Project “Strengthening anti-money laundering institutions in Georgia” (PGG-GE)

Training on
Anti money laundering (AML) and Countering the Financing of Terrorism (CFT)
for Accountants & Auditors

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AML/CFT Risk Landscape and exposure to the Accountancy/Audit Sector:

AML/CFT is now a number 1 issue for all Accountants/Auditors firms as well as many other organisations caught up within its extent. There is heavy compliance focus of DNFBP, and the associated costs are substantial, as well as the penalties for failure have become ever more significant.

- Generally varied by great diversity in culture and maturity of the economy,
- Legal and administrative systems,
- Reliance on aid and institutional capacity,
- Large diversity of professionals in the accountancy sector which are outside the scope of regulated activities.
AML/CFT Landscape

Accountants and Auditors Exposures

Why the Accountancy Sector?
Money Laundering
Sanction/ Proliferation
Terrorist Financing
Bribery and corruption
Tax Evasion

Session 1

BDS Forensics
The extent of AML/CFT in Europe

3-5% of global GDP is estimated to be laundered worldwide on an annual basis.

<1% of the total number of SAR/STR from Accountancy Sector.

67bn
Total value of banking fraud in 2014.

Many firms lack qualified staff.

72.3% lack training.

Large percentage of professionals have never received specialised AML/CFT training.
Regional Challenges - Money Laundering

• Serious ML activity and on-going threats - Europe is becoming a source & destination laundered funds
• Proliferation of profit driven crime and illegal killing of wildlife
• High use of cross-border flow
• Extensive use of cash and high value items
• Trans-national crime impacts across the region
• Major drug transit centres in the region
• Relatively low institutional capacity
Regional Challenges - Terrorism Financing

- Europe is becoming a source and destination for terrorist funds
- International terrorism, funded from within and beyond the region
- Financing takes different form
- Terrorists identifying risks and ‘weak links’ in CFT systems and exploiting them
- Terrorist acts across the region & threats continue
Regional Challenges - Corruption

- Systemic corruption undermines regulatory and legislative AML/CFT regimes
- Systemic corruption undermines institutional development
- Corruption is a key factor in both predicate criminal activities and associated money laundering impedes effective implementation, prioritisation, sequencing & resource allocation
- May involve direct involvement in ‘facilitating’ ML & TF
- Undermines trust in AML/CFT system & institutions
- Impedes effective domestic cooperation
- Impedes international cooperation – ability to receive & offer information, cooperation & mutual legal assistance
Tools for CFT

**Targeted Financial Sanctions**
- Focus on facilitators who move both people and funds
- Implementation by financial institutions (immediate asset freeze, appropriate internal controls, screening)
- Detailed identifying information
- Actively identifying attempts at sanctions evasion

**Investigation and Prosecution of Terrorist Financiers**
- Quality STR reporting highly useful for terrorism investigations
- Critical to identification of FTF facilitators and networks
- Challenge in prosecuting FTFs and facilitators under existing laws criminalizing terrorism, terrorist financing or non-terrorism offences
### Global Initiatives to Combat Terrorist Financing

<table>
<thead>
<tr>
<th>G-20 Report</th>
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<tbody>
<tr>
<td>– Requested by G-20, FATF to report back in November 2015</td>
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<td>– Examines compliance with Recommendations 5 and 6</td>
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<th>FATF Terrorist Financing Typology Report</th>
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<td>– Updated typology on emerging TF threats</td>
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<tr>
<td>– Focus on trends and methods identified in February 2015 FATF Report on ISIL Financing</td>
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### Financial Action Task Force (FATF)

- FATF Action on Terrorist Finance
- Risk of terrorist abuse in non-profit organisations
- Financing of the Terrorist Organisation Islamic State in Iraq and the Levant
Sanction Measures

1. Non Financial
   - Military options
   - Inspections
   - Travel Ban

2. Financial Services at Risk
   - Arms Embargoes
   - Export/Import controls

3. Financial
   - Asset Freeze
   - Prohibition on Investment
   - Prohibition on providing economic benefit
   - Reporting to the competent authority in country
     - can freeze the funds or any kind of assets of a Specially Designated National (‘SDN’)
     - can prohibit funds being made available to an SDN
     - can restrict the availability of insurance coverage & activity (e.g. insurance prohibitions relating to Syria, Iran, Cuba & others)
Sanction risks to consider in Georgia

