



Revised Implementing Procedures Part I – Purpose & Intended nature of the business relationship & Customer Business / Risk Profile

Daniel Frendo
Legal Affairs

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Overview of Session

- Why is the gathering of information and documentation in understanding and assessing the purpose and intended nature of the business relationship necessary
- What to look for to properly understand and assess the purpose and intended nature of the business relationship
- What is a Customer Risk Profile & What should it include
- Gathering of information – necessary vs. disproportionate / irrelevant
- What are the concepts of SoW & SoF
- SoW & SoF in the context of a business relationship

Purpose & Intended Nature of a Business Relationship & Business & Risk Profile of Customer - Introduction

➤ Regulation 7(1)(c) – PMFLTR

One of the cornerstones of CDD obligations is that of **assessing** and, as appropriate, **obtaining information** on the purpose and intended nature of the business relationship, and **establishing** the business and risk profile of the customer

- **two limbs:** purpose & intended nature of the business relationship **and** customer's business and risk profile

WHY is this assessment & gathering of information necessary?

- ✓ To **determine** whether a service/product provided **makes sense** in the customer's situation and profile & assess the customer's **intention** in requesting a particular product and/or service.
 - **economic** and **logical** sense – knowing what are you **going to do** for and **why**
- ✓ To **contribute** to the customer risk assessment and **ensure** that the customer falls within your risk appetite
 - Information/documentation used in conducting the **customer risk assessment** should shed light whether **customer** and **what is being requested** falls within your risk appetite

Cont. WHY is this assessment & gathering of information necessary?

- ✓ To **determine** the **appropriate** risk mitigating measures which need to be adopted **commensurate** to the threats and risks identified
 - Information/documentation should give a clear picture of **what** is the **level** of risk, as well as the **type** of threats
- ✓ To carry out **effective** ongoing monitoring
 - Understand clearly the expected behaviour, including the expected **nature** and **level** of activities and transactions

WHAT to look for when assessing the Purpose and Intended Nature of the Business Relationship

- **Purpose** - the **reason** for which the business relationship is being established
- **Intended Nature** – the **aim** or **plan** (intent) **how** that business relationship will take its course. Might require a more rigorous assessment to fully and truly understand **why** the business relationship is being set up.
 - There is a very **fine line** between the two
- **Example:**
 - A's purpose to open a bank account is the **same** as B's purpose – to deposit and hold monies in;
 - A intends to use that account for his self-employment related activities, **whereas** B simply plans to use that account as a salary account

Understanding the Purpose of the Business Relationship



- **Self-evident** purpose – given the nature & purpose of the service/product

Example:

- Opening an account with an online gaming licensee: the product/service offered can **only** be used by the client for gaming purposes. Hence, no reason to ask for information/documentation in this regard.

- **Multiple** purpose – the service/product can be used for **different purposes**

Example:

- Foreign BO setting up a Malta Co and asking for directorship services: the **reasons** why is this Co being set up in Malta may be numerous. Hence, one is expected to **determine** the purpose and reasons, including through:
 - ✓ Relevant background information – type of Co (holding/trading) and its structure (complex/simple);
 - ✓ Holding (what is it to hold) / Trading (objects of trade/line of business)

Understanding the Intended Nature of the Business Relationship

- **HOW** is the business relationship expected to develop
- One is expected to understand:
 - ✓ Type of transactions (e.g. Inward, outward)
 - ✓ Level of activity (e.g. Frequent, sporadic)
 - ✓ Amounts involved (e.g. Large transactions, smaller transactions)
 - ✓ Jurisdictional links (e.g. main markets targeted)
 - ✓ Other relevant information such as projected turnovers
- This information is beneficial to conduct a comprehensive Customer Risk Assessment and **equally important** to be in a position to carry out **proper** and **meaningful monitoring** of the business relationship

WHAT is a Customer Risk Profile & WHAT should it include

- 2nd limb of Regulation 7(1)(c) of the PMLFTR – to establish the Business & Risk Profile of the Customer
- Customer Risk Profile – **set of information and documentation** relevant to the customer to be able to conduct a **comprehensive** Customer Risk Assessment.
- One is expected to **collect** information (and **where necessary**, back it up with **documentation**) on:
 - ✓ Business, occupation, employment & other activity from which customer generates his/her wealth;
 - ✓ Any other ancillary happening from where the customer has derived his wealth (e.g. inheritance);
 - ✓ Expected source and origin of funds to be used;
 - ✓ Anticipated level and nature (inc. frequency) of transactions to be undertaken.

