

# Money Laundering & Terrorism Financing Preventive Measures

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- The rationale for the existence of preventive measures
- Compulsion or co-operation?
- New Implementing Procedures

## Purpose of legislation

1. To deter crime and terrorism
2. To detect crime and terrorism
3. To disrupt crime and terrorism

## Preamble to the EU Third Money Laundering Directive (Directive 2005/60/EC)

*“Massive flows of dirty money can damage the stability and reputation of the financial sector and threaten the single market, and terrorism shakes the very foundations of our society. In addition to the criminal law approach, a preventive effort via the financial system can produce results.”*

## Aim of preventive measures according to FATF documents

1. To PREVENT criminals from laundering the proceeds of their crimes
2. To PREVENT others from deliberately assisting in the laundering of criminals funds
3. To PREVENT criminals and money launderers from being able to misuse the legitimate services of banks, accountants, lawyers and others to launder criminal funds

## Role of the FIUs and regulatory bodies

1. Receiving reports based on suspicion
2. Ensuring that CDD, record-keeping, reporting, training and other requirements are being adhered to through monitoring and enforcement

## Two legislative phases

### First Phase

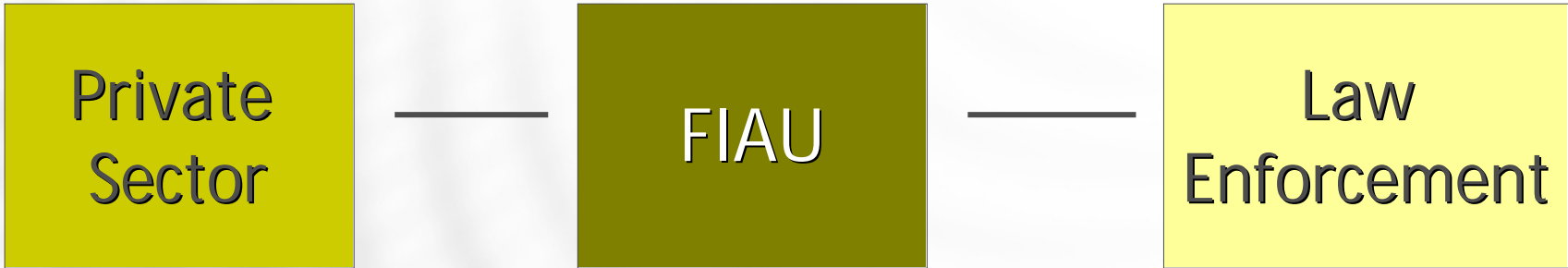
- criminalization of money laundering
- introduction of mechanisms to prevent, detect, investigate and suppress

### Second Phase

- criminalization of terrorism financing
- strengthening of the preventive regime

*co-operation*

*co-operation*



## Prevention and detection – areas of improvement:

1. Knowledge and understanding of staff of subject persons
2. Role of regulators and supervisors
3. Role of representative bodies
4. Co-operation and trust
5. Guidance

## Implementing Procedures to be issued by the FIAU

- Replacing previous Guidance Notes issued by the FIAU and representative bodies
- Issued under Regulation 17
- Sector-specific Implementing Provisions to follow

## Salient features of the Implementing Procedures:

### Customer Due Diligence

- More detailed provisions
- Detail of documents to be collected
- The various steps explained
- Certification of documents
- Definition of beneficial owner
- Timing of CDD
- SDD and EDD

## Implementing Procedures attempt to introduce certainty where Regulations contain concepts that are either vague or unclear

- Electronic verification
- Distinction between source of funds and source of wealth
- Whether information or documentation should be obtained when reliance is made on third party CDD
- Whether the risk procedures and the risk-based approach are mandatory under the Regulations

## Record-Keeping

- Establishment of a comprehensive list of documents to be maintained
- Calculation of period of retention
- Form in which records are to be maintained
- Duties in respect of retrieval of information

## Reporting Procedures and Obligations (1)

- Role of the MLRO
- Who may be appointed MLRO
- Notification of appointment of MLRO and designated employee
- Internal reporting procedures

## Reporting Procedures and Obligations

- External reporting procedures
- Obligation to report only to the FIAU
- Actions after reporting
- Procedure to delay transactions
- Monitoring orders

## Annual Compliance Report to be completed and submitted by the MLRO

- To gather information for compliance–monitoring purposes
- To compile statistics and records

## Contents of the Annual Compliance Report

- The subject person / organisation
- The MLRO and the designated employee
- Reporting lines and STR reporting
- Compliance and record-keeping procedures
- Internal audit
- AML/CFT training by the MLRO, designated employee and staff members

Deadlines for submission – established according to  
category of subject persons

## Detailed provisions on employee awareness and training

- What employees should be made aware of
- Nature of training
- Records to be kept for examination
- Timing of training
- Vetting of new employees

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