

## AML COUNTRY RISK ASSESSMENT

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## INTRODUCTION

1. This Helpsheet is designed to help you decide when and why you need to undertake this country risk assessment. After reading this Helpsheet, if you still do not understand any of your obligations, you should seek legal advice or contact CIIPA.
2. The AML Regulations (“AMLRs”) require you to consider **country risk**. This means first determining which countries affect your business and then assessing the risk of those countries and how it may affect you.
3. Firms in an international financial centre, such as the Cayman Islands, are more likely to be connected to other countries, even where their business is local. Connected countries will include those that are:
  - a. Your clients’ place of residence<sup>1</sup>,
  - b. Your clients’ domicile,
  - c. Your clients place of business or where they acquire or have acquired their wealth or the funds,
  - d. 3a.-c. above for your clients’ shareholders or directors/controllers,
  - e. Where you send or receive funds from (either for your own or clients’ accounts) for whatever purpose including payments to suppliers.

## WHY COUNTRY ASSESSMENTS ARE REQUIRED

4. Every firm conducting relevant financial business must conduct a risk assessment in accordance with Regulation 8, 8A and 9. This is the initial assessment i.e. before controls are applied and is done at both the client level and for the business as whole.



## BUSINESS RISK ASSESSMENT (“BRA”)

5. When you conduct your Business Risk Assessment (“BRA”), for the country risk element you will need to assess the likelihood that your business could be used:
  - a. for money laundering, terrorist or proliferation financing or
  - b. by designated persons or entities<sup>2</sup> because of the countries your business is connected to.
6. Your BRA must inform the design and upkeep of your controls i.e. be appropriate to your specific risks given your clients and the services you offer to those clients. Connected country risk is relevant to both.
7. CIIPA will provide a simple template for documenting your Business Risk Assessment on request.

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<sup>1</sup>A client’s place of residence should not be treated as Cayman Islands where they are only partially or recently resident in Cayman.

<sup>2</sup> Specially designated persons or entities are those to which targeted financial sanctions have been applied.

8. The Financial Action Task Force (FATF) publishes reports on the AML/CFT regulatory environment of countries, and how compliant they are with FATF recommendations. FATF reports are a good starting point for your country risk assessment but they are not always current, therefore it may be necessary to consider additional sources of information.
9. The reputation of the country is another important factor to consider. International organisations regularly publish reports on perceived crime and corruption levels in countries.
10. Nothing prohibits business relationships or transactions with persons based in high risk countries, only that enhanced controls are applied.

#### CLIENT RISK ASSESSMENT("CRA")

11. Each of your clients must be assessed in terms of risk and here again country risk is relevant (see paragraph 3). But each individual client risk or the risk of groups of clients may take account of the services offered and other factors. For example, whilst one client may be connected to a country (e.g. a national of) that you have deemed to be high risk, the services provided may be lower risk or the client’s business or structure simpler and thereby lower the risk.
12. However, it is dangerous to take a case by case approach to risk assessments, and better to have a consistent approach as much as possible.
13. It is also vital to record the connected countries for each client and how you assessed the risk overall taking account of country and other risks. In particular how you reconciled a high-risk country of domicile with a low risk country of residence, or where your client has one client connected with a high-risk country but all the other clients have no connections to high risk countries. The number of clients you have, and your clients have, or their business, will determine how systematic you need to be and the amount and quality of data you need to maintain.
14. The aggregate of the client risk assessments will feed into your BRA.

#### HOW TO CONDUCT THE COUNTRY RISK ASSESSMENT

<b>Regulation 8A</b>	
<i>(1) When assessing the risk of money laundering or terrorist financing in a particular country or geographic area and the extent of the measures which should be taken to manage and mitigate that risk, a person carrying out relevant financial business shall take account of <b>credible sources</b> related to —</i>	<p>Factors to consider include whether the country:</p> <ul style="list-style-type: none"> <li>• has laws that make it illegal to launder money or finance terrorism;</li> <li>• has a legislative framework that puts obligations on financial institutions for customer due diligence, account monitoring, suspicious</li> </ul>

