GIBRALTAR FINANCIAL SERVICES COMMISSION

Thematic Review Report

Banking Sector

Systems of Controls for Anti-Money Laundering and Combating Terrorist and Proliferation Financing

November 2021

Contents Page

Introduction **2**
Legal and regulatory obligations 3
Why select the Banking Sector? 3
What we did 3
Our Findings **4**
Action Taken and Next Steps **9**

GIBRALTAR FINANCIAL SERVICES COMMISSION

Introduction

Thematic reviews form an integral part of the Gibraltar Financial Services Commission's (GFSC) supervisory and risk management approach to achieve our objectives. We will use targeted thematic reviews as a regulatory tool to supervise firms and, for example, assess a current or emerging risk or issue across a number of firms or sectors. The GFSC utilises this approach to encompass horizontal reviews across the whole spectrum of regulated firms and by focusing on specific risks, we can complete more detailed work on any particular concerns.

In early 2017, we implemented a revised approach to how we supervise against the risk of financial crime. This was in line with our commitment to continue to meet International Standards on Anti-Money Laundering (AML), Combating the Financing of Terrorism (CFT) and Combating Proliferation Financing (CPF). As the regulator of the financial services sector, we play a key role in Gibraltar's overall approach to combating financial crime, with specific focus on combating money laundering and terrorist financing. Undertaking thematic reviews to assess the AML/CFT/CPF systems of controls of regulated entities, permits the GFSC to understand current and emerging threats and vulnerabilities of the financial services industry.

Areas identified for thematic reviews are selected based on the risks posed to the GFSC's regulatory objectives, one of which is the prevention of financial crime. This feeds into its primary objectives of the protection of consumers and enhancing the reputation of Gibraltar. In this particular thematic, we also focused on the feedback and observations made in relation to the Banking sector in the MONEYVAL Fifth Round Mutual Evaluation Report December 2019 on Gibraltar.

This publication sets out our summary findings for addressing and managing the risks posed to customers and the reputation of Gibraltar by the Banking sector.

Abbreviations used throughout this report include:

AMLGN	The GFSC's Anti-Money Laundering and Counter-Terrorist Financing Guidance Note. This can be accessed via the following link:https://www.fsc.gi/uploads/AMLCFT%20Guidance%20Note%20v8.0%20(2).pdf
FATF	Financial Action Task Force
MONEYVAL	The Committee of Experts on the Evaluation of Anti-Money Laundering and the Financing of Terrorism within the Council of Europe
ML	Money Laundering
TF	Terrorist Financing
PF	Proliferation Financing
CDD	Customer Due Diligence
EDD	Enhanced Due Diligence
PEP	Politically Exposed Person
STR	Suspicious Transaction Report
BO	Beneficial Owner
POCA	Proceeds of Crime Act 2015 - http://www.gibraltarlaws.gov.gi/articles/2015-22o.pdf

Legal and regulatory obligations

The firms' legal and regulatory AML/CFT/CPF obligations are set out in the Proceeds of Crime Act 2015, the Sanctions Act 2019 and the GFSC's AMLGN. The expectations outlined in this document do not override the firm's legal obligations.

Why select the Banking Sector?

When considering the need to carry out a thematic review on ML, TF and PF systems of controls of banks, the GFSC has considered the following:

- The risks identified and published within Gibraltar's National Risk Assessment;
- Guidance issued by International Bodies such as the FATF and MONEYVAL;
- The data analysis arising from the data submitted within the 2019 Financial Crime Returns; and
- MONEYVAL's Fifth Round Mutual Evaluation Report December 2019 on Gibraltar (the MONEYVAL report).

As a result of the above, the GFSC carried out a thematic review to improve its understanding of the threats and vulnerabilities with respect to money laundering, terrorist financing and proliferation financing risks within the sector and to help gather information to inform its overall approach to regulation of the sector.

What we did

Of the 11 licensed banks, 7 were assessed as part of the thematic review. The remainder of the firms were not assessed as part the thematic due to the level and type of activity and permission status.

