

Session I: Better communication and understanding of CFT challenges

Strict implementation of laws, improving vigilance and enhancing due diligence



European Union – Middle East and North Africa Private Sector Dialogue on “Combating Financing Terrorism”

Strict implementation of laws, improving vigilance and enhancing due diligence

1 - Combating financing terrorism raises specific challenges compared to “traditional” anti Money laundering:

- Money laundering: giving a legal appearance to dirty money



- Terrorist financing: obscuring assets of a “legal” origin
 - Donation through non-profit organizations
 - Raising funds through modern communication networks
 - Money from sales of assets (crude oil, refined petroleum...)

2 – But strict implementation of laws, improving vigilance and enhancing due diligence are the same basics to be used

1 – Strict implementation of laws (1/6)

❑ Legal framework on the fight against the financing of terrorism:

Measures related to the prevention of terrorist financing which are embedded in the global AML/CFT legal framework

Specific measures relating to the freeze of terrorist assets

❑ Recent international and national initiatives on combating financial terrorism:

FAFT

Plenary meeting of 24-27th February 2015:

- Statement on action to make sure of implementing measures to freeze terrorist funds and stop terrorist financing
- Report on the typologies of financing of the terrorist organization Islamic State in Iraq and the Levant (ISIL).

Europe

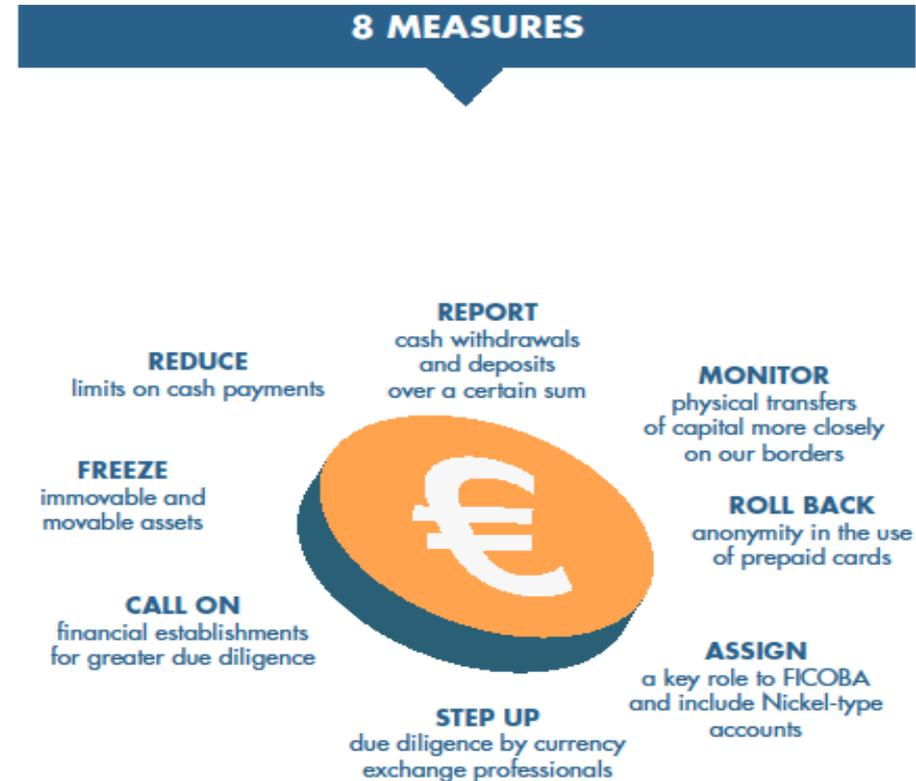
- Adoption of the 4th anti-money laundering directive and the amended Regulation on information on the payer accompanying transfers of funds
- The Council and the Commission agreed to take decisive action against terrorist financing and call for further efforts towards speeding up national implementation of those rules

France

The Ministry of finance has launched an action plan

1 – Strict implementation of laws (2/6)

