

## Dissecting Ongoing Monitoring Obligations

Presented by

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## **OVERVIEW**



#### **What is Ongoing Monitoring?**



What is Transaction Monitoring?



Keeping Customer Due Diligence up to Date



Relevant Legislation



**Ongoing Monitoring in Practice** 



**Future Framework (AML Package)** 







## LEGAL BASIS OF ONGOING MONITORING PMLFTR

- → The obligation arises from regulation 7(1)(d) of the PMLFTR.
- Ongoing monitoring is a core Customer Due Diligence (CDD) measure.
- $\rightarrow$  Two key parts of ongoing monitoring (Reg 7(2)):
  - → A) Scrutiny of transactions throughout the relationship to ensure that transactions are consistent with the business and risk profile of the customer.
  - B) Ensuring that CDD information and documentation is reviewed and kept up to date.







# WHAT IS TRANSACTION MONITORING? SECTION 4.5.1. IMPLEMENTING PROCEDURES PART I

- "Transaction monitoring consists in using the subject person's knowledge of the customer to identify any transactions that are unusual".
- Outcomes of Transaction Monitoring:



Identify behaviour or transactions which deviate from the customer's normally expected behaviour;

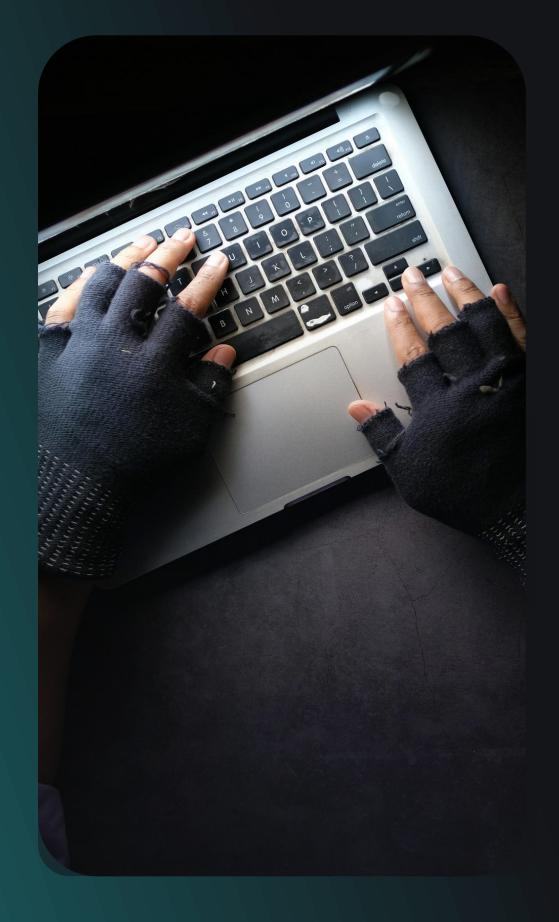


Identify suspicious activity in relation to which an STR is to be filed with the FIAU; and



Determine whether the risk assessment of the customer in question requires updating.





### UNUSUAL TRANSACTIONS

- The term "unusual" refers to those transactions which are inconsistent with the Customer's Profile.
- → Factors that can be used to detect transactions that are unusual:



Significant changes in the values and volumes of transactions carried out;



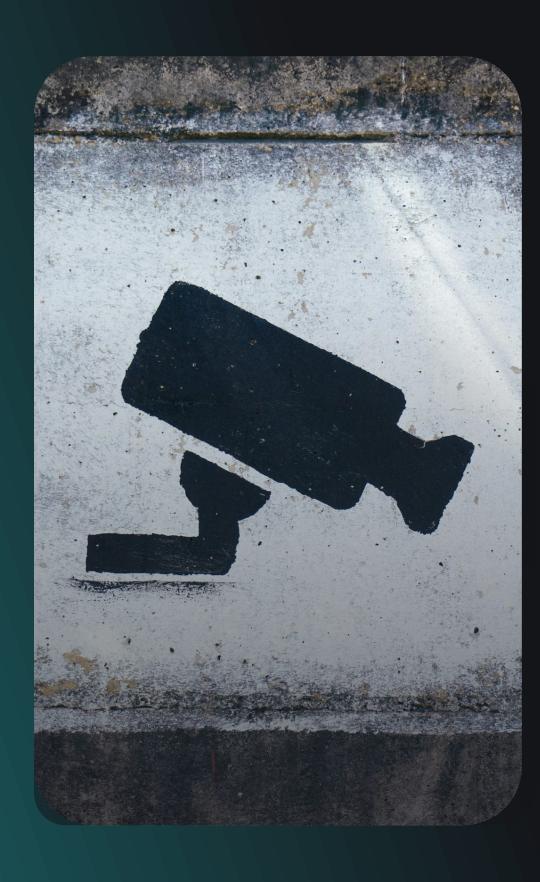
Transactions carried out in short time frames (e.g. immediate sales of assets or the withdrawal of deposited funds)



