Revised Implementing Procedures Part 1 – Section 4.3 Identification & Verification

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Overview of Session

- The Concept of Identification and Verification of Customers
- Verification of Identity in Face-to-Face Scenarios
- Verification of Identity in Non-Face-to-Face Scenarios
- Identification and Verification of Legal Entities and Arrangements
Identification and Verification - Introduction

- **Regulation 7(1)(a) - PMFLTR**
  
  Customer due diligence measures shall consist in:
  
  (a) the identification of the customer, and the verification of the identity of the customer on the basis of documents, data or information obtained from a reliable and independent source:

- **Identification** – The obtainment of a set or personal and identifying details on the customer

- **Verification** – Verifying these personal details against documentation, data or information obtained from reliable and independent sources
Identification and Verification - Introduction

- **Regulation 7(8) - PMFLTR**

  The extent of the customer due diligence measures shall be commensurate to the risks of money laundering and funding of terrorism identified through the risk assessment carried out in terms of regulation 5(1) and may vary from case to case.

- To this effect Implementing Procedures offer more flexibility:
  - Set Principles / Standards
  - Provides Guidance
  - Flexible on measures / means that can be adopted

- Subject persons shall demonstrate that CDD measures are commensurate to the risks of ML/FT identified through CRA.
Identification

**Standard:**
- Official Full Name
- Place and Date of Birth
- Residential Address
- Nationality
- Identity Reference Number

**Low Risk:**
- Official Full Name
- Date of Birth
- Residential Address
Verification

- **Verification consists in:**
  - Verifying that a customer exists;
  - Customer is who he/she purports to be;

- **Verification has to be carried out by making use of documentation, data or information obtained from reliable and independent source/s:**
  - Independent - Source which is independent of the customer
  - Reliable – Reputable and trusted. This depends on various criteria (e.g. Jurisdiction of issuance of document, whether it is issued by a public authority or private entity, whether the private entity is a regulated entity etc)
Verification – Face-to-Face Scenarios

- **Standard Verification Requirements:**
  - Referring to government issued documents or other documents recognised as legal means of identity; and
  - Which contain photographic evidence of identity.

- Passport
- Identity Card
- Residence Card
- Driving License

Unexpired
Verification – Face-to-Face Scenarios

- **Verification of Residential Address:**
  - Residential Address can be verified using the same document used to verify the customer’s identity (ID Card, Passport, Driving License etc).
  - Where such document does not make reference to residence another document has to be obtained:
    - Correspondence from government authority, department or agency;
    - Official conduct certificates
    - Any government issued document
    - Statements or letters of reference issued by licensed financial entities
    - Utility Bills;
    - Lease Contract
  
  _Not more than 6 months old_
Verification – Face-to-Face Scenarios

- Verification of Residential Address
  
  Where utility bills are used these are issued in connection with utility services linked to a residential property.

Mobile Telephony Bill  

Fixed Telephony Bill
Verification – Face-to-Face Scenarios

- Verification of Residential Address – Alternative Measures
  - Mailing of correspondence
  - Mailing of automatically generated codes

- Records to be kept in such cases:
  - Proof that the client was reachable at that address
    - (tracking report + copy of correspondence signed by customer); or
    - Advice of delivery signed by customer
  - Evidence that automated code was received (e.g. inputting of received code on on-line platform)
Verification – Face-to-Face Scenarios

- Verification in Exceptional Scenarios - IPs recognise that there are exceptional circumstances where standard identification documentation cannot be provided.

Is it because identification documentation does not exist? Or Is it avoidance or reluctance by customer to provide documentation?

- Examples of Exceptional Scenarios (Identification details do not exist or Customer does not possess standard documentation):
  - Asylum Seekers
  - Customers having temporary addresses
  - Individuals Residing in Residential Care
  - Minors
Verification – Face-to-Face Scenarios

- Verification in Exceptional Scenarios
  - In such cases subject persons need to adopt alternative measures that give reasonable confidence of identity verification and bearing in mind the risk posed by the particular relationship or transaction:

- Examples:
  - Customer residing in residential care – Letter from the administrator/s
  - Minors – Birth certificates and verifying the identity of the parents/legal guardians
  - Asylum Seekers / Refugees – FIAU Guidance on AML/CFT Obligations in relation to Payment Accounts with Basic Features
Verification – Face-to-Face Scenarios

- **Records to be kept**
  - Verification on the basis of documents:
    - Original (where possible)
    - True Copy of Original (Dated and signed by subject person official)
    - Alternatively use electronic systems to scan original documents which:
      - Keep record of official scanning the document
      - Keep record of date and time of scanning
      - Have safeguards against alteration or tampering of data
Verification – Face-to-Face Scenarios

