

Strengthening Compliance with Transaction Monitoring Obligations

Insights from supervisory reviews on CSPs providing directorship services
— empowering CSPs to take practical steps towards stronger AML/CFT compliance

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AGENDA



FIAU's Supervisory Function



Risk-Based Supervision



Types of Supervisory Interventions



Supervisory Methodology



Targeted Examinations on CSPs offering directorship services



Overview



Outcomes



Key Takeaways



Case Study





THE FIAU'S SUPERVISORY FUNCTION

THE SUPERVISION SECTION'S FUNCTION

Article 26(1) of the PMLA (based on the EU's AML Directive):

“The Unit shall be responsible to ensure that subject persons comply with the provisions of this Act and any regulations made thereunder in so far as these are applicable to them.”



Subject Person Population



Financial Sector

Credit Institutions

Financial Institutions

Investments

Insurance

Crypto Assets
Service Providers

Pension Funds



Non-Financial Sector

Gaming Operators

Auditors &
Accountants

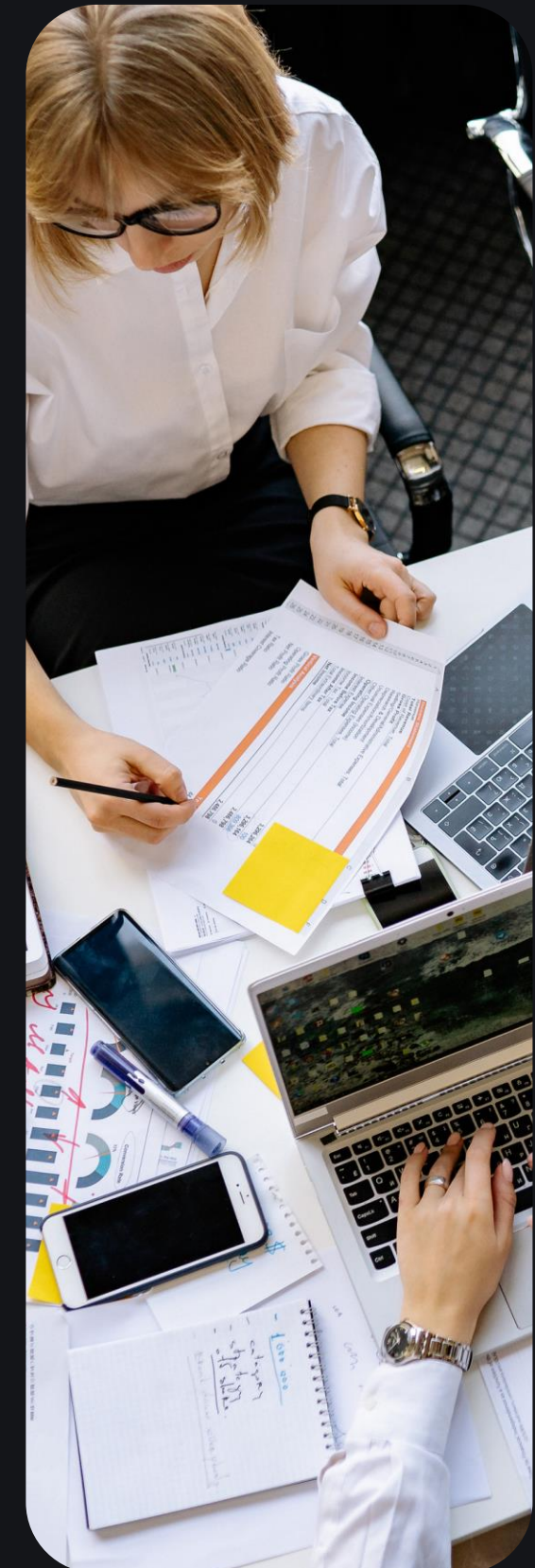
Trustees &
Fiduciaries

Company Services
Providers

Lawyers

Notaries & Real
Estate Agents

2,000 Subject Persons in Malta



RISK-BASED SUPERVISION

- In line with the 5th AMLD, the FIAU follows a risk-based supervisory approach. This is addressed in the Maltese law through the PMLA.
- A risk-based approach helps determine the frequency, type and intensity of supervision on the basis of the risk profile of subject persons and the ML/FT risks which Malta is exposed to.



