



Guernsey Financial
Services Commission

Governance, Risk and Compliance Controls to Counter Financial Crime – Estate Agency, **Legal** and **Accountancy Services**



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Financial Crime Division

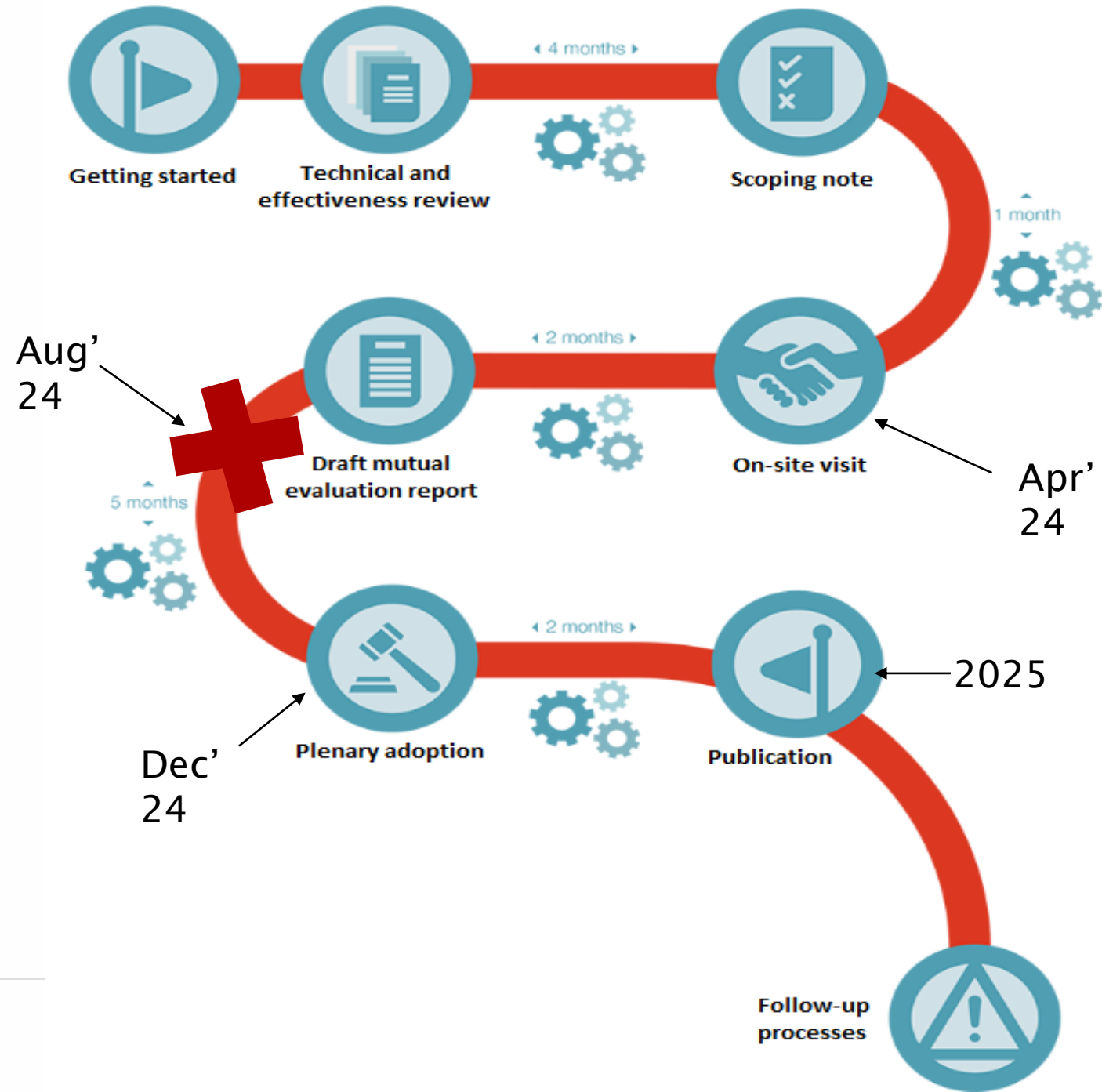
Agenda

- Moneyval Update
- Changes to the Prescribed Business Framework
- Feedback on the Thematic
- Thematic Follow-up
- Regulatory Reporting
- Questions



Moneyval Mutual Evaluation Timeline

- Two week onsite - April
- Negotiations – Q3 2024
- Plenary Adoption – December 2024
- Publication – Q1 2025



Changes to Prescribed Business Framework

- Provision of names, dates of birth, and places of residence for Directors/Partners and beneficial owners, during registration process and if changes are made.
 - Commission power to refuse to register a Prescribed Business
 - Returns to become mandatory
 - Penalties for late fee payment and late returns
 - *Level of discretionary penalties which the Commission may impose to be increased in line with financial services businesses.*
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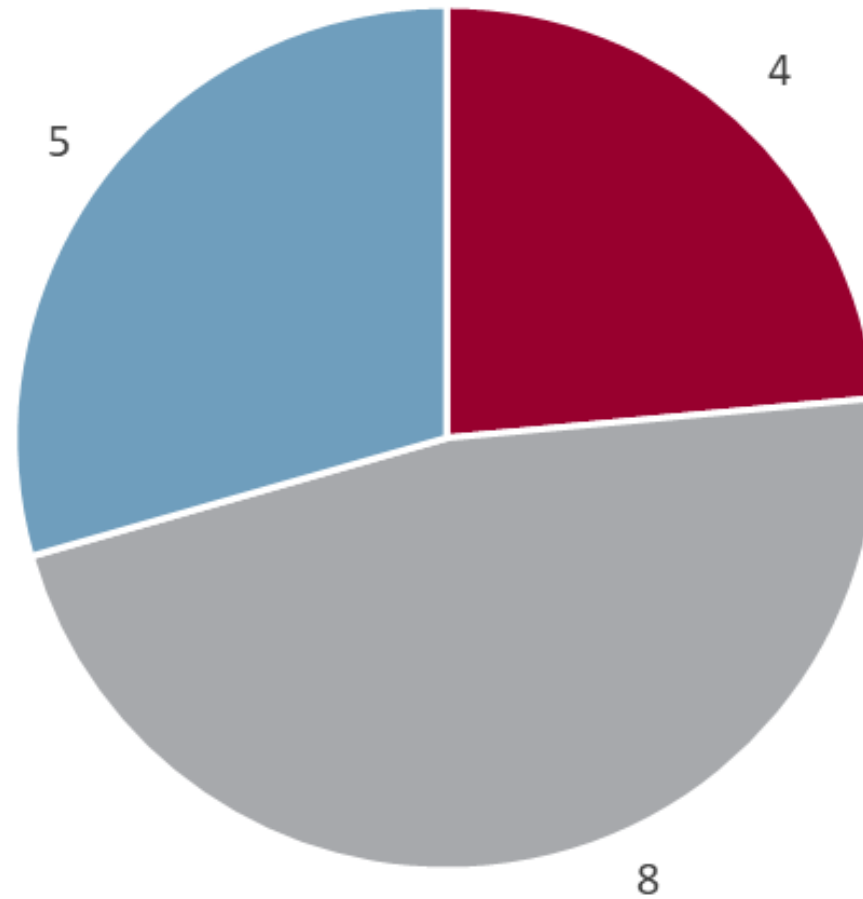
Thematic Review

Published: 4 April 2024

Why did we do a Thematic?