- **Records to be kept** – Documents received or retrieved electronically
  - Utility Bills, Banks Statement or Other documents received by customers in electronic version are acceptable
  - Subject persons should assess their reliability (e.g. Background checks on utility company and consider format of document)
  - Subject person should date document or retain receipt email

- **Records to be kept** – Exceptional Scenarios
  - Record of document obtained for verification purposes (original / true copy);
  - Document reasons for recurring to exceptional measure
  - Reasons for considering alternative measure adopted as suitable
Verification – Face-to-Face Scenarios

➢ Authenticity Checks

- Revised IPs provide guidance how to check whether documents have been forged or tampered with:
  - Examine that the optical security features on the document are visible
  - Examine the lamination to check for any signs of tampering e.g. border around the photographic image or raised surfaces
  - Uneven document colours, non-uniformity of text, font or typeface
  - Verify or decode the MRZ code
Verification – Face-to-Face Scenarios

- Authenticity Checks – Open Sources of Information
  - www.edisontd.net
Verification – Non-Face-to-Face Scenarios

- **Introductory Concepts**

  - Online or Remote type of business / service poses a higher risk of customer impersonation:
    - Clients are not met physically and are unable to present original documents;
    - Ease of accessing service at any time, from anywhere and in a rapid manner;
    - Possibility of setting fictitious accounts or multiple accounts and avoid detection

  - Business Relationships or Occasional Transactions established on a non-face–to-face basis are not to be automatically treated as high risk. A holistic CRA determines the risk.
Verification – Non-Face-to-Face Scenarios

- Means of verifying identity of remote customers

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<td>1. Use of commercial electronic data providers</td>
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<td>2. Use of E-Ids or Bank-IDs</td>
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Verification – Non-Face-to-Face Scenarios

- Transmission of Identification or other Documents in copies or original
  - A subject person may receive identification documents in copy via email or originals in case of utility bills or other documents used to verify the residential address;
  - When receiving documentation in copy or scanned format subject persons should be mindful of a number of factors:
    - Format of documents (such as formats that are easily tampered with)
    - Identification Documents issued in high or non-reputable third countries;
    - Documentation which does not seem to tally with details of the customer sending the documentation (e.g. Email address indicative of a different individual)
    - Documentation is clearly legible and in a language that is understood
Verification – Non-Face-to-Face Scenarios

- **Transmission of Identification or other Documents in copies or original**
  - Authenticity checks applicable in face-to-face scenarios can also be carried out (although to a more limited extent)
  - Subject persons should assess whether on the basis of the documentation obtained they are confident of having adequately verified the customer or whether additional checks are required
  - Determination should be made on the basis of the CRA outcome but also where doubts arise about the authenticity or adequacy of documentation

- **Additional Measures**
  - IPs provide a list of additional measures that may be applied
  - Examples – *Certification, Additional Documents, Transmission of Codes, Using information retrieved from customer’s electronic device etc*
Verification – Non-Face-to-Face Scenarios

➤ Video Conferencing Tools

- Video Call may be carried out after documents are sent or ID documents are made available throughout the call;
- A video live transmission through which the subject person and the client can make visual and verbal contact in a clear manner;
- The identification document is made visible during the video call and a series of checks to determine the authenticity of the document should be carried out. Checks may be carried out manually or in an automated manner;
- Ensure that the image of the client on the identification document matches the visual appearance of the client on video.
Verification – Non-Face to Face Scenarios

- Video Conferencing Tools – Records
  - Audio recording or entire video call
  - Screenshot of the client’s facial image and date and time displayed by the video conference software
  - Screenshot of the identification document (all relevant pages or sides) – where this is made available throughout the video call
Verification – Non-Face-to-Face Scenarios

- Use of identity verification software
  - Making use of software that allows customers to upload facial images, video clips and scans of identification documents and carries the following checks:
    - **Visual Checks** – comparing client’s image sourced from ID document with a photo / video taken and uploaded by customer through the software (e.g. selfie) and confirming that both portray the same person;
    - **Document authentication check** – Verify the authenticity and validity of the identification document (IPs list a number of checks)
  
- An electronic copy of the id document and photo/video taken by the client should be automatically saved and the date and time of receipt should be recorded.
Verification – Non-Face-to-Face Scenarios

- Use of identity verification software
Verification – Non-Face-to-Face Scenarios

➢ Use of commercial electronic data providers
  ▪ Revised IPs Part I list a number of criteria that such service providers should satisfy:
    - Recognised or accredited service providers
    - Is bound through the recognition or accreditation to keep up data up to date and is monitored for continued compliance
    - Use a range of source of information
    - Accesses negative information sources (identity fraud databases or deceased persons databases)
    - Its process are transparent enabling subject person to checks

  ▪ Standard Level of Confirmation: 1st Match name and residential address – 2nd Match name and residential address or date of birth
Verification – Non-Face-to-Face Scenarios

- **Use of E-IDs**
  - Using systems such as E-IDs or Bank-IDs that allow the identity to be verified remotely.
  - System has to be recognized as a legally valid means of identification verification in the client’s jurisdiction.
  - System is administered or approved by government.
  - Retain evidence that all identification details have been verified in this manner and retain record of the system that has been used.