CASPAR

A yearly risk assessment is carried out on subject persons through CASPAR which factors in various data sources. The results determine the subject persons to be supervised and the focus areas to be addressed through different supervisory interventions.

**RISK BASED
SUPERVISION**

Supervisory Interventions >

**AML/CFT
RETURNS**

**FULL SCOPE
INSPECTION**

**POLICIES AND
PROCEDURES
REVIEW**

**SUPERVISORY
MEETINGS**

**TARGETED
INSPECTION**

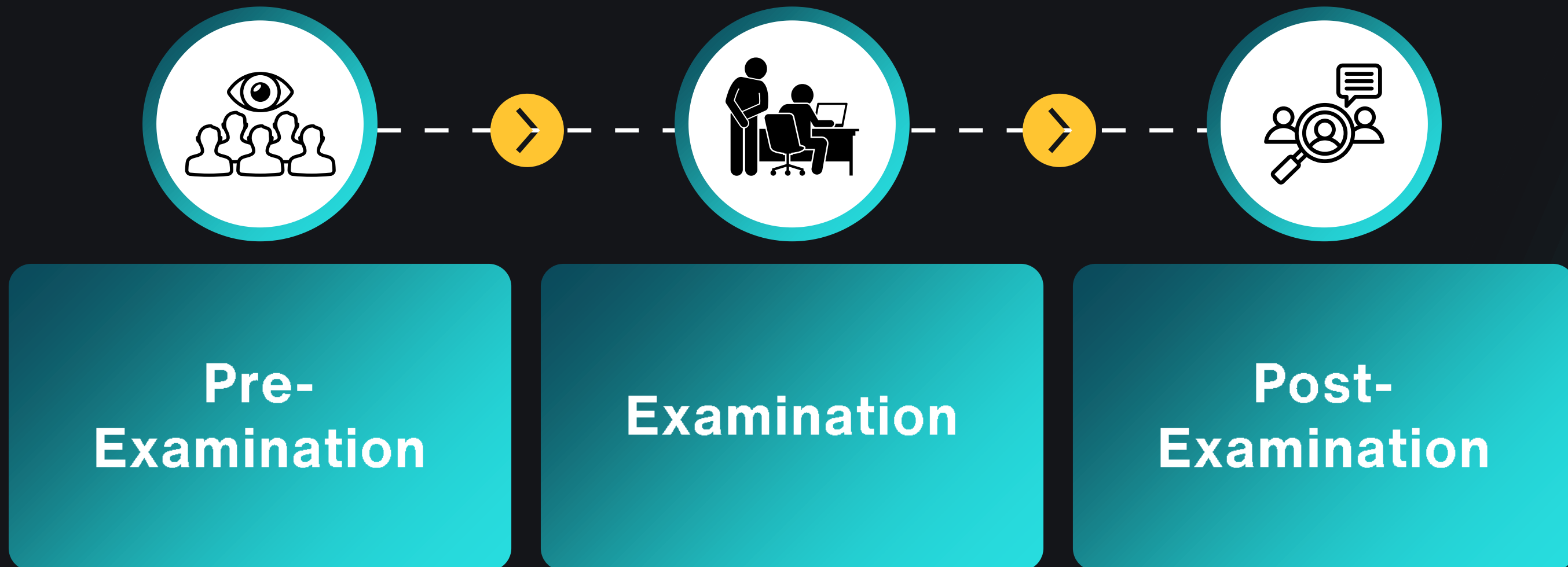
**AD-HOC
INSPECTION**

**THEMATIC
INSPECTION**

**FOLLOW-UP
INSPECTION**



SUPERVISORY METHODOLOGY





PRE-EXAMINATION

- Subject person notified of examination 1- 3 weeks before initial meeting with MLRO.
- Subject person requested to provide documentation 5-10 days after receipt of our official Notification Letter.
- **This may include:**



Written policies and procedures



Any onboarding forms utilized



Client list



AML/CFT Training Records

EXAMINATION

→ Phase 1: Controls Design Testing

- Review of written policies and procedures.
- Assessment on whether the subject person has sufficient and adequate controls, policies and procedures in place to address AML/CFT obligations and ensure compliance.
- Interview with MLRO

→ Phase 2: Controls Implementation Testing

- A sample of customers tested to assess whether the controls in place are being effectively implemented by subject persons.
- Subject persons are requested to provide information and documentation as applicable for each customer selected to demonstrate compliance.
- The documentation is analysed to assess adherence to the obligations.