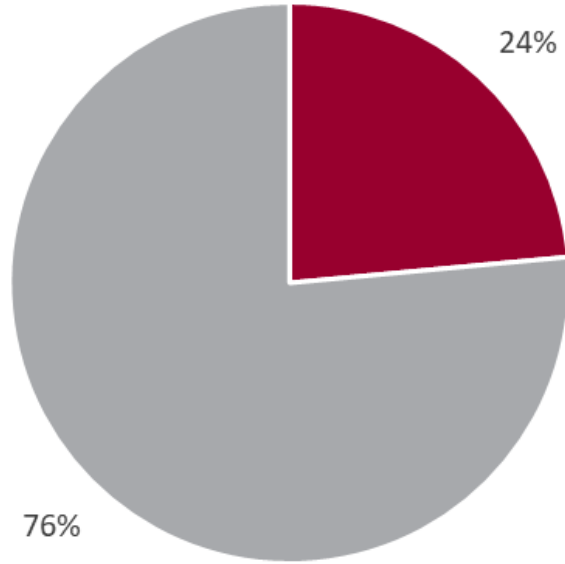
NRA2 Risk Rating	Money Laundering Risks	Terrorist Financing Risks	Proliferation Financing Risks
Medium	Legal		
Medium Lower	Accountancy		
Lower	Real estate	Legal, Accountancy	Legal, Accountancy
Much Lower		Real Estate	
Very Much Lower			Real Estate

Legal Services - No of Full Time Employees (FTE)

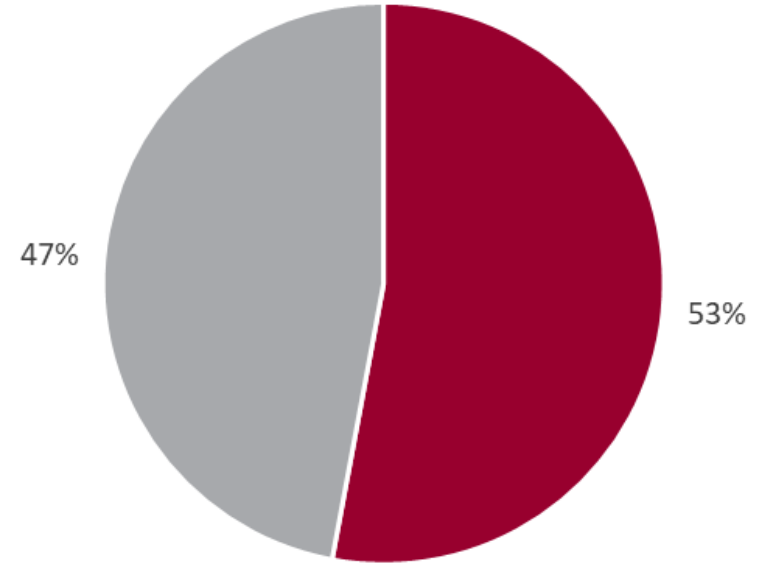


■ Firms with 1-5 Employees ■ Firms with 6-30 Employees ■ Firms with 30+ Employees

Legal Services - Group/Non-Group



Legal Services - Outsourcing Measures

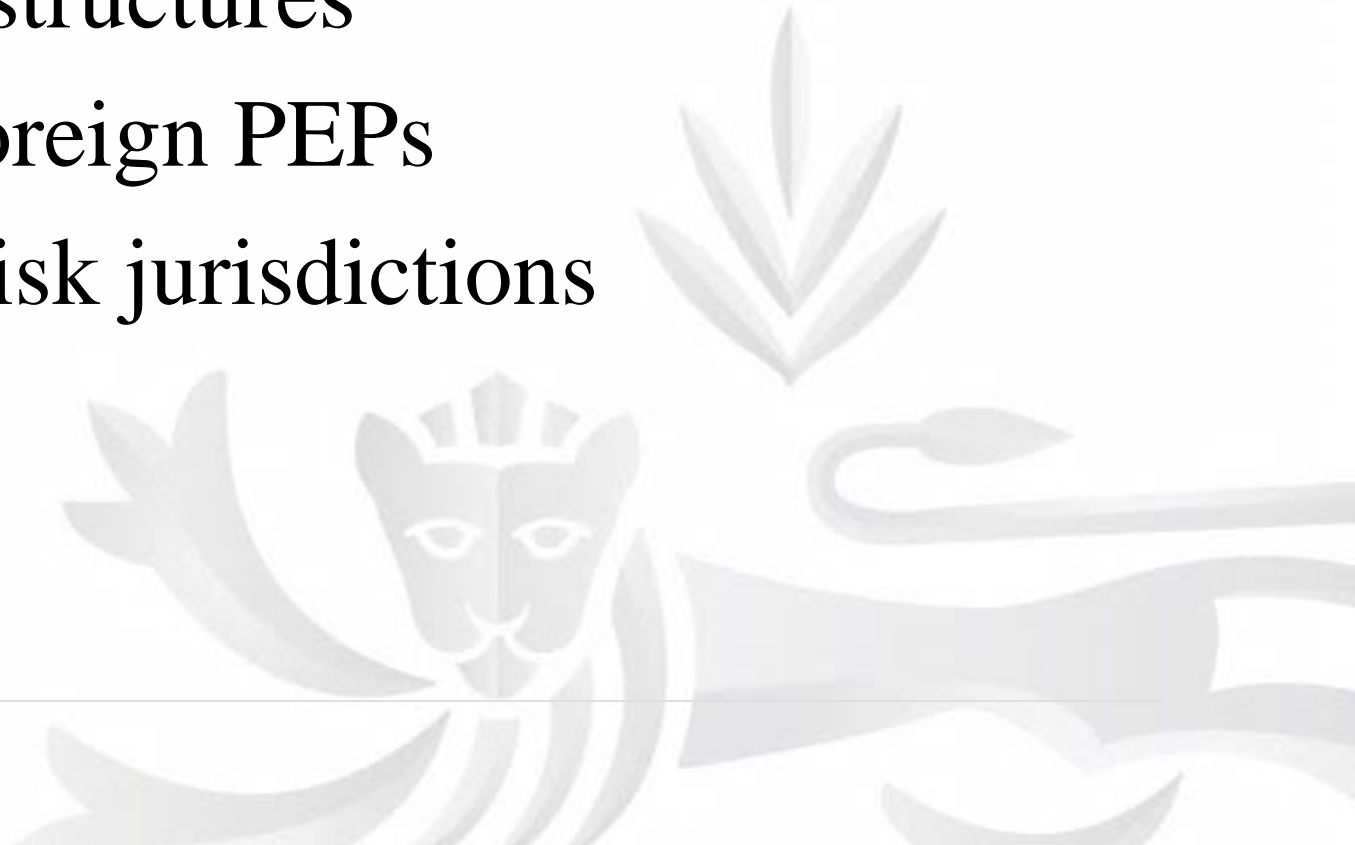


■ % of Firms Part of a Group of Companies ■ % of Firms Not Part of a Group of Companies

