

Adapting Risk-based Approach in Dealers in Gem & Jewellery to Combat Money Laundering & Terrorist Financing

Presentation by the Financial Intelligence Unit of
Central Bank of Sri Lanka

(Publicly available information on case studies of ML/TF and indicators of suspicious transactions are used in this presentation
to educate the G&J sector on possible money laundering threats)

What is Money Laundering?

Money Laundering is the process of hiding the origin of illegally earned money

Money Laundering is illegal in Sri Lanka

- Money Laundering Offence:

- Unlawful Activities: Predicates Offences for Money Laundering

- Drug Trafficking
 - Arms Dealing
 - Human Trafficking
 - Violation of Bribery Act (Chapter 26)
 - Violation of Foreign Exchange Act
 - Conduct of prohibited schemes such as Pyramid Schemes
 - Violation of the Customs Ordinance
 - Violation of the Excise Ordinance
 - Violation under the Payment Devices Frauds Act, No. 30 of 2006
 - Violation under the National Environment Act, No. 47 of 1980
 - Transnational organized crimes such as; credit card frauds, computer and Internet related crimes,
 - Offences committed against children
 - An offence under any other law, punishable by death or with imprisonment for a term of five years or more



What is Terrorist Financing?

Providing financial support to terrorism through legally or illegally earned money



Global efforts on combating Money Laundering & Terrorist Financing

- Financial Actions Task Force (FATF)
- Asia Pacific Group on Money Laundering (APG)
- Egmont Group
- World Bank
- International Monetary Fund (IMF)

Institutions to report against Money Laundering & Terrorist Financing

- **Financial Institutions-**
 - Banks
 - Finance Companies
 - Stock Brokers
 - Primary dealers, etc..
- **Designated Non-Financial Institutions (DNFBPs)-**
 - Casinos
 - Real Estate Agents
 - **Gem & Jewellery Dealers**
 - Accountants, Lawyers,
 - Notaries
 - Company Secretaries



FATF Recommendations against Money Laundering & Terrorist Financing

FATF International Recommendations For DNFBPs:

- 22: Customer Due Diligence: (LC)
 - R. 10 (Customer Due Diligence)
 - R. 11 (Record Keeping)
 - R. 12 (Politically Exposed Persons)
 - R. 15 (New Technologies)
 - R. 17 (Reliance on Third Parties)
- 23: Reporting Suspicious Transactions: (C)
 - R. 18 (Internal Controls, Foreign Branches and Subsidiaries)
 - R. 19 (High Risk Countries)
 - R. 20 (Reporting of Suspicious Transaction)
 - R. 21 (Tipping-off and Confidentiality)
- 28: Supervision and Monitoring (NC)
 - R. 35 (Sanctions)



FATF Recommendations against Money Laundering & Terrorist Financing

1. Technical Compliance:

- This measures implementation of FATF requirements (International Standards)
 - C- Compliant
 - LC- Largely Compliant
 - PC- Partially Compliant
 - NC- Non-Compliant

2. Effectiveness Under Immediate Outcome (IO) 3:

- This is to assure that proceeds of crime and funds in support of terrorism are prevented from entering the financial and other sectors or are detected and reported by these sectors.
- Supervisors appropriately supervise, monitor and regulate financial institutions and DNFBPs for compliance with AML/CFT requirements.

The Financial Intelligence Unit (FIU)

- The FIU is the apex institution in Sri Lanka to monitor AML/CTF requirement of the country.
- The FIU examines AML/CFT compliance of reporting Institutions including casinos under Designated Non-Financial Business and Professions category.

National Risk Assessment

- FIU Conducted National Risk Assessment in 2014.
- Casinos, real estate agents and gem and jewellery dealers were found as High Risk sectors for ML/TF in Sri Lanka compared to other DNFB sectors.
- This is mainly due to their high cash intensiveness in operations.
- And there were no AML/CFT measures implemented for the business operations of these sectors.

Gem & Jewellery Dealers were found as high-risk for ML/TF compared to other DNFB sectors

- G&J dealers are by nature cash-intensive businesses undertaking various financial activities such as;
 - Gold and gems are highly vulnerable for criminal activities worldwide.
 - Gold and gems can be traded anonymously.
 - Gold and gem transactions are difficult to trace.
 - Gold and gem market is cash incentive.
 - Investment in gold provides reliable returns.
 - A vital important source of the foreign exchange.
 - Gold is easy to smuggle and trade.
 - Different means of payments such as wire transfers, credit/debit card facilities.
 - It involves exchanging Currencies.

Over view of the Gem & Jewellery market in Sri Lanka

- Sri Lanka is popular as the island of gem in the global market.
- Many varieties of minerals that are classified as gemstones can be found in Sri Lanka, making this small island one of the most important geographic locations in the world of gemstones.
- Sri Lanka is particularly renowned for its sapphires and rubies.
- The gem and jewellery industry is one of important part of Sri Lankas economy.
- This industry creates a considerable amount of employments.
- Mining, lapidary, jewellery manufacturing, exporting and retailing are main activities in gem and jewellery industry.
- Gem mining activities are concentrated mainly in the districts of Ratnapura, Matale, Badulla and Moneragala.
- The primary manufacturing activities are gem cutting (lapidary) and jewellery manufacturing.

Over view of the Gem & Jewellery market in Sri Lanka Cntd.

- The lapidary sub-sector mainly consists of cutting and polishing of coloured gemstones and diamonds.
- The sub-sector for jewellery manufacturing consists mostly of traditional artisanal production.
- However, modern mass manufacturing is also on the rise.
- There are four main trading oriented activities which are gem dealing (wholesale), importing, exporting and retailing.
- The largest market segment of this industry in value terms is the export market which mainly consists of Geuda (refers to an unprocessed variety of corundum), polished diamonds, cut & polished gemstones and jewellery.
- The National Gem and Jewellery Authority is the licensing body and the regulatory authority of this segment.
- The FIU works as the regulator for the AML/CFT aspects of the gem and jewellery market in Sri Lanka
- Customer due diligence, reporting suspicious transactions, record keeping, screening customers and beneficial owners against the designated lists of UNSCR and other AML/CFT requirements are applicable for Sri Lankan G&J dealers.

