GIBRALTAR FINANCIAL SERVICES COMMISSION

Thematic Review Report

Bureaux de Change

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

August 2019

Introduction

Thematic reviews form an integral part of the Gibraltar Financial Services Commission's (GFSC) supervisory and risk management approach to help deliver our objectives. We 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.

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

The topics for thematic reviews are selected on the basis of the risks posed to the GFSC's regulatory objectives, and information from external sources such as the Gibraltar National Risk Assessment. The reviews conducted feed into the primary objectives of the GSFC, which includes the reduction of financial crime, the protection of consumers and enhancing the reputation of Gibraltar.

This publication sets out our summary findings for addressing and managing the risks posed to customers and Gibraltar by the Bureaux de Change industry, with a view to further mitigating these risks in the future.

Additional 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: http://www.fsc.gi/uploads/005-Standard%20External%20Publication-AMLCFT%20Guidance%20Note%20v2.0-AP-20%20Jul%202017.pdf
PEP	Politically Exposed Person
POCA	Proceeds of Crime Act 2015 - http://www.gibraltarlaws.gov.gi/articles/2015-22o.pdf
ML	Money Laundering
TF	Terrorist Financing
UBO	Ultimate Beneficial Owner, as defined in the Proceeds of Crime Act 2015
SAR	Suspicious Activity Report

Why select the Bureaux de Change Sector?

The GFSC took into consideration the following factors when determining the need to carry out a thematic review on the AML/CFT systems of controls within the sector.

- The risk identified in respect to the conversion of funds within the Gibraltar 2018 National Risk Assessment.
- The data analysis arising from the data contained within the 2017 and 2018 Financial Crime Return.

Due to the above, the GFSC carried out the Thematic Review to improve its understanding of the risks, threats and vulnerabilities applicable to the Bureaux de Change industry with respect to money laundering and terrorist financing. The outcome from the review will assist the GFSC in tailoring its approach to the regulation of the sector.

What we did

The review consisted of an assessment of the systems of control across all firms within the sector. In Q4 2018, documentation was requested from all firms on their current policies and processes and how specific risks applicable to their industry and firm were being mitigated. Desk based reviews were then completed on the implemented AML/CFT controls prior to the onsite inspections; this further enabled us to verify how controls are being applied in practice. The GFSC conducted onsite visits on all authorised bureaux. The review has given the GFSC a broader understanding into how the industry operates and the ML/TF risks posed to the firms in the sector, and jurisdiction.

Our Findings

It has been ascertained through the Thematic Review that the majority of transactions undertaken across Bureaux in Gibraltar are from tourists exchanging small amounts, cross-frontier workers exchanging salaries and Gibraltar residents acquiring services in Spain.

The Bureaux de Change sector had a good overall knowledge of the key risks applicable, and how the conversion of funds may be used to facilitate money laundering and terrorist financing. Nevertheless, firms did not generally have a good understanding of the legislative and regulatory requirements that are required to be implemented in order to identify, manage and mitigate the risks.

It is paramount that firms raise their awareness and understanding of all relevant controls to ensure compliance with the requirements as outlined within the POCA and the GFSC's AMLGNs.

Customer Due Diligence

Expectations

The firm should:

- Maintain a documented due diligence policy, which has been implemented and put into practice taking into account linked transactions and the application of enhanced due diligence when required
- Risk profile the customer based on the firm's risk methodology taking into considering the four risk elements (Customer, Country, Product and Interface.)
- Verify a customer's identity to the extent the firm deems it necessary
- Verify the identity of all directors, shareholders who own above 25% and the UBO of corporate entities.
- Assess a customer's Source of Funds and/or Wealth to a level of plausible verifiability
- Screen all customers against the EU Sanction lists
- Ascertain if any customers are politically exposed persons, family members or close associates of politically exposed persons

Good Findings	*Poor Findings*
Firms understand their requirement to conduct due diligence on transactions which exceed the threshold of €5,000. Some firms have taken a more conservative approach and implemented a lower threshold.	Firms did not adequately verify corporate entities, particularly in respect of corporate clients from which currency is sourced. The majority held information on only one director or the UBO and did not take additional controlling parties into consideration.
One firm automatically declines transactions over the value of £4,000 if Source of Funds data cannot be obtained.	Some firms were unable to determine the difference in the levels of due diligence and the legislative requirements applicable to each. For example, firms mentioned within their manuals simplified due diligence which do not apply to Bureau de Change transactions.
Most firms had a system in place where if a client exceeds the €5,000 amount within 3 months, the system will generate a prompt to request Due Diligence Documentation.	A small number of firms did not have an appropriate policy in place for Enhanced Due Diligence controls.