French action plan to counter terrorist financing (March 2015)



« Money is always and everywhere the sinews of war: terrorists need vital funds to buy weapons, vehicles and arsenals. International action to counter terrorist financing is a bastion of peace and security in the world. »

Michal Sapin speaking to FATF representatives on 24 February 2015

1 – Strict implementation of laws (3/6)

1.1.- Financial institutions should be required to:

- define and update an AML/CFT Business wide Risk Assessment, as regards their activities, depending on the degree of exposure to their risks, assessed in particular according to the nature of the products and services offered, the transactional terms, the distribution channels and the customers' characteristics,
- define policies and procedures adapted to their Money Laundering/Terrorist Financing (ML-TF) risks,
- put in place an efficient on going monitoring system to detect atypical and suspicious transactions,
- put in place an efficient system to immediately detect and identify *persons subject to restrictive measures of freezing of assets or funds.*

1.2. - Financial institutions should have suspicious reporting obligation to a financial intelligence unit

1 – Strict implementation of laws (4/6)

1.3. - Financial Institutions should be required to implement **customer due diligence (CDD)** obligations on a risk-based approach, according to their AML/CFT Business wide Risk Assessment (simplified due diligence in low risk; enhanced due diligence in high risk situations)

❑ **Basic CDD before establishing a business relationship :**

- ⇒ identification and verification of identity of the customer and if any, the beneficial owner
- ⇒ obtaining information on the purpose and intended nature of the business relationship (know your customer- KYC)
- ⇒ otherwise, no business relationship establishment

❑ **Basic CDD during the business relationship :**

- ⇒ regularly updating the KYC
- ⇒ on going monitoring of the consistency between transactions and KYC

1 – Strict implementation of laws (5/6)

1.4. - In some cases of high risks, **enhanced due diligence should be required by law** :

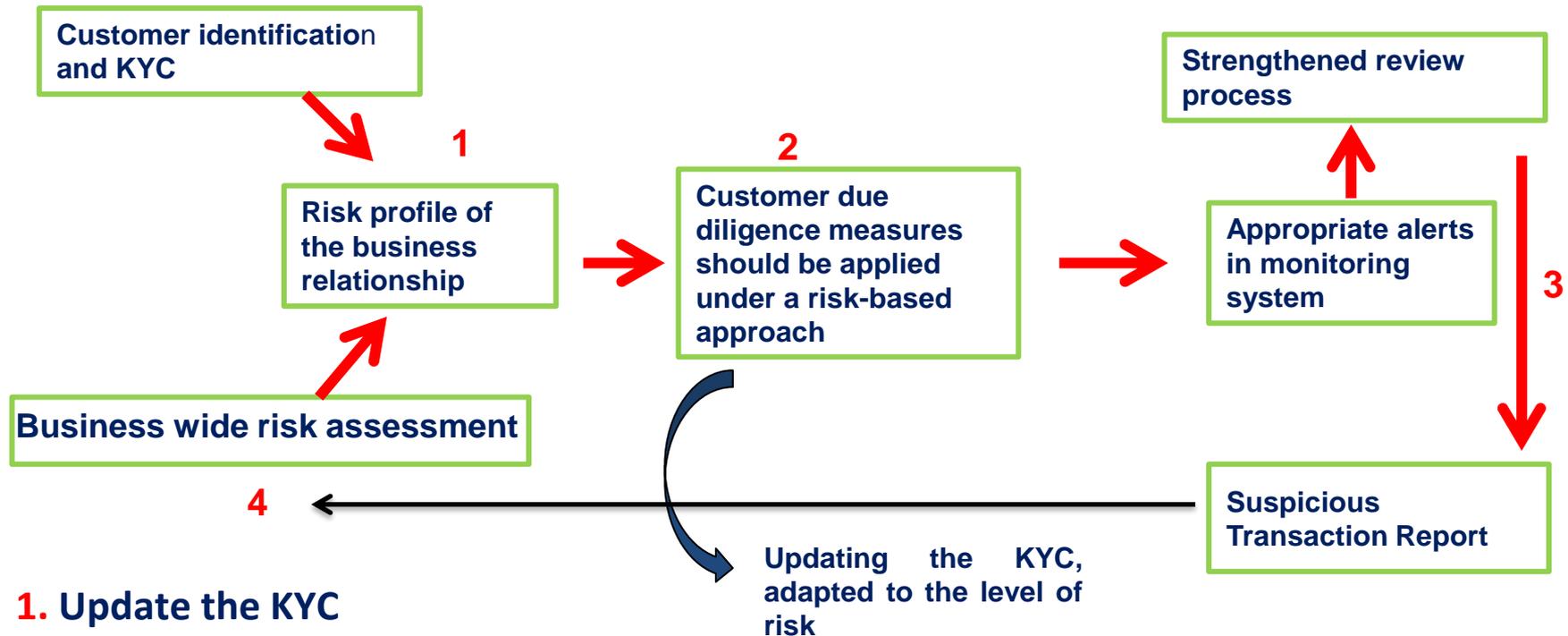
- Non face to face customers or distance transactions
- Politically exposed persons, their close family and associates
- Anonymous products (payment by cash in France is limited to 1000 euros)
- Transactions with persons situated in countries listed for insufficient AML-CFT regulation by the FATF
- Correspondent banking with financial institutions situated in some countries
- For complex or unusually important transactions or transactions having no economic rationale or lawful purpose : **verification of origin and destination of funds is required**

