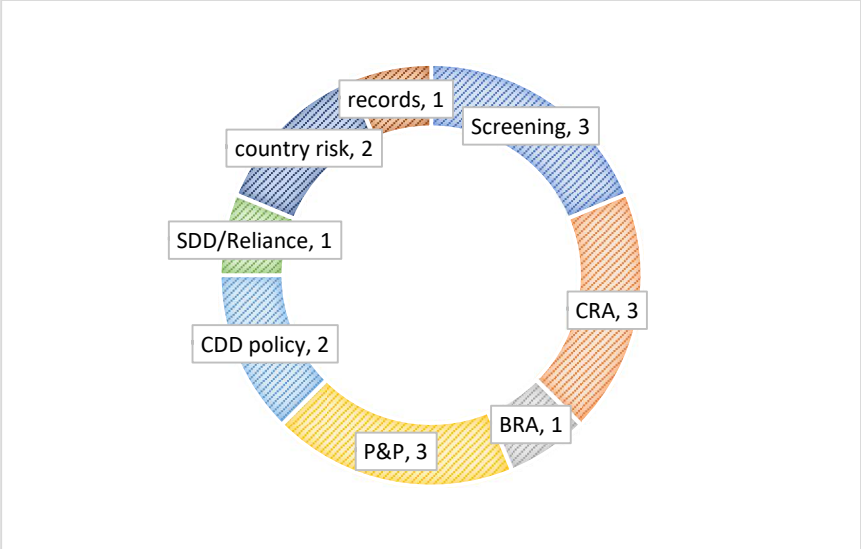
Cayman Islands Institute of Professional Accountants

CIIPA.KY

# AML Supervision Themes 2021

## Contents




## Introduction

As the Anti-Money Laundering ("AML") Supervisory Authority for accounting firms, CIIPA continued its supervision in 2021. This included a fourth round of on-site inspections and continuing off-site monitoring. This document outlines key themes and findings arising from supervision.

Five firms were inspected in 2021, all of which were accounting firms engaged in relevant financial business as liquidators of entities. Four of the five inspections were conducted remotely but all entailed an in-person opening meeting at the firm's premises.

There were 16 findings across the inspections. When considered as an average per firm (3.2), that figure is lower than the average for 2020 (5.21) and for the 2019 inspections (3.875). This indicates a trend toward better compliance by firms and underscores the effectiveness of supervision and outreach. The findings across the firms can be grouped as illustrated in Figure 1. An explanation and context for the findings is presented below:

## Client Risk Assessment

The most common finding was weak or non-existent client risk assessments ("CRA"). This was also the most common finding in 2020 jointly with Screening and Monitoring.

CRAs are weak if performed without reference to the factors prescribed in the Anti-Money Laundering Regulations or meaningful reference to the facts at hand.

The CRA is a foundational step in order to determine the Client Due Diligence ("CDD") and monitoring required.

It is acknowledged that the findings have occurred more readily in the context of liquidations where the need to conduct a risk assessment arises both at the time an appointment is taken and, often more importantly, when a distribution is made.

## Screening

Screening requirements also generated three findings and it was also a common finding in 2019 and 2020. As stated in the 2020 Themes report:

> *Screening entails use of either an in-house or third-party automated system or a process to conduct searches against sanctions lists at various frequencies or following prescribed triggers (which may be adequate where there are low volumes of transactions or clients). The objective is to identify whether a client or assets held are subject to targeted financial sanctions. But screening may also be conducted to identify PEPs and other risk indicators.*

Of the three 2021 findings, the one of greatest concern was a deficient policy on screening that excluded investors below 10% interest and the controllers and Ultimate Beneficial Owners ("UBOs"). The two others related to failure to document the procedure for screening, including how alerts would be addressed; and failure to document the decisions made regarding alerts.

## Policies and Procedures

It is necessary to keep policies and procedures under review as they will require updating in the event of:

- Change in legislation or requirements
- Change in the overall Money Laundering ("ML"), Terrorist Financing ("TF") or Proliferation Financing ("PF") risk in the firm, including services and the profile of the firm
- Failures of compliance controls, including their adequacy to address risk

Some firms have specific processes that may also only be applicable to specific engagements (e.g. where there are distributions to numerous parties). In that case, it is important to assess the risk of each individual receiving a distribution but the way in which that is documented may differ from individual distributions. The policies and procedures need to address that practice to ensure consistency and to manage risk if that is the case.

Liquidations firms can also have both official and voluntary appointments and the firm's policy may differ in respect to those. If that is the case, the different approaches must be clearly documented in the policies and procedures.

In summary, all practices to take or not take action in certain cases, needs to be documented. This includes identifying who is responsible for various actions, especially where responsibility spans the first and second lines of defence or where there are dedicated teams for certain actions (e.g. screening, etc).

