Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) compliance for Accountants and Auditors

FATF Recommendation 1:

Countries, financial institutions and DNFBPs to identify and assess the risks of potential breaches, non-implementation or evasion of the targeted financial sanctions related to proliferation financing, as contained in FATF Recommendation 1 & 7, and to take action to mitigate these risks.

FATF Recommendation 7:

FATF Recommendation 7 requires countries to implement targeted financial sanctions to comply with the United Nations Security Council Resolutions (UNSCRs) relating to the prevention, suppression and disruption of proliferation of weapons of mass destructions (WMD) and its financing.

Accountants and auditors' sector of DNFBP's are recommended to follow the implementation guidance to ensure adequate internal systems, controls, policies and procedures to be able to identify and assess the above risks in their own risk assessment and that of their clients.

Sectoral Overview, Vulnerabilities and Overall risk

The national sectoral risk assessment conducted by the NAMLCTF committee, the accountants and auditors' sector was classified as the inherent risk and compared to the CSP's classified as medium high.

The UAE's ML/FT National Risk Assessment (NRA) has identified professional money laundering (PML) as being one of the highest crimes/threats in relation to ML in the State.

By virtue of role in examining the accounts, books, records, papers, governance structures, and control processes and procedures of such entities, audit professionals are in a unique position to identify potential AML/CFT weaknesses and ML/FT vulnerabilities, as well as to detect potentially suspicious activity, involving them.

1. Gatekeeping for the Gatekeepers

Statutory Risk Identification and Assessment

ML/TF/PF Risks

Enterprise wide risk(Own risk)

Depends on:

-Nature and Type of customer/entity to be engaged with

-Risk appetite developed based on Enterprise-wide risk assessment

-Risk based approach

Customer risk

Depends on:

-Services offered. This determines extent of obligations and risk involved in each engagement

Auditor's Own ML/ FT Risk Identification and Assessment

Consideration should be given to such factors as:

•**Client type,** size, complexity and transparency (e.g. whether the client is a single legal entity or is part of a larger, more complex group)- this can give rise to lack of clarity in ownership structures

•**Country of origin** of persons associated with the client, including beneficial owners, senior managers, legal representatives or signatories, etc. (i.e. whether a UAE national or a foreign customer and in the case of the latter, whether the person is associated with a High-Risk Country

•**Channel** by which the client is introduced and communicates (e.g., referral versus walk-in, in-per son meeting versus remote communication via the internet or other media); - The risk arises as there could be a trade off between accepting the client and challenging the firm wide risk assessment. As a best practice,a RBA should be applied.

•As auditors **receive payments** from their clients, which could potentially represent the proceeds of crime. Accountants and auditors should watch out for sanctioned banks and Fl's,money exchanges, some of which may be struck off/license withdrawn by CBUAE or their respective regulator.

Customer Risk- Common Typologies

Customer risk red flags:

- It is discovered during the audit that a business that is not normally cash intensive but appear to have substantial amounts of cash
- Potential client reluctant to provide identification or behaves nervously
- Potential client who appears to avoid face-to-face meetings
- A client who appears to be acting on somebody else's instructions without disclosing the identity of that person
- Clients whose instructions are unusual and/or with no apparent visible or economic purpose testing the waters
- Identity or other verification documents provided are or look fraudulent

An accountant must consider the other institutions it deals with and the potential risks associated with them .