Subject Person

National Identity Register (Or Equivalent)
ID & V – Legal Entities and Arrangements

- **Regulation 7(1)(a) - PMLFTR**
  
  “...Provided that where the customer is a **body corporate**, a **body of persons**, or any other form of legal entity or arrangement, subject persons **shall also verify the legal status** of the customer and shall also **identify all directors** and, where the customer does not have directors, all such **persons vested with its administration and representation**;”

- **Regulation 7(1)(b) – PMLFTR**
  
  “the **identification**, where applicable, of the **beneficial owners**, and the taking of reasonable measures to **verify their identity** so that the subject person is satisfied of knowing who the beneficial owners are, including, in the case of a **body corporate**, foundations, trusts or similar legal arrangements, the **taking of reasonable measures to understand the ownership and control structure of the customer**;”
ID & V – Legal Entities and Arrangements

- **Identifying the legal entity or arrangement**
  - Obtaining a set of details depending on the type of entity or arrangement

- **Verification of legal entity / arrangement details**
  - Referring to independent and reliable sources / documents;
    - IPs Provide a list of documents
    - In case of obtainment of documents in copy subject persons have to assess on the basis of risk whether additional measure/s is necessary

- **Verification of legal status**
  - Verification that entity is not dissolved, struck off, wound up, deregistered or terminated.
Identifying the directors or persons vested with the administration

- Collecting a set of personal details or corporate details depending on whether the directors / administrators are natural or juridical persons
- IPs list the details that are to be collected for natural as well as juridical persons
- Details can be collected by referring to constitutive or other corporate documents already collected (as long as these contain all necessary details)

Subject persons are only required to identity the directors / administrators unless:

- Directors / Administrators are acting as agents
- Directors / Administrators are also beneficial owners (this is always the case vis-à-vis trusts, foundations and similar legal arrangements)
ID & V – Legal Entities and Arrangements

- **Understanding the ownership and control structure**
  - Obtaining an explanation of the ownership and control structure as well as a structure chart to the extent necessary to determine who the beneficial owner is
  - Conduct independent research to verify this information (consulting online databases, company registers, audited accounts, or requesting certification)
  - In case of purpose foundations that are not set up for the benefit of particular individuals but for a cause subject persons are required to establish the control structure (i.e. how that entity or arrangement is administered)
Identifying and Verifying the Identity of the Beneficial Owners

- Collecting a set of personal details on the individuals that are beneficial owners

- Verifying these set of personal details using similar methods as outlined for customers

- In the case of trust, foundations and other legal arrangements the concept of beneficial ownership goes beyond the beneficiaries (incl. settlor, trustee, protector, beneficiaries...)
ID & V – Legal Entities and Arrangements

- Identifying and Verifying the Identity of the Beneficial Owners
  - Where certain beneficial owners (i.e. settlor, protector and trustee) are legal entities, the subject person is required to identify and verify the entity itself and not the structure and beneficial owners behind it.

  - Where the beneficiary is a body corporate then subject persons are required to identify and verify the beneficial owners behind the same.

  - Beneficial ownership registers may be consulted but not used as the only source.

  - In case of beneficiaries designated by class or characteristics, beneficiaries that are unaware of trust existence or conditional benefit – IPs cater for such scenarios allowing flexibility in identification and possibility of delaying verification.
ID & V – Legal Entities and Arrangements

➢ Procedure in the case of Listed Companies

- For companies having securities listed on a regulated market subject persons are only required to identify and verify them

- Subject person has to ascertain and retain appropriate records showing that:
  - Securities are listed on a regulated market in the EEA or a reputable jurisdiction
  - The company is subject to disclosure requirements (equivalent to EU Directive requirements) that ensure transparency

- Subject persons are also expected verify that the same company has no regulatory history of breaching disclosure requirements
Identifying and Verifying Agents

- **Who is the agent?**
  - Person requesting the establishment or a relationship or the carrying out of an occasional transaction on behalf of someone else (i.e. the customer)

- **Regulation 7(3)** – “Where a person purports to act on behalf of a customer... subject persons shall ensure that such person is duly authorised in writing to act on behalf of the customer and shall identify and verify the identity of that person”

  - Subject persons should obtain written authorisation giving the agent the power or representation
  - Subject persons should assess the rationale behind this representation arrangement