■ % of Firms who Outsource Measures ■ % of Firms who Don't Outsource Measures

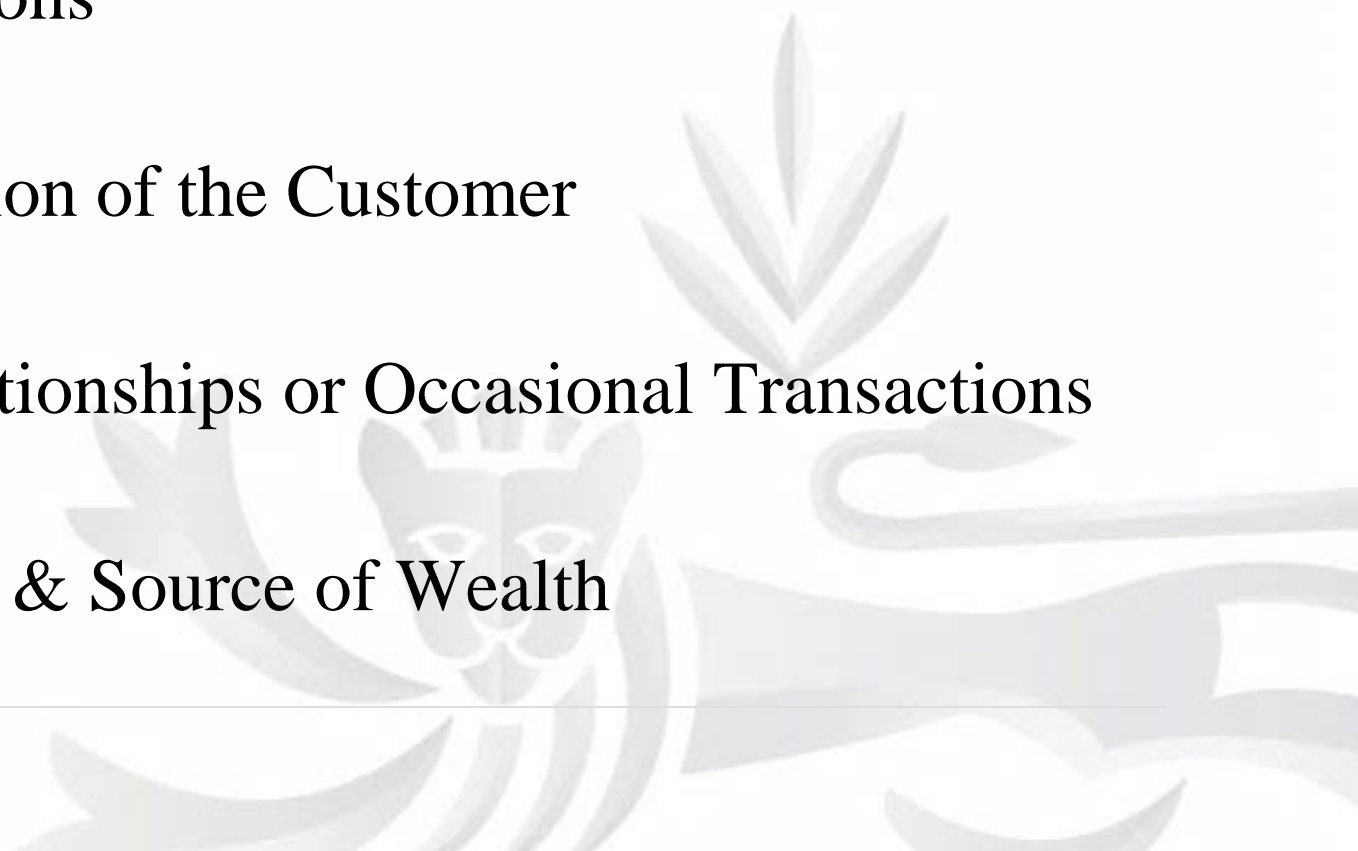
Examples of Higher Risk Business

- Instructions involving legal persons, legal arrangements and complex ownership structures
- Instructions involving Foreign PEPs
- Customers from higher risk jurisdictions



Key Areas for Improvement

- Effective Policies, Procedures, and Controls
 - Oversight of Outsourced Functions
 - Risk Assessments & Identification of the Customer
 - Determination of Business Relationships or Occasional Transactions
 - Verification of Source of Funds & Source of Wealth
-

