



Transaction Monitoring in Authorisations and Prudential Supervision

Kurt Spiteri Lucas & Celine Grima

MFSA – Financial Crime Compliance



Speakers



Kurt Spiteri Lucas
Deputy Head - FCC



Celine Grima
Analyst - FCC

Transaction Monitoring in Authorisations

Five salient points to look at during the Authorisations process vis-à-vis Transaction Monitoring.

- Procedures being established for corporate applicants
- The principal of proportionality
- The use of external solutions
- MLRO Applications
- Post-licencing conditions

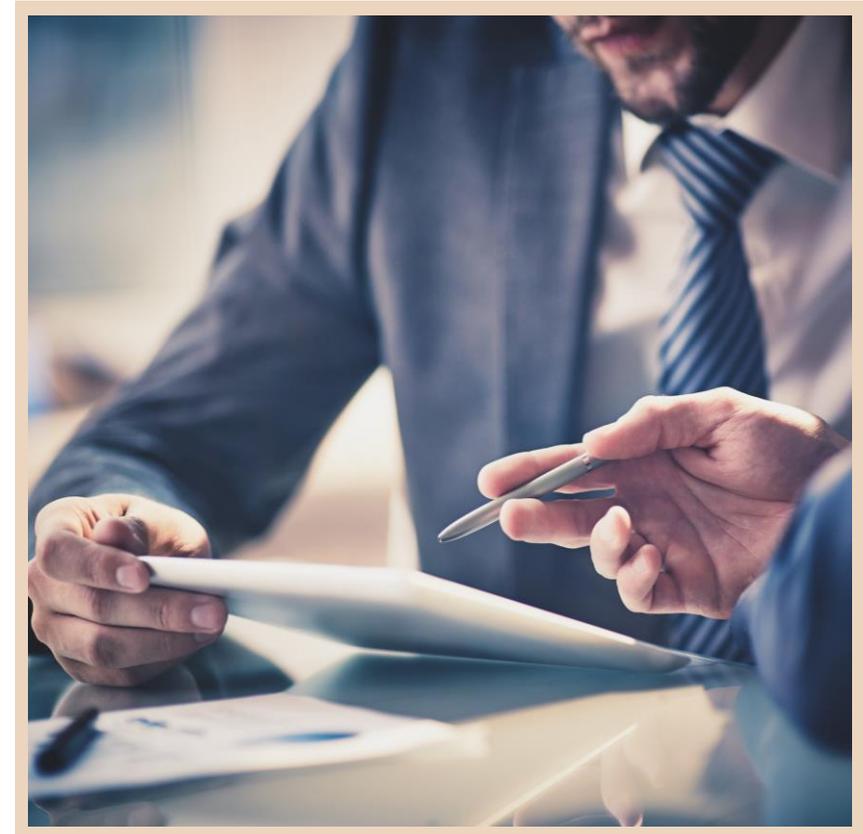


Procedures being established for corporate applicants

At application stage, the Subject Person should have in place robust transaction monitoring procedures to be followed by all employees involved in transaction monitoring. Licence Holders are expected to cross reference to these documents accordingly in their day-to-day operations.

Procedures should highlight inter alia:

- the type of transaction monitoring carried out (pre or post transaction monitoring).
- the system in place to carry out transaction monitoring.
- What rules are implemented in Transaction Monitoring.
- The escalation process



The principal of proportionality

Expectations vary according to the Subject Person's transactional activity. There is no requirement for Subject Persons to have in place an automatic transaction monitoring system. However, the expectations on this depend on proportionality including:

- sector proportionality; and
- intra-sector proportionality.

The use of external solutions

- What solutions are being used by the Subject Person?
- Is the design of the system robust?
- Off-the shelf products
- Tailor-made products tailored specifically for the Subject Person



MLRO Applications

- It is expected that the MLRO has adequate knowledge of the Subject Person's transaction monitoring procedure and rules as well as in the recognition of red flags and suspicious transactions.
- Any suspicious transactions will be reported to the MLRO who will have the responsibility of escalating the matter to the relevant authorities and therefore should have good understanding of transaction monitoring



Post-licencing conditions

- The MFSA reserves the right to impose post licensing conditions which may be followed up with a post authorisation inspection.
- The MFSA also reserves the right to follow up on post-licensing conditions by requesting for a declaration or evidence that the condition has been taken into consideration



Transaction Monitoring in Prudential Supervision

Four salient points to look at during Prudential and Conduct Supervision inspections vis-à-vis Transaction Monitoring.

- Risk Awareness of the MLRO
- Periodic MLRO Reporting
- Manual vs Automated Systems
- MLRO Awareness of Rules and Thresholds

Risk Awareness of the MLRO

- The MLROs should ensure he/she has adequate knowledge of the business of the entity, including a clear understanding of its risks.
- The MLRO is thereafter expected to have adequate knowledge on the firm's customers in order to deduce the level of risk posed by such customers and therefore set the threshold for TM based on such risk rating.
- Hence, in terms of Transaction Monitoring, the MLRO is expected to monitor the TM process including the supporting information/documentation obtained based on the level of risk posed by the client, also taking into consideration comparisons made against the client profile built during the course of the business relationship in order to verify whether the transaction's nature is consistent with the client profile.



Periodic Reporting by the MLRO

The MLRO should establish a transparent periodic reporting system so that the Board of Directors has continuous access to accurate, relevant, and timely information such that it:

- Can discharge its duties;
- Exercise objective judgment on corporate affairs;
- Take pertinent decisions;
- Ensure that an informed assessment can be made of all issues facing the entity
- Ensure that all financial and regulatory reporting obligations have been met within the stipulated time periods.

Clearly minuted decisions should be in place in case of informal/emergency meetings.

Manual vs Automated Systems

Important emphasis is given to:

- Whether TM is carried out manually (paper-based or through spreadsheet applications) or automatically through some sort of a software / system. This is necessary to then compare to the number of clients and the number of transactions carried out. Such assessment would then identify whether the TM being carried out is adequate or otherwise.
- MLROs shall also have in place a procedure highlighting which transactions are monitored (whether transactions identified through triggered alerts are monitored or whether also other transactions on account are monitored), and the level of scrutiny conducted (such as supporting documentation of the particular transaction or even going further to screen all the parties to a particular transaction)



MLRO Awareness of the Systems incl. Rules and Thresholds

- In instances where the firm utilises an automated transaction monitoring system, the MLRO should ensure he/she has adequate knowledge of how the system works.
- Particularly the MLRO needs to be aware of the frequency of TM (whether it's ex-ante, real-time or ex-post) and the rules and thresholds which trigger the alerts / red-flags that need MLRO intervention to be assessed further.
- Such knowledge and awareness would ensure that the firm:
 - Reduce the risk of non-compliance with regulations and best-practices
 - Reduce the risk of the firm being used for ML/TF purposes
 - Reduce the risk of facing legal proceedings, damaging the firm's reputation leading to loss of business.





MLRO Awareness

Having MLROs possessing sufficient knowledge and awareness on how the granular details of Transaction Monitoring would ensure that the firm:

- Reduce the risk of non-compliance with regulations and best-practices
- Reduce the risk of the firm being used for ML/TF purposes
- Reduce the risk of the firm facing legal proceedings
- Reduce the risk of damaging the firm's reputation
- Reduce the risk of loss of business.

...ultimately helping the whole jurisdiction to keep ML/TF threats outside of the local system.