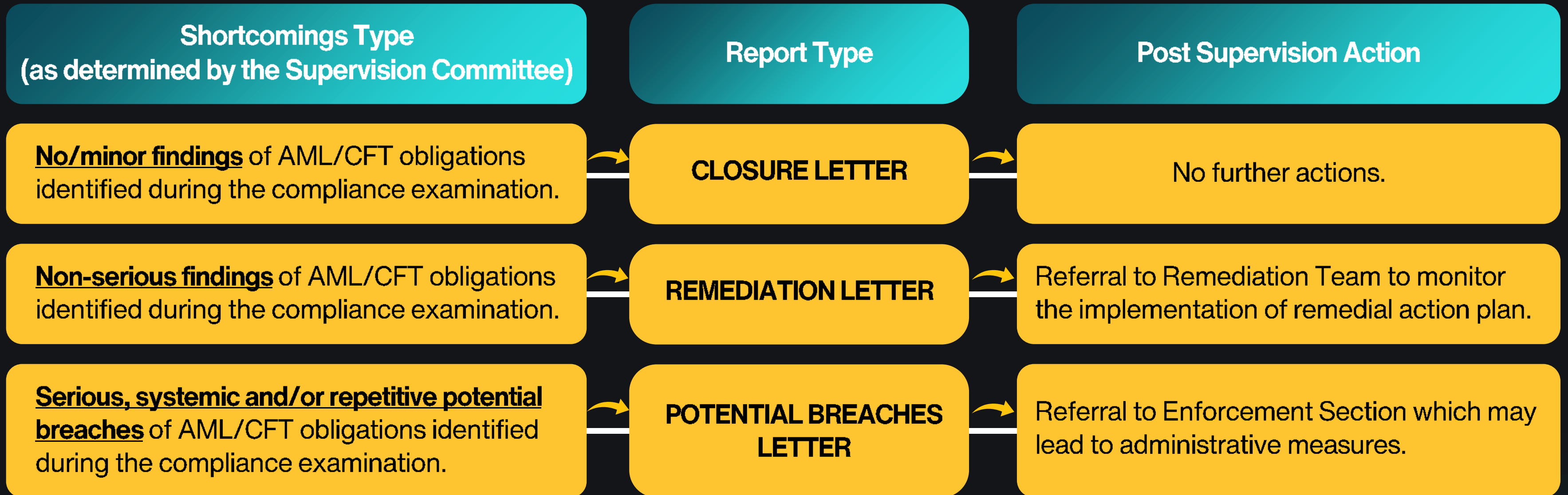




POST-EXAMINATION

- Closing meeting is held with the MLRO to formally conclude the testing phase.
- Findings are gathered and presented before the Supervision Committee.
- Supervision Committee determines the outcome and actions to be taken in respect of the findings identified.

POST-EXAMINATION-REPORTING



POST-EXAMINATION- REPORTING TO THE SANCTIONS MONITORING BOARD (SMB)



BORD TA' SORVELJANZA DWAR IS-SANZJONIJIET
SANCTIONS MONITORING BOARD
MALTA

- In line with the Memorandum of Understanding between the FIAU and SMB, the FIAU examination process encompasses the collection of information and documentation in relation to the subject person's adherence to its sanction screening obligations.
- Article 17(6) of the National Interest (enabling powers) Act (NIA) establishes the obligations related to sanctions on terrorism, terrorist financing and the proliferation of weapons of mass destruction.
- The relevant information gathered is reported to the SMB which is the entity entrusted by law to ensure compliance with said obligations.



TARGETED EXAMINATIONS ON CSPS OFFERING DIRECTORSHIP SERVICES

OVERVIEW

OVERVIEW

TESTING PERIOD

Targeted Examinations on CSPs offering directorship services were carried out between 2023 and 2024.

SCOPE

Transaction Monitoring Obligations.

CSPS EXAMINED

In total, 21 CSPs were examined.

OBLIGATIONS IN SCOPE

Regulation 7(1)(c) of the PMLFTR - Obtain information on the purpose and intended nature of the business relationship and establishing the customer's business and risk profile.

Regulation 7(2)(a) of the PMLFTR - Ongoing monitoring of the business relationship through scrutiny of transactions ensuring that transactions are consistent with the subject person's knowledge of the customer and business and risk profile.