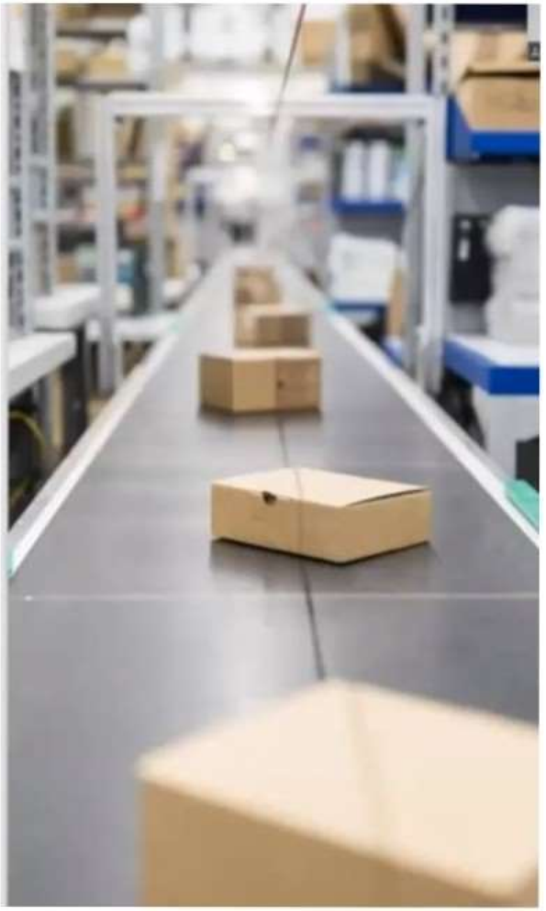
- Institutions previously identified as having AM L/CFT deficiencies (such as public warnings/fines)
- Institutions with adverse media coverage- screening is vital I
- Use of gatekeeper professionals (such as accountants, law firms or real estate agents) to access financial services

Risk Categories

Customer risk:

Some types of customers are likely to pose a higher risk. These include:

- Businesses that rely heavily on new technologies (for example online trading platforms)
- Customers that are cash-intensive businesses (virtual assets, restaurants, hotels, payment processing companies etc.)
- Not-for-profit organizations that are not monitored or supervised by
- authorities or only subject to limited monitoring and supervision - donations could be unaccounted for or NFP accounts being used to fund terrorism
- Politically exposed persons (PEPs) and High-net-worth clients
- Trusts or other legal arrangements which pose higher AML/TF/PF risks
- Clients attempting to deal with forged documents or attempts to misrepresent the truth. This requires vigilant analysis and the ability to detect red flags and indicators of suspicious behavior and most importantly, be able to report it.



The way an accountant onboards their customers and delivers their products and services affects their vulnerability to ML/TF. Higher risk factors may include:

- Customers onboarded remotely - no face-to-face contact with the customer
- Indirect contact with the customer, for example the use of intermediaries or agents (including other gatekeepers)
- Products or services provided to overseas jurisdictions

Country Risk- Common Typologies

These risks increase if businesses deal with countries or jurisdictions with high levels of:

- Bribery and corruption
- Organized crime activity
- Tax evasion and/or when dealing with persons or entities in jurisdictions in or next to a conflict zone
- Known for the presence/support of terrorism
- Known for the production and/or transnational shipment of illicit drugs with ineffective AML/CFT systems, measures or controls,

Client Risk identification and assessment

Accountants and auditors may perform a variety of roles or functions relating to their activities. The majority of services would relate to

- Financial audits related to a client's books, records, and annual and periodic accounts;
- Operational audits related to a client's internal controls, governance structures, and risk management processes and procedures;
- Compliance audits related to a client's adherence to legal and regulatory requirements.
- Outsourced CO / MLRO services - high channel risk as there is less control over client's customer acquisition. Adequate measures such as revision in risk assessment and mitigation measures should be put in place.

Client Risk identification and assessment

- For example, a client that is a mainland UAE public joint-stock company involved in producing goods for domestic consumption may have a very different ML/FT risk profile from that of a limited liability company in a CFZ, engaged in international trade in electronics, and whose ownership or control structure involve persons from a high-risk country.

- The types of risk profiles identified and assessed, and the resultant risk ratings applied to the customers, should be used in determining the efficient allocation of the auditor's AML/CFT resources, as well as the appropriate application of reasonable and proportionate risk-mitigation measures, such as screening through a competent software, including conducting customer due-diligence measures and enhanced due diligence measures before onboarding clients.10Click to add notes

