

# Anti Money Laundering and Countering Financing of Terrorism in Sri Lanka:

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**15 March 2019**



# Financial Action Task Force (FATF): Not a Regulator!!!



- Financial Action Task Force was established by the Group of 7 (G-7) countries in 1989 with the purpose of functioning as a “policy-making body” development and promotion of policies, both at national and international levels, to combat money laundering and terrorist financing;

Currently, FATF 40 Recommendations on AML/CFT (since Feb-2012...)

However, ML/TF trends and threat levels, geopolitical pressures, increased country specific risks would result in FATF recommendations being revised from time to time, which require FIU to adapt to such dynamic scenarios



# FIU, as the focal point of AML/CFT for the country, has the responsibility to ensure that Sri Lanka is compliant with all FATF 40 Recommendations

INTERNATIONAL STANDARDS  
ON COMBATING MONEY LAUNDERING  
AND THE FINANCING OF  
TERRORISM & PROLIFERATION

The FATF Recommendations

- Risk Assessment/ Risk based approach
- National cooperation
- ML/TF offences
- Confiscation
- Targeted financial sanctions
- NPOs/NGOs
- CDD
- Record keeping
- PEPs
- MVTS
- New technologies
- Wire transfers
- High risk countries
- DNFBPs
- Beneficial Ownership
- FIU
- Law Enforcement
- Cash couriers
- Statistics
- Sanctions
- International instruments
- MLA and freezing
- Extradition
- International cooperation
- Regulation and supervision of FIs
- Terrorist Financing
- Money Laundering
- Powers of supervisors
- Reliance on third parties
- Secrecy laws
- Correspondent banking
- PEPs
- STRs
- Tipping-off

The FATF 40 Recommendations are quite dynamic and subject to revisions from time to time...



# What is Money Laundering and Terrorist Financing?

# Legal Framework

- The Convention on the Suppression of Terrorist Financing Act No 25 of 2005 (CSTFA) – **Criminalizing Terrorist Financing**
- The Prevention of Money Laundering Act No 5 of 2006 (PMLA) – **Criminalizing Money Laundering**
- The Financial Transactions Reporting Act No 6 of 2006 (FTRA) – **Obligations of the Financial and Non Financial Institutions**



# Terrorist Financing - the Offence



## 2 *Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005*

3. (1) Any person who, by any means, directly or indirectly, unlawfully and wilfully provides or collects funds, with the intention that such funds should be used, or in the knowledge that they are to be used or having reason to believe that they are likely to be used, in full or in part, in order to commit,—

- (a) an act which constitutes an offence within the scope of, or within the definition of any one of the Treaties specified in Schedule I hereto ;
- (b) any other act, intended to cause death or serious bodily injury, to civilians or to any other person not taking an active part in the hostilities, in a situation of armed conflict, and the purpose of such act, by its nature or context is to intimidate a population or to compel a government or an international organization, to do or to abstain from doing any act,

shall be guilty of the offence of financing of terrorists or terrorist organizations :

**STOP THE FLOW OF BLOOD MONEY!**

International terrorism is financed by money sent to terrorists from sources around the world. To avoid future incidents, the U.S. Government is offering a reward of up to \$5 million for information leading to the dismantling of any system used to finance a terrorist organization and information leading to the arrest or conviction of those who planned or aided in any act of terrorism against U.S. persons or property.

If you have any information about individuals or organizations that finance terrorists, please call 1-800-877-3827 in the U.S.; outside the U.S. contact the nearest U.S. embassy or consulate.  
E-mail: [RFJ@state.gov](mailto:RFJ@state.gov)

**REWARDS FOR JUSTICE**  
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**Up to \$5 Million Reward • Responses Kept Strictly Confidential**



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இலங்கை மத்திய வங்கி  
CENTRAL BANK OF SRI LANKA



- **Money Laundering** (noun):

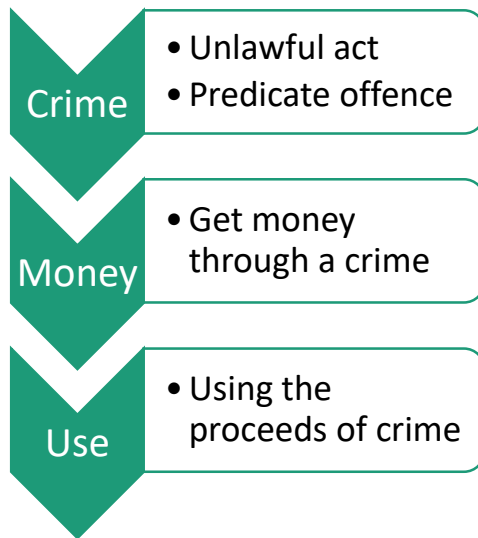
The action/process of disguising the original source of assets in order to avoid detection of the illegal activity from which they were derived.

## A TYPICAL MONEY LAUNDERING SCHEME



# Prevention of Money Laundering Act, No. 5 of 2006

## ML - Offence



3. (1) Any person, who—

- (a) engages directly or indirectly in any transaction in relation to any property which is derived or realised, directly or indirectly, from any unlawful activity or from the proceeds of any unlawful activity;
- (b) receives, possesses, conceals, disposes of, or brings into Sri Lanka, transfers out of Sri Lanka, or invests in Sri Lanka, any property which is derived or realised, directly or indirectly, from any unlawful activity or from the proceeds of any unlawful activity,

Offence of money laundering.

