Revised Implementing Procedures Part I Ongoing Monitoring

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The Revised FIAU Implementing Procedures Part I – 18 October 2019

Requirement under PMLFTR

Regulation 7(1)(d) sets the requirement to conduct ongoing monitoring

Regulation 7(2) breaks down ongoing monitoring:

*(a) the **scrutiny of transactions** undertaken throughout the course of the relationship to ensure that the transactions being undertaken are **consistent** with the subject person's knowledge of the customer and of his business and risk profile, including, where necessary, the source of funds; and*

*(b) ensuring that the documents, data or information held by the subject person are **kept up-to-date**.*

Scrutiny of transactions

Using your **knowledge** of the customer

- Information on the **purpose and intended nature** of the business relationship
- Customer's business and risk profile

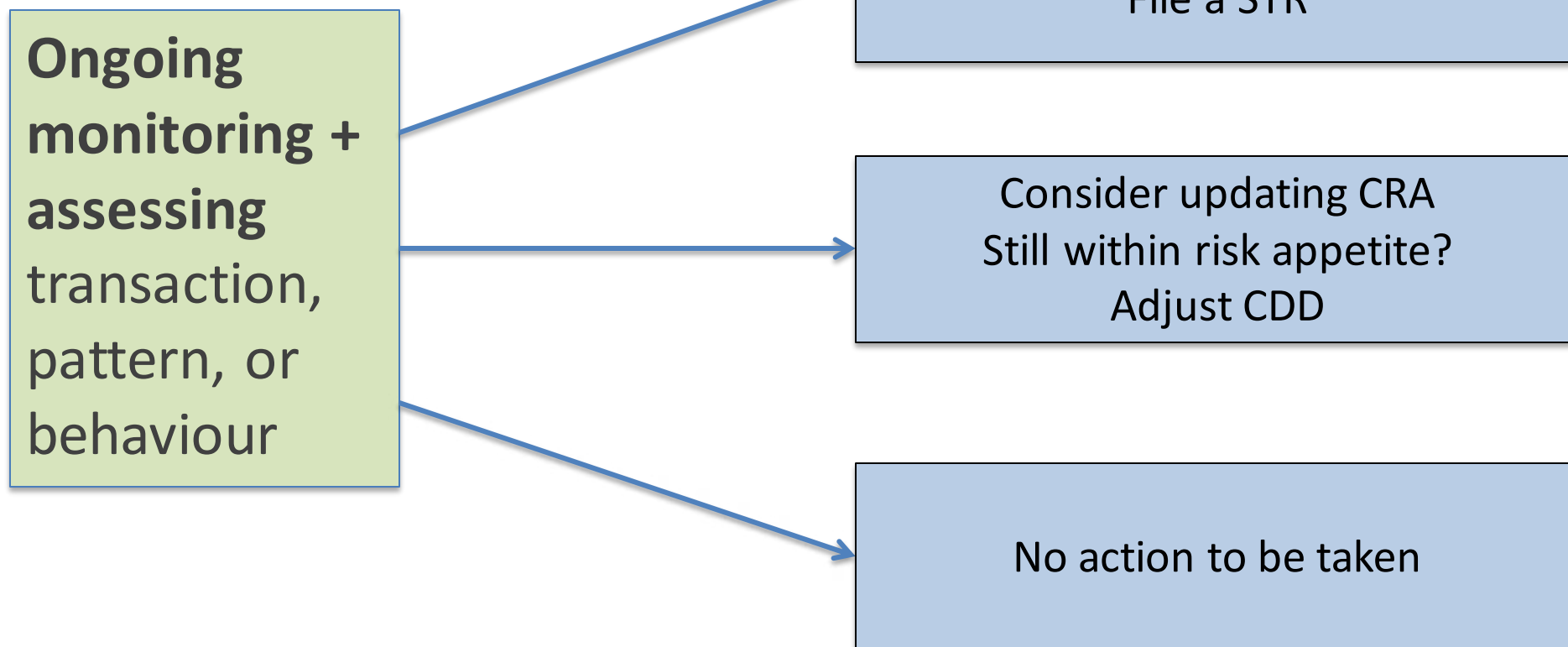## To **identify** unusual transactions/patterns