Regulation 11(9) of the PMLFTR - Examine the purpose and background of all transactions that are complex, unusually large, conducted in an unusual pattern, or have no apparent economic or lawful purpose.

Regulation 15(3) of the PMLFTR - Promptly reporting suspicious transactions or activity to the FIAU





TARGETED EXAMINATIONS ON CSPS OFFERING DIRECTORSHIP SERVICES


OUTCOMES

TARGETED EXAMINATIONS OUTCOMES

→ Key Findings – Remediation Letters:

- 


Shortcomings related to policies and procedures.
- 


Shortcomings in respect of transaction scrutiny in relation to a smaller part of the sample tested.
- 

Record-keeping

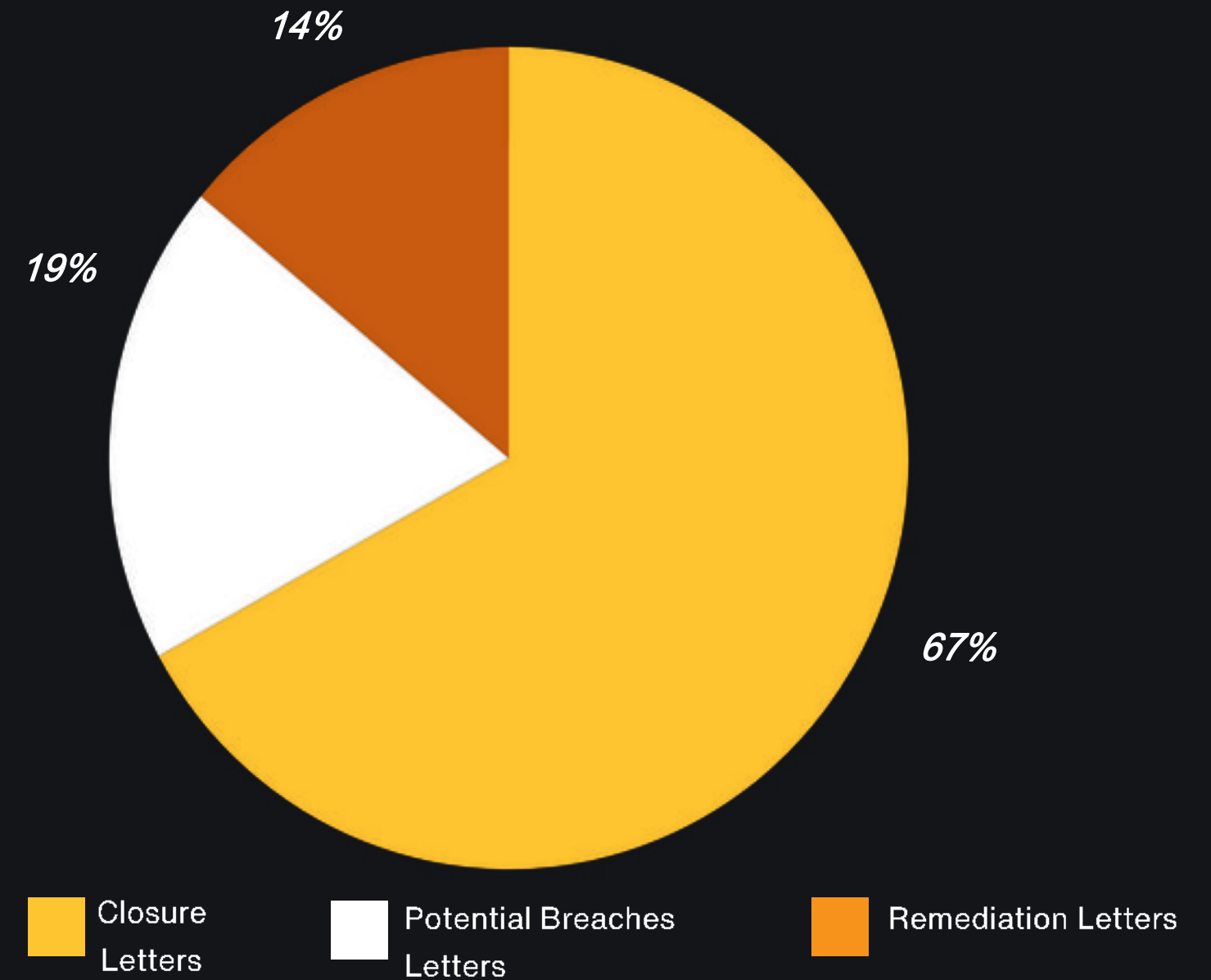
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→ Key Findings – Potential Breaches Letters:

- 

Shortcomings in respect of transaction scrutiny of a repetitive or more material nature.
- 

Failure to file suspicious transaction report/s





TARGETED EXAMINATIONS ON CSPPS OFFERING DIRECTORSHIP SERVICES

KEY TAKEAWAYS

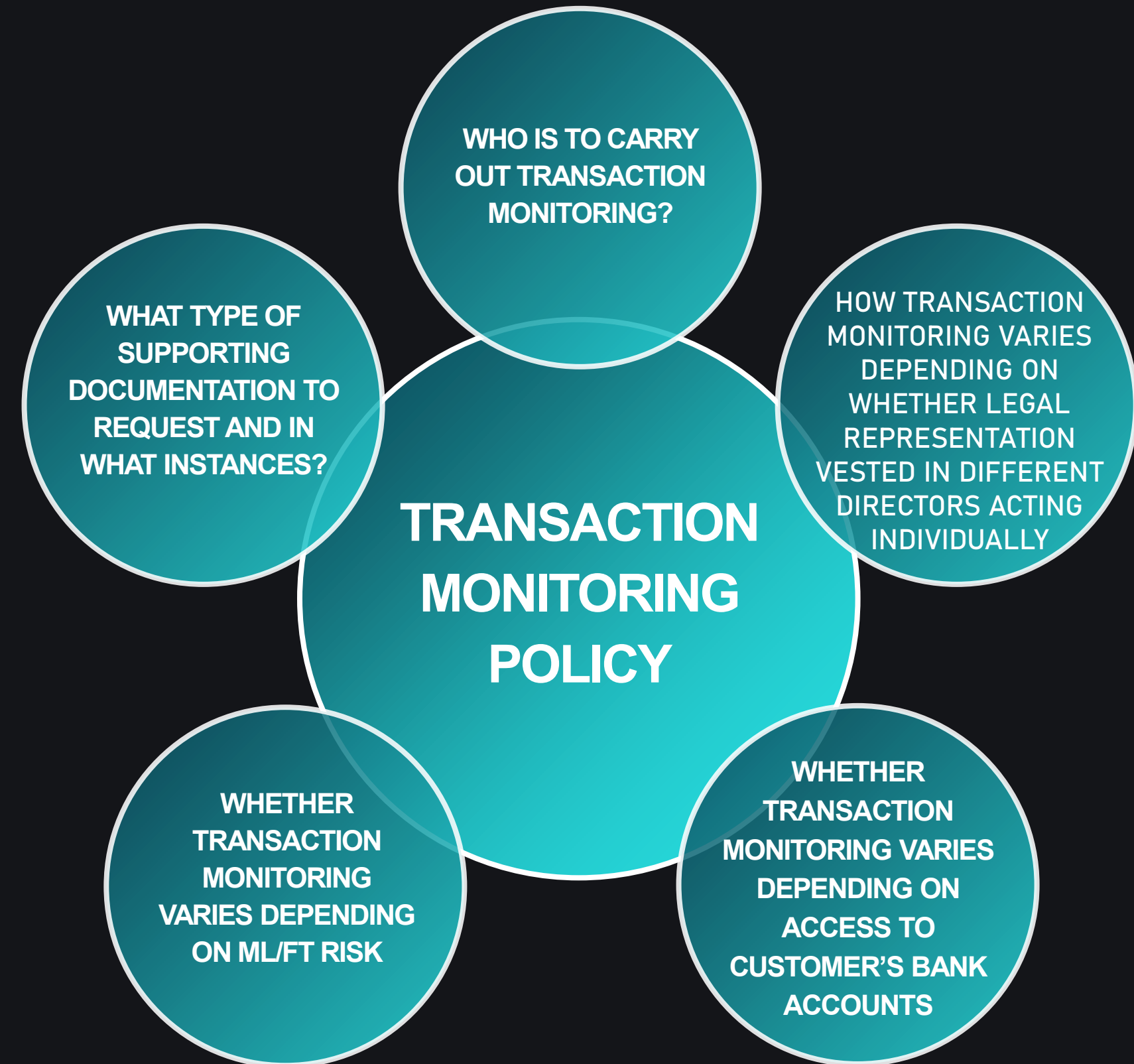
POLICIES & PROCEDURES

- Shortcomings were commonly noted with respect to written procedures on transaction monitoring.
- **Key Takeaway 1:** Policies must clearly outline the measures to be applied by employees to fulfil transaction monitoring obligations in practice.