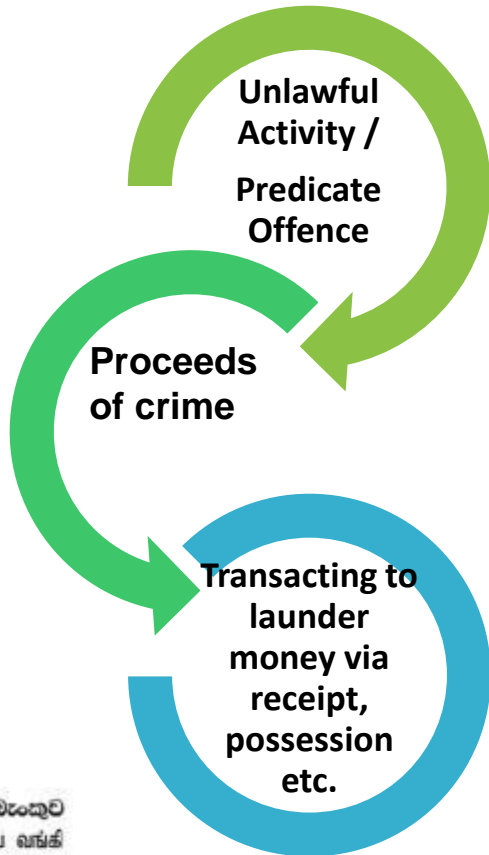
Money laundering is simply the **use of illegally obtained funds**



# Comparison: ML vs. TF

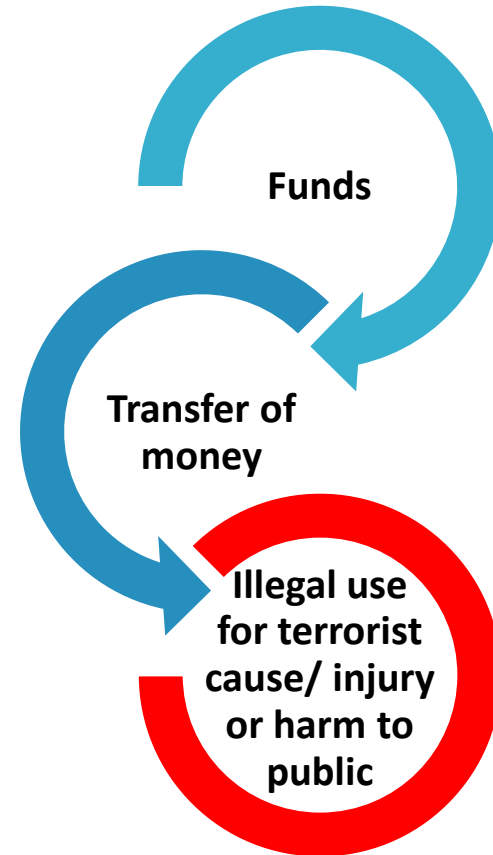
## Money Laundering...

The origin of fund is illegal -



## Terrorist Financing...

The end use of funds is illegal -



# Unlawful Activities

- Among number of predefined offence activities ....

An offence under any other law, punishable by death or with imprisonment for a term of five years or more.



Where does  
scams fall  
in this...

**YOU WON 1 MILLION!**  
PAY AN ADMIN FEE TO CLAIM YOUR PRIZE

**I REALLY LOVE YOU!**  
SEND SOME MONEY TO HELP ME

**YOU HAVE A PACKAGE!**  
PAY A CLEARANCE FEE

**YOU WON A CAR!**  
PAY CUSTOMS FEE FOR THE CAR TO BE DELIVERED

**A WELL-PAID JOB!**  
PAY A REGISTRATION FEE

**BEWARE**  
DON'T BE A VICTIM OF A SCAM

Scammers target victims, regardless of age, gender, education or income level.

Scams need individuals a great deal of money and cause a lot of distress.

Scammers use letters, postcards, social media, telephone calls, text messages, emails, instant messaging apps to lure victims.

Scammers would give a variety of reasons and would try to convince their victims that they are genuine.

Financial Intelligence Unit of Sri Lanka  
Central Bank of Sri Lanka,  
No. 33, Jambhavanthi Mawatha, Colombo-04

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# JURISDICTION

- ❑ A person commits an offence under the Act - whilst being a resident in Sri Lanka
- ❑ Institution used to commit offence – carries on business in Sri Lanka and
  - Incorporated or registered in Sri Lanka
  - Or is incorporated or registered as a branch of a bank incorporated or registered outside Sri Lanka
- ❑ An Act;  
that commits what is constituted as an offense under this Act, committed in SL

## Applicability of Act – section 2

# The Financial Transactions Reporting Act, No. 6 of 2006 (FTRA)



# Institutions: the Legal Framework

- FTRA set out provisions including
  - the Setting up of the FIU
  - Powers and functions of the FIU
  - Mandated organizations to undertake due diligence measures
  - Sanctions, protection and rules/regulation setting...
- FTRA set out provisions governing:
  - A) Finance businesses,  
and
  - B) Designated non-finance businesses and persons  
(DNFBPs)

