



## AML/CFT Compliance Report

### Guidance for completing return of Inherent Risk Data

In line with the EU Fourth Anti-Money Laundering Directive and the Financial Action Task Force (FATF) Recommendations (2013), the emphasis in anti-money laundering and combating the funding of terrorism (AML/CFT) compliance and its supervision is increasingly being placed on the effectiveness of implementation of preventive measures. As a foundation for this risk-based approach, it is important to identify areas of high vulnerability to potential money laundering and funding of terrorism (ML/FT).

The FIAU is requesting your input to an additional data collection exercise, to assist in the further development of risk-based AML/CFT supervision. The AML/CFT Compliance Report has been developed as a pilot data collection exercise which will assist also in finalising the design of future Annual Compliance Reports.

The Report is organised into separate worksheets, and its structure benefits from the published FATF guidance on the implementation of a risk-based approach, with risk factors analysed mainly by:

- Customer;
- Product/Service;
- Distribution channel; and
- Geography.

Instructions for completion:

- All questions should be answered, leaving no sections blank.
- If precise data is not available, a close estimate should be provided, in which case add 'E' (for estimate) beside the entry.
- If the requested data is not relevant for your business, insert 'N/A' (to indicate: not applicable).
- If the requested data is relevant but you cannot provide them in the form requested, insert 'N/K' (to indicate: not known).

In general, as the form identifies a range of high-risk categories of customer and business to which the Subject Person would be expected to apply close scrutiny, the requested data should be available. It is recognised that there may be cases where the data is difficult to source in the detail requested. Where noted on the form, the Subject Person may use close estimates where precise data cannot be compiled fully within the reporting timeframe.

Subject Persons should be thorough and as accurate as possible in completing the form. The reported data may be subject to on-site verification as part of a future supervisory visit.

The completed form, authorised by a senior officer of the Subject Person, should be submitted via email to [compliance@fiumalta.org](mailto:compliance@fiumalta.org) by not later than Thursday 31<sup>st</sup> August 2017.

### Guidance on countries

Several questions refer to countries per region in the world:

- European Economic Area (EEA)
- Other European countries that are not part of the EEA (European/non-EEA)
- Countries in the Middle-East – Northern African region (MENA)
- Countries that are part of the Commonwealth of Independent States (CIS)
- Countries in Asia
- Countries in America

Or to a classification of countries, UN/EU sanctioned countries, FATF-listed countries, other high-risk countries, international financial centres:

- **EU/UN sanctioned countries** refer to jurisdictions listed by the EU and/or UN as subject to financial or economic sanctions. In the worksheet of high risk countries, the jurisdictions where financial or economic sanctions apply have been listed. These countries are indicated with '1' in the relevant column. For reference, the latest EU listing may be found at [https://eeas.europa.eu/sites/eeas/files/restrictive\\_measures-2017-01-17-clean.pdf](https://eeas.europa.eu/sites/eeas/files/restrictive_measures-2017-01-17-clean.pdf)
- **FATF-listed countries** refer to Categories 1-3 countries of the FATF list of jurisdictions that are considered by the FATF to pose a high risk of ML/FT in view of a number of identified strategic deficiencies within their AML/CFT regime. These jurisdictions are listed in the worksheet on high risk countries and are also indicated with '1' in the relevant column. The latest listings may be found on the FATF's website: [www.fatf-gafi.org](http://www.fatf-gafi.org) (**FATF's Public Statement** and the **Statement on Improving Global AML/CFT Compliance: On-going Process**) or you can refer to the website of the FIAU under the section 'Statements' (<http://fiumalta.org/FATF>).

**Category 1:** Jurisdictions that have strategic AML/CFT deficiencies and to which counter-measures apply.

**Category 2:** Jurisdictions with strategic AML/CFT deficiencies that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies.

**Category 3:** Jurisdictions with strategic AML/CFT deficiencies that have developed an action plan with the FATF and have made a high-level commitment to address their AML/CFT deficiencies.

For further information on the FATF Public Statements and to seek further clarification as to how these jurisdictions are categorised, you can refer to the Guidance Note that was issued by the FIAU on High-Risk and Non-Cooperative Jurisdictions contained within Appendix III of the Implementing Procedures.

- **Other high-risk countries** are also listed in the worksheet on high risk countries. The Transparency International's Corruption Perception Index (CPI) is used as a point of reference. As a basis for identifying consistently across all reporting entities, a selection of countries with a CPI less than 50 are listed. These countries are indicated with '1' in the relevant column. The lower the ranking on the CPI the higher the risk for corruption.

The latest CPI Index can be accessed by following this link:

[http://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](http://www.transparency.org/news/feature/corruption_perceptions_index_2016)

- The term '**international financial centre**' is used for convenience to categorise jurisdictions known for their business with non-resident customers. For purposes of consistency of reporting and statistical analysis, a listing of such centres is included. This list should not be regarded as having any official standing or endorsement.