Why This Matters

- Without clear guidance, staff may overlook key obligations or apply controls inconsistently.
- Imperative to inform and train employees on how these procedures are to be applied in practice.





CUSTOMER PROFILE AND TRANSACTION SCRUTINY

- Another common shortcoming was failure to establish an adequate customer profile and the lack of scrutiny applied to certain large, unusual, or complex transactions.
- **Key Takeaway 2:** Ensure that a comprehensive customer profile is established. When scrutinizing transactions, assess the customer's explanation and determine whether it is reasonable in the context of the customer's profile and expected activity. Review the content of supporting documentation obtained and ask follow-up questions to address any gaps or clarify inconsistencies.



Why This Matters

- A comprehensive customer profile serves as the basis for appropriate ongoing monitoring, and helps to determine whether a transaction makes economic or legitimate sense in the context of that profile.
- Ensures that suspicious or inconsistent transactions are not overlooked.



EXAMPLES



Example 1: Company registered as car dealer, but transactions show payments for fabric imports.

Action: Request explanation and supporting documents (e.g. invoices, contracts). Assess the change in business activity and whether this makes economic or legitimate sense.



Example 2: A drilling company lends EUR 1,500,000 to a third party. The loan is then assigned multiple times to different entities in various countries.

Action: Assess whether the funds are available/SOF, the relationship with the third party and the terms of the loan agreement (including interest, repayment schedule). Examine the relevant assignment agreements to verify the economic rationale behind the multiple assignments.