Factors impact on ML/TF risks

- Value of gems and Jewelleries
- Location of the business
- Custom rules
- Speed and volume of business transactions
- Types of payment/payment methods accepted from customers
- Size of premises
- Customers (regular customers/one-off customers, domestic/foreign)



Control measures that G&J dealers already in place

G&J dealers are generally subject to a range of regulatory requirements and security measures, which can complement AML and CFT measures:

- Verification of identity
- Collection of customer details
- Financial crime controls, custom rules
- Social responsibility provisions (Blood Diamond from Sierra Leon)
- Security controls
- Camera surveillance to prevent frauds

Case Study: ML Using Dealers in Precious Metals and Stone

Case Study 01:

The examiners of “country A” investigated whether the illicit proceeds gained through drug dealing have been used to purchase gold from “M Jewellers” by a drug dealer.

These gold purchases were being done by a criminal organization and they have been buying gold from various gem and jewellery dealers using the illicit proceeds earned from the sales of drugs.

Thereafter the purchased gold has been sold to many other jewellery shops. The proceeds of the sales of this gold have been transferred to a third party of “country D” that had links to drug trading.



By transferring these funds the drug dealer laundered his illicit proceeds.

This case study involves all three stages of money laundering which are placement, layering and integration.



Case Study: ML Using Dealers in Precious Metals and Stone

Case Study 02:

The Police of Country “A” has identified that a money launderer (Mr. M) is laundering his narcotics proceeds using the gold and other precious metals.

It has been revealed that, when Mr. (M) receives cash from drug/narcotic trafficking, he goes to the jeweller (J) and buys gold or other precious metals for cash. These gold and other precious metals are melted by the Jeweller (J) turning in to bolts, nuts, cones and wrenches and sold to Mr. (M).

After receiving these melted forms of gold or other precious metals, Mr. (M) has sold them for cash for people in Country ‘B’.

By this process, Mr. (M) has completed the three layers of Money Laundering that is; Placement, Layering and Integration.



Case Study: TF Using Dealers in Precious Metals and Stone

Case study 3:

It was observed that the “company A” operating in country “D” has been frequently sending representatives to “country M” offering purchases of precious gemstones above the local market prices.

As a result, fund transfers have been observed from country D to country M with very large volumes. The purpose of the transaction indicated was purchase of gemstones.

The funds were then withdrawn in the “country M” either as cash or cheque withdrawals immediately after the fund transfers.



Later it was revealed that persons who withdrawn funds from “country M” had links with a known terrorist group and the funds has been used to fund terrorist activities.



Red Flags/Indicators for Suspicions



Some Red Flags for STRs

- Customer executes transaction/transactions which is/are not consistent with his usual profile.
- A frequent customer, who buy/sell precious stone/metal or jewellery products makes a transaction/transaction inconsistent with his usual financial status/profile.
- Customer does not appear properly concerned about the value, size, quality and/or colour of the precious stone/metal or jewellery product.
- Customer pays the value of the precious stone/metal or jewellery producing an unusual payment method.

Red Flags Cntd...

- Customer conducts large or frequent transactions using foreign currency without any economic rationale.
- Frequent transactions by a customer especially over a short period of time below the regulatory threshold for customer due diligence, however the total of such transactions is substantial.
- Payments received for a purchase of a precious stone/metal or jewellery product from a third party who is not the owner of the funds, without any legitimate business purpose.
- Customer is suspected to be using forged, fraudulent or false identity documents for due diligence and record keeping documents.

Red Flags Cntd...

- Customer avoids answering questions related to the source of money to buy the precious stone/metal or jewellery product.
- Customer is known to have a criminal/terrorism background.
- Customer appears to be related to a country or entity that is associated with ML/TF activities.
- Customer is unusually concerned and/or makes inquiries about the AML/CFT requirements and internal compliance policies, procedures or controls.
- Customer attempts to maintain a high degree of secrecy with respect to transactions, for example by requesting not to keep normal business records.
- Customer is a PEP or a close relative or associate of a PEP.



How to Combat ML/TF by G&J Dealers?



How to Combat ML/TF Risk?

Assessing

ML/TF Risk

1. Assessing Institution's ML/TF Risk

- Countries risk
- Geographic area
- Product/Service
- Transaction/ Delivery Channels

2. Conducting Risk Profiling on Customers

- Geographical Location
- Customer Category
- Product, services, transactions or delivery channels of the customer

Implementing

Internal Risk Mitigating Controls

(Following Should be implemented)

- AML/CFT Policy & Reviewing it periodically
- Appointing a Compliance Officer
- Conduct CDD/Enhanced CDD
- Record Keeping
- Paying attention to complex, unusual, large transaction
- Screening against designated list of UNSCR
- Other measures;
 - Assess ML/TF risk before introducing New Technologies (Products, Services and Business Practices)
 - Employee Screening
 - AML/CFT Training for Employees
 - Auditing of AML/CFT measures

Reporting

Transactions to the FIU

(Reporting on suspicions & mandatory)

- Reporting Suspicious Transactions
- Cash Transaction/Electronic Fund Transfers



Conducting ML/TF Risk Assessment by G&J Dealers

Risk Assessment

- Identify, asses and understand the ML/TF risk under these steps
 - Customers
 - Countries
 - Geographic Areas
 - Product/Services
 - Transactions/Delivery Channels
- Document the risk assessment
- Keep the assessment up-to-date
- Provide risk assessment information to the FIU through the Compliance questionnaire

An example of a checklist for Institutions' ML/TF Risk Assessment:

Customer Risk	YES	NO	MITIGATION MEASURES
Do you have clients that:			
operate in a cash intensive business?			
reside outside Sri Lanka?			
are intermediaries or "gatekeepers" such as professionals that hold accounts for clients where the identity of the underlying client is not disclosed to you?			
are located in a known high crime rate area?			
the nature of their business makes it difficult to identify the true owners or controllers?			
are politically exposed persons?			
do not have an address or who have several addresses without justified reason?			
have a criminal record?			
have links to organized crime?			