# Section 14 – Role of the Compliance Officer



# Mandatory Reports: Section 6 and Section 7 of FTRA

- **Cash Transaction Reports (CTRs)**
- **Electronic Fund Transfers (EFTs)**

(Any CTR or EFT that exceeds Rs. 1,000,000/- or its equivalent in foreign currency)

*[S. 6 as prescribed under Gazette No. 1555/9, dated June 25, 2008]*

**AND**

- **Suspicious Transaction Reports (STRs)**

*[S.7 of FTRA]*

# Section 7 (1) of the FTRA

Where an **Institution**:

(a) has reasonable grounds to suspect that any transaction or attempted transaction may be related to the commission of any **unlawful activity** or **any other criminal offence** ;

**or**

(b) has information that it suspects may be relevant—

(i) to an **act preparatory to an offence** under the provisions of the Convention on the Suppression of Financing of Terrorism Act, No. 25 of 2005 ;

(ii) to an **investigation or prosecution of a person or persons for an act constituting an unlawful activity**, or may otherwise be of assistance in the enforcement of the Prevention of Money Laundering Act, No. 5 of 2006 and the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005,



# Section 7(1) contd...

...the **Institution** shall, as soon as practicable, after forming that suspicion or receiving the information, but no later than two working days therefrom, report the transaction or attempted transaction or the information to the Financial Intelligence Unit (FIU).

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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 2015/56 - 2017 අප්‍රේල් මස 21 වැනි සිකුරාදා - 2017.04.21

No. 2015/56 - FRIDAY APRIL 21, 2017

(Published by Authority)

## PART I : SECTION (I) — GENERAL

### Government Notifications

L.D.B. 3/2006

#### THE FINANCIAL TRANSACTIONS REPORTING ACT, No. 6 OF 2006

REGULATIONS made by the Minister of Finance under Section 29 read with Section 7 of the Financial Transactions Reporting Act, No. 6 of 2006.

RAVI KARUNANAYAKE,  
Minister of Finance.

30th March 2017,  
Colombo.

#### Regulations

1. These regulations may be cited as the Suspicious Transactions (Format) Regulations of 2017.
2. These regulations shall apply to every Institution within the meaning of Section 33 of the Act.
3. (1) Every suspicious transaction report under Section 7(1) of the Act, in respect of Institutions specified in Column I shall, substantially be in the forms specified in the respective Schedules specified in the Column II of this regulations.  
(2) Every suspicious transactions report referred to above, in respect of Institutions other than those specified in Column I shall, substantially be in the form specified in Schedule V of this regulation.



# After reporting an STR...

- Carry out business as usual with the customer/client
- Any further developments related to the customer's / client's transactions, the FIU should be informed

# After reporting an STR...

## Tipping Off the customer or any person is Prohibited

- As per Section 9 of the FTRA, a person should not disclose to any other person that
  - A report has been made to the FIU;
  - A suspicion has been formed;
  - Further information has been submitted to the FIU.

# Section 14 – Role of the Compliance Officer



# Customer Due Diligence, Risk Based Approach and the Compliance Environment of an FI



# Customer Due Diligence (CDD) Rules, No. 01 of 2016

## Main Parts

- Part I  
ML/TF Risk Management
- Part II  
Customer Due Diligence (CDD)
- Part III  
Correspondent Banking
- Part IV  
Wire Transfers
- Part V  
Record Keeping
- Part VI  
Miscellaneous

< Schedule for Rule 27 >

# Why FIU revamped the CDD Rules...

- To address the lapses seen in the KYC Regulation of 2011...
  - Ultimate Beneficial Ownership information
  - Money or value Transfer Service Providers (MVTs) introduced to the compliance regime
  - Politically Exposed Persons (PEPs) requirement expanded
  - Simplification of information obtained and delayed verification to encourage financial inclusion and business interests
  - Sanctions Screening of UNSCRs
- To gradually shift from a “Rule-based approach” to a “Risk-based approach (RBA)”

On the part of the Financial Institutions, we still see large gaps among many relating to the CDD Rules implementation in their respective systems



# Main Differences

- RBA requires controlling measures on ML/TF that commensurate with the nature, scale and complexity of risk
- Proper Risk Assessment:  
FIs are required to Identify, Assess and Understand the ML/TF risks to which they are exposed to and to take AML/CFT controlling measures in order to mitigate those risks
- Establish Risk Management Function proportionate to the nature, scale and complexity of the activities and ML/TF risk profile.

# Financial Institution's Responsibility

- Processes involve in assessing risk
  - ✓ consider all risk factors before determining the level of overall risk and mitigation strategies
  - ✓ document risk assessments and findings
  - ✓ keep the assessment up-to-date through a periodic review
  - ✓ keep appropriate mechanisms to provide risk assessment information to the supervisory authority



# Politically Exposed Persons (PEPs) and Customer Due Diligence (CDD)

...individuals in Sri Lanka or abroad who are, or have been, entrusted with prominent public functions –

E.g:

Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of State owned corporations, important political party officials. Business relationships with family members or close associates of such person involve reputational risks similar to those of such persons themselves.