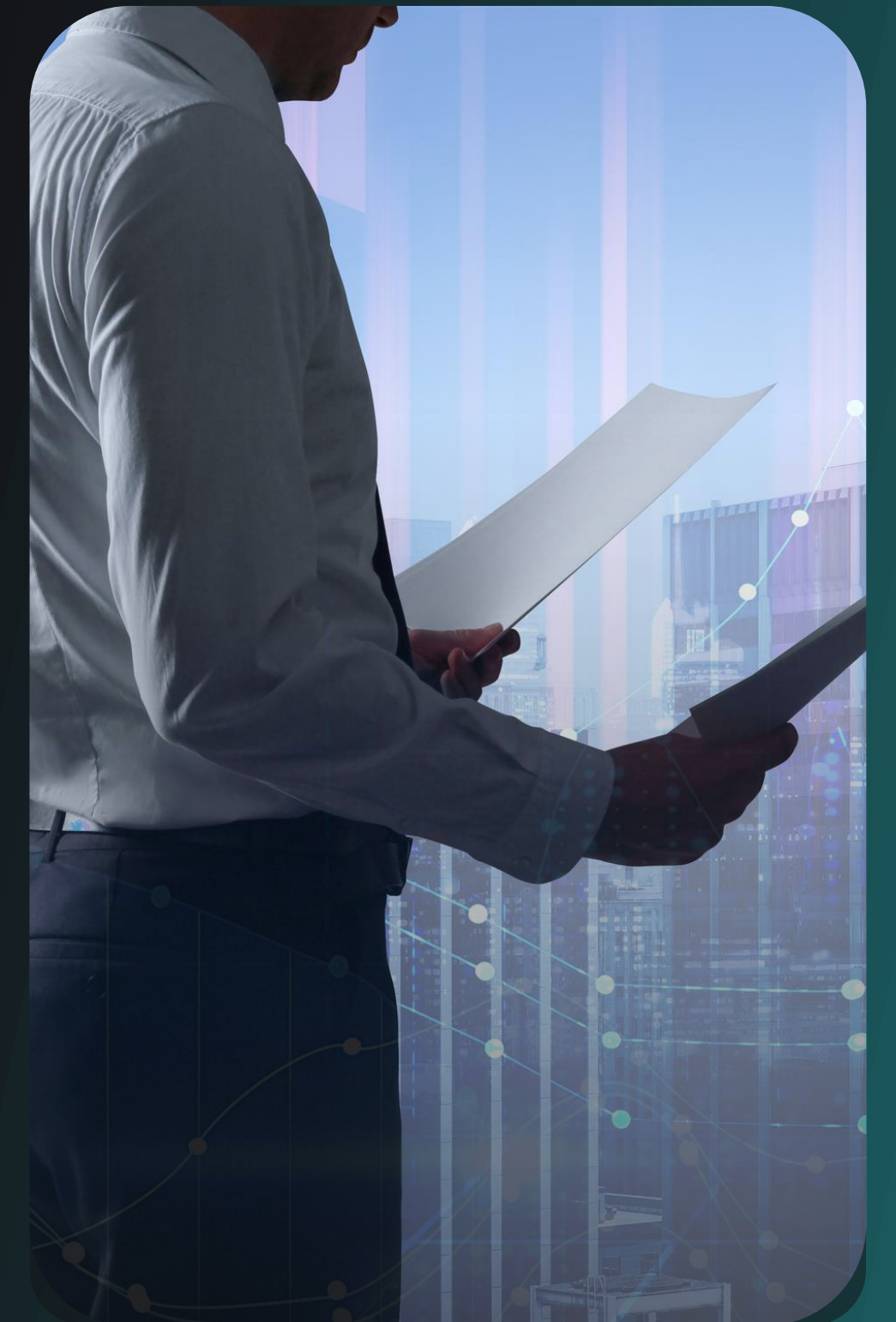
REPORTING OF SUSPICIOUS TRANSACTIONS

- In some cases, suspicious transactions and/or activity were not reported to the FIAU.
- **Key Takeaway 3:** Where a transaction cannot be reasonably justified or explained, notwithstanding the information and/or documentation received, assess the red flags and consider whether there are sufficient grounds to file an STR, and if so, proceed to file promptly.



Why This Matters

- Failing to file STRs means critical information is not being passed on to the FIAU, limiting the ability to identify and disrupt wider criminal activity.
- Escalation and reporting are not just legal obligations—they are essential to safeguarding the financial system and protecting potential victims of financial crime.



CASE-STUDY

CASE STUDY: CONSULTANCY FEES

Services offered to customer

- Directorship with sole legal and judicial representation
- Company Secretary
- Registered Address



Information on the Customer

1

The customer (Malta123 Ltd) provides consultancy services related to transportation.

2

100% shares held in fiduciary capacity on behalf of the BO (Italian national and resident)

3

BO has experience in marketing. No other details in respect of the BO obtained.

4

Customer rated High Risk as per CRA carried out at onboarding in November 2022. Customer was put into liquidation in January 2024.

5

Expected value of transactions: approx. EUR1,300,000 annual inflows from private-sector clients in Eastern Europe. Approx. EUR500,000 annual outflows as travel costs and professional fees.



CASE STUDY: CONSULTANCY FEES



Transaction Monitoring

- 1 Transaction monitoring measures to be applied when offering directorship services not clearly detailed in the subject person's policies.
- 2 Bank account in Malta with CSP as director holding sole signatory rights.
- 3 Two inward transactions of EUR1,700,000 each, that is total of EUR 3,400,000 from a single client, PolandXYZ Ltd, in June 2023 and October 2023 respectively, for consultancy service were flagged as unusually large compared to typical amounts historically received from the same entity and compared to the expected annual inflow.
- 4 A consultancy agreement was obtained, indicating that Malta123 Ltd was providing advisory services to PolandXYZ Ltd in connection with the acquisition of a large-scale transportation-related commercial contract in Italy. The agreement included generic information.
- 5 As per open-source searches by the CSP, PolandXYZ Ltd operates in the transportation sector and is a key supplier to governmental authorities globally.
- 6 The same sources indicated that PolandXYZ had been recently convicted for corrupt practices, including the payment of bribes to secure government contracts.



