



# Supervising Compliance With AML/CFT Requirements

## Different supervisory approaches

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# Supervisory approaches

Preventing banks from being used for ML/FT

The risks are in “fraudulent” transactions

- Monitoring of transactions
- Assessment of clients/counterparts

# Supervisory approaches

## Prevention

- Organization
- Procedures for KYC and transactions
- Tools
- Staff awareness

# Supervisory approaches

## Reporting

- Suspicious Transaction Reports/Cash transactions
- Audit trail
- Record keeping

# Supervisory approaches

## Supervisory functions

- Regulation
- Control
- Information exchange

# Supervisory approaches

## Supervisory Authority

- Independence/Accountability
- Technical knowledge/Specialization
- Powers/Visibility

# Supervisory approaches

- Prudential supervision:
  - Requires deep understanding of activities, operations, risks and risk mitigating techniques
  - Aims at preventing problems

# Supervisory approaches

- Prudential supervision:
  - Is not law enforcement/police
  - Assess adequacy and efficiency of preventive and reporting measures
  - Is not responsible for ML/FT detection



# Supervisory approaches

## Authorities

- Financial Intelligence Units (FIUs)
- Supervisory authorities
- (SROs)

# FIU

A central, national agency responsible for receiving, analyzing and disseminating financial information:

- concerning suspected proceeds of crime and potential financing of terrorism, or
- required by national legislation or regulation

# FIU

- Three core functions
  - Receiving and centralizing STRs and other disclosures
  - Analyzing them in order to determine the potential criminal activity in liaison with internal and external databases
  - Disseminating the results

# FIU

- Other functions:
  - Enforcement: blocking transactions and freezing assets
  - Expertise: training, raising public awareness, research, advisor to the Government
  - Monitoring compliance with AML/CFT requirements

# FIU

- Different types of FIUs
  - Administrative
  - Law enforcement
  - Judicial
  - Hybrid

# FIU

- Law enforcement FIUs
  - Law enforcement powers and focus on investigations
  - Close relationships with domestic, foreign and international law enforcement

# FIU

- Judicial FIUs
  - Judiciary powers
  - Independence

# FIU

- Administrative FIUs
  - Independent or attached to central bank or other financial agency
  - Perceived as neutral and specialized



# FIU

- Administrative FIUs
  - Act as an intermediate between financial institutions and law enforcement/prosecutorial authorities
  - May be in charge of due diligence supervision

# FIU

- FIU Responsibility as due diligence supervisor:
  - For all reporting institutions or some of them
  - For reporting or all other obligations

# FIU

- FIU Supervisory functions:
  - Expertise on financial crime and suspicious activities or transactions
  - Direct and short connection between the provider and the user of financial intelligence

# FIU

## FIU Supervisory functions:

- Consistency
- Rationale of using and controlling STRs
- Quantity and quality of information

# FIU

- Technical issues with FIU supervision:
  - Financial expertise
  - Operational expertise
  - Resources

# FIU

- Technical issues with FIU supervision:  
power
  - To request information, documents, data
  - To enter the premises of supervised institutions
  - To share information with other supervisors

# FIU

- Political issues with FIU supervision:
  - Mutual trust
  - Prevention v. sanctioning
  - Adequate enforcement powers

# FIU

- Other issues: Relations with prudential supervision:
  - Harmonization: regulations or guidelines
  - Cooperation: interlinked risks, domestically and internationally
  - Coordination: enforcement powers



# Prudential supervisor

- FATF and Prudential standards
  - BCP, IAIS principles refer to FATF Recommendations
  - IOSCO uses the FATF standards
  - FATF requires financial institutions to be supervised and refers to Basel guidance papers

# Prudential supervisor

- International standards for prudential supervision include AML/CFT compliance
- AML/CFT compliance is subject to prudential supervisory authorities' monitoring and enforcement powers

# Prudential supervisor

- BCP criteria:
  - In addition to FIU reporting
  - Report to supervisor suspicious activities and incidents when they are material to the safety, soundness or reputation of the bank

# Prudential supervisor

- Bcp criteria:
  - In addition to FIU reporting
  - KYC policies and procedures must be integrated to the banks' overall risk management
  - KYC on group-wide basis

# Prudential supervisor

- For prudential supervisors, ML/FT are:
  - A risk to financial stability
  - A reputation risk
  - An operational (legal) risk
  - A corporate governance issue

# Prudential supervisor

- ML/FT is a concern to prudential supervisors
  - Potential conflict with other business rules such as banking secrecy
  - Regulations versus guidelines

# Prudential supervisor

- AML/CFT and prudential supervision:
  - Extensive knowledge of the sector
  - Resources and costs

# Prudential supervisor

- AML/CFT and prudential supervision:
  - Part of a global risk analysis
  - Consistency with prudential standards



# Prudential supervisor

## AML/CFT and prudential supervision:

- Incorporated to banks' operating systems
- One supervisor

# Prudential supervisor

- AML/CFT and prudential supervision:
  - Banks are the major source of STRs
  - Banks process most of the transactions
  - Banks are a prime target for financial crime

# Prudential supervisor

- AML/CFT and prudential supervision:
  - A wider range of sanctions, combining administrative and criminal penalties
  - Different proof level
  - Negligence, deficiencies and minor offences
  - Combination with prudential sanctions

# Prudential supervisor

- Regulations
- Offsite monitoring
- Onsite inspections
- Sanctions

# Prudential supervisor

- Dual system
  - Offsite by supervisory authority
  - On-site examination by external auditors

# Licensed auditors

- Licensed auditors
  - Methodology
  - Training
  - Professionals norms et practices

# Prudential supervisor

- Definition of revision
  - Law and regulations
  - Internal procedures
  - Sampling

# Prudential supervisor

- External auditors conflict of interest
- Request new auditors



# Prudential supervisor

- In-house inspections
  - Due diligence compliance versus prudential compliance
  - Own judgment versus facts

# Prudential supervisor

- Self Regulatory Organizations (SROs)
  - Define regulations
  - Impose sanctions

# Prudential supervisor

- SROs
  - Members
  - Mandatory/non mandatory

# Prudential supervisor

- SROs
  - Contractual basis
  - Under the supervisory authority
    - Validate regulations
    - Report on deficiencies and sanctions

# FIU and Prudential Supervision

- Information (STRs)
- Typologies
- Areas/institutions of concern

# Prudential Supervision and FIU

- Identifying suspicious customers and transactions
- Reporting
- Audit trail