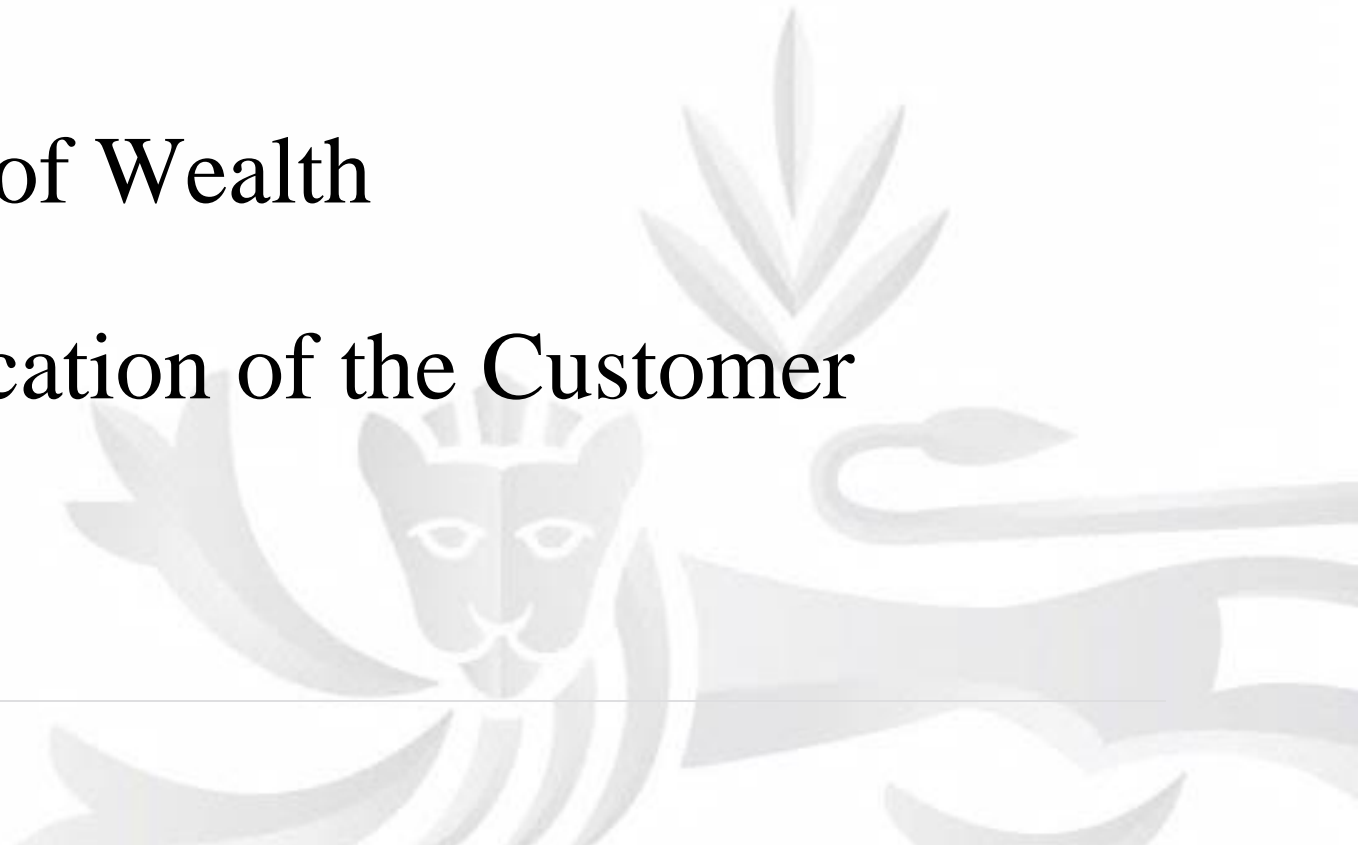


Policies, Procedures & Controls

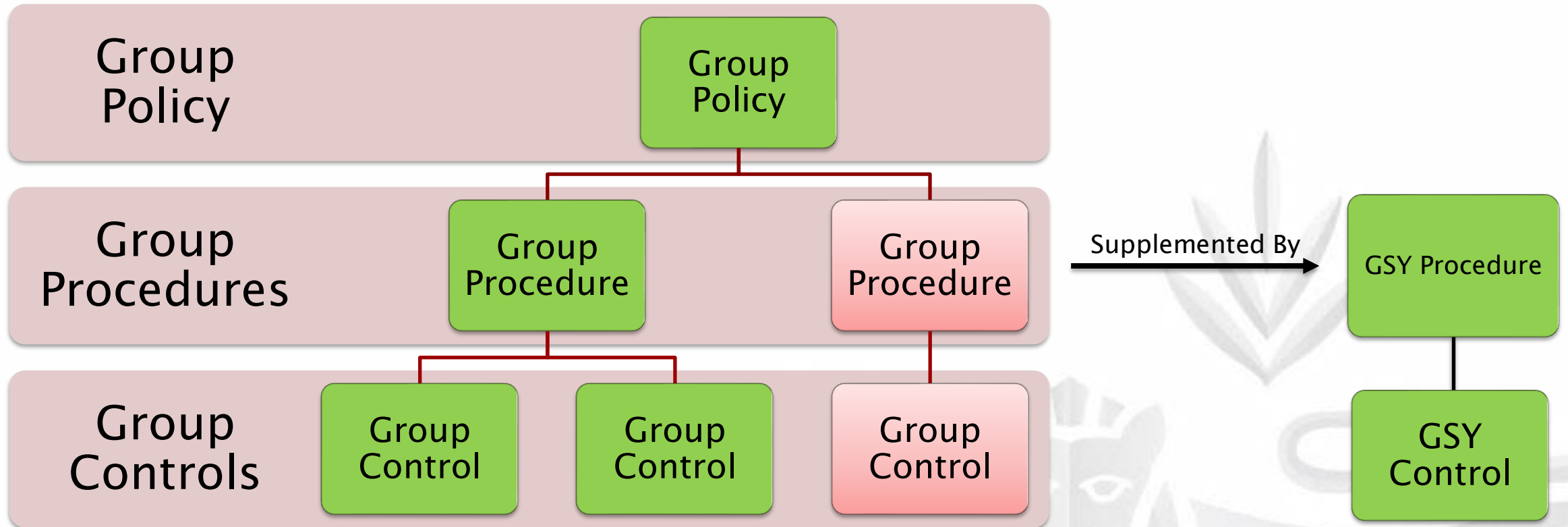


Policy and Procedural Gaps found in the Thematic

- Enhanced Measures
 - Source of Funds/Source of Wealth
 - Identification and Verification of the Customer
-



Managing Group Policies to Ensure Local Compliance



Possible Questions for/on Outsourced Functions

- What elements of recent Commission publications are relevant to us?
- What can we use from the latest thematic in our business?
- Are there any training opportunities or seminars coming up that are relevant to our business? – GFSC, FIU, P&R, other?
- Is the outsourced function providing the expected quality of service?
- Are our policies and procedures sufficiently robust?
- Are we missing anything? What about The Leopard?

Don't be afraid to challenge and ask questions on anything you don't understand.