An example of a checklist for Institutions' ML/TF Risk Assessment:

	YES	NO	N/A
Product/Service Risk			
Do you offer products or services that:			
make it difficult to fully identify clients?			
assist in the establishment of a company?			
Do you:			
perform tasks for the purpose of concealing the client's beneficial owner?			
perform tasks of real estate transfer between clients in an unusually short time period without visible legal, economic or other justified reason?			
provide services linked with establishing, operating or managing of a shell company, company in nominal ownership?			



Delivery Channels/Business Relationships Risk	YES	NO	N/A
Do you: conduct non-face-to-face transactions?			
Do you have business relationships that: involve complicated financial transactions?			
involve payments towards/from third persons and cross-border payments?			
involve high risk real estate transactions? involve cash payments?			



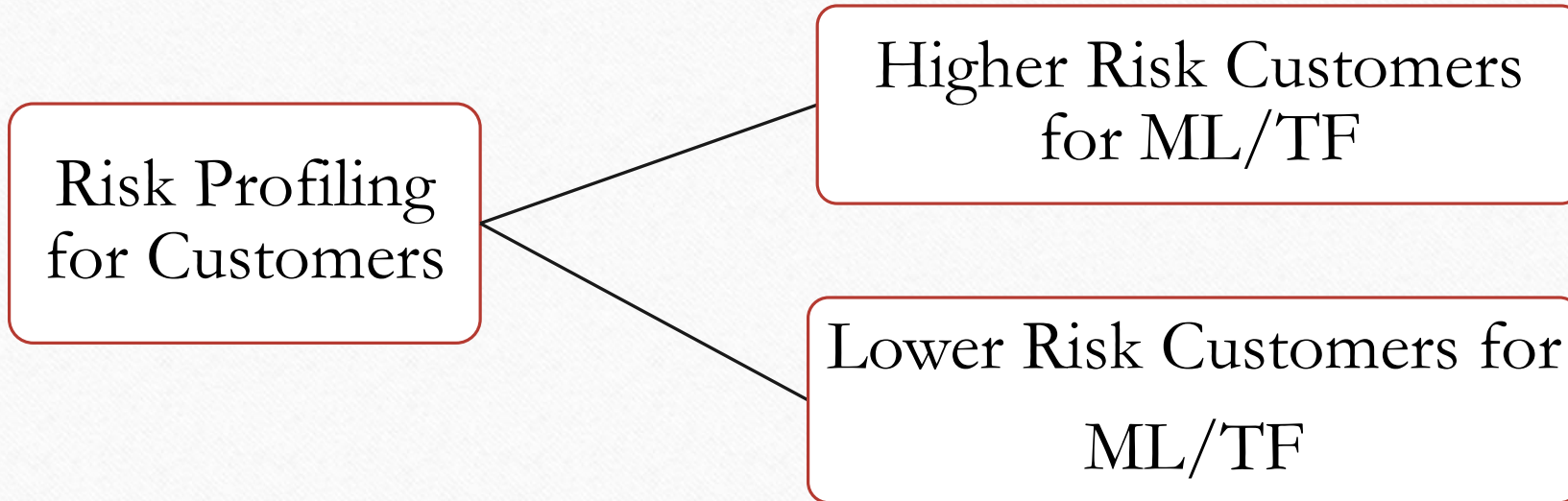
Geographical Risk	YES	NO	N/A
Do you or your clients operate or undertake activities in the following countries:			
Any country subject to sanctions, embargoes or similar measures issued by the United Nations (UNSCR)?			
Any country identified as a financial secrecy haven or jurisdiction?			
Any country identified by the Financial Action Task Force (FATF) as non-cooperative in the fight against money laundering or terrorist financing or subject to a FATF statement?			
Any country identified by credible sources as lacking appropriate money laundering or terrorist financing laws and regulations or as providing funding or support for terrorist activities?			
Any country that is known to have significant levels of corruption, or other criminal activity?			