Note that, under the risk-based approach, it is up to each Subject Person to determine the countries they consider of higher risk and to implement risk-appropriate enhanced due diligence for business conducted in relation to those countries. The basis chosen for analysis in this form should not be considered a direction as the basis to be employed by the Subject Person in practice to identify higher-risk jurisdictions. It remains the responsibility of each Subject Person to determine the jurisdictions they consider to present a higher risk of ML and/or FT and to implement appropriate risk-based preventive measures accordingly.

## Guidance on individual worksheets

### General

This worksheet captures basic data relating to the business and structure of the Subject Person and its staffing.

### Internal Risk Profile

While the data collected will contribute to an independent supervisory assessment of the ML/FT risks in each Subject Person, the form also requests Subject Persons to include the results of their internal risk assessments. The headings provided are for general guidance only and should be replaced by the Subject Person with the risk classifications that are in use internally. If necessary, additional columns should be added.

Subject Persons are requested to provide separate risk analysis of their customer base, if available, by 'Individuals' (natural persons) and 'Corporates', to include legal persons, trusts and other legal arrangements. At a minimum, the 'All Customer' row should be completed.

### Customers

A detailed analysis is requested of business conducted during the reporting period with categories of customer generally perceived to present a higher risk of money laundering or financing of terrorism.

- *Politically-exposed persons (PEPs)* – Ensure that the classification of PEPs used includes all components as defined in the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR), including family members and close associates. In addition to addressing domestic (Maltese) PEPs and foreign PEPs, the analysis requests data for business conducted with PEPs who hold leading positions in international organisations (e.g. International Monetary Fund, World Bank, European Union). Where Ultimate beneficial owners (UBOs) of companies or legal arrangements who are customers of the Subject Person are themselves PEPs, analysis of business conducted with them should be included in the section provided.
- *Private banking / wealth management* – This category should be used for customers classified by the Subject Person under either of these headings or any equivalent title or description used by the Subject Person to categorise high-net-worth customers served by a specialist business unit. It includes both private and corporate private banking customers. The threshold level required for acceptance as a customer of such a specialist business unit should be inserted into the box provided.
- *Legal persons with complex ownership structures* – It is not feasible to provide a straightforward definition for this category, as there are multiple possible

permutations of ownership structures and 'complexity' needs to be considered in the context of the Subject Person's knowledge of the structure, its economic purpose and its beneficial ownership. As guidance, include corporate customers owned or controlled by structures that include trusts, foundations or other legal arrangements. In general, include also corporate customers with two or more legal persons in their ownership structure, particularly if the ultimate beneficial ownership is outside Malta, unless the economic basis for and reason for the complexity of the structure is clearly understood by the Subject Person.

### **Products/Services**

- *Asset-covered loans* – Credit facilities for which there is little or no credit risk for the Subject Person but that can carry material ML/TF risks. May also be known as loans collateralised (by cash, deposit balances or other realisable assets) or 'back-to-back' loans.
- *Non-cash deposits* – Deposits to accounts by means of cheques, drafts or other negotiable instruments.
- *Trade finance* - Examples of trade financing are: letters of credit, open account facilities, trade credit insurance and documentary collection (e.g. bill of lading, certificate of origin).
- *Respondent banks* refers to the accounts of other banks that are held at the Subject Person (loro or vostro accounts) with the purpose of providing a wide range of banking services. The data should also include so-called downstream or nested accounts where the respondent bank provides correspondent services to other banks, domiciled inside or outside their country, to facilitate international products and services (e.g., when a regional savings bank offers correspondent services to the local savings banks in its area).
- *Payable-through facilities* refers to customers that are allowed direct access to bank's correspondent accounts with other banks.

### **Geography**

These questions capture the country risks that can occur because of business with customers or UBO's in/from a country, transactions to/from the country (irrespective of the location of the customer).

The Subject Person is requested to add the ISO alpha-3 code of the top 5 or top 10 countries where customers and UBO's are residing, as well as for bank transfers received and bank transfers sent. In the worksheet 'country codes' all ISO alpha 3-codes are listed.

The Subject Person should determine based on residency or incorporation of all customers per region in the world (EEA, European/non-EEA, MENA, CIS, Asia, Americas) or classification of countries (UN/EU sanctioned countries, FATF listed countries, other high-risk countries, international financial centres) in which countries most of their customers have residency or are incorporated. Per country or classification of countries, the total number of these customers as well as their total balances or funds under management should be provided.

Similarly for UBOs, based on an overview of all UBO's the Subject Person determines the top 5 or top 10 of countries per region or classification of countries where most UBO's are residing.

The subject person should also provide the same data for bank transfers received from or sent to per top 5 or 10 countries. This should also include amounts received/sent by means of SEPA, SWIFT or other equivalent system, for or on behalf of customers. Interbank (wholesale) or own-account transfers should be excluded.

#### **Distribution channels**

- Intermediary refers to a third party that introduces a client to the subject person, whereby the main client contact stays with the intermediary (e.g., insurance brokers and insurance companies).
- Introduced business refers to the situation where a client is introduced to the subject person by a third party, whereby after introduction the introducers plays no or no significant role in the business relationship.