The team commenced onsite inspections in Q1/2020, which also included desk-based reviews of the documentation submitted. Both review methods allowed the team to assess how the firms have implemented AML/CFT/CPF systems of controls and the team was able to verify how these are being applied in practice. The thematic review has given the GFSC an insight into the industry's understanding and approach to the ML/TF/PF risks posed to the Banking sector and the jurisdiction as a whole.

Following the first two physical onsite inspections in Q1/2020, due to Covid-19 and in order to comply with the Government of Gibraltar guidelines, the format of these visits was changed to virtual onsites. This inevitably led to delays to the initial scheduled timetable for completion. The reviews were completed with feedback letters issued to each firm by the end of Q2/2021.

Our Findings

Firms showed a notable understanding of the AML and CFT risks posed by the nature of the activities carried out and a general understanding of CPF risks. The firms demonstrated an awareness of their obligations in line with the legislative and regulatory responsibilities.

The key findings arising from the thematic review showed that the main areas for improvement included customer due diligence, outsourcing, ongoing monitoring and training. These are all essential components for complying with the requirements and management of AML/CFT/CPF risks. It should be noted that these findings were by exception and were not endemic to all firms.

The good and poor practices outlined below are based on the findings identified throughout the thematic review. We have set these out under various key areas and included a non-exhaustive list of the GFSC's expectations in relation to these. In this way, and by detailing the GFSC's expectations, firms can better understand where improvements or changes should or could be made.

Corporate Governance

<table>
<tr><td colspan="2"><u>Expectations</u>
A firm's board should:
Maintain sound and prudent management
Notify the GFSC of any regulatory and statutory breaches of requirements without delay
Deal with the GFSC in an open and cooperative manner
Be committed to ensuring compliance with all relevant legislative and regulatory requirements including allocating the appropriate resources
Be aware and have a proper understanding of the risks posed and set a clear risk appetite
Retain ownership of its responsibilities
Appropriately manage and supervise the policies and procedures of the firm
Meet on at least a quarterly basis and maintain adequate minutes of these meetings</td></tr>
<tr><td>Good Practices</td><td>Poor Practices</td></tr>
<tr><td>Assessing resourcing arrangements and needs on an ongoing basis.</td><td>Being unable to evidence the firm has ultimate responsibility and liability for any outsourced functions or any input into group's financial crime forums.</td></tr>
<tr><td>Demonstrating a sound understanding of the AML/CFT/CPF risks and being proactive in mitigating and managing these.</td><td>Failing to clearly articulate and document the firm's risk appetite within its policies and procedures including clearly referring to examples of customers it would or would not accept.</td></tr>
</table>

Customer Due Diligence

<table>
<tr><td><u>Expectations</u>
A firm should:
Have a documented customer due diligence policy and procedure in place which is properly implemented and put into practice and which should include the application of simplified and enhanced due diligence
Assess and carry out due diligence of its customers applying a risk-based approach
Take into consideration the four risk elements when assessing a customer and take a holistic view of the risk associated with the business relationship</td></tr>
</table>

- If a customer is deemed high risk, document the rationale why the firm is happy to accept the risk and how it will mitigate the risk, such as through the application of restrictions or enhanced monitoring
- Verify a customer's identity and residence, where applicable
- Assess a customer's source of funds and/or wealth to a level of plausible verifiability
- Screen all customers against the required sanctions lists
- Understand that a risk assessment is not only related to customer risk profiling but a firm must systematically conduct and document a ML/TF/PF risk assessment at firm level considering the customer base, products and services provided, jurisdictions involved and the size of the firm

