

TIP OF THE MONTH

Transaction Monitoring

Reporting Persons should have controls in place to detect unusual activity or patterns of activity and suspicious transactions. They should establish and maintain adequate measures and processes to monitor their client relationships and transactions on an ongoing basis.

WHAT IS TRANSACTION MONITORING?

It is an ongoing process carried out by reporting persons that examines, at a minimum, customer transactions to detect potential money laundering and terrorist financing by identifying unusual or suspicious activities.

As part of the monitoring of transactions, reporting persons must examine, amongst others, the background and purpose of each transaction especially where these are complex, unusually large or conducted in unusual patterns. Equally, attention must be given to transactions that do not seem to have an apparent economic or lawful purpose.

WHY IS IT IMPORTANT TO REPORTING PERSONS?

To protect them from:

- unknowingly enter or participate in any transactions that may lead to money laundering and terrorist financing through their businesses and
- enforcement actions, ranging from fines to referrals for criminal investigations for failure to identify suspicious transactions and not complying with the Financial Intelligence and Anti Money Laundering Act (FIAMLA) and the Financial Intelligence and Anti Money Laundering Regulations (FIAMLR 2018).

LEGAL OBLIGATION UNDER FIAMLR

- Regulation 3 (e) of the FIAMLR 2018 states that a reporting person shall conduct *ongoing monitoring* of a business relationship, including:
 - (i) scrutiny of *transactions* undertaken throughout the course of the relationship, including, where necessary, the source of funds, to ensure that the transactions are consistent with his knowledge of the

customer and the business and risk profile of the customer;

- (ii) ensuring that documents data or information collected under the Customer Due Diligence (CDD) process are kept up to date and relevant by undertaking reviews of existing records, in particular for higher risk categories of customers.
- Attention is also drawn to Regulation 25(1) of the FIAMLR 2018, which provides that reporting persons should, as far as reasonably possible, examine the background and purpose of all transactions that —
- (a) are complex transactions;
 - (b) are unusually large transactions;
 - (c) are conducted in an unusual pattern; or
 - (d) do not have an apparent economic or lawful purpose.

POLICIES & PROCEDURES

The policies & procedures of reporting persons, in line with FIAMLA & FIAMLR, must determine what kind of monitoring is done including for high-risk situations and describe when monitoring is done (its frequency), how it is reviewed (its intensity), and how it will be consistently applied. These policies & procedures must be documented, kept up to date, and where relevant approved by the board.

RISK BASED APPROACH

The extent of monitoring, that is frequency and intensity of monitoring should be commensurate with the risk profile of the customer, i.e, where the risks are high, the reporting person should conduct enhanced transaction monitoring.

TIP OF THE MONTH



Transaction Monitoring

Continued)

PURPOSE OF ONGOING MONITORING

Amongst others:

- Detect suspicious transactions that are required to be reported to the FIU.
- Keep client identification, beneficial ownership information, and the purpose and intended nature of the business relationship record up to date;
- Re-assess client-risk based on their transactions and activities; and
- Determine whether the transactions or activities are consistent with the information and risk assessment of the client.

TIMING OF MONITORING:

- In real time, i.e, transactions and/or activities are reviewed as they take place or are about to take place and throughout the business relationship;
- After the event through an independent review of the transactions and/or activities that a customer has undertaken; and
- The obligation to monitor a business relationship finishes at the time that it is terminated. *(all records must be kept for at least 7 years post termination)*

SOME FACTORS TO CONSIDER:

In addition to the usual CDD, record keeping and Enhanced Due Diligence procedures, the following factors can be considered to monitor transactions, amongst others:

- Consolidation of transactions close to threshold, i.e. where transactions fall just below Rs 500,000 and it includes multiple payments by the customer including cash.
- PEP status.

- High volume of transactions with abnormally high pay out transaction volume, inconsistent with normal and expected activity of the customer.
- Change in customer information/structure before large transaction.
- Ad-hoc high value transaction counts from new clients (possible smurfing).
- Frequency of sales and purchases, for instance, total value of sale transactions is similar to total value of purchase transactions over a short timeframe.
- Suspicious spend behaviour where transactions that highly deviate from customer's standard spend behaviour such as interest in or purchase of precious stones or luxurious real estate or an externally influenced transaction.

POSSIBLE MEASURES BY REPORTING PERSONS:

- Amongst others;
- review transactions based on an approved schedule that involves management sign-off;
 - set business limits or parameters regarding clients or transactions that would trigger early warning signals and require mandatory review; and
 - review transactions more frequently against suspicious transaction indicators relevant to the relationship.

REPORTING OF A SUSPICIOUS TRANSACTION

Reporting persons should report to the FIU a suspicious transaction not later than 5 working days after the suspicion arose through the [goAML](#) platform. Failure to report STRs is a criminal offence and on conviction Reporting persons are liable to a fine not exceeding 5 million rupees and to imprisonment for a term not exceeding 10 years.