Case Study

Sunshine and Lollipops

Ringleader smuggles GBP 104 m of drug money

THE PROCESS

83 trips in total

United Kingdom

United Arab Emirates

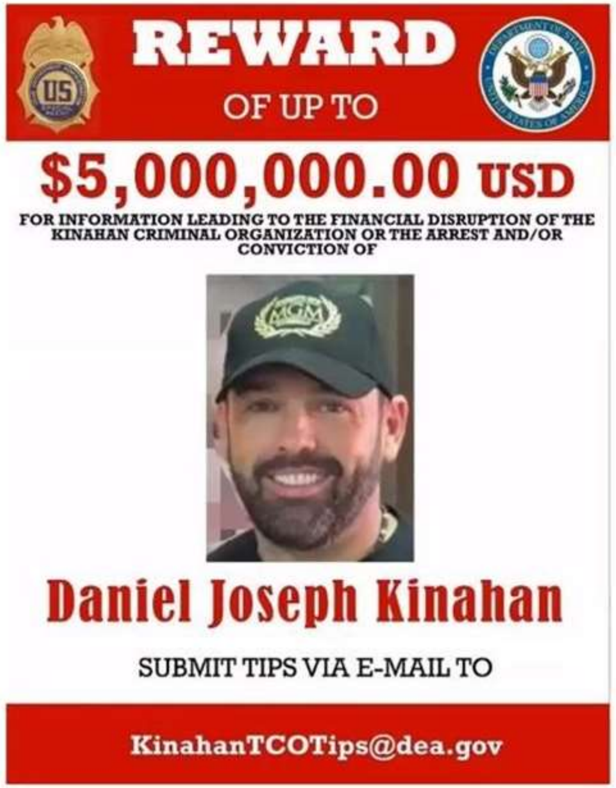
- Cash was collected from various pick-up points in the UK and brought to so-called 'counting houses'
- Cash was counted and vacuum-packed in suitcases (about GBP 500,000 per suitcase) weighing around 40 kgs each, sprayed with coffee or air freshener, to avoid detection by border force detection dogs
- The suitcases were also packed with mouthwash and coat hangers to fool the X-ray machines

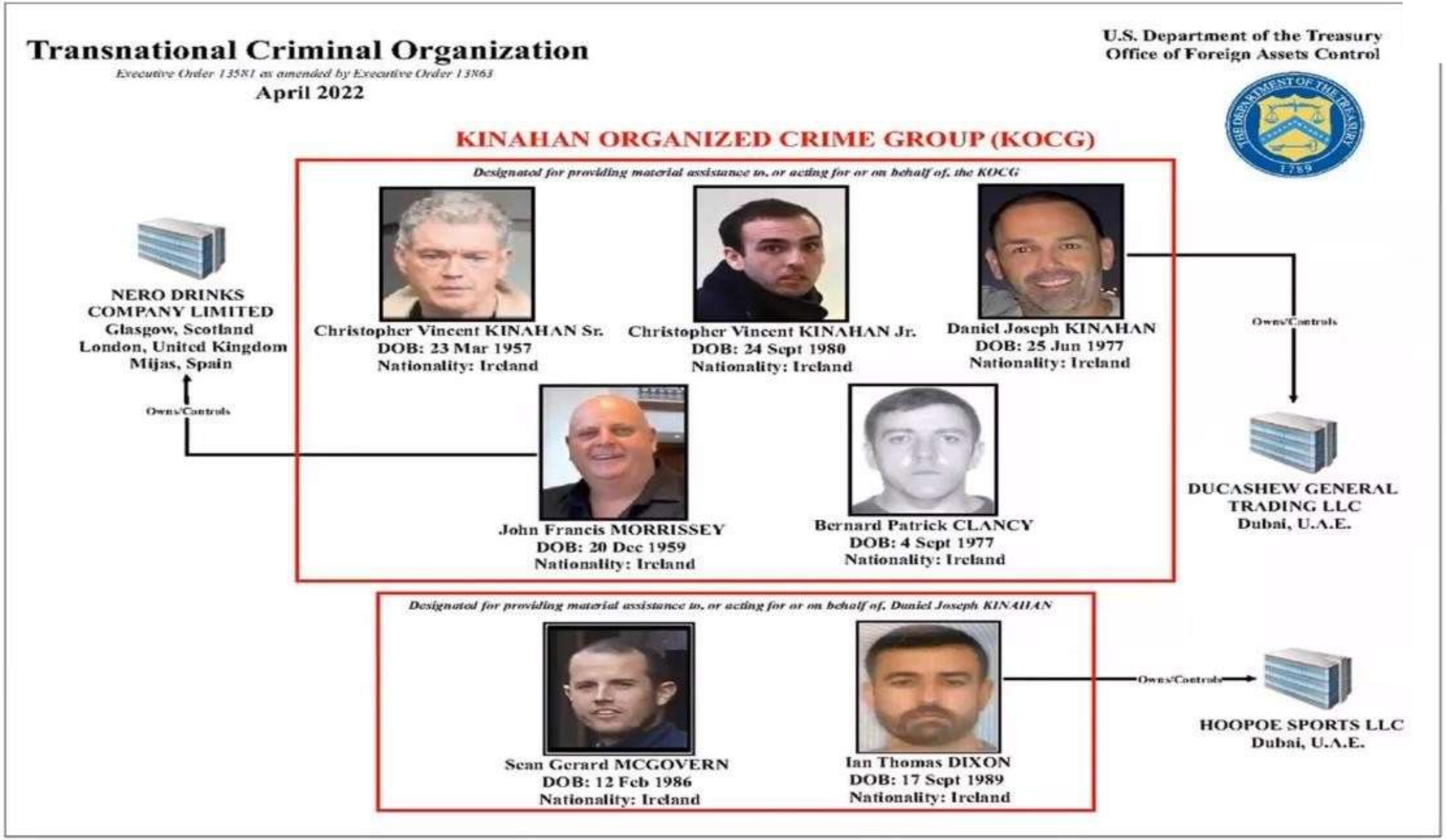
- On arrival to Dubai, they would declare the cash under the name of a company set up by Al Falasi (Omnivest Gold Trading) and then the money would be converted to Dirhams, to buy gold in Africa, and some being used to buy cryptocurrency before being sent back to the UK.
- The group took 10% commission on the money they smuggled; they made around GBP12 million from this venture.