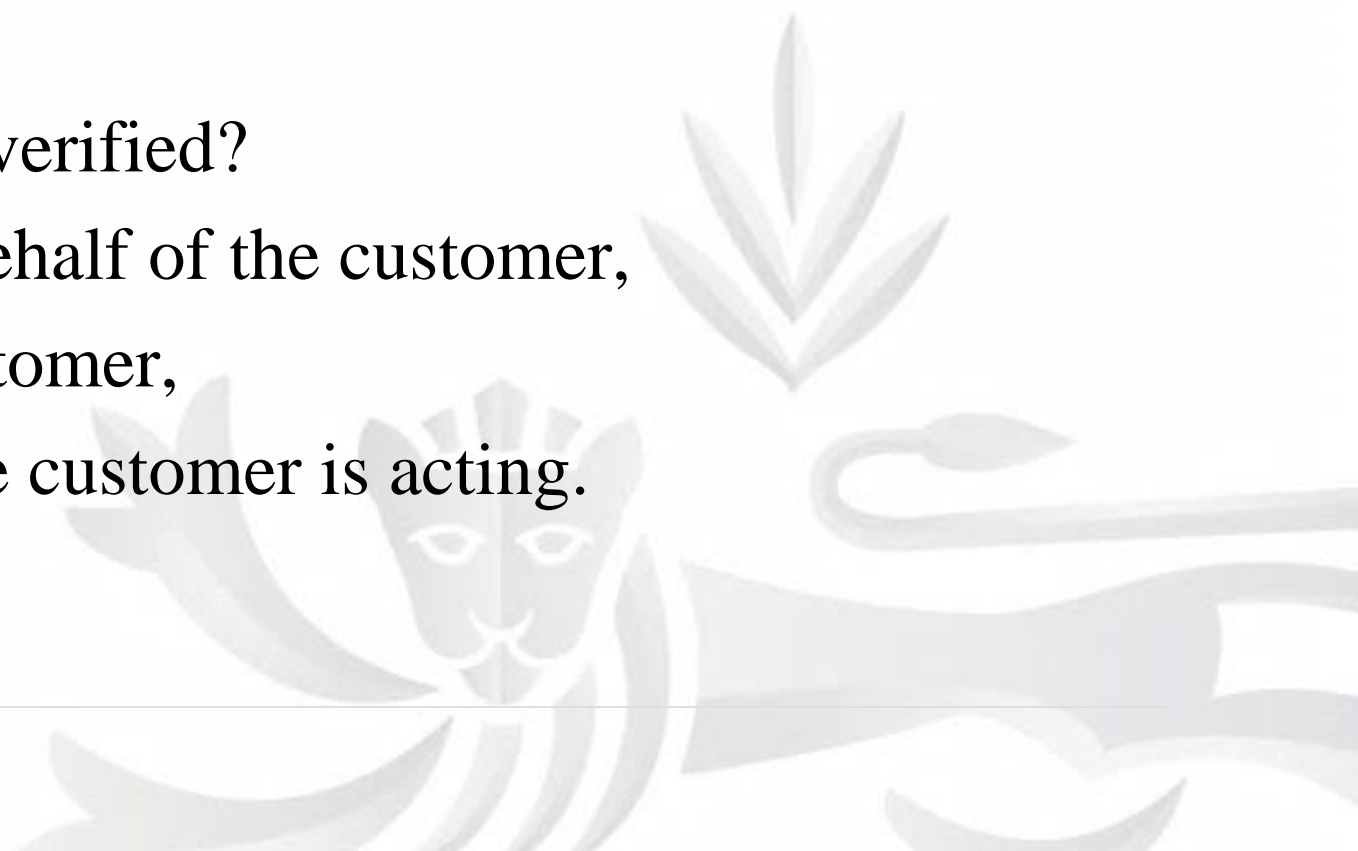
Who is the Customer? – Example 1

The Firm is approached by an Isle of Man law firm to assist their customer with the acquisition of a real estate asset in the Bailiwick.

Answer - The underlying customer of the IOM law firm,

Who else should be identified and verified?

- A person purporting to act on behalf of the customer,
- The beneficial owner of the customer,
- A person on behalf of whom the customer is acting.



Who is the Customer? – Example 2

The Firm is requested by the trustee of a Guernsey trust to assist in the creation of an underlying company to hold various assets.

- a) The Settlor of the trust,
- b) The Guernsey Trust,
- c) The Trustee,
- d) Both the Guernsey Trust and the Trustee

Answer – D)



Who is the Customer where a financial services business (“FSB”) is involved?

- Who are you providing advice or other services to? the FSB, their underlying customer, both?
 - Where are the relevant risks for this relationship?
 - Risk factors do not fall away because the FSB is regulated. Whilst this can give some comfort, consider the risks you are exposed to and have these been mitigated?
-

Case Study – UK Law Firm’s lack of CDD facilitates fraud

A Welsh law firm was given a financial sanction by the SRA of almost £20,000, plus costs, for unwittingly helping to enable a conveyancing fraud.

The SRA identified that there were obvious deficiencies within the documentation provided by the law firm’s client without any proper due diligence having been conducted. This enabled a potential purchaser to pay £111,000 to the fraudster who was falsely representing himself as the property owner, committing vendor fraud. This money was fortunately able to be returned to the victim, however the lack of AML controls within the business meant that the law firm had enabled this fraud to occur.

Source: The Law Society Gazette – 12 March 2024

Placing Reliance on another Institution

Introducers

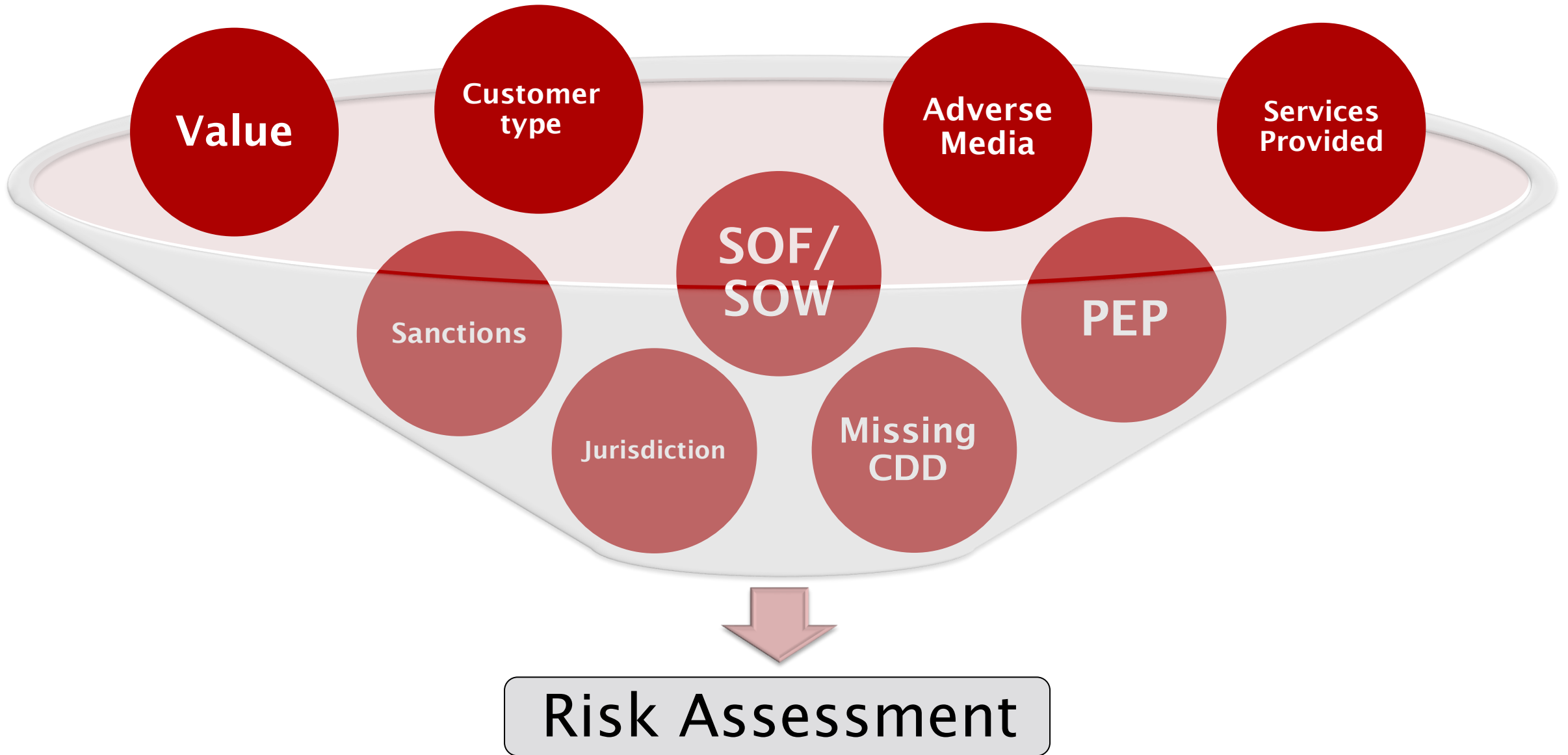
- Governed by Chapter 10 of the Handbook.
- Allows for reduced CDD to be obtained when dealing with Group introduced business and Appendix C Businesses (subject to Para 10(1) of Schedule 3)
- Requires a system of testing and does add an element of risk that the introducer has not done enough.