1 – Strict implementation of laws (6/6)

- For example, in France, for high FT risks activities :
 - **Money remittance**: identification and verification of the occasional customer, and if any, of the beneficial owner, is required from the first euro;
 - **Bureaux de change** are required to identify and verify the identity of the client, and if any, of the beneficial owner from 8000€ (the threshold will be lowered after the plan of action decided in March 2015 by the Ministry of Finance came into force)
 - Limitation of **anonymous electronic money**
 - ✓ exclusively used for the acquisition of goods and services
 - ✓ in certain limited amounts (ie, 250 euros for non-rechargeable instruments)

2 - Improving vigilance and enhancing due diligence (1/4)

2.1. - Banks are the first line of defense against financial crimes



1. Update the KYC
2. Adapt the degree of CDD measures
3. Monitoring system
4. Update the business wide risk assessment

2 - Improving vigilance and enhancing due diligence (2/4)

2.2. – Key components of an AML/CFT system:

The right culture

- Involvement of high level management
- Awareness, training and involving the staff

The right focus

- Adequate assessment of ML-TF risks and CDD measures regarding the nature of activity and the characteristics of the customer

The right monitoring

- An efficient monitoring system
- Treating all alerts in due delay

The right safety

- AML-CFT integrated within the internal control system
- Protection of those who report

2 - Improving vigilance and enhancing due diligence (3/4)

2.3. – But banks and supervisors face new challenges:

- Small operators can act as agents for money transmitters with the challenge applying AML-CFT rules
- New technologies (prepaid cards, mobile technologies) where the “old” banking relationships does not apply
- Despite international efforts, still lack of transparency in some entities/trust arrangements
- Applying adequate and consistent procedures in the all group (foreign branches and subsidiaries)
- A growing trend in the outsourcing and off-shoring of AML functions which may weakened the process
- Trade finance should make better use of AML resources

2 - Improving vigilance and enhancing due diligence (4/4)

2.4. – Need to improve actions at the international level:

As stated in its March action plan, France recently reaffirmed its priority to counter terrorist financing in a move supported by its partners who are set to make significant progress with:

- The need to step up the investigate powers of FIU in Europe so as to form an efficient network covering the entire European Union
- The regulation of virtual currencies
- Setting up registers on bank and payment accounts among countries which have not yet a register of this type
- Bolstering European freezing capacities, since it is unacceptable to freeze an account in one European city, but not in another one just a few miles away