Jurisdictional factors such as a change of destination or origin of the transaction.

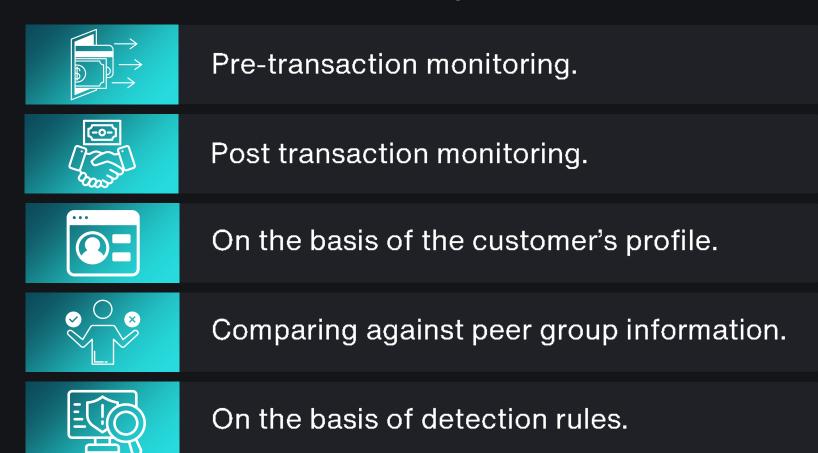
- Not all unusual behaviours amount to a suspicion of money laundering or financing of terrorism but should serve as a trigger event.
- Subject Persons should collect additional information and/or documentation to assess the legitimacy of the transaction.
- The additional documentation should be appropriate and collected on a risk-sensitive basis.





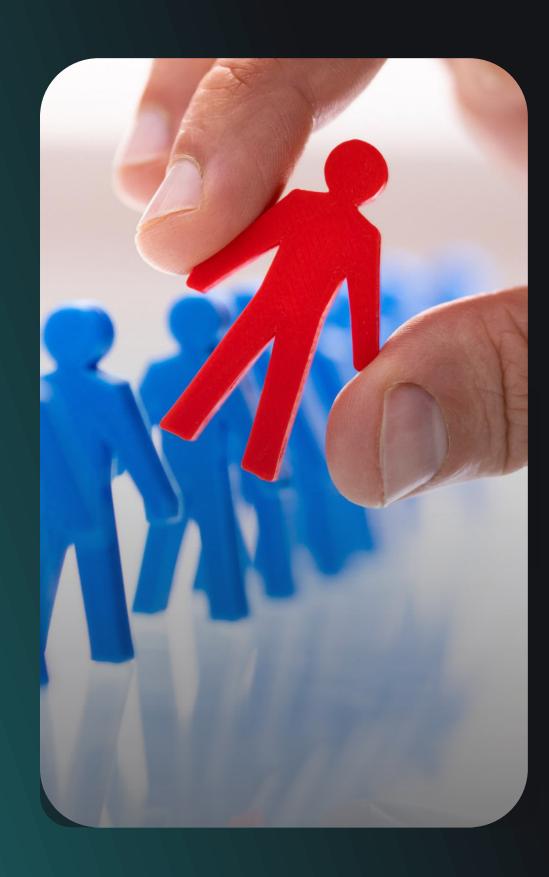
## DIFFERENT METHODS OF CONDUCTING TRANSACTION MONITORING

- The appropriate method depends on the activity and business carried out by the Subject Person.
- Methods of Transaction Monitoring mentioned in the Implementing Procedures:









## KEEPING CUSTOMER INFORMATION UP TO DATE



Ongoing monitoring also requires subject persons to keep CDD documents and data updated



Regular review ensures the risk assessment reflects the real ML/FT risks.