Cont. WHAT is a Customer Risk Profile & WHAT should it include

- **Type (kind)** and **level** of information and documentation requested needs to be **varied** depending on the outcome of the customer risk assessment and the type of product/service being requested.

Examples:

1. Requesting information on the anticipated level and nature of activity in case of a long-term insurance policy with fixed monthly premia is **unnecessary** since that is a given.
2. Requesting information on the anticipated level and nature of activity in case of an investment account is **crucial** to understand the frequency and level of investment, particularly for monitoring purposes.

Necessary vs. Disproportionate & Irrelevant Information



- Necessary Information/documentation – **nothing more** and **nothing less** than what is **required** to understand the purpose and intended nature of business relationship / compile a Customer Risk Profile, i.e. in line with the **RBA**.
- When necessary information should be of **sufficient quality** and not merely generic – e.g. mere reference to “business” or “employment” is not sufficient. One is expected to obtain more information to have more insight (colour) on that particular “business” or “employment”.
- One should always seek to collect necessary information on a RBA, refraining from requesting **disproportionate, excessive** or **irrelevant** information:
 - Disproportionate / Excessive: anything that is **too intrusive**, when other less intrusive information that fulfills same purpose can be requested
 - Irrelevant: anything that **does not add value** to the profile, **does not serve** to mitigate risks, or **does not provide** any reassurance relevant to ML/FT risks.

Source of Wealth & Source of Funds

- **Source of Wealth** - refers to the **economic activity** or activities which generate the customer's **wealth**. This is usually identified at the **beginning** of the BR and **updated** from time to time during the course of the relationship.
 - ✓ **Aim of information obtained** – get a sufficient indication as to the **volume** (amount) of wealth of the customer + get a picture as to **how was it acquired** (generated)
 - ✗ **Not** to be interpreted as having to conduct an audit of the customer's wealth generated during his/her lifetime.

Example: Customer requesting an investment product - Information on the **source that generated the wealth** being invested and which the customer is claiming that have been accumulated over time is vital (e.g. information on previous employment; business profits).

Cont. Source of Wealth & Source of Funds

- **Source of Funds** – refers to the activity which **generated** the funds of a **particular transaction** (which may be both inward / outward transaction). This is to requested whenever required, such as part of SP's ongoing monitoring obligation.
 - ✓ **Aim of information obtained** – establish the **fund's origin** and how such were **acquired**
- N.B.** May be the case that the information requested/obtained is the same for both SoW & SoF
- Establishing the **SoW** is a **requirement** in the case of a **business relationship**
- Establishing the **expected SoF** is a **requirement** in the case of a **business relationship** + when and where this is **necessary**.

Example where SoF information is required: a transaction which seems to be **unusual** or **not fully consistent** with the customer's business and risk profile.

Conc. Source of Wealth & Source of Funds

- **SoW** is identified at the **beginning** of the Business Relationship – information thereon is to be **updated** as necessary during the course of the relationship
- **Expected SoF** is requested at the **beginning** of the Business Relationship + additional SoF information **if and when** during the relationship there is doubt that a transaction being undertaken is **not in line** with the customer's business and risk profile
- **Extent** and **level** of detail of information/documentation in establishing SoW and SoF depends on the **customer risk assessment** – in accordance with the RBA
- **Ultimate aim** is that one is able to form a **reasonable conclusion** that:
 1. The customer's wealth has been generated **legally**; and
 2. Funds used in carrying out transactions are **legitimate**



Thank you for your attention

65C, Tower Street, Birkirkara BKR 4012, Malta

T. (+356) 21 231 333 F. (+356) 21 231 090 E. info@fiumalta.org W. fiumalta.org
