



Supervising Compliance With AML/CFT Requirements

Different supervisory approaches

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Supervisory approaches

Preventing banks from being used for ML/FT

The risks are in “fraudulent” transactions

- Monitoring of transactions
- Assessment of clients/counterparts

Supervisory approaches

Prevention

- Organization
- Procedures for KYC and transactions
- Tools
- Staff awareness

Supervisory approaches

Reporting

- Suspicious Transaction Reports/Cash transactions
- Audit trail
- Record keeping

Supervisory approaches

Supervisory functions

- Regulation
- Control
- Information exchange

Supervisory approaches

Supervisory Authority

- Independence/Accountability
- Technical knowledge/Specialization
- Powers/Visibility

Supervisory approaches

- Prudential supervision:
 - Requires deep understanding of activities, operations, risks and risk mitigating techniques
 - Aims at preventing problems

Supervisory approaches

- Prudential supervision:
 - Is not law enforcement/police
 - Assess adequacy and efficiency of preventive and reporting measures
 - Is not responsible for ML/FT detection

Supervisory approaches

Authorities

- Financial Intelligence Units (FIUs)
- Supervisory authorities
- (SROs)

FIU

A central, national agency responsible for receiving, analyzing and disseminating financial information:

- concerning suspected proceeds of crime and potential financing of terrorism, or
- required by national legislation or regulation

FIU

- Three core functions
 - Receiving and centralizing STRs and other disclosures
 - Analyzing them in order to determine the potential criminal activity in liaison with internal and external databases
 - Disseminating the results

FIU

- Other functions:
 - Enforcement: blocking transactions and freezing assets
 - Expertise: training, raising public awareness, research, advisor to the Government
 - Monitoring compliance with AML/CFT requirements

FIU

- Different types of FIUs
 - Administrative
 - Law enforcement
 - Judicial
 - Hybrid

FIU

- Law enforcement FIUs
 - Law enforcement powers and focus on investigations
 - Close relationships with domestic, foreign and international law enforcement

FIU

- Judicial FIUs
 - Judiciary powers
 - Independence

FIU

- Administrative FIUs
 - Independent or attached to central bank or other financial agency
 - Perceived as neutral and specialized

FIU

- Administrative FIUs
 - Act as an intermediate between financial institutions and law enforcement/prosecutorial authorities
 - May be in charge of due diligence supervision

FIU

- FIU Responsibility as due diligence supervisor:
 - For all reporting institutions or some of them
 - For reporting or all other obligations

FIU

- FIU Supervisory functions:
 - Expertise on financial crime and suspicious activities or transactions
 - Direct and short connection between the provider and the user of financial intelligence

FIU

FIU Supervisory functions:

- Consistency
- Rationale of using and controlling STRs
- Quantity and quality of information

FIU

- Technical issues with FIU supervision:
 - Financial expertise
 - Operational expertise
 - Resources

FIU

- Technical issues with FIU supervision:
power
 - To request information, documents, data
 - To enter the premises of supervised institutions
 - To share information with other supervisors

FIU

- Political issues with FIU supervision:
 - Mutual trust
 - Prevention v. sanctioning
 - Adequate enforcement powers

FIU

- Other issues: Relations with prudential supervision:
 - Harmonization: regulations or guidelines
 - Cooperation: interlinked risks, domestically and internationally
 - Coordination: enforcement powers

Prudential supervisor

- FATF and Prudential standards
 - BCP, IAIS principles refer to FATF Recommendations
 - IOSCO uses the FATF standards
 - FATF requires financial institutions to be supervised and refers to Basel guidance papers

Prudential supervisor

- International standards for prudential supervision include AML/CFT compliance
- AML/CFT compliance is subject to prudential supervisory authorities' monitoring and enforcement powers

Prudential supervisor

- BCP criteria:
 - In addition to FIU reporting
 - Report to supervisor suspicious activities and incidents when they are material to the safety, soundness or reputation of the bank

Prudential supervisor

- Bcp criteria:
 - In addition to FIU reporting
 - KYC policies and procedures must be integrated to the banks' overall risk management
 - KYC on group-wide basis

Prudential supervisor

- For prudential supervisors, ML/FT are:
 - A risk to financial stability
 - A reputation risk
 - An operational (legal) risk
 - A corporate governance issue

Prudential supervisor

- ML/FT is a concern to prudential supervisors
 - Potential conflict with other business rules such as banking secrecy
 - Regulations versus guidelines

Prudential supervisor

- AML/CFT and prudential supervision:
 - Extensive knowledge of the sector
 - Resources and costs

Prudential supervisor

- AML/CFT and prudential supervision:
 - Part of a global risk analysis
 - Consistency with prudential standards

Prudential supervisor

AML/CFT and prudential supervision:

- Incorporated to banks' operating systems
- One supervisor

Prudential supervisor

- AML/CFT and prudential supervision:
 - Banks are the major source of STRs
 - Banks process most of the transactions
 - Banks are a prime target for financial crime

Prudential supervisor

- AML/CFT and prudential supervision:
 - A wider range of sanctions, combining administrative and criminal penalties
 - Different proof level
 - Negligence, deficiencies and minor offences
 - Combination with prudential sanctions

Prudential supervisor

- Regulations
- Offsite monitoring
- Onsite inspections
- Sanctions

Prudential supervisor

- Dual system
 - Offsite by supervisory authority
 - On-site examination by external auditors

Licensed auditors

- Licensed auditors
 - Methodology
 - Training
 - Professionals norms et practices

Prudential supervisor

- Definition of revision
 - Law and regulations
 - Internal procedures
 - Sampling

Prudential supervisor

- External auditors conflict of interest
- Request new auditors

Prudential supervisor

- In-house inspections
 - Due diligence compliance versus prudential compliance
 - Own judgment versus facts

Prudential supervisor

- Self Regulatory Organizations (SROs)
 - Define regulations
 - Impose sanctions

Prudential supervisor

- SROs
 - Members
 - Mandatory/non mandatory

Prudential supervisor

- SROs
 - Contractual basis
 - Under the supervisory authority
 - Validate regulations
 - Report on deficiencies and sanctions

FIU and Prudential Supervision

- Information (STRs)
- Typologies
- Areas/institutions of concern

Prudential Supervision and FIU

- Identifying suspicious customers and transactions
- Reporting
- Audit trail