Organized Crime Groups

Kinahan Organised Crime Group-KOGC

The Kinahan organized crime group (KOCG) is involved in narco-terrorism as well as international money laundering. Their assets were frozen by UAE authorities in 2022 and are on the OFAC list .




Transnational Criminal Organization
Executive Order 13581 as amended by Executive Order 13863
April 2022
U.S. Department of the Treasury
Office of Foreign Assets Control
KINAHAN ORGANIZED CRIME GROUP (KOCG)
Designated for providing material assistance to, or acting for or on behalf of, the KOCG
Christopher Vincent KINAHAN Sr.
DOB: 23 Mar 1957
Nationality: Ireland
Christopher Vincent KINAHAN Jr.
DOB: 24 Sept 1980
Nationality: Ireland
Daniel Joseph KINAHAN
DOB: 25 Jun 1977
Nationality: Ireland
John Francis MORRISSEY
DOB: 20 Dec 1959
Nationality: Ireland
Bernard Patrick CLANCY
DOB: 4 Sept 1977
Nationality: Ireland
NERO DRINKS
COMPANY LIMITED
Glasgow, Scotland
London, United Kingdom
Mijas, Spain
Owns/Controls
Owns/Controls
DUCASHEW GENERAL
TRADING LLC
Dubai, U.A.E.
Designated for providing material assistance to, or acting for or on behalf of, Daniel Joseph KINAHAN
Sean Gerard MCGOVERN
DOB: 12 Feb 1986
Nationality: Ireland
Ian Thomas DIXON
DOB: 17 Sept 1989
Nationality: Ireland
Owns/Controls
HOOPOE SPORTS LLC
Dubai, U.A.E.

- A court official travelled to the address of **Industrious Facilities Management LLC,** which is listed as the sponsor of Kinahan's visa in the UAE. Upon further search, the registered address (Office 602 in the Crystal Business Centre in Port Saeed), was not the true address of the company and nobody in the business center knew of the company or Kinahan .

- Dubai was frequently used as a facilitation hub for illicit activities by purchase of real estate in the name of shell companies and use the property for illegal activities. The Kinahan brothers established Dubai companies to trade in food, clothing and textiles and provide business services, management and aviation consultancies registered in CFZ's .

- More than €200 million was laundered usingthe halawa system by an Irish Kinahan cartel enforcer ,identified in the US sanctions, in the 18 months prior to his arrest.

- Use of family members to register companies and real estate in the UAE,attempting to circumvent sanctions.

- Offices registered under Ducashew General Trading LLC ,which but the US Treasury maintains it is "owned or controlled by, directly or indirectly,Daniel Kinahan".