• Arms embargoes; Travel bans; Asset freezes; Reduced diplomatic links; Reductions/cessation of any military relationship; Flight bans
• Suspension from international organizations
• Trade embargoes
• Restriction on cultural /sporting links
• Large fine on Institutions (Banks and others)
• Manual data or held across different databases.
• Frequency of screening
• Trade finance screening
• De-risking
Tax Evasion and Corporate Fraud

- Black Money linked with Tax Evasion is a prominent feature in many European and Eastern European countries.
  - Transfer pricing, profit shifting
  - Thin capitalization
  - Fictitious invoices
  - Undeclared work, illicit work
  - Transactions between owner and company
  - Private costs deduction
  - Under-declaration of income
  - Over-declaration of costs

These may be facilitated through
- Trade-based ML,
- Trade mis-pricing,
- Commingling,
- Structuring,
- Cuckoo Smurfing
- bulk cash movements,
- hawala transactions,
- Money Mules.
- Transaction Laundering
Session 2

Topical Financial Crime Risk exposures to Accountancy Sector (Accountants/Auditors):
Session 2

- Topical exposures to sector serviced by the Accountancy/Audit sector:

  The Accountancy/Audit Sector is on the front line in the battle against financial crime. Both the nature of their business and regulatory design have positioned them as the gatekeeper against money laundering, terrorism funding, and an expanding array of other illicit activities.

  - Organised Criminality - Human Trafficking
  - Counterfeited goods
  - Trade-Based Money Laundering
  - Illegal Wildlife
  - Illicit financial flow
Drugs

- Major connection/link of neighbouring countries to drug production centres
- Increasing domestic drug consumption.
- Historic cases revealed major drug transhipment and distribution points

What’s Georgia’s exposure
Other profit driven crime

- Significant levels of profit driven crime in addition to the drug trade
  - People smuggling and human trafficking
  - Arms trafficking
  - Fraud
  - Smuggling

What’s Georgia’s exposure
• Human Smuggling

Human Smuggling acts or attempts to bring unauthorized aliens to or into a country, transport, harbour and, or conspire the illegal migrant to commit these violations, knowingly or in reckless disregard of illegal status.

• Human Trafficking

The act of recruiting, harboring, transporting, providing or obtaining a person for forced labor or commercial sex acts through the use of force, fraud or coercion.
Some Potential Red Flags of Human Trafficking and Smuggling:

- High volume deposits through funnel accounts and immediate withdrawals from border towns
- Ongoing ATM/credit card transactions in even amounts between 10 PM and 6 AM
- Credit card payments to online escort services for advertising
- Sudden activity changes in business accounts outside of the customer’s expected profile
- Use of anonymous monetary instruments to pay bills instead of personal checks
- Structured cash deposits at multiple bank branch locations

Annual profits of forced labour per region (US $ billion)
Regional Challenges - Transnational Organised Crime

- Diverse range of organised crime groups and criminal activities across the region.
- Organised crime groups are laundering proceeds of crime through the region.
- Organised crime groups infiltrating legitimate systems and entities.
- Direct evidence of links between transnational organised crime and terrorism crimes? – more research needed.
Counterfeited Goods – Detection through Accounting and Auditing services

- 2.5% of world trade in 2013
- €338 billion (in 2013)
- €43 billion counterfeiting
- Up to 5% of EU imports are counterfeit and pirated products
- €28 billion drug trafficking
- 39% of total economic activity in the EU is generated by IPR-intensive industries
- 26% of all employment in the EU is provided directly by these industries
- 9% of jobs in the EU arising from purchases of goods and services from other industries by IPR-intensive industries
TRADE-BASED MONEY LAUNDERING

Trade-based money laundering has been recognised by the Financial Action Task Force (FATF) in its 2006 study as one of the main methods by which criminal organisations and terrorist financiers move money for the purpose of disguising its origins and integrating it back into the formal economy. A number of other competent authorities and industry groups, such as the Wolfsberg Group, have also highlighted the risks in this area.

- Over-Invoicing and under-invoicing
- Multiple invoicing
- Over and under-shipment
- Front and shell companies
- Barter Transactions
- Funnel accounts
illegal Wildlife

• Significant; the criminals involved in trafficking ivory are highly organised and their rewards are potentially lucrative.

• Highly networked organised crime groups (OCGs), brokers and corrupt government officials continue to drive the illegal ivory trade across East Africa for use in Europe.