## Country Risk Assessment

Two findings resulted in requirements to review and update Country Risk Assessments.[1] As noted in the AML Themes Report for 2020, the Country Risk Assessment is essential for both the Business Risk Assessment ("BRA") and Client Risk Assessments ("CRA").

One firm had referred to credible sources, however, due to the bands being set at a low level, the result was 144 low risk countries.

Another firm had not conducted a country risk assessment with a documented methodology, nor provided criteria for ad hoc determinations in each case.

It had referred in its Procedures simply to countries:

- *"with a higher risk of ML or that is subject to sanctions",*
- *"which is considered to have an equivalent AML regime", or*
- *"with equivalent legislation".*

With respect to reliance on Eligible Introducers, the team member had to determine if a country has:

- *"a low degree of risk of ML/TF"*

with no guidance or criteria for making that determination.

A lack of policy or criteria or a list of high or low risk countries will potentially result in inconsistency, flawed compliance data and an increase in the risk that controls are not commensurate with the risk.

[1] See CIIPA's COUNTRY RISK ASSESSMENT HELPSHEET

Requirements were imposed to revise or devise a country risk methodology and review all controls and reference to country risk to ensure effectiveness.

## Business Risk Assessment

One firm had not used enough data from within the firm nor information available from assessments published by CIIPA, other supervisors and the Cayman Islands Government regarding inherent risks in its business. Further it had not considered ML, TF and PF risks specifically and separately, not documented those risks in relation to the risk categories Client, Service, Geography and Delivery Channel, and the BRA was not dated nor scheduled for review.

## Client Due Diligence ("CDD") Policy

One firm had a policy that only required CDD for transactions more than $15,000 (whereas the threshold was lowered to $10,000 in 2019), only required CDD for transactions where the investors share of the total investment value is 10% or greater, did not require the verification of ownership of corporate entities by means of obtaining a Register of Members (or an equivalent independent and reliable source) nor the memorandum and articles of association, and did not require an Eligible Introducer to confirm that it is supervised or monitored by a Supervisory Authority or an overseas regulatory authority (as defined in Regulation 2 of Anti Money Laundering Regulations as amended).

A second firm had no CDD policy for contentious appointments nor distributions which resulted in a high number of exceptions to its CDD requirements.

## Records

One firm could not provide access to records which were held in another jurisdiction on a separate system.

## Simplified Due Diligence ("SDD") reliance

One firm had failed to document its policy on reliance as a form of Simplified Due Diligence.

## Country Risk Thematic Review

In addition to the 2021 inspections, CIIPA conducted off site monitoring of all firms in 2021 regarding their country risk assessments. The analysis of the firms' country risk assessments resulted in:

- Recommendations to firms to enhance their country risk assessment methodology

- The exposure of the sector to country risk specifically
- Benchmarking of CIIPA firms' assessments
- Review of CIIPA's risk assessment of the firms (that inform its Risk Based supervision)

## Specific observations

1. There was a varied set of results regarding the assessment of the Cayman Islands. See figure 2.

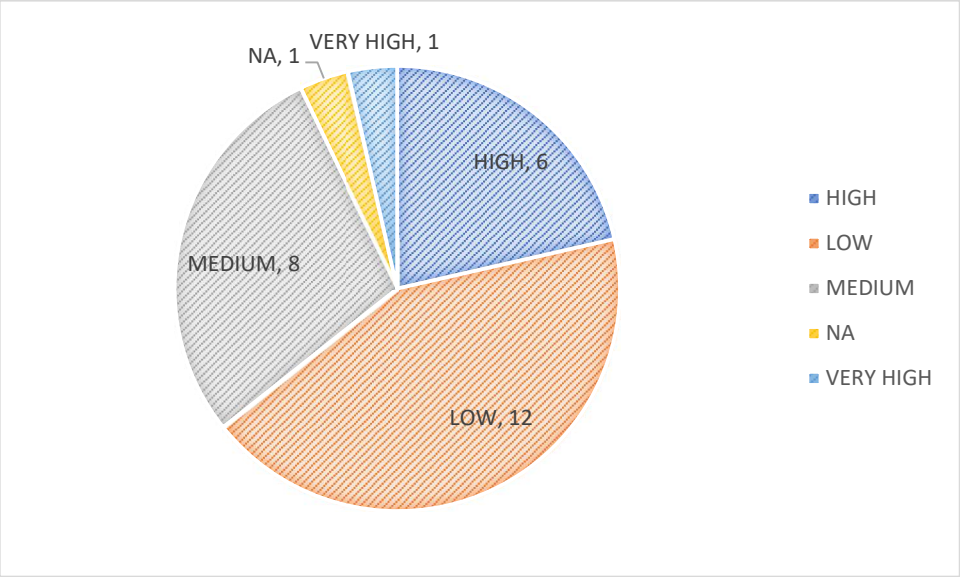



*Figure 2*

2. It was rare to see the inclusion of a credible source regarding the risk in countries relating to terrorism, proliferation and the financing of those.
3. Some firms had a methodology and a resulting list of countries it had assessed as low risk but not for high risk, whereas a high-risk list is considered essential so decisions can be taken about onboarding and conducting enhanced due diligence and monitoring. Low risk on the other hand is only needed if the firm seeks to rate its clients or engagements as low risk to apply simplified due diligence.
4. Some firms overly referred to their client risk assessment methodology in their country risk assessment, however, country risk is just one component of the client risk assessment. It is important to separately consider country risk, client type, services offered and delivery channels for the client risk assessment. Whilst not the focus of the Thematic review it was noted that some client risk assessments when shared, were only considering country risk in relation to location of

incorporation and domicile of the entity client and not e.g. its owners and controllers, source of funds, destination of transactions etc.