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KOGC- PEP linkages

Example of money laundering through drugs cartels and proximity with Politically Exposed Persons(PEP's)

Sections

THE IRISH TIMES

Conor Gallagher Crime Correspondent
Tue Jun 16 2020 - 15:32

A sports company owned by a Bahrani prince has cut ties with Irish drugs smuggler Daniel Kinahan, the latest in a series of blows to the Dubliner's attempts to whitewash his reputation on the international stage.

KHK Sports asked the Bahrani government to make the announcement on Tuesday in a statement specifically sent to media outlets which had previously reported critically on the Dublin-born crime boss.

The company is owned by Sheikh Khalid bin Hamad Al Khalifa, a son of the king of Bahrain and one of the most senior figures in the country's sports industry. KHK announced the hiring of Kinahan as a special adviser just over a month ago with the aim of attracting high-profile boxing and MMA fights to the Middle Eastern nation.

Citing its "integrity and deep-rooted principles in the sports industry", KHK said on Monday it "has discontinued engagement with Daniel Kinahan and he is no longer an adviser to KHK Sports".

Case Takeaways

Important KYC Documents for Corporate Entities with Complex Ownership:

Certificate of Incorporation: To verify the legal existence of the company.

Memorandum and Articles of Association: Outlines the company's objectives and rules of operation. Register of Members: Provides details of shareholders and their ownership percentages.

Register of Directors and Officers: Identifies key decision-makers within the organization. Beneficial Ownership Declaration: To determine individuals with significant ownership or control. Shareholder Agreements: To understand any special rights or restrictions among shareholders.

Financial Statements: Analyze the company's financial health and performance.

Organizational Chart: Helps visualize complex ownership structures. Board Resolutions: For major corporate decisions and appointments.

Valid IDs of Directors and Ultimate Beneficial Owners: To verify identities.

POA and Nominee arrangements: To identify ultimate /significant ownership or control.

Beneficial Ownership and Disclosure requirements

Register of Beneficial Owner under the UAE Anti-Money Laundering

- All legal persons in the UAE pursuant to Article 8 are required to maintain the data of each of their Beneficial Owners in a Register of Beneficial Owners to be established within (60) days from the date of the enactment of the Decision or the date which the legal person comes into existence. If there are changes to such data by the legal person, they are required to update and record such changes in the Register of Beneficial Owner within fifteen days (15) of becoming aware of such changes.
- Pursuant to Cabinet Decision No.58 of 2020, the Actual beneficiary has been defined as the natural owner who has the ultimate ownership or exercise control or any other indirect means, and also the natural person the transactions are conducted on his behalf or that exercise ultimate actual control of the legal person.
- By this Cabinet Decision, all legal persons in the UAE except those in the financial free zones (Abu Dhabi Global Markets and Dubai International Financial Centers) and entities that are directly or indirectly wholly owned by the Federal or Emirate Government are required to keep an Ultimatebeneficiary owner data.

2. Providing AML related services - best practices and firm culture

Indicators of best practices

Improving Prevention by :

Undertaking precise risk assessments -

-Sometimes country-wide risk assessments may not capture all the relevant typologies, and a sector specific assessment ensures all the risk factors are embedded into the risk appetite which further reflects on the controls to be established and bias is reduced.

-Ensuring the firm wide risk assessment is applied across all branches of the firm and referred to when opening a new branch to assess risks and set up internal controls to mitigate any exposure to ML/TF/PF risks

Mitigating detection risk by :

-Continuously monitoring risks involved in the products and services offered and carefully assessing newly offered products and services to identify ML/TF/PF typologies.

As highlighted in the above case study, although some classic typologies such as shell companies, service-based businesses never go out of fashion, new typologies emerge as new means of illicit activities keep arising in the dynamic geopolitical environment, we are currently in.

Firm culture and tone at the top

A clear risk appetite should be defined and correctly communicated across the firm .

In the absence of a clearly defined risk appetite, decision-making will ultimately be reduced to personal judgement, which can depend dangerously on inference and is subject to bias. This leads to a culture of inconsistent behaviors within the organization, which in turn leads to mistakes and fragility.

