UNDERSTANDING RISK AND PREPARING A RISK ASSESSMENT

CLE SESSION

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2 IS A RISK ASSESSMENT NECESSARY?

- The AML/ATF Regulations require a firm to conduct (and keep up to date) a risk assessment, which considers the firm's activities and structure and concludes on the business' exposure to money laundering and terrorist financing risk.

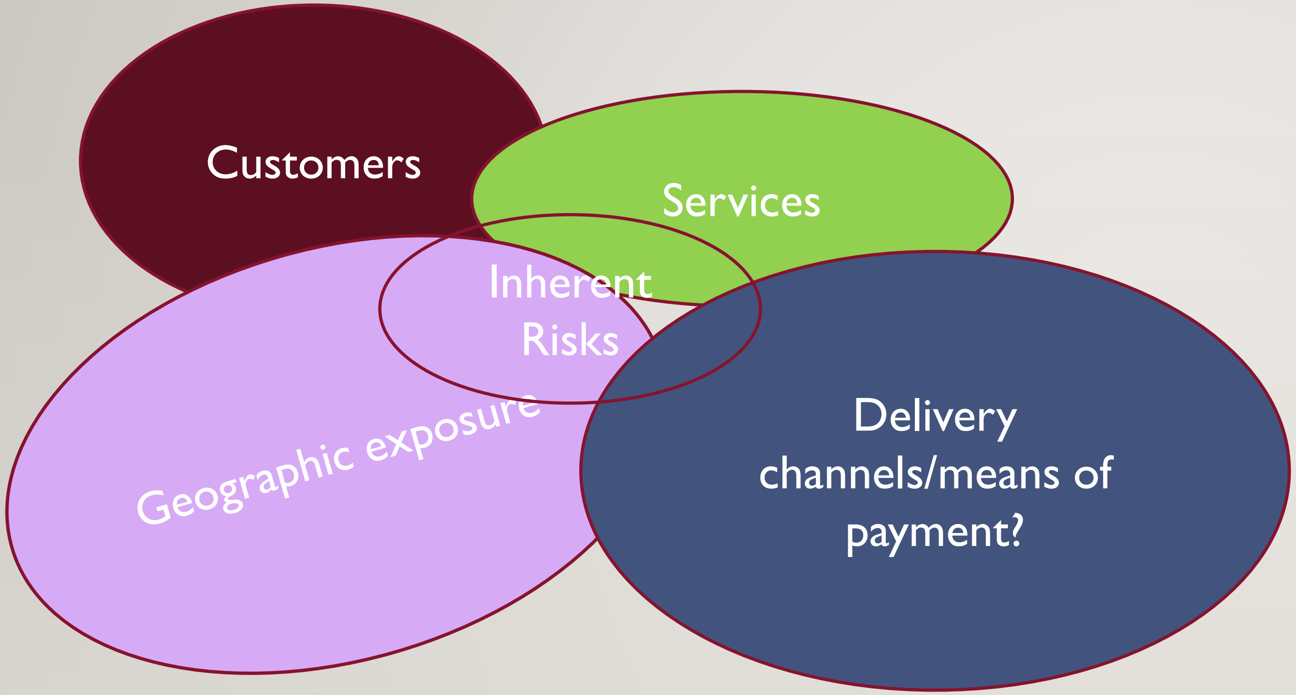
- AND……

The Regulations also require a firm to use the outcome of this risk assessment in the development of appropriate risk management sensitive systems and controls and the business' policies and procedures.

3 ARE THERE ANY PARTICULAR SYSTEMS AND CONTROLS AND POLICIES AND PROCEDURES?

- Yes… a firm is required as a *minimum* to develop CDD procedures that take into account risk, and to apply EDD procedures to higher risk client relationships and simplified CDD procedures to low risk client relationships. (Reg. 5)
- Firms can decide for themselves how to carry out their risk assessments which may be simple or sophisticated depending on the nature of the firm and its business.

Interrelated Inherent Risk Factors as per FATF



5 # RISK FACTORS -FATF

- Customer/client risk

- A firm's client geographical diversity can affect the risk of money laundering or terrorist financing.
- Factors which may vary the risk level include whether a firm acts for clients:

who are PEP's;

without meeting them;

affiliated to countries with high levels of corruption, organized crime or terrorist operatives;

who have complex ownership structures.

6 RISK FACTORS CONTINUED…

- **Service Risk**

- Firms should consider the different types of risk to which they are exposed within the different service areas that they provide. Some services and areas of law provide greater opportunities to facilitate ML or TF.
- For example:
- Complicated financial or property transactions;
- Payments made to or received from 3rd parties;
- transactions with a cross boarder element

7 MORE RISK FACTORS…FINAL 2

- **Delivery Channel Risk**

Firms should consider how they interact with their clients and the channel through which it delivers its services to them.

i.e. accepting non face to face clients

accepting a client though another firm referral

- **Geographical areas of operation Risk**

Firms should consider the business activity locations with high levels of acquisitive crime or clients who have convictions for acquisitive crimes which increases the likelihood that the client may possess criminal property

i.e. acting for clients from countries known to have high levels of organized crime, corruption and where terrorist organizations operate.

8 RISK EXPOSURE ASSESSMENT OPTIONS

IDENTIFY AND ASSESS ALL INHERENT RISK FACTORS AND RATE H,M,L

- Customer Risk (PEP, non face to face, entities that have complex ownership structures)
- Service Risk (complicated financial or property transactions, payments made by or received from 3 parties, payments made in cash)
- Delivery channel Risk (accepting a client through another firm referral, non face to face)
- Geographical/country Risk (international lists)

IDENTIFY AND ASSESS ONLY HIGH RISK CATEGORIES AND ASSUME THAT OTHERS ARE NORMAL RISK OR LOW RISK (APPLY SDD FOR REGULATED BUSINESS)

- i.e. the business is simple, involving few practice areas, with most clients falling into similar categories, a simple approach may be appropriate for most clients, with the focus being on those clients that fall outside the norm. –*creation of* ***small local*** *companies for limited liability purposes.*-low risk
- Conveyance practice involving foreign nationals with purchase price coming from multi jurisdictional family Trust Accounts..–high risk

9 INHERENT RISK: RISK MATRIX EXAMPLE

Inherent Risk Factors			Ratings			
	Low	Moderate	High	Mitigation	Overall RA (residual risk)	
Clients		x (acts for entities that have complex ownership structures)		strong (EDD)	Medium	
Products/services	x			strong	Low	
Geographic exposure		x		strong (World search, FATF List)	Low	
Delivery channel/mode of payment	x			strong	Low	
Total	**Totals:** • tally up the lows, medium and highs; • Assign points	• ratings 1-10 (1 low-10 high)				

Risk Assessment

Threat
(buying /selling real property; in scope activities… Burglar)

Controls (mitigation) CDD… dogs, fence)

Vulnerability (weaknesses in the systems…no processes to determine ultimate beneficial owners… Open windows)

There will always be residual risks… the aim is to apply sufficient controls to reduce the residual risks

IN CONCLUSION…

- Systems and controls will not detect and prevent ***all*** instances of money laundering or terrorist financing.
- A risk based approach will, however, serve to balance the cost burden placed on a firm and on clients with the risk that the firm may be used in ML or TF by focusing resources on higher risk areas.
- The starting point is to acknowledge that ML and TF is a potential risk to your firm. Once acknowledged, identify your risk by preparing a Risk Assessment and then develop systems and controls to mitigate against those identified risk…