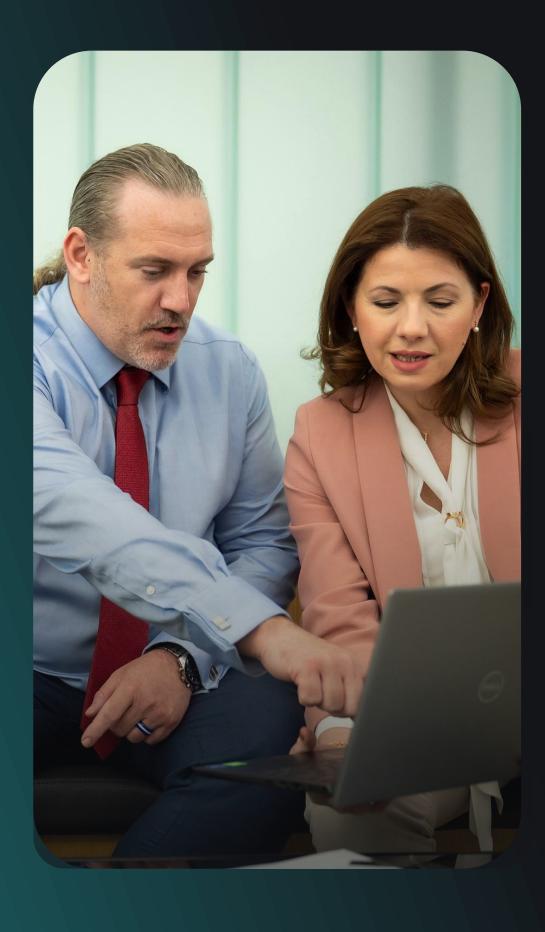
Updating customer info helps tailor CDD and monitoring measures appropriately.



Reviews should take place either periodically or following certain changes in the business relationship







## SECTOR-SPECIFIC GUIDANCE FOR CSPS IPS PART 2, SECTION 2.4.

- The risk-based approach is crucial when determining how to conduct ongoing monitoring.
- monitoring.

  Monitoring approach depends on:
  - Type and number of services provided.
  - 2 Level of visibility into the client's company activities and transactions.
- Section 2.4.4 of the Implementing Procedures Part II provide for a baseline of what is expected in terms of ongoing monitoring.
- Directorship services require both transaction monitoring and updating CDD as a minimum when:
  - 1 Vested with legal and judicial representation of the corporate customer; or
  - 2 Are otherwise empowered to bind the corporate customer.





# CONTROL & VISIBILITY FACTORS AFFECTING ONGOING MONITORING IPS PART 2 SECTION 2.4. CONT.

- The extent of ongoing monitoring is determined by two main factors:
  - Does the CSP have legal/judicial representation of the corporate customer?
  - Does the CSP have signatory rights over the company bank accounts?
- The Control and Visibility a Director has over the Company will determine the methods and extent of ongoing monitoring.
- → More control = ability to perform **pre-transaction monitoring** (monitor before execution)
- → Less control = **post-transaction monitoring** (monitor transactions after execution)





## MONITORING BASED ON DIRECTOR'S ROLE EXECUTIVE VS NON-EXECUTIVE DIRECTORS

#### **Executive Directors**



Hands-on control over day-to-day affairs.



Authority to approve/sign transactions.



Should perform pre-transaction monitoring.

#### **Non-Executive Directors**



Advisory role, limited day-to-day influence.



Usually no direct access to transaction details pre-execution.