Audit and accountancy firms must involve mid-level management in both defining risk appetite and monitoring how it is employed. Since the articulation of risk appetite helps guide and inform behavior, and therefore culture, communicating its purpose well and defining which risks are and are not acceptable are vital to building a robust risk culture.

Staff engagement and other technical areas

Adequate, qualified and able staff should be posted on AML compliance engagements to ensure:

-No slip-offs in identifying typologies related to AML/CTF/PF risks related to services offered to clients

-Quality services are offered to avoid regulatory penalties on client's end

-Managing reputation risk through dedicated QA checks and partner reviews.

Importance of qualified staff on engagements

Risks faced:

-Trade of controlled goods which require permits from the import export control office. Visit the UAEIEC website for more information

-Identifying trade with sanctioned regimes

-Trade via sanction regimes(air and water ports) to and out of UAE.

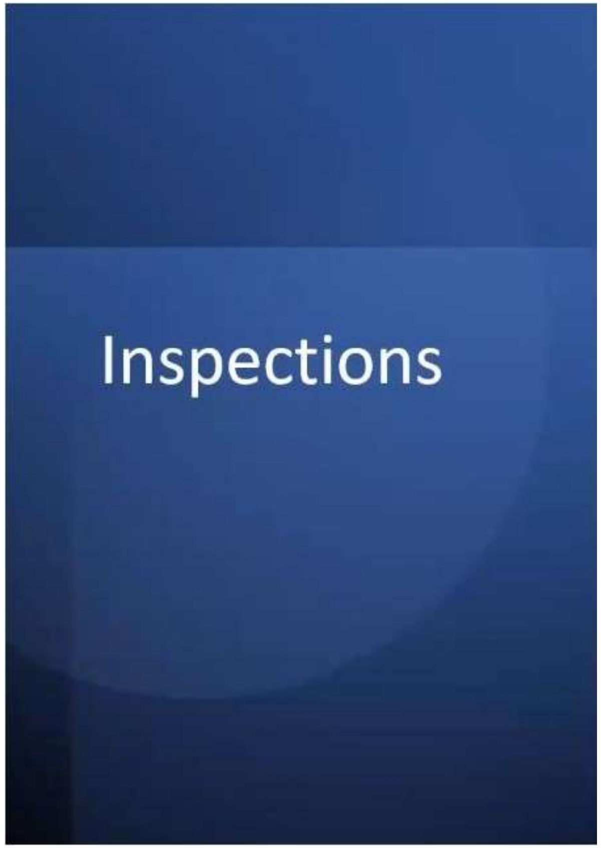
Screening

Know your Employee :

Onboarding procedures should include-

- Screening for all employees on an annual basis
- Police clearance certificate (from home country if PEP associations/sanctions exposures and incase country of origin falls under sanctions regime)
- Disclosures of association (including RCA) in all capacities with PEP's - foreign *I* local
- Self declaration forms as a part of firm disclosures(i.e. ,part of the firm disclosures and independence procedures for all employees on an annual basis)
- Induction training on firm AML procedures and internal policies when pitching/dealing with clients/ initiating assignments.

Inspections



Data availability is of utmost importance for 2 reasons:

- Gap assessment and re-assessment

- Inspections

As a start, any data that is previously collected through questionnaires from regulated entities should be used as a starting point and ensuring that the firm is internally prepared for any inspections by supervisory bodies.

Emerging Risks

Emerging high-risk industry-

Gambling and casinos-although gaming and gambling yet to be defined, it is highly likely that the sector with be tightly regulated

The UAE has placed international cooperation at the heart of its strategy and plan for countering money laundering and the financing of terrorism. Observer status at FSRB events is granted to countries that demonstrate an active and collaborative approach to fighting financial crime, which the UAE has displayed through its participation in MENAFATF and other multilateral organizations,"

UAE News- Tackling financial crimes

The Emirates has sought to counter the threat posed by economic crimes.

- UAE authorities have extradited 899 criminals since 2020, of which 43 were involved in money-laundering crimes. Ten of those were terrorists or were financing terrorist activities.
- The UAE has issued fines of more than Dh 11 million ($31.3 million) in the first quarter of the year in its fight against money laundering and the financing of terrorism.

THANK YOU !