<i>(a) money laundering;</i>	<p>transaction reporting and record keeping similar to those set out in the AMLRs; and</p> <ul style="list-style-type: none"> <li>• has an established and effective AML/CFT supervisory regime.</li> </ul>	
<i>(b) terrorist financing;</i>		
<i>(c) proliferation financing;</i>		
<i>(d) corruption; and</i>		
<i>(e) any other criminal activity.</i>		
<i>(2) When conducting a risk assessment, a person carrying out relevant financial business, shall not assess a country or geographic area as having a low risk of money laundering or terrorism financing where any of the following factors are present —</i>	<p>You cannot determine a country to be low risk if captured in (a)-(e).</p> <p>None issued per (e) as yet,</p>	
<i>(a) the country or geographic area has been identified by credible sources as not having effective systems to counter money laundering, terrorist financing and proliferation financing</i>		
<i>(b) the country or geographic area has been identified by credible sources as having significant levels of corruption, terrorism and money laundering;</i>		
<i>(c) the country or geographic area is subject to sanctions related to its risk of money laundering, terrorist financing or proliferation financing by —</i>		
<i>(i) the United Kingdom; or</i>		
<i>(ii) the United Nations;</i>		
<i>(d) the country or geographic area has been identified by the Financial Action Task Force as a country or geographic area to which counter-measures or enhanced due diligence measures proportionate to the risks arising from the country or geographic area should be applied; and</i>		
<i>(e) the country or geographic area is subject to an Order made under section 201(3) of the Law.</i>		
<i>(3) In this regulation, “credible sources” includes evaluations, detailed assessment reports or follow-up reports published by —</i>		

<i>(a) the Financial Action Task Force<sup>3</sup>;</i>	See also FATF regional bodies, e.g. the Caribbean Financial Action Task Force <sup>4</sup> (“CFATF”) Asia/Pacific Group on Money Laundering (APG <sup>5</sup> ).  The results of any recent independent assessment of the country’s AML/CFT systems/measures, e.g., a FATF mutual evaluation of the country. Such assessments can be found on the websites of FATF <sup>6</sup> or associated regional bodies e.g. CFATF, APG.
<i>(b) the International Monetary Fund;<sup>7</sup></i>	
<i>(c) the World Bank;</i>	
<i>(d) the Organisation for Economic Co-operation and Development;</i>	
<i>(e) the United Nations; or</i>	
<i>(f) any competent authority or government body, designated in writing, by the Cabinet.</i>	Not issued as yet.

15. Country risk is also relevant to other provisions of the AMLRs that may or may not be relevant to your firm, namely:

- a. Simplified Due Diligence,
- b. Acceptable Clients and Reliance,
- c. Enhanced Due Diligence,
- d. Delayed Verification where receiving funds by electronic transfer, and
- e. Outsourcing some, or all of, your compliance function.

<b>AML Regulation</b>	<b>Determination of Country Risk</b>	<b>Description</b>
8A	Low - High	Client and Business Risk Assessment
21, 20(4)	Low	Simplified Due Diligence
22, 24, 25	Low	Acceptable Applicants and Reliance
23	Low	Electronic Payments, Delayed Verification
5 (vii), 27(c)	High	Country that is non-compliant with FATF Recommendation or identified by credible sources as having serious deficiencies in AML CFT regime or a
8(2)(h), 17, 27	High	When Enhanced Due Diligence is required.

<sup>3</sup> [www.fatf-gafi.org/](http://www.fatf-gafi.org/)

<sup>4</sup> [www.cfatf-gafic.org/](http://www.cfatf-gafic.org/)

<sup>5</sup> [www.apgml.org/](http://www.apgml.org/)

<sup>6</sup> [www.fatf-gafi.org/pages/0,3417,en\\_32250379\\_32236963\\_1\\_1\\_1\\_1\\_1,00.html](http://www.fatf-gafi.org/pages/0,3417,en_32250379_32236963_1_1_1_1_1,00.html)

<sup>7</sup> [www.imf.org](http://www.imf.org), IMF Financial Sector Assessment Programme [www.imf.org/external/np/fsap/fssa.aspx](http://www.imf.org/external/np/fsap/fssa.aspx)

3, 33, 57	Equivalent	Compliance Program Obligations; Outsourcing compliance Function
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#### SIMPLIFIED DUE DILIGENCE

You establish a business relationship or conduct an occasional transaction and apply simplified due diligence.