This is not intended to cover middle ranking or more junior officials in the forgoing categories.”

# PEPs and CDD

- Have appropriate risk management systems to determine whether the customer is a politically exposed person;
- Obtain senior management approval for establishing business relationships with such customers;
- Take reasonable measures to establish the source of wealth and source of funds;
- Conduct enhanced ongoing monitoring of the business relationship.

# Ultimate Beneficial Ownership - Rules 28-31, 48-50 and also the Guideline

- Legal Persons and Legal Arrangements
- Information relating to UBOs to be recorded
- **Who?** - a natural person who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted including the person who exercises ultimate effective control over a legal person or a legal arrangement
- **Purpose:** to prevent corporate entities being misused by the money launderers

# When to conduct CDD? Rule 26

- Enter into business relations
- Providing money and currency changing business for transactions involving an amount exceeding Rs.200,000 or its equivalent in any foreign currency
- Providing wire transfer services
- Carrying out occasional transactions (amount exceeding Rs.200,000)
- There is a suspicion of money laundering or terrorist financing or
- The financial institution has doubts about the veracity or adequacy of previously obtained customer identification

# Customer Identification ,Verification, Risk Profiling – Rule 27

- Identification (including beneficial owners) - Prior to enter into business relationship (Schedule 1)
- Minimum CDD,
  - Purpose of the account
  - Source of earnings
  - Expected monthly turnover
  - Expected mode of transactions (Ex. Cash, Cheques,FTs)

# Rule 47(c): 3rd Party Deposits

...with regard to all cash deposits exceeding rupees two hundred thousand or its equivalent in any foreign currency made into an account separately or in aggregate by a third party customer, have on record the name, address, identification number of a valid identification document, purpose and the signature of the third party customer...



# Statutory Powers of the FIU in terms of Section 15 of FTRA

# Am I Protected?

## Sec 12, FTRA

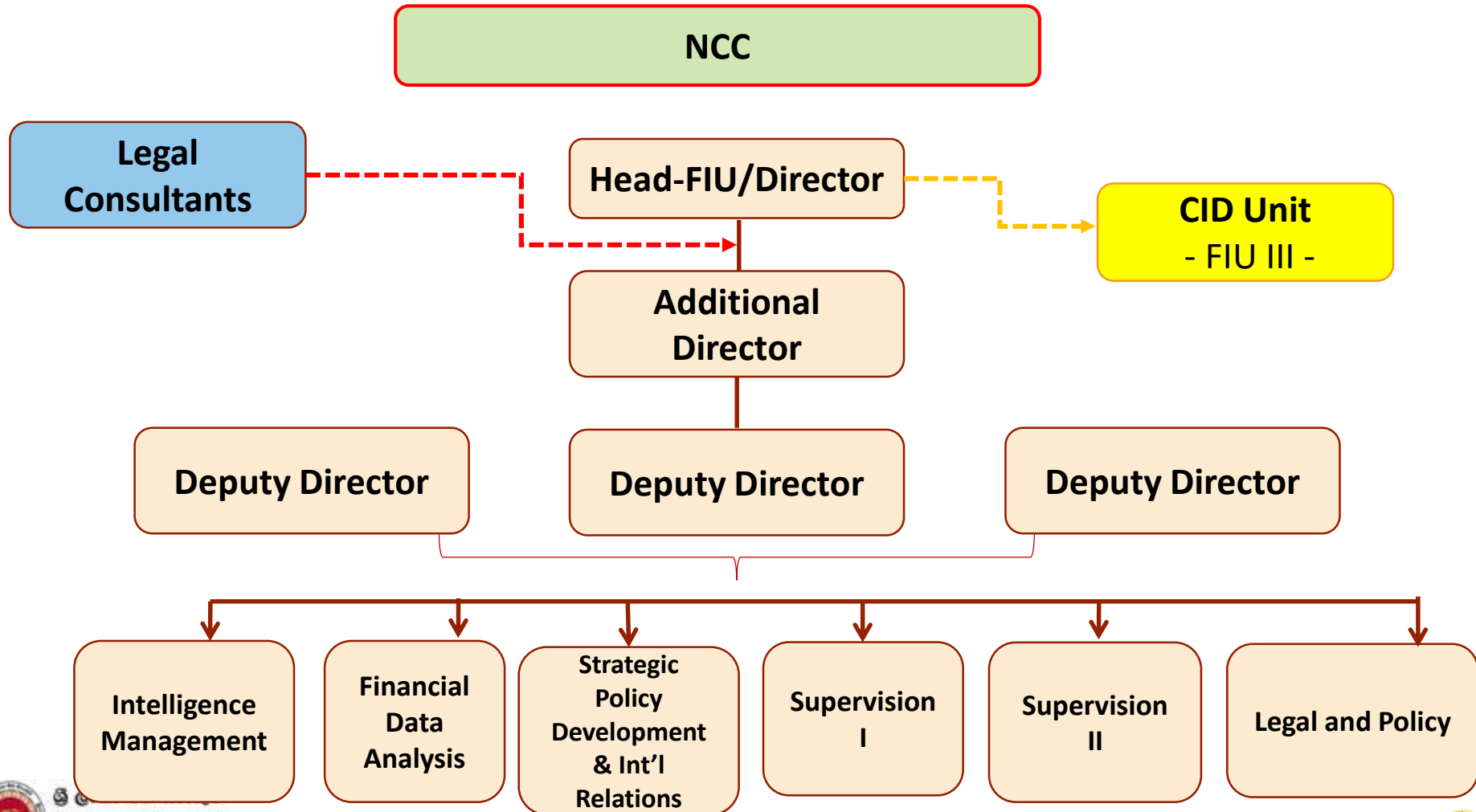
- No civil, criminal or disciplinary proceeding lie against any person or institution reporting STRs under the FTRA in Good Faith or in compliance with regulations made under the Act or rules or directions given by the FIU...