- Unusual by nature: suspicious, illogical, unnecessarily complex, unreasonable
- Inconsistent with customer's profile
- Significantly different to customer's usual transactions or requests

Examine purpose and background of all **complex and unusually large transactions** and **unusual patterns of transactions** with **no apparent economic or lawful purpose**

(Reg 11(9))

Purpose of ongoing monitoring
Possible outcomes

Ongoing monitoring + assessing transaction, pattern, or behaviour

Identify suspicious activity
File a STR

Consider updating CRA
Still within risk appetite?
Adjust CDD

No action to be taken

Identifying unusual transactions

- Significant change in the **value** of individual transactions

- Significant change in the **overall volume or frequency** of transactions *(pattern)*

- A number of transactions in **rapid succession**

  - Purchase and immediate resale of securities

  - Deposit and immediate withdrawal of funds

- A change in the geographical destination or origin

- A change in the source of funds of the customer

Remember: Reg 11(9): examine purpose and background of complex and unusually large transactions, and unusual patterns of transactions, which do not have any apparent or economic lawful purpose

Assessing unusual transactions
Determining legitimacy
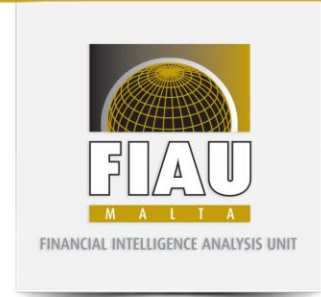
**Is there a legitimate reason?**

Obtain information on:

- Source of funds of that transaction
- Any new operational activities
- Significant relevant changes on the customer
  - e.g.: change in occupation
- Any other information you may consider necessary to be satisfied of the legitimacy of the source of funds

Level of data:
- *Enough to come to a reasonable conclusion on the legitimacy of the transaction*
- ***Should not be excessive, disproportionate or irrelevant***
- ***Requests should make sense in the context of the transaction and the customer***

Assessing unusual transactions
Doubts or reluctance – next steps?
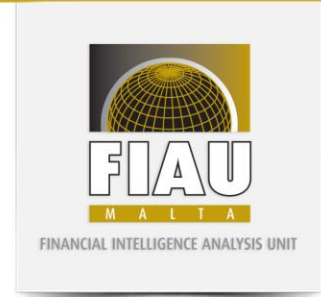
- Are you satisfied with the information/documents?
- Do you think your customer may be lying?
- Do you have doubts on the authenticity of the documents?
- Is your customer being unreasonably uncooperative?

**CONSIDER FILING A STR**

How to conduct transaction monitoring

Real time (**pre-transaction**)
- Face-to-face scenarios
- Non-face-to-face where transactions are not executed immediately
- More control and reassurance
- **Requires awareness** of relevant trigger events and red flags
- **Requires understanding** of the expected behaviour/use of the relationship
- EDD measure for **high-risk customers** and transactions
- Best combined with post-transaction monitoring to **detect patterns**

After the event (**post-transaction**)
- Not all relationships/services permit real-time monitoring and flagging of transactions
- Must still file STR, even after the event
- Permits **detection of patterns**

Transaction monitoring methods
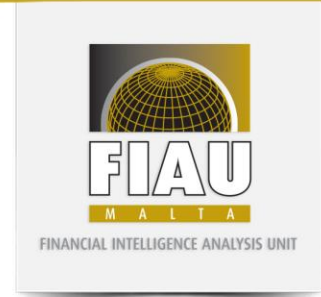
- **On the basis of a customer's specific profile**
  - A **set of parameters** within which transactions are considered normal
  - Question behaviour outside the parameters