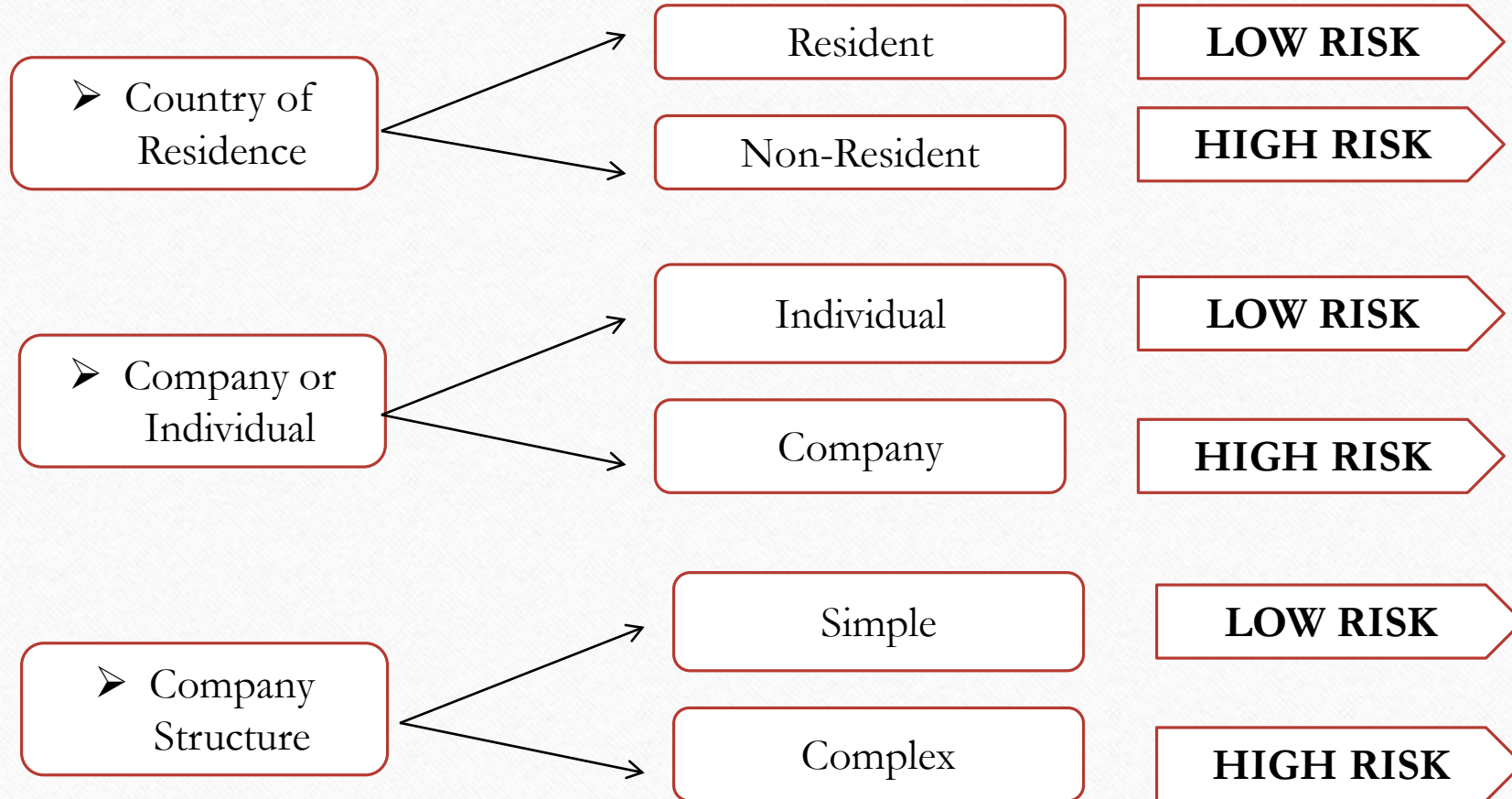
Conducting Risk Profiling on Customers



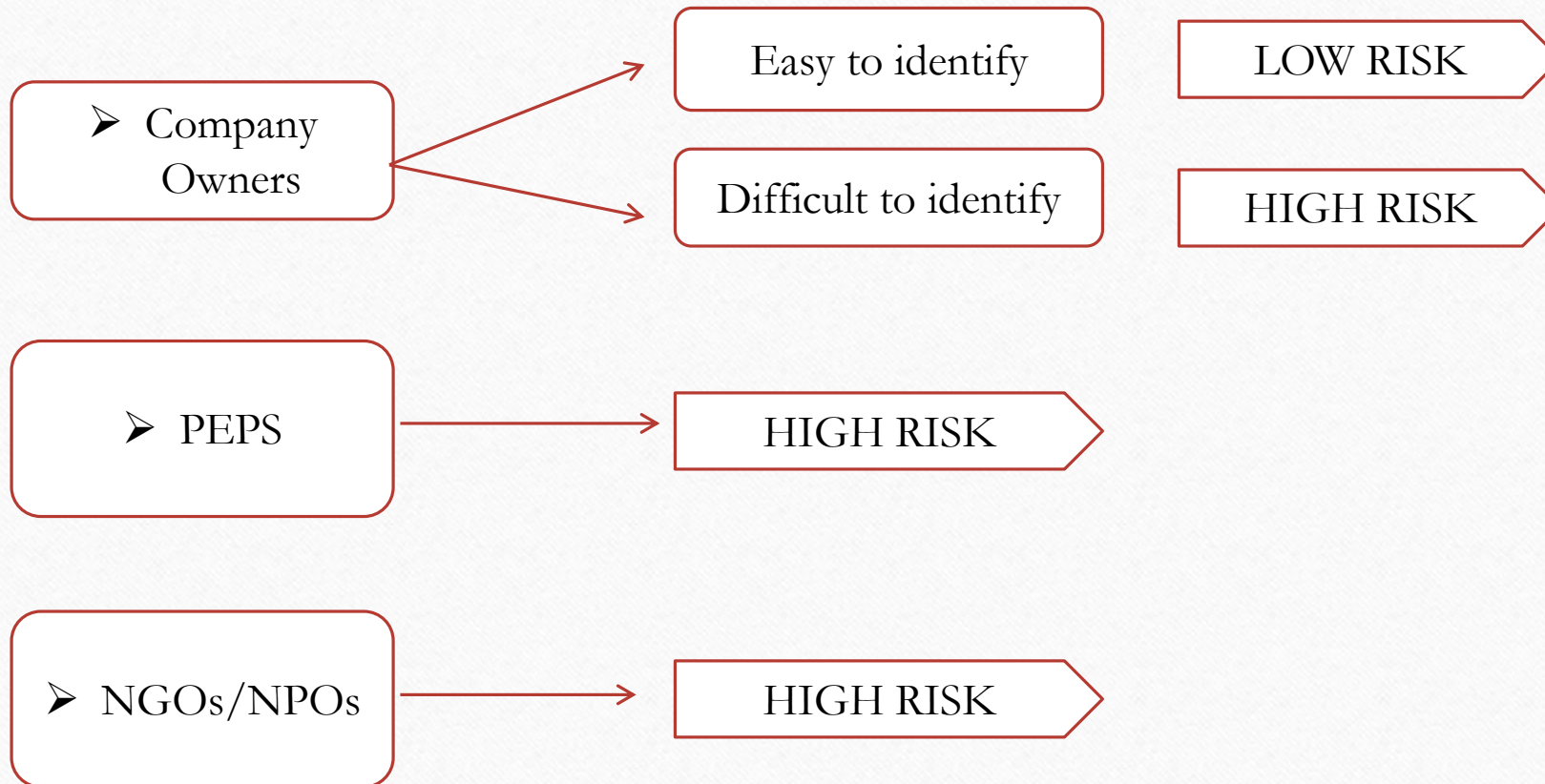
Risk profiling for customers on collected data