Chains of Copy Certified Documentation

- Guidance contained within Handbook Section 6.7
- Unlike introduced business, you **MUST** hold copies of the copy certified documentation
- Only 'One Step' allowed in the chain (*see Handbook fig.3 for further guidance*)
- Should only be used in 'justifiable instances' as defined within guidance.

Intermediaries

- Prescribed Businesses cannot utilise the intermediary provisions.
- Whilst the Firm may use the term "intermediary" to mean other things, this must not be confused with a Schedule 3 intermediary.



Value

**Customer
type**

**Adverse
Media**

**Services
Provided**

**SOF/
SOW**

PEP

Sanctions

Jurisdiction

**Missing
CDD**

Risk Assessment

Risk Factor

The customer is a Foreign PEP as a senior executive of a state-owned oil company in a higher risk jurisdiction.

Risk Assessment Consideration

Poor practice:

‘Customer is a PEP’, or
PEP = Yes

Good practice:

- Identifies the PEP Position & PEP type,
- Identifies and assesses the risk posed by the state-owned oil company, the jurisdiction of the PEP position, and the higher risk industry sector,

Risk Factor

Screening has detected adverse media linking one of the customer's companies (not associated with this relationship/transactions) as having been involved in alleged drug trafficking

Risk Assessment Consideration

Poor practice:

'Adverse media detected', or
Adverse Media = Yes

Good practice:

- Provides details of the adverse media,
- Considers how this might increase the risk that the SOF/SOW of this relationship/transaction are tainted,
- Documents consideration by compliance and/or any risk committees,
- Details any additional mitigants applied in response to this risk,

Risk Factor

A customer was resident in the UK when the relationship/transaction was onboarded but relocates to a higher risk jurisdiction several months later. The relationship/transaction was rated standard risk at onboarding.

Risk Assessment Consideration

Poor practice:

The risk assessment was completed at onboarding and in accordance with the Firm's procedures will be reviewed only in three years when the periodic review is due.

Good practice:

A material change in customer risk factors (relocation), requires the risk assessment to be refreshed. The new risk assessment considers the risks posed by the new jurisdiction (the risk rating does not necessarily have to increase).

Business Relationship or Occasional Transaction

Business Relationship

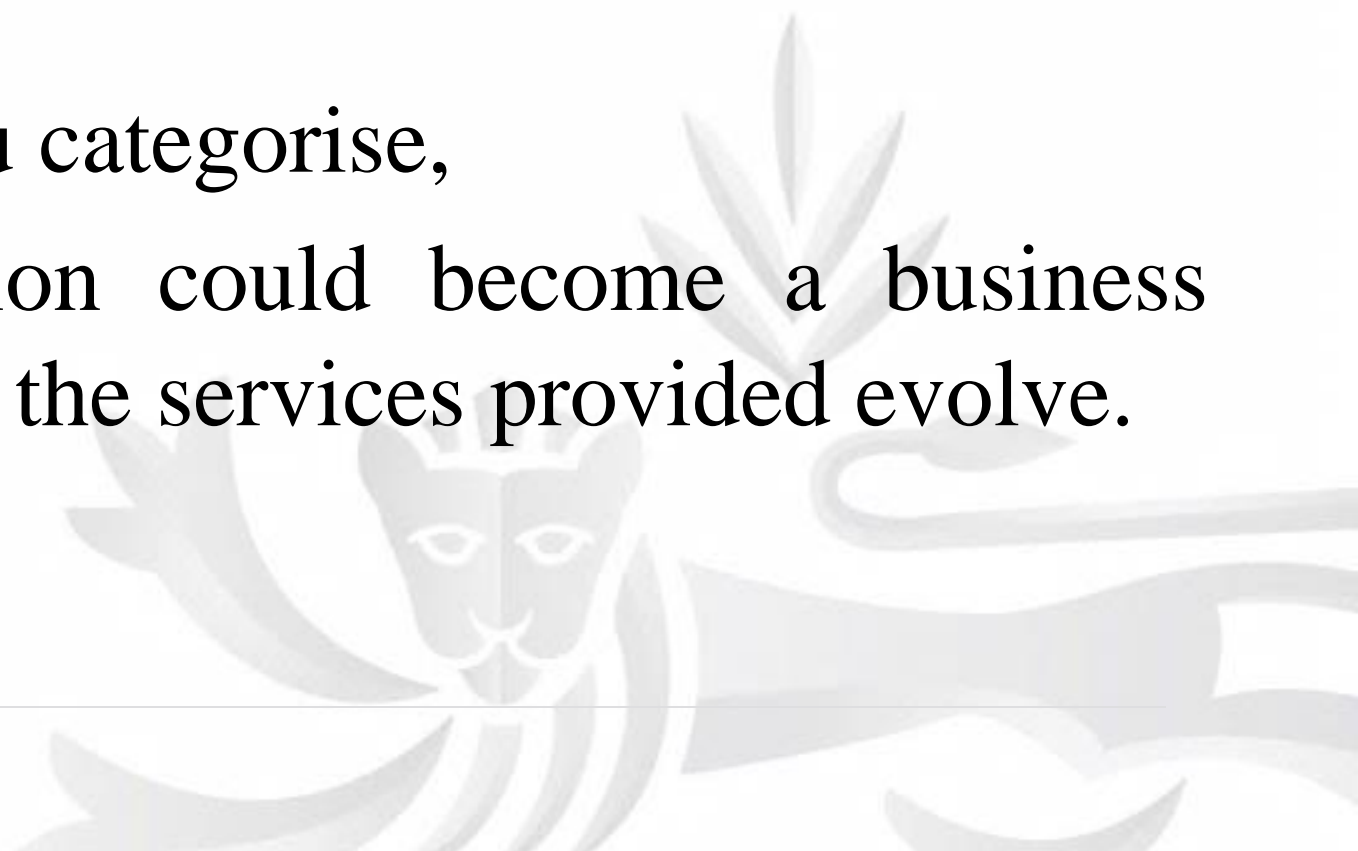
A business, professional or commercial relationship between a *specified business* and a customer which is expected by the *specified business*, at the time when contact is established, to have an element of duration.