- **By comparing against peer group information**
  - **Group** customers with similar characteristics and risk ratings
  - Extract information and create an **average profile**
  - **Compare** customers against that profile, question diverging behaviour
  - Requires sufficient statistics from a wide customer-base
  - May use official economic indicators such as average national income, from reputable sources
  - Not targeted – not ideal in high-risk situations

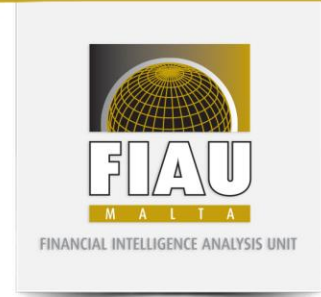# Transaction monitoring methods

- **On the basis of detection rules**
  - Analysis of transactions (individual and series) against set of thresholds, scenarios and parameters
  - Alert is triggered when a pre-defined detection rule is met
  - Detection rules must be relevant to be effective
  - Must be periodically tested and fine-tuned
  - Must strike balance between effective detection and not too many false positives
  - Updated to reflect trends and typologies

Relevant factors to be taken into account:
  - Specific product or service
  - Customer risk rating
  - Anticipated level and value of transactions as determined through profile
  - Anticipated value of transactions when taking into account the customer's background, occupation and claimed source of wealth
  - Anticipated jurisdictional connections
  - Distribution channels
  - New activity in formerly dormant account

Transaction monitoring methods

Manual vs automated monitoring systems

- Depends on size of subject person, number of clients and transactions, level of risk
- System must yield the desired results, including relevant alerts within adequate timeframes
- Large transactions are better monitored through automated systems

Automated system

- Does system generate a report showing showing reasons, rules and parameters?
- Can system be easily adapted to cater for changes?
- Can the system learn from previous false positive? (fine-tuning)

Assess effectiveness of alerts
Demonstrate good understanding of how the system operates

# Ongoing monitoring of high-risk scenarios

Stricter ongoing monitoring to mitigate the higher ML/FT risk

Increasing **frequency** and **nature** of monitoring
- Regular reviews of transactions to detect warning signs
- Stricter detection rules
- Lower transaction value thresholds
- More weighting to factors such as high value transactions/other jurisdictions
- Adjusted thresholds for different products and services in same relationship

Consider applying **pre-transaction monitoring** where possible

Occasional Transactions: Source of Funds
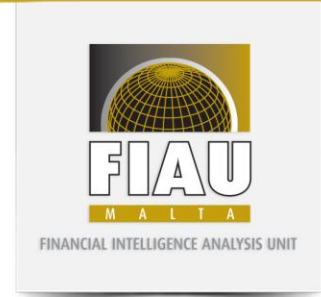
Reg 7(8)

'The extent of customer due diligence measures shall be **commensurate** to the risks of ML/FT identified through the risk assessment carried out in terms of regulation 5(1) and may vary from case to case.'

'Subject persons shall ensure that the enhanced due diligence measures applied […] are **appropriate to manage and mitigate the high risk** of ML/FT.'

Reg 11(2)

Obtain source of funds where necessary!

# Source of Funds as a Mitigating Measure for Occasional Transactions

Useful

- ✓ High value cash purchase
- ✓ High value purchase using own funds
- ✓ High value remittance
- ✓ Company formation with initial share capital coming from shareholder/BO loan

Less Relevant

- o Company formation with low initial share capital
- o End-finance through bank loan
- o As part of CDD of vendor
- o As part of CDD of lessor

(assess each case accordingly)

> *Scrutinize occasional transactions*
> *Carry out appropriate mitigating measures!*
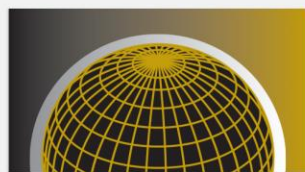
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