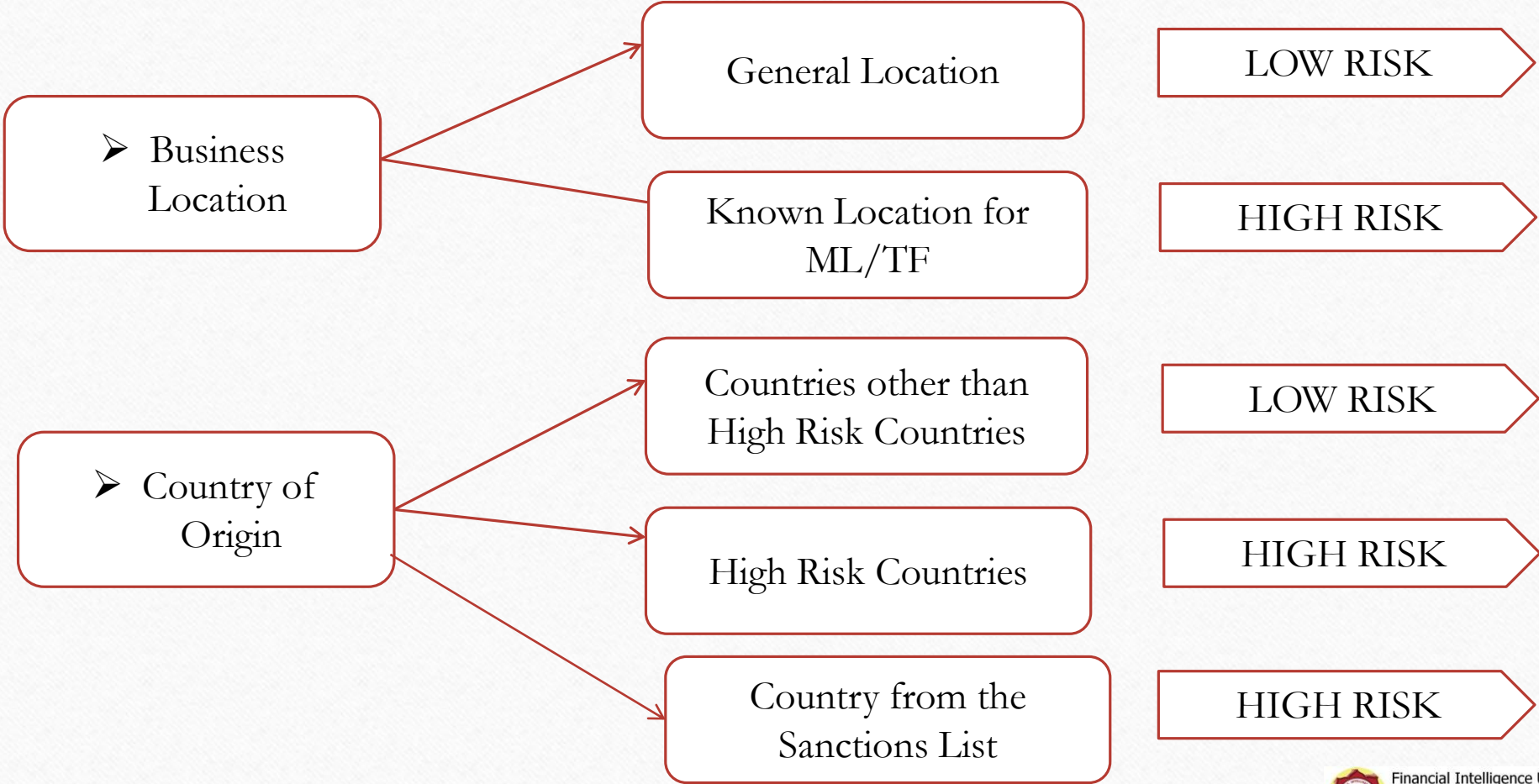
Ex. How to profile customers on ML/TF risks?



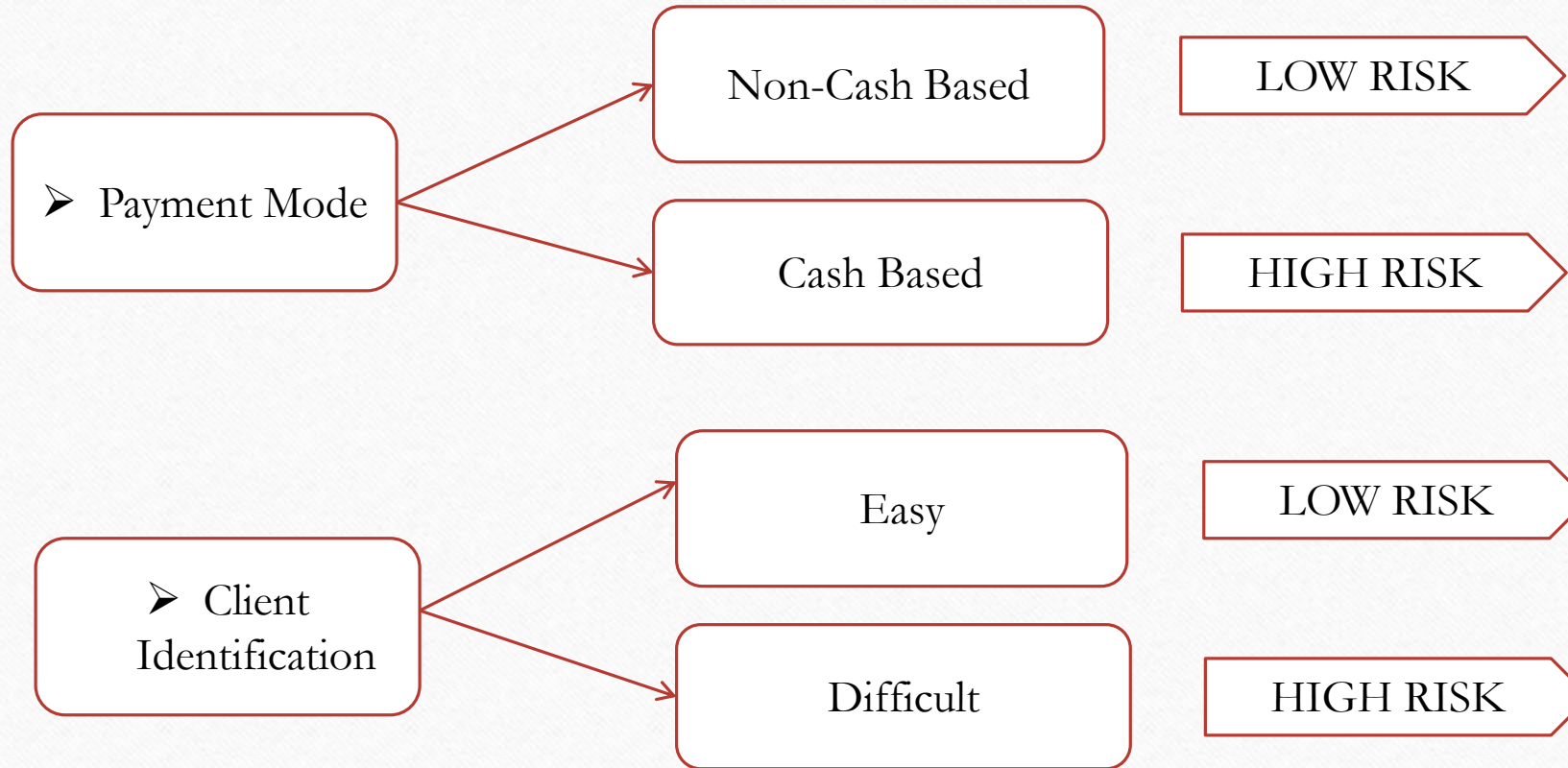
Ex. Customer risk profiling Cntd...