Occasional Transaction

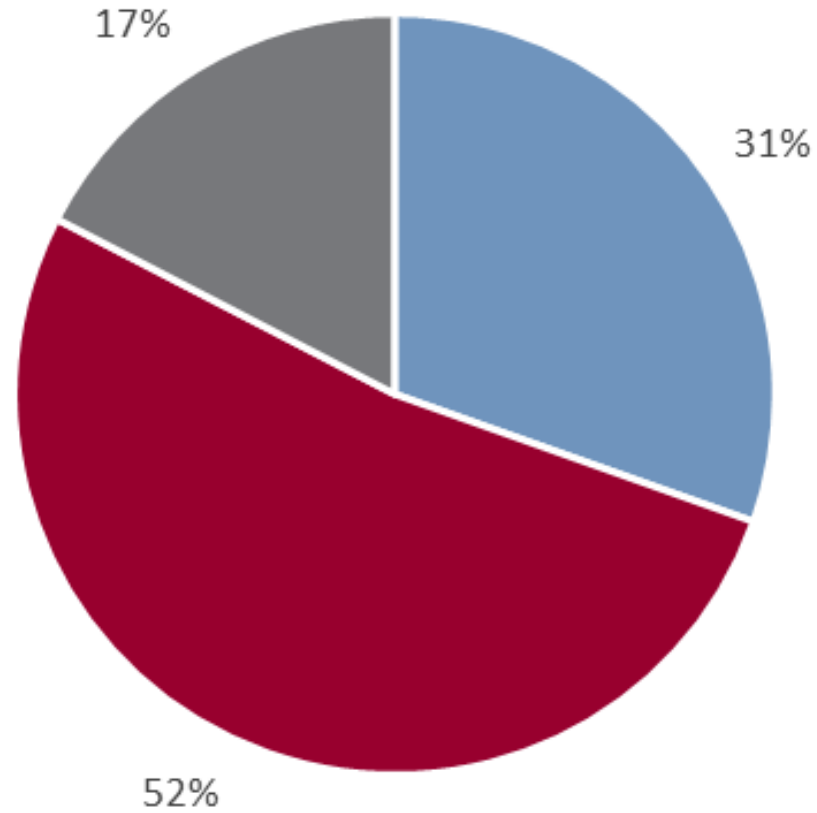
Any transaction involving more than £10,000, carried out by the *specified business* in question in the course of that business, where no business relationship has been proposed or established and includes such transactions carried out in a single operation or two or more operations that appear to be linked.

Business Relationships/Occasional Transactions

- Consider case by case,
- It won't always be clear, so record your decision making,
- Be consistent in how you categorise,
- An occasional transaction could become a business relationship over time as the services provided evolve.



% Law Firms reporting BR, OT, or Both



■ Business Relationships

■ Occasional Transactions

■ Both

ECDD and Enhanced Measures are different

ECDD

Applies to all **high-risk** relationships

About gaining a detailed understanding of the customer to mitigate the risks that they may pose

Enhanced Measures

Applies to certain categories of customer **irrespective of risk rating**

About undertaking mitigation for specific higher risk factors

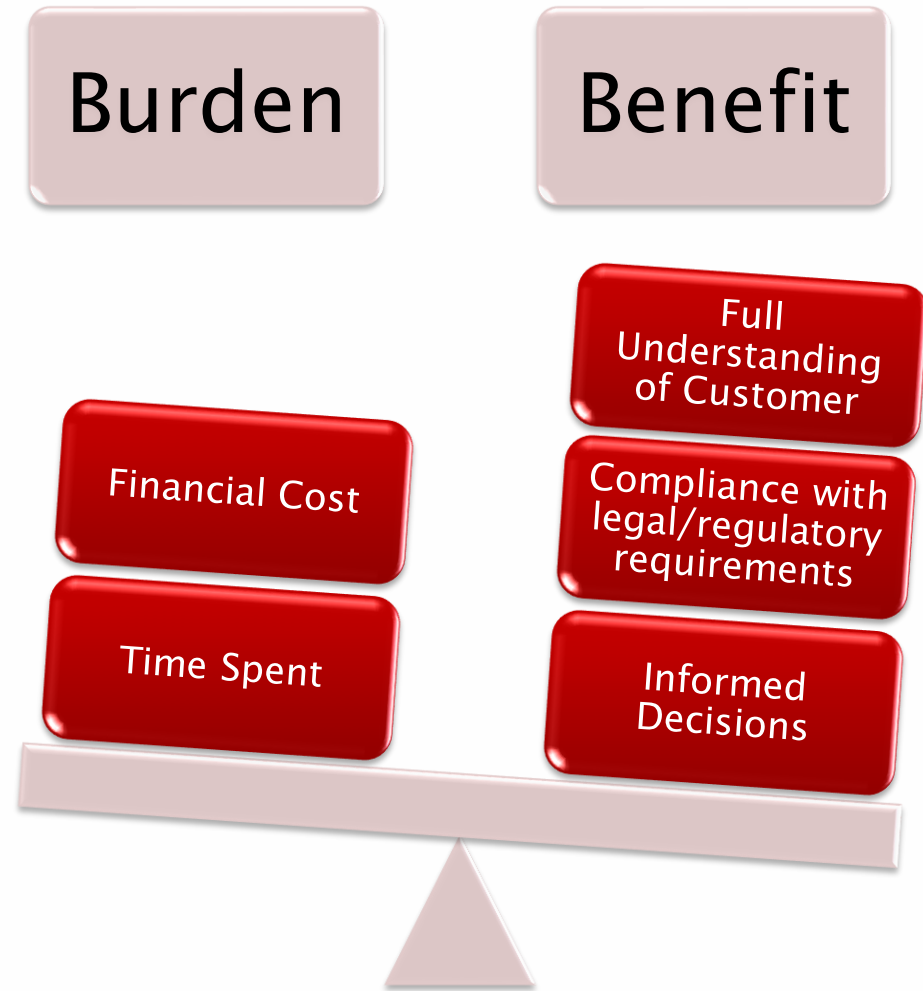
When are Enhanced Measures required?

For Prescribed Businesses, this is when the Customer is:

- not resident in the Bailiwick
- a legal person or legal arrangement used for personal asset holding purposes
- a legal person with nominee shareholders or owned by a legal person with nominee shareholders

This is irrespective of the risk rating of the customer.

High Risk Relationships - Source of Funds/Source Of Wealth



- Establish the level of identification and corroboration of SOF/SOW in policies and procedures.
- Not every relationship will require detailed analysis of the SOF/SOW, but some might. Enquiries become more inquisitive the greater the prevalence of high risk factors.
- Consider the risk-based approach.