# Overall, AML/CFT regimes are increasingly being focused at the global to national to institutional levels, and some future trends are evolving...

- More stringent AML compliance is expected from countries;
- More focus on national risks, organized launderers using professional networks, crypto assets being misused, increase of trade based ML, and sanction violator regimes and institutions;
- Emergence of new sanctions regime (Large penalties to be adhered against non compliant institutions);
- Timely access and increased transparency on Ultimate Beneficial Ownership information;
- Countering the increasing trend of social media and cyber enabled financial crimes and terrorist financing;
- Increase in counter proliferation activities (UNSCRs against Iran, DPRK etc) and sanction relating to strategic trade controls (UNSCR 1540 etc.).



# Operational Structure of the FIU Sri Lanka



# FIU Initiated Rules and Guidelines

## REGULATIONS:

**Suspicious Transactions (Format) Regulations of 2017**

**United Nations (Sanctions in relation to Democratic People's Republic of Korea) Regulations of 2017**

**United Nations (Sanctions in relation to Iran) Regulation No.1 of 2018**

## RULES:

- **Financial Institutions (Customer Due Diligence) Rules, No. 1 of 2016 - Gazette Extraordinary, No. 1951/13, January 27 of 2016**
- **Designated Non-Finance Business (Customer Due Diligence) Rules, No. 1 of 2018 – Gazette Extraordinary No. 2053/20, January 10 of 2018**

# FIU Initiated Rules and Guidelines

## **GUIDELINES:**

- **AML/CFT Compliance Obligations for Money Value Transfer Service Providers, No.1/2017**
- **ML and TF Risk Management for Financial Institutions, No. 1/2018**
- **AML/CTF Compliance Obligations for Casinos and Gambling Houses, No. 2/2018**
- **AML/CTF Compliance Obligations for Dealers in Real Estate and Precious Metals, Precious and Semi-Precious Stones, No.3/2018**
- **Identification of Beneficial Ownership, No. 4/2018**
- **Implementing UN(Sanctions Relating to DPRK) Regulations of 2017, No.5/2018**

# AML/CFT Intermediate Objectives

**AML/CFT Policy**

- Policy
- Coordination
- Cooperation

**Prevent Criminal Proceeds and TF from entering financial sector**

- Proceeds of Funds
- Funds in support of terrorism

**Treat Detection and Disruption**

- Detection
- Disruption
- Sanctioning criminals
- Sanctioning financiers of terrorism
- Sanctioning those who aid and abet



# Overall, AML/CFT regimes are increasingly being focused at the global to national to institutional levels, and some future trends are evolving...

- More stringent AML compliance is expected from countries (More focus on national risks, organised launderers using professional networks, crypto assets being misused, increase of trade based ML, and sanction violator regimes and institutions);
- Emergence of new sanctions regime (Large penalties to be adhered against non compliant institutions);
- Timely access and increased transparency on Ultimate Beneficial Ownership information;
- Countering the increasing trend of social media and cyber enabled financial crimes and terrorist financing;
- Increase in counter proliferation activities (UNSCRs against Iran, DPRK etc.)
- Sanction screenings and strategic trade controls related issues (UNSCR 1540 etc.).





# Section 14 – Role of the Compliance Officer



**PENALTIES...**

# Imposition of penalties

## Section 19, FTRA - Non Compliance

- Penalty not exceeding **Rupees one million** in any given case.

- Subsequent violation of similar nature:

Double the amount imposed as a penalty on the original occasion

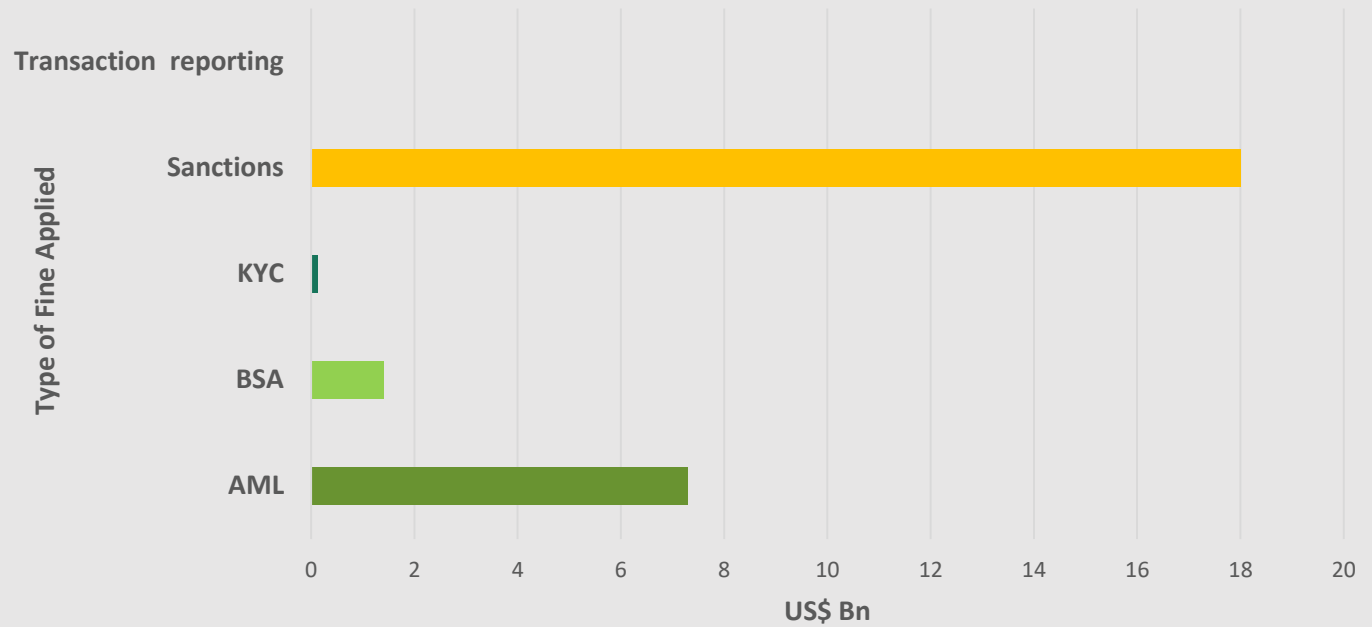
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penalty for each non- compliance

# Fines are a global trends...

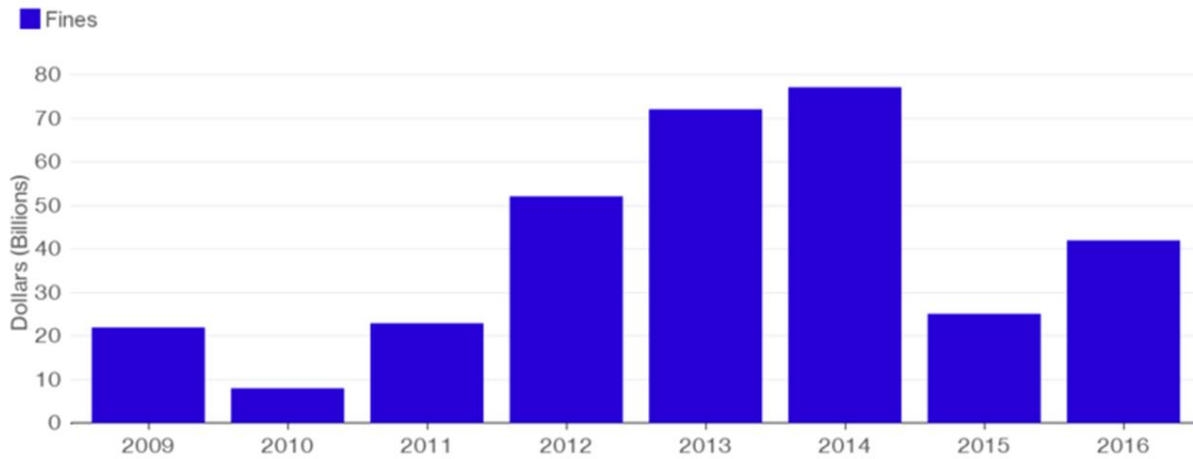
1. US regulators have hit foreign banks hard, imposing fines on European banks nearly five times that imposed against US banks;
2. Globally, 2015 was the most punitive year for fines, with \$11.52 billion levied against banks;
3. \$8.9 billion was the highest single fine ever levied against a bank by one regulator;
4. Fines for sanctions violations account for 56% of all violations levied globally in US\$ terms. This differs from APAC and Europe where AML-related fines far outweigh fines for sanctions violations.
5. The Nordics is the only region that fines their own domestic banks more than international banks (majority of financial institutions get fined by international regulators rather than their own regulators).