5. Five firms used the repealed *List of Equivalent Jurisdictions* as a basis to justify a low-risk country list whereas that list was not credible at the time of repeal, hence its repeal and more importantly was not a list of low risk countries rather countries considered equivalent to Cayman.
6. Some firms permitted adjustments to the assessments produced by an automated methodology and close attention was paid to where this was used to lower the auto assessments. In the event that many adjustments are made it would suggest that the methodology requires amendment.
7. CIIPA applied an assumption that the total number of countries is 250 in order to present the results comparison in figure 3. Eight firms applied a default rating of medium, but this was not always evident in policies and firms were asked to confirm as part of the review.
8. One firm relied on membership of the Financial Action Task Force ("FATF") or FATF Regional Body (218) that had not had an unfavourable evaluation as low risk. But this did not take account of the date of the last evaluation and the fact that some countries are not able to accommodate an evaluation. In this case the risk is higher.[2]

The result of the varied approaches by Firms to the methodology is a wide ranging set of results in the country risk assessments as shown in Figure 3.

[2] Firms were cautioned against this approach in paragraph 8 of the Helpsheet.

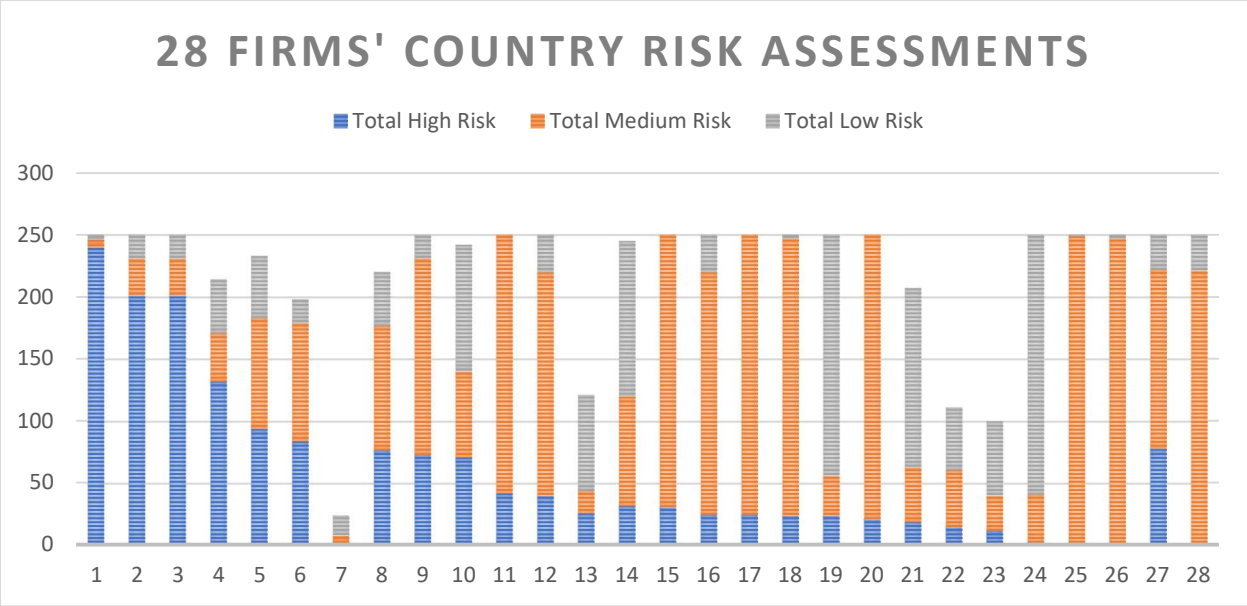



*Figure 3: X axis showing the 28 firms, Y axis the number of countries assessed as low, medium or high risk.*

## Glossary of Acronyms

| Acronym | Term |
|---|---|
| BRA | Business Risk Assessment |
| CDD | Client Due Diligence |
| CRA | Client Risk Assessments |
| FATF | Financial Action Task Force |
| ML | Money Laundering |
| PEP | Politically Exposed Person |
| PF | Proliferation Financing |
| SDD | Simplified Due Diligence |
| TF | Terrorist Financing |
| UBO | Ultimate Beneficial Owners |