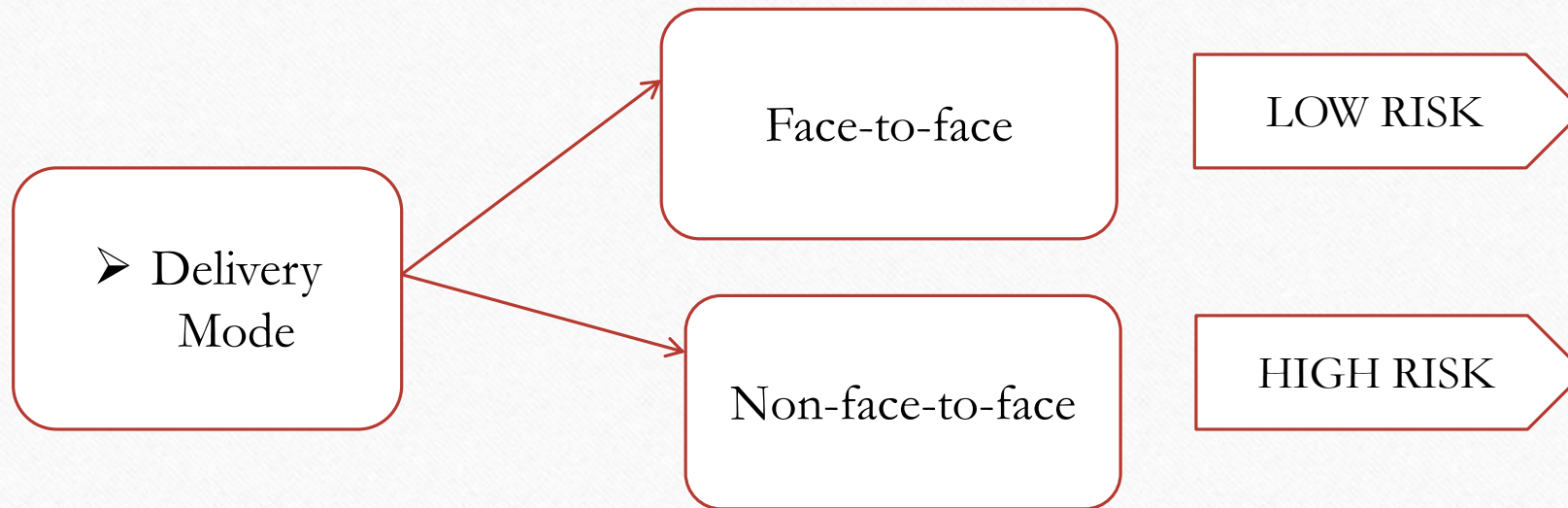
Ex. Geographical risk



Ex. Products/Services risk



Ex. Delivery channel risk



An Example for Customer Risk Assessment and Profiling:

	Risk Assessment Criterion	Lower Risk	Higher Risk
1.	Type of Customer:	An individual	A legal person or a legal arrangement
		A resident	A non-Resident
		Customers from non-Higher Risk Countries	Customers from higher Risk Countries
		Non-PEP customers	Higher Risk Domestic PEP or Foreign PEPs
2.	Type of Transaction Relative to Customer	Normal frequency and normal value	High frequency & high value or suspicious patterns in conducting transactions such as splitting
3.	Mode of Delivery	Over the counter or face-to-face	Internet based or phone based
4.	Destination country (for remittance)	Non-high-risk countries	Higher risk countries
		Own country	Other country that appear unrelated
5.	Jurisdiction or Country of Origin	Same jurisdiction or country	Different jurisdictions or countries
			High number of inward transactions, followed by immediate withdrawals



Risk mitigation

- Have an AML/CFT Policy, Procedures and controls approved by the senior management to manage and mitigate identified risks.
- Monitor the implementation of policies, procedures and controls.
- Take enhanced measures to mitigate the risks where higher risks are identified.
- Simplified measure can be taken where risk is found low.
- Simplified measures should not be applied when there is a suspicion of ML/TF.