<b>Regulation 21</b>	
<i>(1) Notwithstanding Part IV, a person carrying out relevant financial business may apply simplified customer due diligence measures under this Part, where it has identified and assessed a <b>low level of risk</b> in accordance with regulation 8.</i>	Part V of the AMLRs (SDD) is only applicable when the risks are determined to be low.
<i>(1A) The simplified customer due diligence measures applied under paragraph (1) shall be commensurate with the lower risk factors identified in the risk assessment, carried out in accordance with regulation 8</i>	The approach to controls i.e. SDD must be consistent with what was determined in your Risk Assessments including country risk.

#### ACCEPTABLE APPLICANTS AND RELIANCE

16. You may wish to establish, or continue a relationship with an entity that is a government entity. In that case it must be a lower risk case including in relation to connected countries.
17. You may wish to establish or continue a relationship with an entity or place full or partial reliance on it with respect to a mutual client if it is a regulated entity.
18. In these cases, it must be a lower risk including the country risks. This is relevant to Regulations 22, 24 and 25 of the AMLRs.

<b>Regulation 22</b>	
<i>(1) (d) the customer or applicant for business is a person who is</i>	
<i>(i) required to comply with regulation 5 or is a majority-owned subsidiary of the relevant financial business;</i>	Regulated entities in the Cayman Islands
<i>(ii) a central or local government organisation, statutory body or agency of government, <b>in a country</b> assessed by the person carrying out relevant financial business as having a <b>low degree of risk</b> of money laundering and terrorist financing;</i>	Country where located must be assessed as low risk. The best sources of information on supervision and regulation for particular countries are the mutual evaluations

	undertaken by FATF and FATF-style regional bodies such as the CFATF and APG.
<i>(iii) acting in the course of a business or is a majority-owned subsidiary of the business in relation to which an overseas regulatory authority exercises regulatory functions and is based or incorporated in, or formed under the law of, a <b>country</b> assessed by the person carrying out relevant financial business as having a <b>low degree of risk</b> of money laundering and terrorist financing.</i>	Country where located must be assessed as low risk. Separate and in addition to the country risk, the supervision must be assessed and documented, as at least equivalent than that which would apply in the Cayman Islands to that type of supervised entity.

## ELECTRONIC PAYMENTS

19. Where funds are received from clients from bank accounts in Cayman or a country assessed as low risk and the bank is equally supervised as banks are in the Cayman Islands, it is possible to delay verification of client information (Client Due Diligence).

<b>Regulation 23</b>	
<i>..verification of the identity of a customer or an applicant for business is not required at the time of receipt of payment, if the payment is debited from an account held in the name of the customer or applicant for business as a licensee under the Banks and Trust Companies Law (2020 Revision) or at a bank that is regulated in and either based or incorporated in or formed under the laws of, a country assessed by the person carrying out relevant financial business as having a <b>low degree of risk</b> of money laundering and terrorist financing</i>	This is not considered commonly applicable nor useful for accountancy firms, it is more relevant to the investments and securities sector.

## COUNTRY THAT IS NON-COMPLIANT WITH FATF RECOMMENDATION OR IDENTIFIED BY CREDIBLE SOURCES AS HAVING SERIOUS DEFICIENCIES IN AML CFT REGIME OR A PREVALENCE TO CORRUPTION.

The screenshot shows the FATF website's 'High-risk and other monitored jurisdictions' page. It features a world map with several countries highlighted in red, indicating high-risk status. A list of FATF-style regional bodies (APG, CFATF, EAG, ESAAMLG, GABAC, GAFILAT, GIABA, MENAFATF, MONEYVAL) is displayed on the left. The page also includes a search bar and a 'World-wide' filter.

20. Countries that are determined to be non-compliant with FATF recommendations must be assessed as High Risk.<sup>8</sup>

21. Where a country is high risk then your affected relationships or transactions must be subject to Enhanced Due Diligence and monitoring.