• Caviar is one of the most expensive wildlife products in trade, with retail prices of up to EUR600 per 100 g in delicatessens in Western Europe and the United States - There is vast illegal trade in caviar both internationally and domestically, as caviar is compact, easy to conceal, and extremely valuable.
An overview of the International and Regional efforts to combat ML/FT
Global Standards
FATF RECOMMENDATIONS

A. AML/CFT POLICIES AND COORDINATION
   • Assessing risks and applying a risk-based approach *
   • 2. National cooperation and coordination

B. MONEY LAUNDERING AND CONFISCATION
   • 3. Money laundering offence *
   • 4. Confiscation and provisional measures *

C. TERRORIST FINANCING AND FINANCING OF PROLIFERATION
   5. Terrorist financing offence *
   6. Targeted financial sanctions related to terrorism and terrorist financing *
   7. Targeted financial sanctions related to proliferation *
   8. Non-profit organisations *
### FATF RECOMMENDATIONS

#### D. PREVENTIVE MEASURES

- 9. Financial institution secrecy laws
- 10. Customer due diligence *
- 11. Record-keeping
- 12. Politically exposed persons *
- 13. Correspondent banking *
- 14. Money or value transfer services *
- 15. New technologies
- 16. Wire transfers *
- 17. Reliance on third parties *

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18. Internal controls and foreign branches and subsidiaries *
19. Higher-risk countries *
20. Reporting of suspicious transactions *
21. Tipping-off and confidentiality
22. DNFBPs: customer due diligence
23. DNFBPs: Other measures (str) *
E. TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS AND ARRANGEMENTS

24. Transparency and beneficial ownership of legal persons *
25. Transparency and beneficial ownership of legal arrangements *

F. POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES, AND OTHER INSTITUTIONAL MEASURES REGULATION AND SUPERVISION

26. Regulation and supervision of financial institutions *
27. Powers of supervisors
28. Regulation and supervision of DNFBPs *
FATF RECOMMENDATIONS

F. POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES, AND OTHER INSTITUTIONAL MEASURES REGULATION AND SUPERVISION

29. Financial intelligence units *
30. Responsibilities of law enforcement and investigative authorities *
31. Powers of law enforcement and investigative authorities
32. Cash couriers *

GENERAL REQUIREMENT
33. Statistics
34. Guidance and feedback

SANCTIONS
35. Sanctions

G. INTERNATIONAL COOPERATION
36. International instruments
37. Mutual legal assistance
G. INTERNATIONAL COOPERATION

36. International instruments
37. Mutual legal assistance
38. Mutual legal assistance: freezing and confiscation *
39. Extradition
40. Other forms of international cooperation *
4th Money Laundering Directives

• What has changed?

- Changes to CDD
- Enhanced measures for local PEPs (extended to include domestic PEPs)
- Central register of beneficial ownership (Access to a pan-European register will likely make CDD research much easier)
- No automatic exemption from enhanced CDD (after conducting risk analysis)
4th Money Laundering Directives

**What has changed?**

- Expands beyond the EU borders

- Emphasis on a risk-based approach
  - Requirement to demonstrate and document that risk assessments.
  - Written money laundering policies and procedures that take the firm’s risk assessment into consideration.
  - Internal audit teams, where necessary, to test the internal policies, controls and procedures.
  - Training on how to conduct a risk-based CDD and ongoing monitoring
4th Money Laundering Directives

• What has changed?
  ❖ Tax crimes
  ❖ Third Party Equivalence (list rescinded)
  ❖ Definition of “Senior Management” (not restricted to members of the Board)
  ❖ Financial Intelligence Unit (information access)
  ❖ Requirement to demonstrate and document that risk assessments.
Some of the International legal instruments on the issue of corruption

- UN Convention Against Corruption
- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
- Council of Europe Criminal Law Convention on Corruption
- Council of Europe Civil Law Convention on Corruption
- Inter-American Convention Against Corruption
- Convention on the Fight Against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union
Global Anti-Corruption (FCPA Updates)

- US regulators continue to focus on non-U.S. companies
- New ABC enforcement actions in China, Iraq, Nigeria, Russia, Brazil and Indonesia
- The Extractive industries continue to have the highest number of ABC enforcement actions worldwide
- Increased focus on government officials
- Enforcement remains a priority across the globe
Risk management guidelines related to AML/CFT issued by the Basel Committee