Good Practices	*Poor Practices*
Applying sanctions screening on the entire client base via automated systems which include the UN, EU, UK and Gibraltar sanctions lists.	Not obtaining adequate CDD and proof of address on all directors and signatories to bank accounts.
Risk assessing all clients prior to onboarding the business relationship, taking into account all relevant risk elements.	Not documenting or considering each customer in line with the four risk elements and in keeping with the firm's risk profiling methodology.
Appropriately recording a customer's risk assessment and, where the risks are high, also documenting the reasons why the firm is willing to accept the risk and how it intends to mitigate this.	Categorising all clients residing or working in Gibraltar as low risk, regardless of other risk factors (e.g. if the customer is a national of a high risk country or their source of wealth derives from high risk activity).
Where there is reliance on an introducer, conducting a full onsite visit to ensure that the introducer follows equivalent AML/CFT/CPF procedures and that it requests due diligence to the firm's same standards.	Assessing a country's risk solely on the basis of FATF membership or the FATF's list of countries with strategic deficiencies, and not using other sources of information to contribute to an independent assessment.
Reviewing all introducers on an ongoing basis and performing sample reviews of accounts opened during a specified time period to determine if appropriate checks are being performed at the on-boarding stage.	

Politically Exposed Persons

Expectations

A firm should:

- Have a documented PEP policy which is properly implemented and put into practice
- Ascertain if any of its customers are PEPs, family members or close associates of PEPs
- Always apply EDD measures in line with the legislative requirements
- Assess and verify a PEP's source of funds and/or wealth
- Screen all PEPs against the relevant sanctions lists
- In assessing corporate business relationships which include a PEP within the internal structure, not consider the PEP status in isolation and score the relationship as high risk as well
- Maintain a PEP Register or system to be able to clearly identify PEPs, family members and close associates
- Conduct enhanced ongoing monitoring of all PEP customers

Good Practices	*Poor Practices*
Conducting appropriate and sufficient screening and due diligence to identify whether a customer is a PEP, family member or close associate of a PEP.	Not keeping abreast with legislative changes and when those are implemented, failing to update policies and procedures to ensure compliance with the requirements.
Having an appropriate system in place to monitor PEPs on an ongoing basis.	Not carrying out EDD for PEP relationships including the independent verification of source of wealth/funds involved.
Reviewing and reassessing PEPs as a minimum once a year or even more frequently if dealing with foreign PEPs.	Unable to evidence that PEPs are approved by local senior management.
	For domestic PEPs, placing overreliance on public information available on the PEP's source of wealth.
	Failing to carry out appropriate monitoring of transactions and customer activity to ensure that this is aligned with the PEP's justification and explanation of activity.

Outsourcing/Delegation of AML/CFT/CPF Related Functions

<u>Expectations</u>

A firm should:

- Have a documented outsourcing policy which is properly implemented and put into practice
- Maintain ultimate ownership and responsibility of the outsourced and delegated functions
- Carry out appropriate due diligence measures on the individuals associated with a third party provider including those with a controlling interest (e.g. Directors)
- Maintain adequate oversight of third party providers including:
    - conducting periodic reviews of the responsibilities which are delegated;
    - verifying that third parties are in compliance with statutory requirements and the firm's own policies; and
    - having procedures to address non-compliance by the other party in a timely manner.

Good Practices	*Poor Practices*
Being able to evidence robust oversight and responsibility for the functions it outsources or delegates.	Failing to have in place a documented policy governing any outsourcing arrangement.
Carrying out an adequate level of quality assurance work on any outsourced provider to ensure that alerts on transactions are being triggered and managed properly.	Failing to evidence any oversight of the functions including adequate representation of Gibraltar in relevant Group meetings.

Ongoing Monitoring

<table>
<tr><td colspan="2">

<u>Expectations</u>
A firm should:

Have a documented ongoing monitoring risk methodology which is properly implemented and put into practice. This should take into consideration the oversight of any delegated ongoing monitoring functions
Carry out ongoing monitoring of its customers applying a risk-based approach
Conduct enhanced ongoing monitoring of all high risk customers
Maintain adequate databases which record customer details and transactions
Implement triggers into its systems of controls to ensure that changes to a customer's details will be flagged for re-assessment, if required
Identify any unusual or suspicious transactions and report these to the relevant authorities
Apply relative and risk-based rules and parameters so that it can conduct appropriate and ongoing transaction monitoring