<sup>8</sup> [www.fatf-gafi.org/countries/#high-risk](http://www.fatf-gafi.org/countries/#high-risk)

22. Your AML/CFT programme must incorporate monitoring, examining and keeping written findings relating to business relationships and transactions from countries, or in countries, that are not compliant with FATF recommendations. Your AML/CFT programme must also have policies, procedures and controls for dealing with or restricting dealings with such countries.

#### WHEN ENHANCED DUE DILIGENCE IS REQUIRED

23. When you undertake your risk assessment, you must consider the money laundering and financing of terrorism and proliferation risk, and possibility of connection to designated persons or entities, with regard to the countries your customers are based in, and countries they conduct their business in or through, as well as any overseas institutions that you may deal with.

24. There is no universally agreed definition of a high-risk country, but when undertaking this assessment, you should consider countries:

- subject to sanctions<sup>9</sup>, embargoes or similar measures;
- identified by credible sources, such as FATF<sup>10</sup>, as lacking adequate AML/CFT systems/measures or controls;
- identified by credible sources as having supporters of terrorism or the financing of terrorism;
- identified by credible sources as having significant levels of corruption,<sup>11</sup>;
- identified by credible sources as being tax havens<sup>12</sup>; and
- that are materially associated with production and/or transnational- shipment of illicit drugs or goods to sanctions countries and entities.

#### COMPLIANCE PROGRAM OBLIGATIONS, OUTSOURCING COMPLIANCE FUNCTION

25. You may decide to outsource some of your compliance or other controlling functions and in doing so, since you and fellow Directors will remain responsible for compliance by your Firm with the AMLRs, you may consider the country risk where the entity is based outside of the Cayman Islands.

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<sup>9</sup> <https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation>, <http://fra.gov.ky/contents/page/1>

<sup>10</sup> [www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/](http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/)

<sup>11</sup> <http://cpi.transparency.org/cpi2011/results/>

<sup>12</sup> [www.oecd.org/document/57/0,3746,en\\_2649\\_201185\\_30578809\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/57/0,3746,en_2649_201185_30578809_1_1_1_1,00.html)



## APPENDIX 1 ADDITIONAL RESOURCES

In addition to the list in Reg 8A the following information is available at the sites listed below and may assist your business in conducting a country assessment:

- Asia/Pacific Group on Money Laundering - [www.apgml.org](http://www.apgml.org)
- The Egmont Group - [www.egmontgroup.org](http://www.egmontgroup.org)
- The Wolfsberg Group - [www.wolfsberg-principles.com](http://www.wolfsberg-principles.com)
- Transparency International - [www.transparency.org](http://www.transparency.org)
- The Ministry of Foreign Affairs and Trade - [www.mfat.govt.nz](http://www.mfat.govt.nz)
- Australian Department of Foreign Affairs and Trade - [www.dfat.gov.au](http://www.dfat.gov.au)
- Joint Money Laundering Steering Group (JMLSG) - [www.jmlsg.org.uk](http://www.jmlsg.org.uk)
- British Bankers Association - [www.bba.org.uk](http://www.bba.org.uk)
- Financial Conduct Authority - [www.fca.gov.uk](http://www.fca.gov.uk)
- Office of the Comptroller of the Currency - [www.occ.treas.gov](http://www.occ.treas.gov)
- Financial Crimes Enforcement Network (FinCen) - [www.fincen.gov](http://www.fincen.gov)
- Financial Transactions and Reports Analysis Centre - [www.fintrac-canafe.gc.ca](http://www.fintrac-canafe.gc.ca)
- Jersey Financial Services Commission, Appendix D [www.jerseyfsc.org/media/2680/hb-part-1-appendix-d2-aml-handbook.pdf](http://www.jerseyfsc.org/media/2680/hb-part-1-appendix-d2-aml-handbook.pdf)

Media searches and the use of search engines may provide current information on the countries your business is connected to.

Other Resources:

- [www.baselgovernance.org](http://www.baselgovernance.org)
- [www.world-check.com](http://www.world-check.com)
- [www.country-check.com](http://www.country-check.com)
- [www.ACAMSmoneylaundering.com](http://www.ACAMSmoneylaundering.com)
- [www.knowyourcountry.com](http://www.knowyourcountry.com)
- [www.factiva.com](http://www.factiva.com)

*These and other websites may include charges to access the information.*