- Assessment and understanding of risk
- Board responsibility and governance
- Effectiveness of three lines of defence
- Transactions / ongoing monitoring
- Due diligence and customer acceptance policy

- Verification of beneficial owners and risk profiling
- MIS – record keeping, updating and reporting to supervisors
- Reporting suspicious activity and freezing of assets
- Group wide / cross border management of customer risk, management of risk, consistent policies and procedures and information sharing
13:00 – 14:00

Lunch break
What you should know as Accountants & Auditors to meet your legal obligation
• Identify and assess the risks of money laundering and terrorist financing to which its business is subject

• Appropriate systems and controls must reflect the degree of risk associated with the business and its customers

• Determine appropriate CDD measures on a risk-sensitive basis, depending on the type of customer, business relationship, product or transaction

• Take into account situations and products which by their nature can present a higher risk of money laundering or terrorist financing; these specifically include correspondent banking relationships; and business relationships and occasional transactions with PEPs

Authoritative pronouncements which endorse a risk-based approach

• FATF Recommendations 1 and 10
• Basel Paper – Sound management of risks related to money laundering and financing of terrorism (updated February 2016)
• IAIS Guidance Paper 5
• IOSCO Principles paper
• European Securities and Market Association and EBA - Risk Factor Guidelines
Principle of Good Governance

- Customer Due Diligence
- Know your Customer
- Source of Wealth
- Risk Assessment/Mitigations
- Data Quality
- Periodic Review
- Training

ID & V — Validates that the client is who they say they are.

Source of Wealth: Assesses plausibility of clients wealth journey and corroborates where necessary to ensure assets are derived from legitimate source of wealth.

Screening: Searches all open sources and internal lists to identify issues and provide further comfort that the client is within the risk appetite of the Bank.
Principle of Detect

Effectiveness of system to capture, record and question

Transaction Activities

Negative News Screening

Accounting Activities

Other Trigger events

Sanction Risk

SYSTEMS efficiency

IM&A, Change in client profile, etc.

Training to avoid breach

UAR/STR
• Requirement to appoint a MLRO /Nominated Officer

- No requirement for single person practices (that person will be the MLRO)

• **Important**: Should be of sufficient seniority to:
  Make decisions on reporting which can impact your firm's business relations with clients and your exposure to criminal, civil, regulatory and disciplinary sanctions.
  Access all client files and business information to enable them to make the required decisions

• MLRO is also responsible for ensuring adequate ML systems & controls (e.g. policies, procedures, training, record keeping) are in place

• Ultimately responsible for deciding on submission of a SAR/STR, and the submission to the FMS.
• Negative News & Escalation (what are the process)
• Information Exchange (RFI)
• Risk Categorisation – Risk mitigants, (Negative audit report, STR, Derisking/Termination, work with clients to improve control), etc,
• Escalation – (Senior management, independently track, etc)
• Employees Personal Responsibility
  • Once an employee becomes suspicious of an activity or series of transaction, a report must be submitted to the designated officer/MLRO.
  • It’s your own responsibility to file report internally
  • The employer can only provide you with training and can’t pressure you report or not to report.
  • Do not assume that someone else will submit a report
  • You may be held personally responsible if you don’t report.
15:30 – 15:45  Coffee break
Scenario exercises: Case studies and group discussions
Debriefing and testing your knowledge
Work on the National Risk Assessment

• Work to conduct a national risk assessment for the accountancy sector.
• Build a taxonomy of services provided in the accountancy sector and who provides what.
• Quantified the qualified and non-qualified accountants.
• Work with Ministry of Finance to agree whether the Non-Qualified Accountants should be registered with the Tax Office.
Open discussion on AML/CFT Framework for Accountants and Auditors

- Build a Target Operating Model (TOM)
  - Org Chart with dedicated team for AML/CFT
  - Communication strategy
  - Training Strategy
  - Tools and manuals
  - Supervision Strategy based approach supervision model
    - Use of other tools to monitor and enforce compliance –
      - Meeting with SRB and firms (RBA)
      - Desk based review
      - Questionnaire
      - Periodic Information return
      - Ad hoc information request
      - Breach log
      - Training log
      - Thematic Review
      - Engagement with MLRO,
      - Review of casefile
Open discussion on AML/CFT Framework for Accountants and Auditors

• Guidance
  • General Guidance
  • Industry Guidance (Gaming, Restaurant, etc)
  • Communication/FAQ
  • Sector Guidance
Debriefing and testing your knowledge