## US\$ Amount Global Fines by Type



## Bank Penalties

Global lenders have paid \$321 billion in charges since the financial crisis

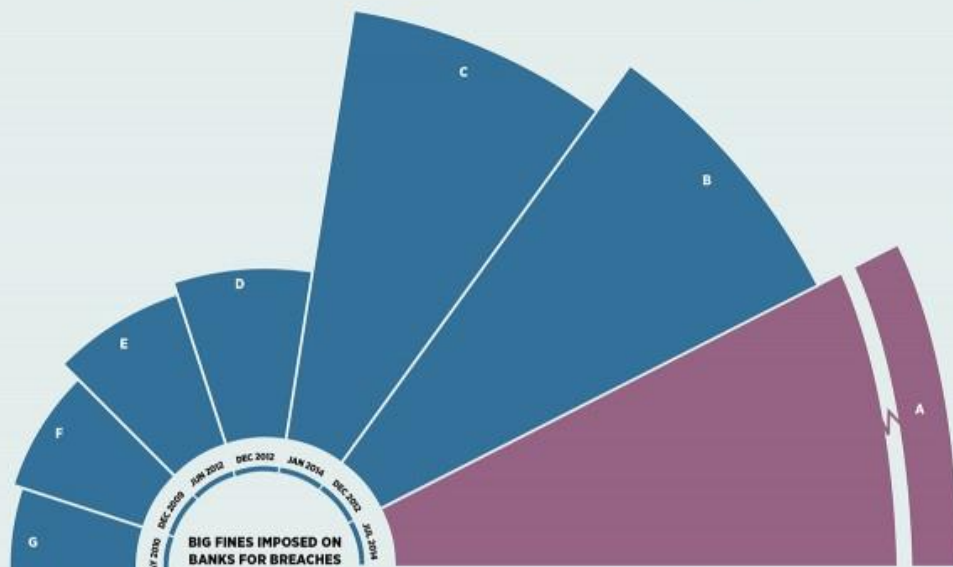


Source: BCG

Bloomberg



# Money laundering in numbers



**BIG FINES IMPOSED ON BANKS FOR BREACHES**

|          |                                 |                 |  |
|----------|---------------------------------|-----------------|--|
| <b>A</b> | <b>BNP PARIBAS</b>              | <b>\$8.97bn</b> | Violated US sanctions on money transfers in Sudan, Iran and Cuba.              |
| <b>B</b> | <b>HSBC</b>                     | <b>\$1.92bn</b> | Violated US sanctions on money transfers in Mexico, Iran, Cuba, Saudi Arabia.  |
| <b>C</b> | <b>JPMORGAN CHASE &amp; CO.</b> | <b>\$1.70bn</b> | AML failings linked to Bernie Madoff's Ponzi scheme.                           |
| <b>D</b> | <b>Standard Chartered</b>       | <b>\$667m</b>   | Violated US sanctions on money transfers in Iran, Sudan, Libya, Myanmar.       |
| <b>E</b> | <b>ING</b>                      | <b>\$619m</b>   | Violated US sanctions on money transfers in Cuba, Iran.                        |
| <b>F</b> | <b>CREDIT SUISSE</b>            | <b>\$536m</b>   | Violated US sanctions on money transfers in Iran, Sudan, Libya, Myanmar, Cuba. |
| <b>G</b> | <b>RBS</b>                      | <b>\$500m</b>   | Violated US sanctions on money transfers in Iran, Libya.                       |
| <b>H</b> | <b>LLOYDS BANKING GROUP</b>     | <b>\$350m</b>   | Violated US sanctions on money transfers in Iran, Sudan.                       |
| <b>I</b> | <b>Standard Chartered</b>       | <b>\$300m</b>   | Failure to improve AML practices since 2012 case.                              |
| <b>J</b> | <b>BARCLAYS</b>                 | <b>\$298m</b>   | Violated US sanctions on money transfers in Sudan, Iran, Myanmar, Cuba.        |

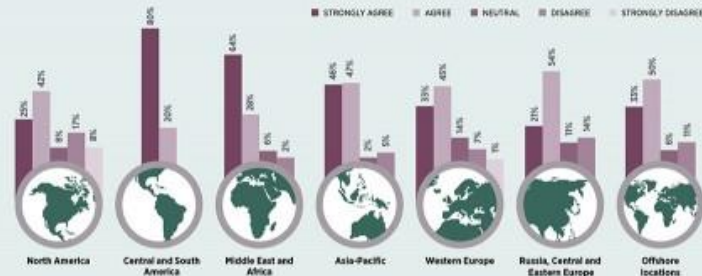
## TYPICAL MONEY LAUNDERING SCHEME



## WHO NEEDS TO PERFORM AML CHECKS?

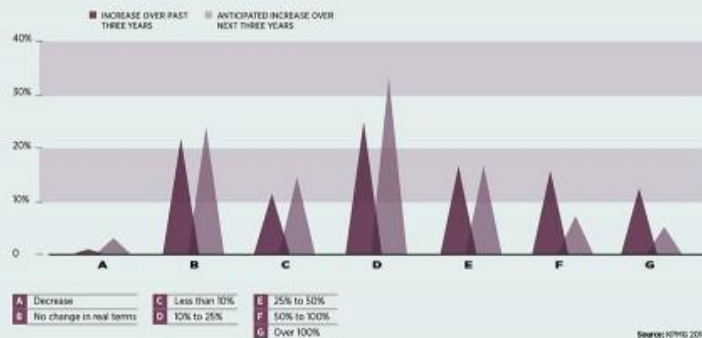
- Accountants
- Credit institutions
- Tax advisers
- Insolvency practitioners
- Casinos
- Chartered surveyors
- Automotive dealers
- Financial institutions
- Trust service providers
- Estate agents
- Solicitors
- Jewellers

