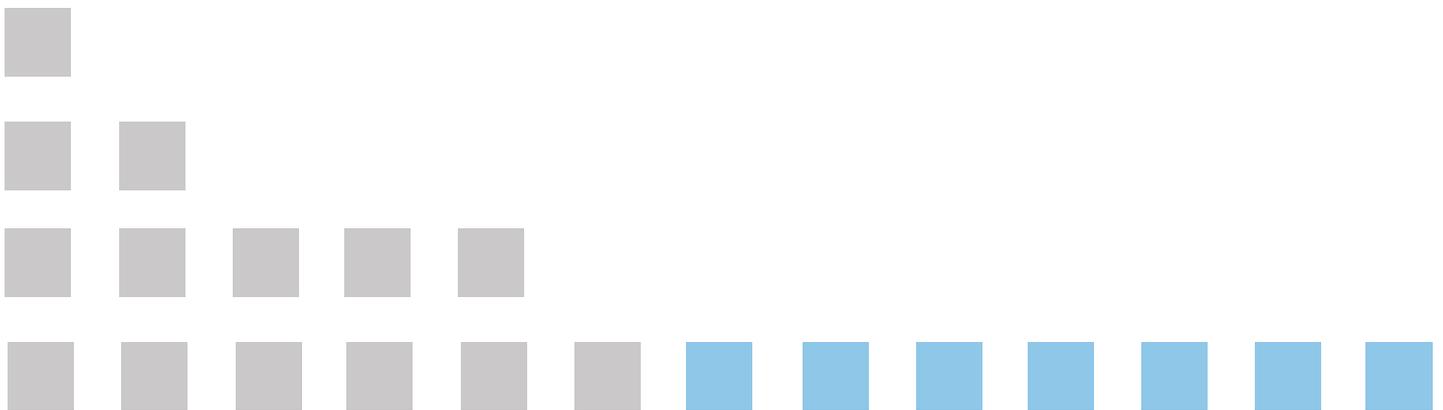


Cash – What are the risks?

Highlighting the risks associated with cash and cash intensive businesses



Introduction

The Gibraltar Financial Services Commission (GFSC) has issued this newsletter to provide a steer to regulated entities in relation to the potential Money Laundering (ML) and Terrorist Financing (TF) risks arising from the use of cash or servicing of cash intensive businesses. This document may be particularly useful to the bureau de change, money remittance, banking, trust and company service provider, accounting and audit sectors who deal with a wide variety of cash businesses.

This newsletter provides an overview of the different risks associated with the use of cash, high value transactions and notes. It also highlights various areas where cash is known to be potentially used as a vehicle to launder the proceeds of crime. The information contained has been obtained and sourced from previous guidance issued by both the HM Government of Gibraltar and the European Commission.

This document applies to any firm that accepts the use of cash, in particular those sectors which may be susceptible to ML and TF due to their cash intensive nature.

Gibraltar National Risk Assessment

The 2020 National Risk Assessment¹ (NRA) published by HM Government of Gibraltar indicates the risks that cash and cash intensive businesses may pose, in particular to more cash vulnerable sectors. Regulated firms, such as bureaux de change, money remitters and banks, accountants and auditors, that provide services to cash intensive types of businesses should also be aware of the risks posed by the use of cash when reviewing transactional information and accounting records. While there are numerous mitigating factors which have been implemented to lower this risk within the jurisdiction, the prevalence of cash being used within certain sectors still makes certain types of businesses more susceptible to being used for the purposes of ML and TF.

The NRA highlights the prominent reason for cash being exchanged and remitted via Gibraltar financial services firms being primarily related to a large number of cross-border workers working in Gibraltar. The assessment of the risk posed by these individuals is low, given that the cash stems largely from their wages, paid from a Gibraltar-based employer. Firms, however, should be alerted to high volumes, or high value transactions taking place in cash for the purposes of currency exchange or being transferred to a jurisdiction where there is a high prevalence of ML or TF activities.

European Commission

The European Commission released a report on the “assessment of the risks of ML and TF affecting the internal market and relating to cross-border situations”², which highlighted risk scenarios associated with cash intensive businesses that allow perpetrators to:

- Launder amounts of cash, which are proceeds of criminal activity, by justifying its origin based on economic activities (both for goods and services); and
- Finance, often through small amounts of cash, terrorist activities without any traceability

Gibraltar continues to monitor the risks associated with the use of cash via its own National Risk Assessment, taking into consideration the continuing updates to International Standards and how these apply locally.