Transaction monitoring would depend on the visibility of transactions

- → The Companies Act does not define Executive & Non-Executive
- → Adapt monitoring to director's actual level of control and visibility





### DIRECTORS AS SIGNATORIES

- Directors who are signatories on bank accounts or loan agreements have control over the execution of a transaction.
- → Given the control, SPs should conduct pre transaction monitoring.
- Factors to consider during ongoing monitoring:



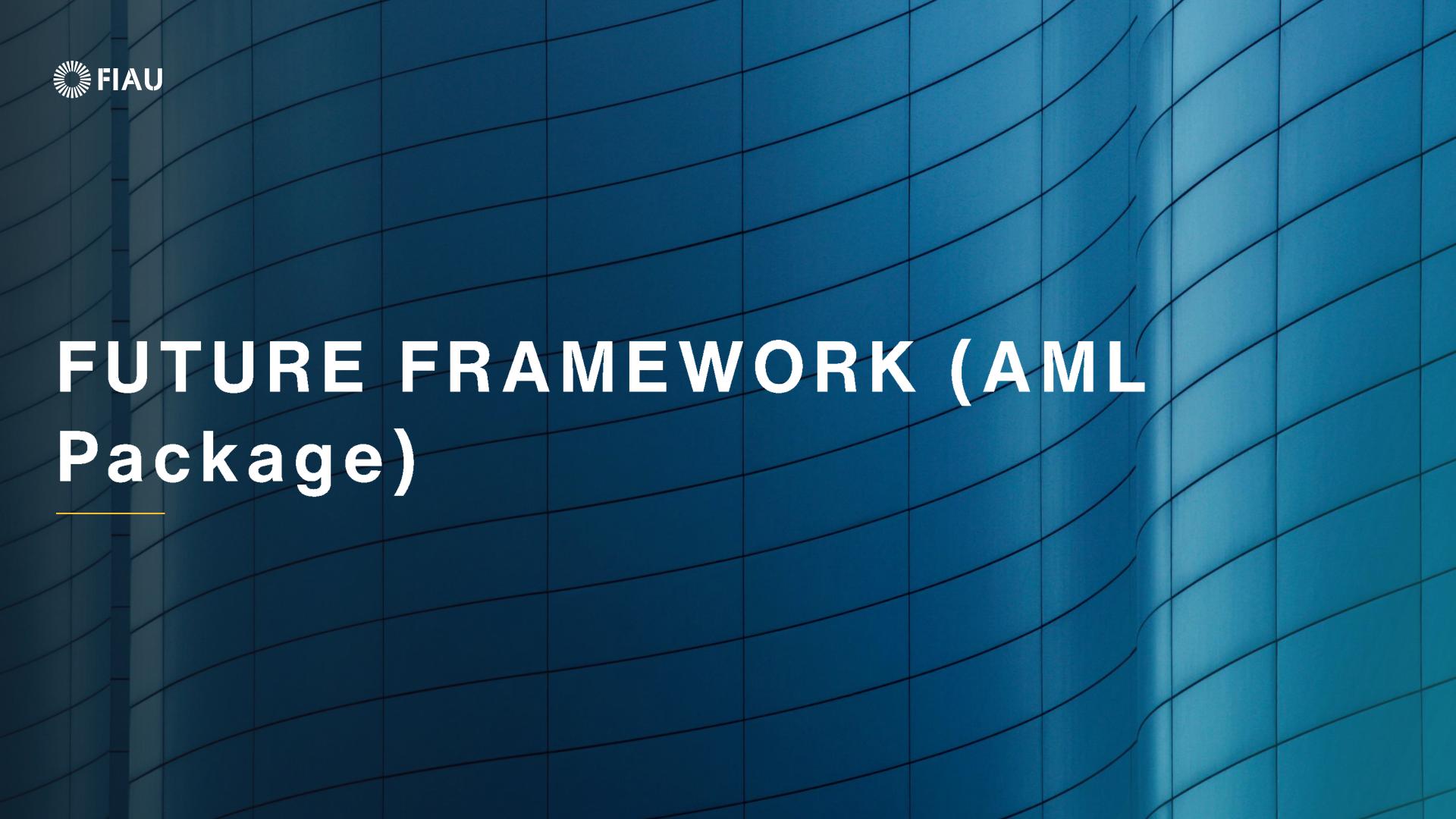
The parties involved in the transaction – adverse media?