AML/CFT internal controls for G&J Dealers

- G&J Dealers should have an internal AML/CFT Policy and Procedures (Compliance Programme)
- G&J Dealers should reviewing their compliance programme periodically
- G&J Dealers should conduct Customer Due Diligence (CDD) and Enhanced CDD
- G&J Dealers should a have proper Record Keeping system
- G&J Dealers should have a system to Screening Customers and Beneficial Owners against UNSCR designated lists
- G&J Dealers need to have procedures to comply with other AML/CFT Requirements such as
 - Assessing ML/TF risk arising from New Technologies
 - Employee screening at hiring
 - AML/CFT training for employees
 - Auditing applications of AML/CFT obligations

AML/CFT Policy for G&J Dealers



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Contents for the G&J Dealers' AML/CFT Policy

- Risk based approach to AML/CFT
- Conducting AML/CFT Risk Assessment
- Appointing a Compliance Officer
- Procedures of Conducting of CDD and Enhanced CDD
- Assessing and Managing ML/TF risks of New Technologies
- Compliance with UNSCR Resolutions
- Reporting of STRs to the FIU
- Procedures for Record Keeping
- Conducting AML/CFT Training for employees
- Conducting employee screening when hiring new employees
- Auditing of AML/CFT Procedures
- Reviewing of AML/CFT Policy periodically



FIU provides a Guidance Note on preparing AML/CFT Policy

Guidance Note on Preparing Company-wise AML/CFT Policy Document

This guidance note is provided by the FIU to the designated non-financial Institutions (herein after referred to as “Institutions”), to use as a direction on preparing AML/CFT Policy of the Institution. Therefore, this should not be used as the AML/CFT Policy of the Institutions.

Introduction:

The introduction to the AML/CFT Policy of the Institution may include;

- Brief description on what is Money Laundering/Terrorist Financing (ML/TF)
- Description on prevailing AML/CFT Laws and Regulations in Sri Lanka in relation to DNFBs:
 - Financial Transactions Reporting Act No. 6 of 2006 (FTRA)



To effectively maintain the Institution's AML/CFT Policy

How ?



Review & Monitor AML/CFT Policies and Procedures

How often?



Periodically based on the Institution's Policy

What to do?



Document the scope of the Review & Results

Report Deficiencies to the Board of Directors / Top Management / Owner



Conducting Customer Due Diligence



Conducting Customer Due Diligence (CDD)?

WHEN ?



If any CASH Transaction of Gem and Jewellery Dealers equal to or above USD 15,000 or in any currency equal to that value

How ?

Identification

Verification

WHO ?

- Customer
- Beneficial Owner

HOW ?

- Make a copy of ID/Passport/Driving License



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Customer/Beneficial Owner Identification

What to collect?

As per the CDD Rules for DNFBPs;

- (a) the full name;
- (b) permanent, residential or mailing address;
- (c) occupation, name of employer, business or principal activity;
- (d) an official personal identification number or any other identification document that bears a photograph of the customer or beneficial owner such as the National Identity Card, passport or driving license;
- (e) date of birth;
- (f) nationality;
- (g) source of funds;
- (h) purpose of transaction;
- (i) telephone numbers (residence, office or mobile).



Identity verification of Customer and beneficial owner



Verify the documents specified in (d) above, by requiring the customer or beneficial owner to furnish the original document & make a copy of that document

How to conduct Enhanced Customer Due Diligence?



For customers rated as “high-risk”

If a customer is
Politically Exposed Persons (PEPs)

For Customers from
High-risk countries



How to conduct Enhanced Customer Due Diligence?

What to do?

Obtain Additional Information on Customer/Beneficial Owner

Obtain Approval from Senior Management to Process Business Transactions

Obtain Additional Information on Intended Nature of Relationship

Regularly Update Identification Data

Enquire and Record Reasons for Transactions



Record Keeping by G&J Dealers



How to keep records?

What are the records?

- CDD Information
- Copies of ID/Passport/Driving License, etc.
- Transaction Records
- Any other Report Furnished to the FIU

For how long?

6 years from the date of closure of business relationship

6 years from the date of transaction

6 years from the date of furnishing the report

However;

Must retain for more than 6 years if,

FIU directs to keep any information/record of transaction/report for such longer period



Screening against Designated Lists of UNSCR Sanctions

Screen customers against Sanction lists published under “United Nations Security Council Resolutions (UNSCR)”



To screen against UNSCR you need to refer

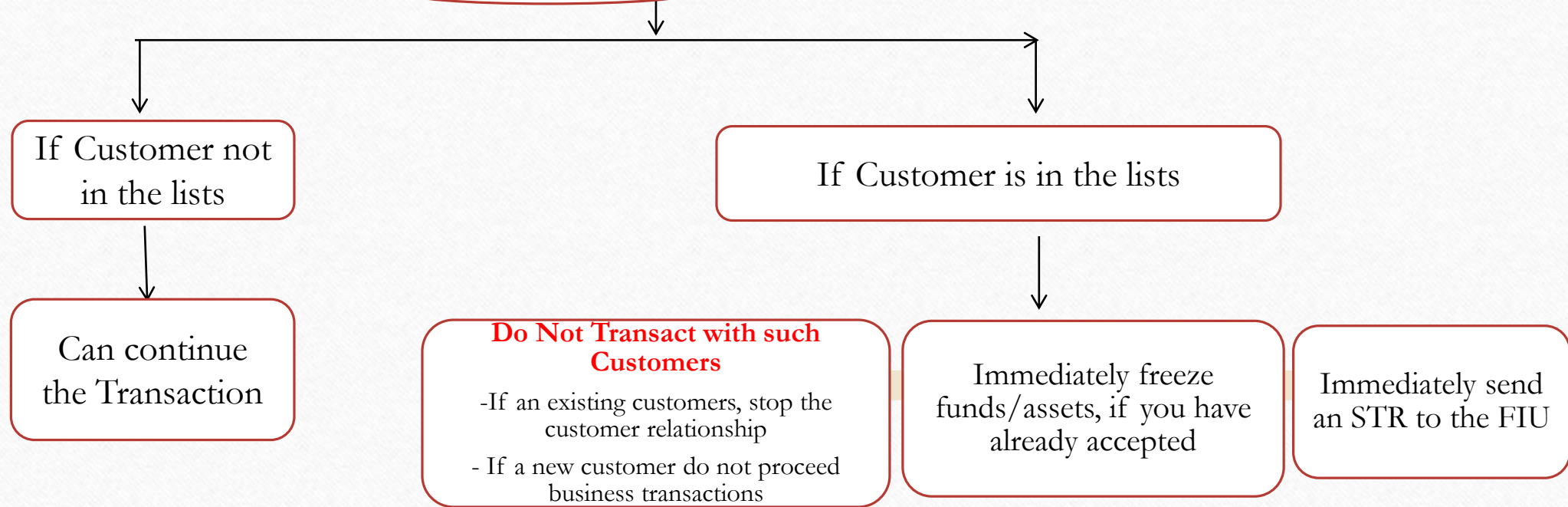
Refer www.fiusrilanka.gov.lk/UNSanctions

- Institution should screen their customers against UNSCR designated lists using the data collected at the CDD process.
- If a name matches with a name in such list that is the institution found that there are similar name/s to the customer's name in the UNSCR list, then it should be immediately communicated to the FIU while holding the funds if the institution has already accepted the fund.