Does the corroborating information match what the customer has told me about their SOF/SOW?

Is it reasonable that the source knows this information and is the source reliable?

Is there another way that would provide a better level of corroboration, or have we settled for the easiest option?

*Could we obtain copies of SOF/SOW verification held by the introducer?
(where relevant)*



Sanctions



New Sanctions Handbook Rules

12.11. Reporting to the Commission

37. As soon as practicable after it has met the statutory reporting requirements to the States of Guernsey Policy and Resources Committee under the *Sanctions Law* and the *Terrorist Asset-Freezing Law*, the firm must provide a report to the Commission, setting out as a minimum:
- (a) the name of the *customer, beneficial owner, key principal* or the transaction and/or asset linked to a sanctioned/designated person; and
 - (b) the nature of the *business relationship or occasional transaction*, including the transaction and/or asset value.

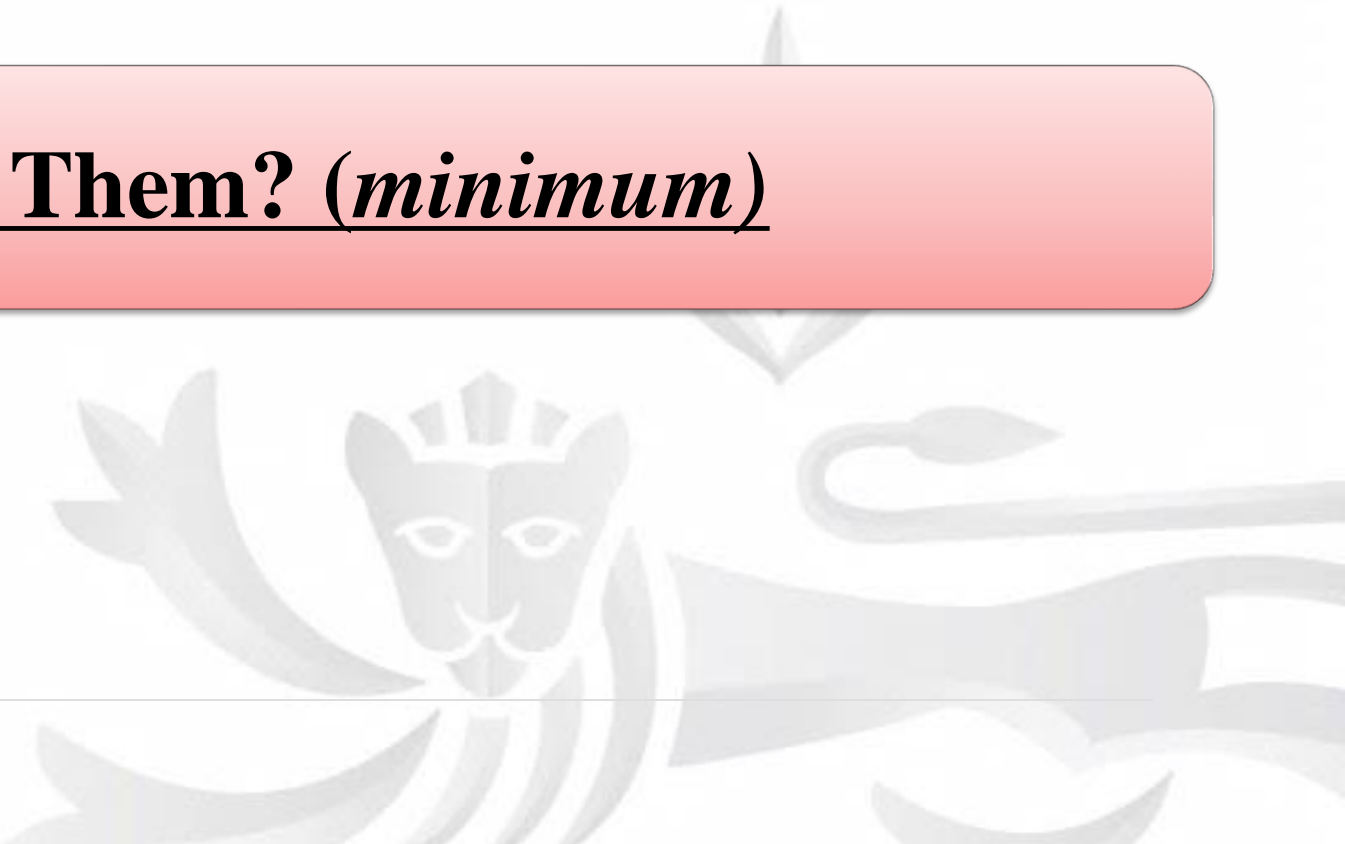
12.12. Record Keeping

38. The firm must maintain a register recording all reports made to the States of Guernsey Policy and Resources Committee associated with a sanctioned/designated person. The register must include, as a minimum:
- (a) the nature of the report made;
 - (b) the transaction and/or asset values associated with the sanctioned/designated person at the time of the designation;
 - (c) details of the controls in place to ensure that the sanctioned/designated person or linked assets are frozen; and
 - (d) if relevant, details of any licenses sought from the States of Guernsey Policy and Resources Committee.

Who Should be Screened?

- All customers
- All beneficial owners
- All key principals

When Should you Screen Them? (*minimum*)

- Take-on
 - Periodic Reviews
 - Trigger events
 - When making payments
- 

Thematic Follow-up

Deadline for Submission – 30 September 2024





Guernsey Financial
Services Commission

Regulatory Reporting



Completing Annual Returns

The data we request should also help you to run your business and manage your risks.

- Data should cover prescribed business activities only, with relationships on a Customer basis
 - Quality control is important – compare with last year's return – does this year's return make sense? Do you understand the changes? Could you explain them? If you can't find the answers, consider why.
-

Financial Crime Risk Return - Geographic Breakdown

When completing this spreadsheet, please refer to the Financial Crime Risk Return Guidance Document which can be found via the following link: [Click Here](#)

When pasting data into this spreadsheet, please use the 'paste values' option in order to avoid any formatting issues/errors.

Where numerical answers are required, please ensure that they are entered in full, without commas or full stops. For example, one thousand should be entered 1000

Firm Name *

GFSC Reference *

Reporting Period End Date *

Validation Check

Please enter Firm (licensee) Name

Needs to be exactly the name that you registered with the Commission

If in doubt, this can be found on the Commission's website

Jurisdiction	Number of Business Relationships / Occasional Transactions
Total	0
Afghanistan	
Åland Islands	
Albania	
Algeria	
American Samoa	
Andorra	
Angola	
Anguilla	
Antarctica	
Antigua and Barbuda	
Argentina	
Armenia	
Aruba	
Australia	
Austria	
Azerbaijan	
Bahamas	
Bahrain	

Be careful if copy/pasting from last year, the names of countries might change year on year

Questions?

Any further questions can be sent to: amlcft@gfsc.gg