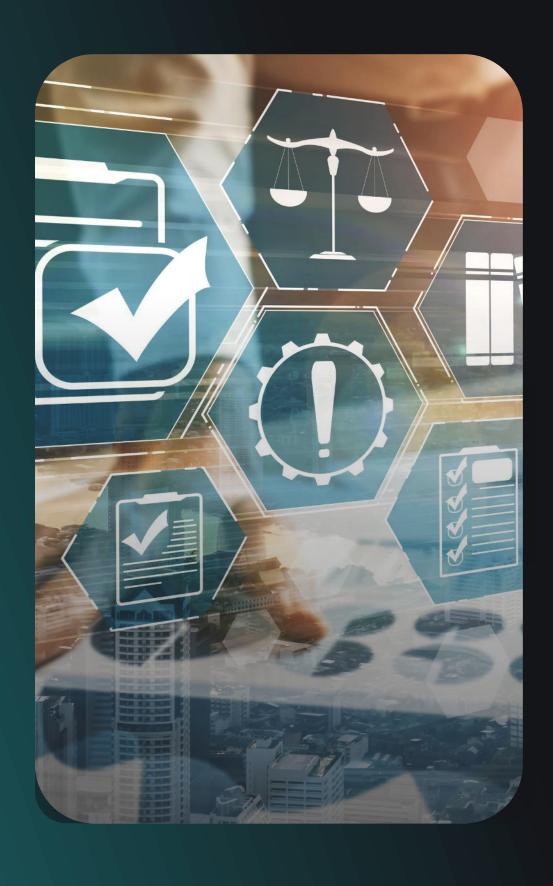
The economic rationale?



Source of Funds.







# FUTURE OUTLOOK - AML REGULATION (AMLR) (1)

Article 26 AMLR continues to require ongoing monitoring of business relationships to ensure that transactions are consistent with:



Knowledge of the customer.



Customer's business activity and risk profile.



Origin and destination of funds.

The use of information sharing when SPs form part of a group.





# FUTURE OUTLOOK - AML REGULATION (AMLR) (2)

The Frequency of CDD reviews will be risk based and shall not exceed:



Yearly for High Risk.



Every 5 years for all other customers.

Ongoing updates required when:



Customer circumstances change.



Relevant facts arise.



Legal obligations for beneficial ownership info.

\*By 10 July 2026, AMLA shall issue guidelines on ongoing monitoring of a business relationship and on the monitoring of the transactions carried out in the context of such relationship.





### KEY TAKEAWAYS



Ongoing monitoring is a dual obligation: transaction scrutiny and CDD updating.



Level and technique of monitoring depends on the services and the CSP's role and control over the client company.



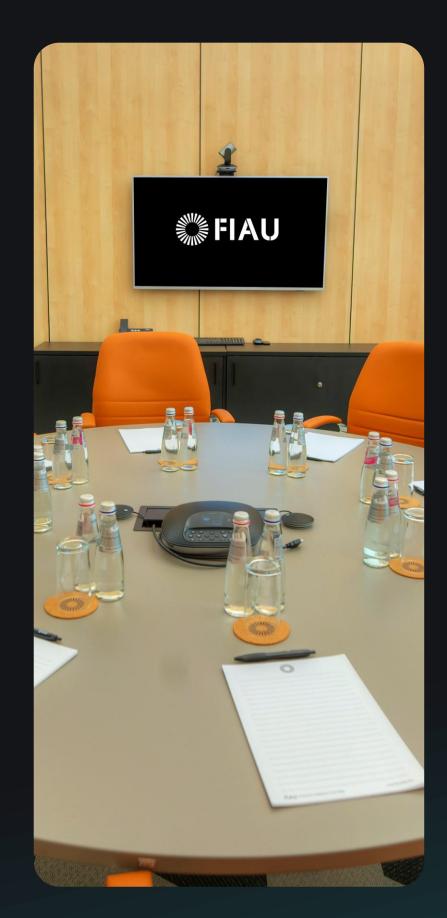
Executive vs. non-executive directors have different monitoring capabilities and responsibilities.



AMLR will reinforce ongoing monitoring obligations without drastic changes.



Always apply a risk-based, flexible approach tailored to the services and client risk profile.



# Thankyou