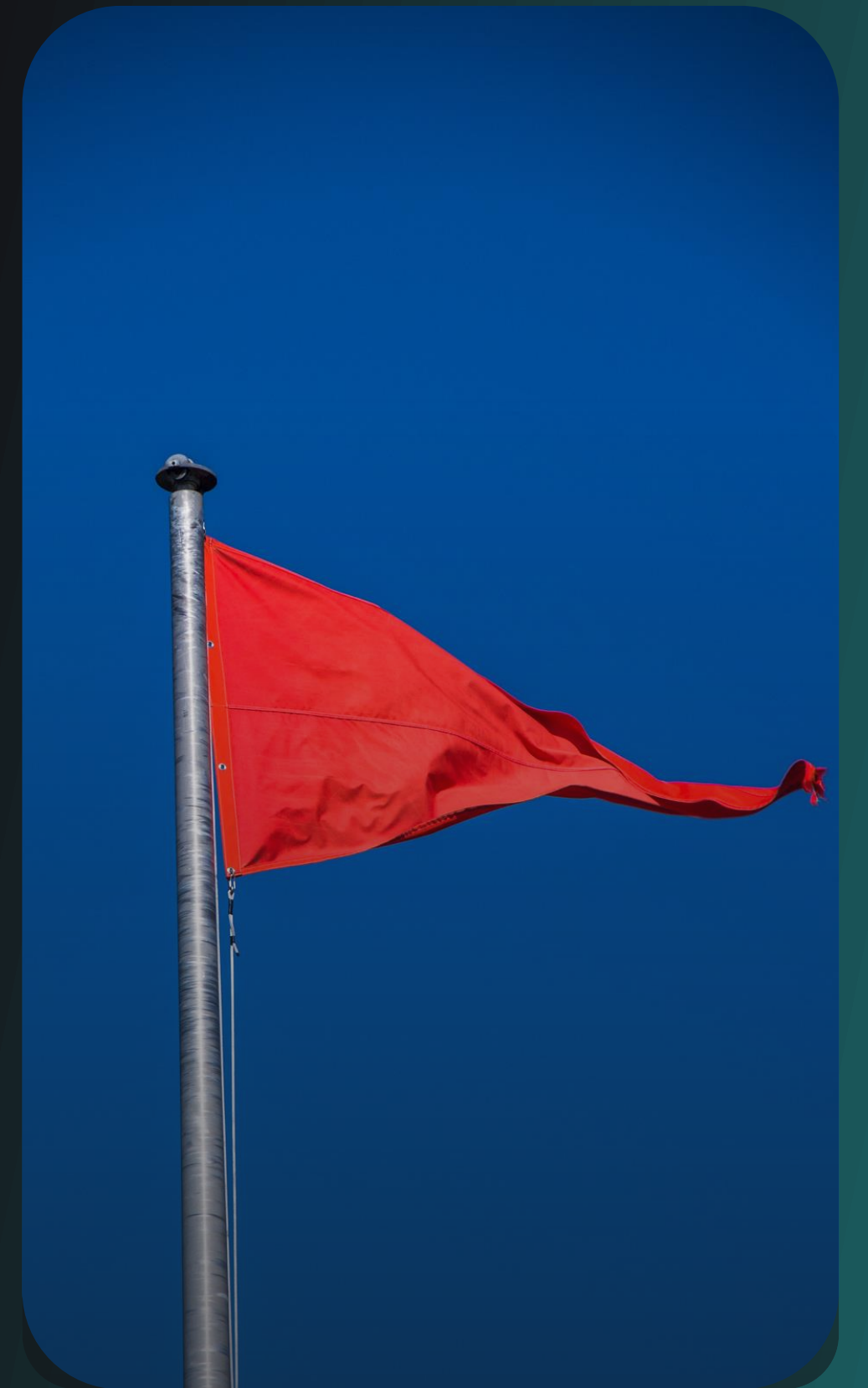
MONITORING

CASE STUDY: CONSULTANCY FEES



Red Flags

- 1 Unusually large transactions not supported by sufficiently detailed documentation.
- 2 Adverse information related to payment of bribes to secure government contracts.
- 3 Consultancy service in relation to public contracts may pose a higher ML risk especially considering the customer's corruptive practices.
- 4 The company went into liquidation shortly after the unusually large transactions.



KEY TAKEAWAYS



Key Takeaway 1: Policies must clearly outline the measures to be applied by employees to fulfil transaction monitoring obligations in practice.



Key Takeaway 2: Ensure that a comprehensive customer profile is established. When scrutinizing transactions, assess the customer's explanation and determine whether it is reasonable in the context of the customer's profile and expected activity. Review the content of supporting documentation obtained and ask follow-up questions to address any gaps or clarify inconsistencies.



Key Takeaway 3: Where a transaction cannot be reasonably justified or explained, notwithstanding the information and/or documentation received, assess the red flags and consider whether there are sufficient grounds to file an STR, and if so, proceed to file promptly.



Thank you