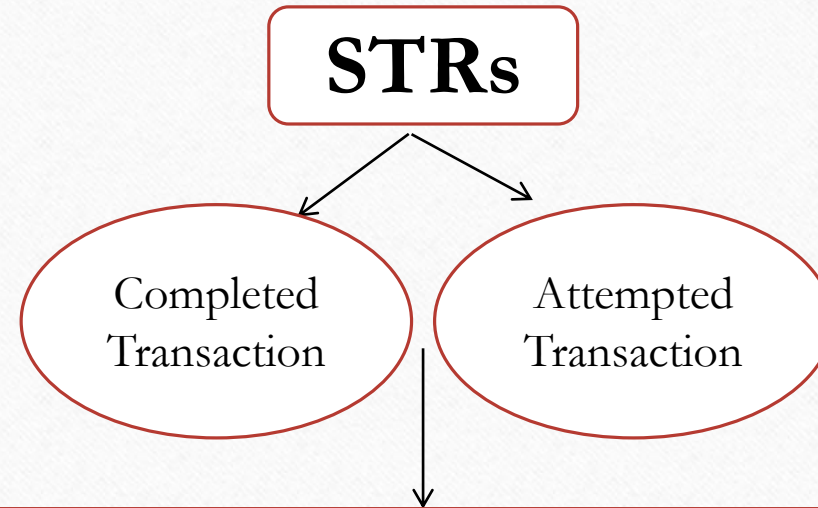
What you should do?

Should cross-check whether any customer/beneficiary appears on such designated lists

Cross-checking with UNSCR Lists



Reporting Suspicious Transactions (STRs)



- Related to commission of any “unlawful activity or any other criminal offense”-Section 33 of the FTRA
- Has information that suspect may be relevant to an act preparatory to an offense under provisions of Convention of the Suppression of Financing of Terrorism Act No. 25 of 2005 (CSFTA)
- Has information that suspect may be relevant to an investigation/prosecution for an act of any unlawful activity or offense under CSFTA or PMLA



On what form?

In Writing

May be by mail or telephone;
BUT
Should be followed up in writing
within 24 hours



How soon shall report Suspicious Transaction?

As soon as practicable after forming the suspicion

BUT!!!

Not later than **two working days** therefrom...



How to send STRs?

Schedule V of the Suspicious Transactions (Format) Regulations of 2017

(This schedule is available at <http://www.fiusrilanka.gov.lk/docs/Regulations>)



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Schedule V

CONFIDENTIAL

Province :

District :

SUSPICIOUS TRANSACTION REPORT					
a. This report is made pursuant to the requirement to report suspicious transactions under the Financial Transaction Reporting Act, No. 6 of 2006 b. Under Section 12 of the Act, no civil, criminal or disciplinary proceedings shall be brought against a person who makes such report in good faith.					
PART A - DETAILS OF REPORT					
1	Date of Sending Report				
2	Is this replacement to an earlier report ?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
PART B - INFORMATION ON SUSPICION					
3	Name in Full (if organization, provide registered business/organization name)				
4	Residential/ Registered Address				
5	NIC No. / Passport No./ Business Registration No.				
6	Gender	Male	<input type="checkbox"/>	Female	<input type="checkbox"/>



7	Country of Residence and Nationality (if an individual)	
8	Business/ Employment Type	
9	Occupation (where appropriate, principal activity of the person conducting the transaction)	
10	Name of Employer (where applicable)	
11	Contact Details	

PART C - DESCRIPTION OF SUSPICION

12	Details of Transaction / Activity	
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13	Ground / Reasons for Suspicion	
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PART I: SEC. (I) - GAZETTE EXTRAORDINARY OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA - 21.04.2017

PART D - DETAILS OF REPORTING PERSON		
14	Date of Reporting	
15	Signature	
16	Name of Reporting Person/Agency	
17	NIC Number	
18	Designation / Occupation	
19	Address	
20	Contact Details	

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Other AML/CFT requirements for G&J Dealers

- Assessing the ML/TF risk before introducing New Technologies
- Screening of employees when hiring
- Conducting of periodic AML/CFT Training for employees
- Auditing of AML/CFT applications

Reporting Requirements to the FIU

The main reporting requirement is

- Reporting of Suspicious Transactions (STRs): (Already discussed)

The other reporting requirements are

- Reporting of Cash Transactions and Electronic Fund Transfers

(A mechanism will be introduced in future to report over Rs. 1 mn transactions to the FIU)

Responsibilities of the Compliance Officer

Compliance Officer is Responsible for;

- **Training staff on AML/CFT measures**
- **Checking whether CDD/Enhanced CDD is conducted properly by the front line officers/staff**
- **Making sure whether the relevant staff/employees/departments assess ML/TF risk when introducing New technologies.**
- **Appointing Assistant Compliance Officers if required (Ex. For branches and subsidiaries)**
- **Making sure whether employees are properly screened at recruitments**
- **Reviewing the AML/CFT Policy periodically**
- **Arranging an Internal Audit Function**
- **Reporting STRs and maintaining a registry for STRs**
- **Having a proper record keeping system**



“Be Comply to Avoid Penalties”

Following are applicable for non-compliance:

- Severe financial penalties
- Suspension/cancellation of license
- Imprisonment



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THANK YOU



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