¹ <https://www.gfiu.gov.gi/nra>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52019DC0370>

Cash intensive businesses

Although not an exhaustive list, the following are examples of cash intensive types of businesses that could be considered to typically pose a higher risk:

- Bars
- Restaurants
- Construction companies
- Motor vehicle retailers
- Car washes
- Art and antique dealers
- Auction houses
- Pawnshops
- Jewellery shops
- Textile retailers
- Liquor and tobacco stores
- Retail shops

Where these types of business are used to launder funds, they will invariably attempt to use financial services firms to help disguise the origin and source of funds derived from illicit sources in order to legitimise these. As part of its mitigation measures, a firm should consider, as a minimum, the following:

1. Review and analyse its risk methodology to ensure that clients who may trade with a higher level of cash within any of the above sectors, are categorised appropriately;
2. Seek further proof from the businesses as to where the cash is derived from. This could be in the form of bank statements, invoices, financial statements, etc., which can support the amount involved as part of its processes; and
3. Seek information, at the time of onboarding, about the expected activity of the client, so it is able to cross reference this against the transactions and activity carried out. This will allow the firm to conduct real time transaction monitoring and to request additional documentation to support transactions or report the transaction to the relevant authorities, if necessary.

In respect of individuals requiring services from financial services firms, nowadays, most would pay by debit/credit card or via bank transfer for large transaction amounts. As a general rule, a firm should be alert to those attempting to pay using high denominations of cash or high value notes and carry out the requisite due diligence to ensure it is completely satisfied as to the origin of the funds to ensure that these are not derived from any illicit activity.

Research conducted by the GFSC has shown that it is a challenge within Gibraltar to bank high-value notes, as many of the local banks choose not to accept these. Firms should keep this in mind should they ever come across a customer wishing to pay for their goods or services in high value notes.

Reliance

Through the GFSC's supervisory work, we have identified that firms may, in some circumstances, be placing reliance on the knowledge they have about individuals/businesses and may not deem it necessary to conduct the appropriate level of due diligence. A firm must always ensure that the level of due diligence undertaken is in line with its risk based approach and should document this appropriately.

It is not sufficient to solely rely on the personal knowledge that the firm (or an officer or employee of the firm) may have about the customer (be it an individual person or a corporate client).

Firms are reminded that the reliance provision set out under Section 23 of the Proceeds of Crime Act 2015, allows firms to rely on due diligence from another party if that party meets all of the following criteria:

- it must be regulated by the GFSC, or an equivalent institution if it carries on business outside Gibraltar;
- it must be subject to the MLD or equivalent legislation;
- it must be based in Gibraltar or a country which has an effective AML, CFT and CPF regime; and
- there must be no secrecy or other obstacles which would prevent the Gibraltar firm from obtaining the original documentation if necessary.

If the firm cannot meet the above criteria, it is required to carry out customer due diligence measures in line with the Proceeds of Crime Act 2015 appropriate to the risk posed by the individual in accordance with the firm's risk-based approach. It is not sufficient to simply know the individual in a personal capacity and waive the appropriate due diligence measures.

Terrorist Financing

In respect of TF, it is usually small amounts which are exchanged or remitted to facilitate this. In order for firms to mitigate this risk, they must ensure that for remittance, the destination of the funds is plausible (i.e., to financially support family members) and details of the remitter, including valid documentation, must also be captured for tracing purposes.

Continuing Obligations

Firms must ensure that they familiarise themselves with potential risks associated with the use of cash and having cash intensive businesses as clients. As part of this, firms must have a robust risk methodology and appropriate systems and controls in place for the detection and prevention of ML and TF. The GFSC's four risk principles should be incorporated into the firm's risk methodology and taken into consideration when onboarding a client and conducting their risk assessment.

A firm must conduct ongoing and transaction monitoring in line with its risk-based approach to ensure that transactions are in keeping with the expected activity of the client and be alert to any potential changes in activity. If firms have any suspicion as to the legitimacy of any transaction, they should not carry out the transaction and disclose it to the Gibraltar Financial Intelligence Unit³.

Should firms have any queries or wish to discuss the contents of this newsletter please contact the AML/CFT Supervision team on +350 200 40283 or at amlcft@fsc.gi.

³ <https://www.gfiu.gov.gi/>

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