Politically Exposed Persons

Expectations
The firm should:

- Maintain a documented PEP policy, which has been implemented and put into practice
- Apply Enhanced Due Diligence and enhanced ongoing monitoring measures in line with legislative requirements
- Ensure all PEP relationships are signed off by senior management prior to the relationship commencing
- Ensure PEP relationships are scored as high risk, including corporate relationships where a PEP is involved and enhanced ongoing monitoring controls are in place
- Assess and verify a PEP's Source of Funds and/or Wealth

Good Findings	*Poor Findings*
There are firms that clearly document whether PEP relationships are within their appetite, and the measures implemented when dealing with PEP customers.	One firm did not understand the terminology PEP and therefore could not demonstrate if the firm had any ongoing relationships with PEPs.
The majority of firms who will enter into a business relationship with a PEP will only transact with domestic PEPs and are fully aware of the additional requirements attached to PEP relationships.	Some firms did not have a documented policy in place for managing PEP relationships, despite acknowledging it was within the risk appetite of the firm.
	The majority of firms have not complied with Section 20B of the Proceeds of Crime Act. This Section outlines the requirement to continue to treat a customer as a PEP, for at least 12 months, once the individual has ceased to hold the prominent function.

Ongoing Monitoring

Expectations
The firm should:

- Implement an ongoing monitoring policy, which takes into consideration enhanced ongoing monitoring controls
- Ensure ongoing monitoring is conducted in line with the risk profile of customer
- Have an adequate database to record customer information and transactional data
- Have procedures where any changes to information triggers a review of its customers, primarily focusing on ensuring that customers are transacting in line with their risk profile.

Good Findings	*Poor Findings*
Most firms have an electronic system which provides cashiers with the transactional history of the customers, allowing the firm to see at a glance if the client was transacting within usual limits.	Some firms did not review client transactions for the purposes of money laundering or terrorist financing. Transactions were only reviewed for cash reconciliation purposes and FSC returns.
The majority of firms conducted periodic client file reviews, or held documentation electronically which prompted the firm when ID documentation was out of date.	

Policies and Procedures

Expectations

The firm should:

- Have and maintain a Risk Methodology appropriate to the size and nature of the firm, encompassing the four risk principles (Customer, Country, Product and Interface)
- Have a Record Keeping policy in place, which outlines the requirement for records to be kept 5 years following the termination of the business relationship or transaction
- Assess the need and scope for an Independent Audit as required per Section 26 of POCA
- Maintain an up to date Training Log, ensuring that all staff are trained on the risks of ML/TF
- Implement the required policies and procedures in line with Section 26 of POCA
- Have a Suspicious Activity Reporting procedure in place.

Good Findings	*Poor Findings*
The majority of firms had implemented risk methodologies, appropriate to the size and nature of the firm.	Approximately 50% of firms had not implemented an internal SAR register in line with Section 28 of POCA.
Two firms had already had an independent audit conducted and have received feedback on how to strengthen ML/TF controls.	Some firms had risk methodologies in place, but were not actively risk profiling their customers in line with their methodology.
Most firms had a Record Keeping policy and were able to demonstrate sufficient knowledge of the legislative requirements.	One firm had not adequately trained staff on the ML/TF risks applicable to the firm.

Next Steps

The GFSC has issued individual feedback to all firms. As part of the feedback, firms will be placed on a specific supervisory plans based on a number of factors, and taking into consideration the risks identified during the Thematic Review.

Where remediation is required in order to meet current legislative requirements, we will work closely with the firm to ensure any concerns and findings are appropriately addressed and mitigated.

All firms should be aware of the legislative requirements applicable in respect of preventing the financial system from being used for ML/TF purposes. More specifically, firms should be able to demonstrate their AML/CFT controls are robust and fit for purpose. Staff also have a duty to be mindful of their own personal obligations in respect of reporting requirements and how any key risks to the firm are being mitigated.

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

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

GIBRALTAR FINANCIAL SERVICES COMMISSION

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

www.gfsc.gi