security Council has issued Resolutions to combat terrorist financing and proliferation of weapons of mass destruction;
- Resolutions operationalised through Suppression of Foreign and International Terrorism Act [11:21] 2007; S.I. 76 of 2014: and S.I. 110 of 2021;
- UNSCR 1267,1373 and successor Resolutions – Financial Sanctions against individual terrorists and terrorist organisations – SI. 76 of 2014
- UNSCR 1540 and successor Resolutions – Financial Sanctions against financing of proliferation of weapons of mass destruction - SI.110 of 2021
- **Financials Institutions should "without delay" report and freeze funds or other assets of individuals and entities and report to FIU within 24 hours.**

Transaction Screening

- Provision of financial services to anyone suspected of involvement in terrorist related activity is an offence.
- Reporting entities should have procedures for:
  - screening all new customers against United Nations Security Council Sanctions Lists.
  - dealing with positive matches;
  - escalating reports on such matters.
- On an ongoing basis, new listings should also be screened against the institution's customer database to make sure no customers are now listed.
- A reporting entity should retain records of its screening process and its outcomes in respect of the various sanctions listings.
- The relevant information and full listings of persons designated by UNSC are found on the UN website. **https://www.un.org/securitycouncil/sanctions/information**

Penalties For Non-compliance With AML/CFT/PF Obligations

- Non-compliance with any of the AML/CFT obligations under the Act or the obligations relating to the implementation of Targeted Financial Sanctions under SI 76 of 2014, SI 110 of 2021 can attract either criminal sanctions.
- Criminal and civil penalties are enforceable against:
  i. the reporting entity, its employees, directors or agents, or both the institution and the responsible individuals.
- Administrative penalties are enforceable by the FIU under section 5 of the MLPC Act. FIU can, among other enforcement measures –
  - Impose a financial penalty against the institution / business or any of its employees, directors or agents; and/or
  - Order the removal of any employee, director or shareholder; and/or
  - Require the FI's to take specified remedial action.

AML/CFT/PF Quarterly Reporting Template

DISCUSSION AND QUESTIONS