</td></tr>
<tr><td>Good Practices</td><td>Poor Practices</td></tr>
<tr><td>Conducting periodic reviews at least annually for high-risk accounts. Including a review of existing CDD on file and updating this as required.</td><td>Failing to ensure that the relevant parameters or rules applied to transaction monitoring systems, properly and accurately reflect any Gibraltar-related or specific risks.</td></tr>
<tr><td>Investigating in a timely manner any trigger or alert raised by the firm's transaction monitoring system, including appropriately documenting where additional rationale or documentation has been requested.</td><td>Failing to reassess a customer's risk profile where a client has been the subject of a STR.</td></tr>
</table>

Training

<table>
<tr><td colspan="2">

<u>Expectations</u>
A firm should:

Have a documented training policy which is properly implemented and put into practice
Ensure that all staff is trained for AML/CFT/CPF purposes
Tailor its training and provide more specific material to those members of staff who carry out AML/CFT/CPF or compliance-related functions and duties
Maintain an up-to-date Training Log

</td></tr>
<tr><td>Good Practices</td><td>Poor Practices</td></tr>
<tr><td>Providing regular AML/CFT/CPF training to staff, with a more specific programme offered to those team members who manage AML/CFT/CPF matters.</td><td>Failing to ensure that training provided to staff includes an element of PF with the same focus as ML and TF.</td></tr>
</table>

Applying a prudent approach and sending reminders to its staff regarding red flags and what typologies may look like.	
Carrying out horizontal assessments on trends or recurring topics, such as transactions with high risk countries, types of terrorist financing activities, transactions with jurisdictions with a close proximity to conflict zones, etc.	
Raising awareness of sanctions or penalties through information sharing with customers active in, or trading with, certain industries.	

Other

<table>
<tr><td colspan="2">
<u>Expectations</u>
A firm should:

Always notify or seek approval from the GFSC, where required, regarding any significant proposed changes to its business plan
Place the same degree of importance on CFT and CPF risks as AML
Implement the relevant policies and procedures in keeping with Section 26 of POCA and review these periodically
Maintain a comprehensive and up to date risk log and risk register which includes an assessment of any relevant AML/CFT/CPF risks
Implement an independent audit policy in compliance with regulatory requirements
Maintain all records for a minimum of 5 years following the termination of a business relationship or occasional transaction
Complete and approve the 109 Compliance Report annually or as required, to adequately evidence how the firm complies with the requirements
Implement measures to be able to detect potential PF activity
Consider the contextual situation or potential risk exposure for PF purposes

</td></tr>
<tr><td>Good Practices</td><td>Poor Practices</td></tr>
<tr><td>Considering and/or actioning an independent audit, in line with Section 26(1)(1A) of POCA.</td><td>Failing to provide sufficient training and awareness to members of staff to enable proper detection of red flags in the economic activity of their clients.</td></tr>
<tr><td>Having an effective STR process in place which documents all decisions and investigations, including escalation protocols to be applied when referring to the relevant authorities or any other appropriate action.</td><td></td></tr>
</table>

Action Taken and Next Steps

The GFSC has finalised the onsite inspections and issued individual feedback to all firms. Each firm has been placed on a specific supervisory plan tailored to its business model, focusing on the risks identified during the thematic review work.

Where remediation is required, we are working closely with firms to ensure that any concerns and findings are appropriately addressed. Where particularly serious issues were found, this has resulted in the firms being placed on an intensive supervisory remedial action plan.

All firms must ensure they can demonstrate that their AML/CFT/CPF systems of controls are robust and effective in preventing the financial system from being used for unlawful purposes. Therefore, they should implement appropriate measures for the ongoing review of these systems and controls in line with the expectations and good practices outlined in this document.

It is also vital that firms ensure that all staff maintain an awareness of AML/CFT/CPF risks and how these are adequately mitigated and managed. The firms should study the findings of this publication and apply them accordingly.

We are committed to working with the sector to help further enhance compliance with the local and international standards.

If you have any queries regarding the contents of this report, please contact the AML/CFT Supervision Team on amlcft@gfsc.gi or +350 200 40283.

Published by:
Gibraltar Financial Services Commission
PO Box 940
Suite 3, Ground Floor
Atlantic Suites
Europort Avenue
Gibraltar

www.gfsc.gi