## EXPOSURE TO MONEY LAUNDERING IS CONSIDERED A HIGH-RISK AREA IN BANKS' RISK ASSESSMENT



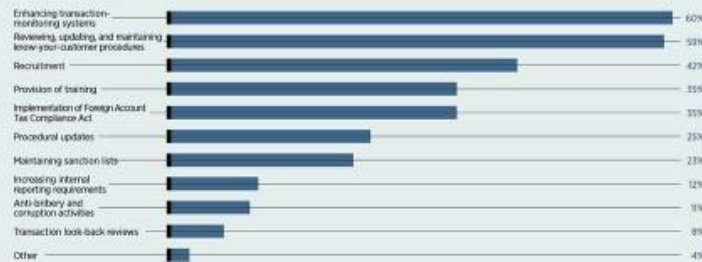
Source: IOPG 2014

## CHANGES IN GLOBAL BANKS' AML INVESTMENT



Source: IOPG 2014

## WHERE GLOBAL AML BUDGETS ARE FOCUSED



Source: IOPG 2014

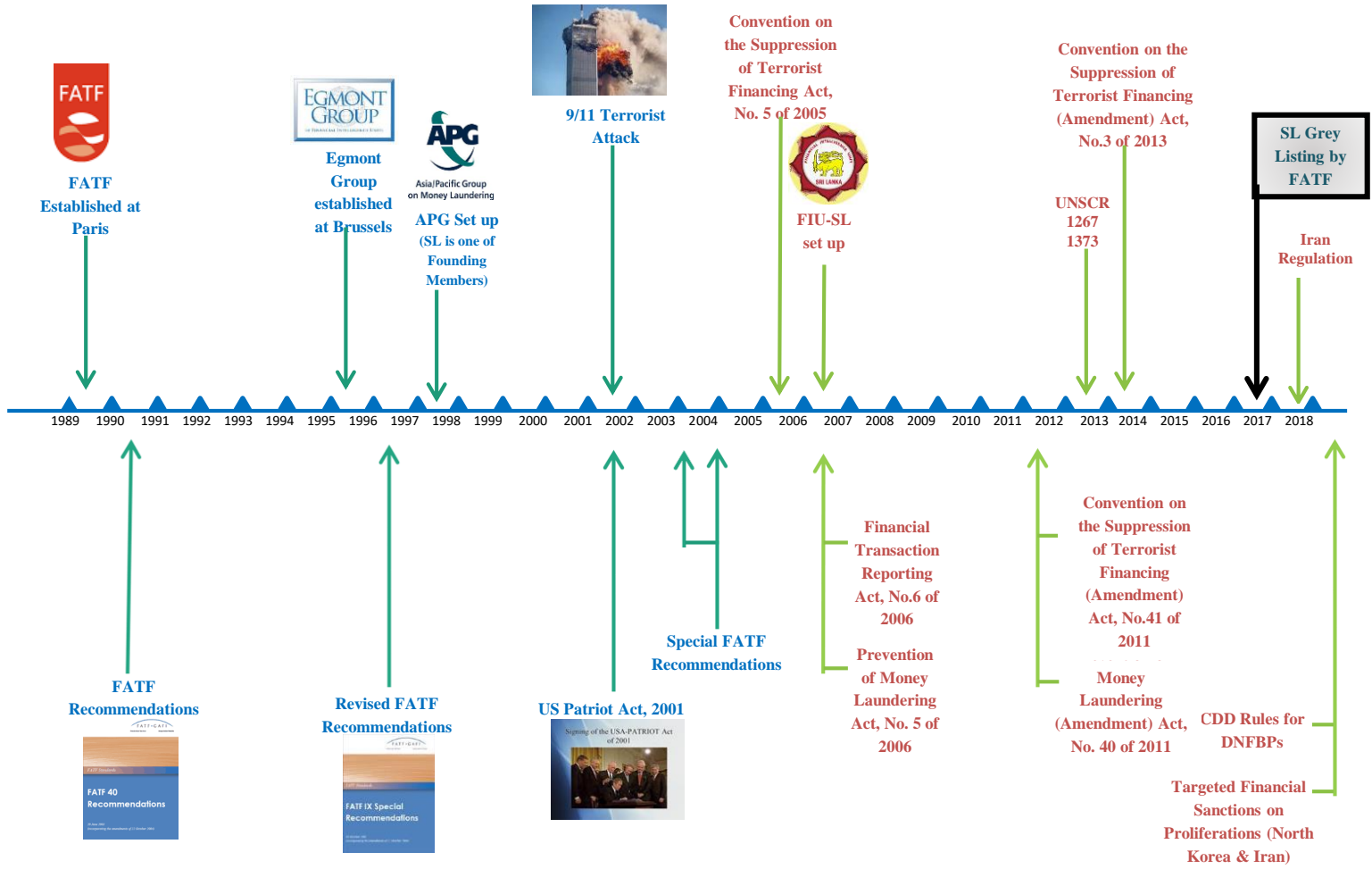
# Thoughts to the future...

While ensuring Sri Lanka is removed from the Grey List we need to look to the future...

AML/CFT is here to stay - sooner we (Regulators, Supervisors, Institutions) gear up, the better it is for the country, business environment and the overall development...

Next step is 2020-2021 Mutual Evaluation Fifth Year Follow Up Review...

# Timeline of AML/CFT transition - Global and National-





**Thank you!**