Central Bank of Ireland Outlines AML Expectations

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On 9 November 2021, the Central Bank of Ireland ("**Central Bank**") published the latest edition of its Anti-Money Laundering Bulletin (the "**Bulletin**"). The Bulletin details the findings and subsequent expectations arising from the Central Bank's Anti-Money Laundering / Counter Financing of Terrorism / Financial Sanctions ("**AML / CFT / FS**") supervisory engagements with funds and fund management companies ("**Firms**") in the following areas of compliance:

- Corporate Governance;
- AML / CFT / FS Business Risk Assessment;
- Outsourced AML / CFT / FS Activities; and
- Customer Due Diligence.

While the supervisory engagement focused on the funds industry, the Central Bank states that Designated Persons[1] operating in other sectors of the financial services industry should also take note of the Bulletin and consider its relevance to their firm / sector.

The below table captures the key findings and expectations set out by the Central Bank in the Bulletin.

Area of Compliance	Central Bank Findings	Central Bank Expectations
Corporate Governance	The Central Bank identified a lack of oversight by Firms of their AML / CFT / FS frameworks with a number of Firms failing to demonstrate effective oversight, implementation and management of the framework. In particular, the following deficiencies were identified: ▪ a lack of adequate discussion and challenge in relation to these matters reflected in minutes of board meetings; ▪ an inability to demonstrate Firms were actively seeking and ensuring that relevant management information ("**MI**") was being provided on a regular basis to enable informed decision-making; ▪ a failure to demonstrate that appropriate action was taken to address identified deficiencies in a timely manner; ▪ a failure to demonstrate adherence to the Central Bank expectation that the Firm's Compliance Officer present an annual Compliance Officer Report to the board; and ▪ a failure to demonstrate that comprehensive assurance testing programmes were in place to ensure effective and independent testing of the AML / CFT / FS framework.	The Central Bank expects Firms to ensure that the AML / CFT / FS framework is appropriately governed and operating effectively. In particular, the Central Bank expects that: ▪ the board should be in a position to evidence effective governance and oversight of the Firm's AML / CFT / FS compliance framework; ▪ where warranted by the nature, scale and complexity of a Firm's activities, Firms should: - appoint a member of senior management with primary responsibility for implementing, managing and overseeing the AML / CFT / FS framework and where they are exposed to a significant degree of inherent Money Laundering / Terrorist Financing ("**ML / TF**") risk, consider if it is appropriate for this person to be a member of the Board; - appoint an individual at management level (the "Compliance Officer") to monitor and manage compliance with, and the internal communication of, the Firm's internal AML / CFT / FS policies, controls and procedures. Where a Compliance Officer has been appointed, the Compliance Officer should prepare and present a Compliance Officer Report to the Board on at least an annual basis and provide regular and comprehensive MI to support informed decision-making and to drive a culture of good conduct and proactive compliance. ▪ Firms should implement a robust assurance testing framework to assess the effectiveness of their AML / CFT / FS control framework; ▪ there is sufficient board (and member of senior management, if appropriate) oversight to ensure timely resolution of issues and matters requiring remediation; and ▪ AML / CFT / FS matters are subject to robust discussion and challenge at an appropriately senior level and that those discussions are accurately recorded in minutes of Board and / or committee meetings.

1 As defined by section 25(1) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

AML / CFT / FS Business Risk Assessment	In respect of AML / CFT / FS Business Risk Assessments ("**Assessment**"), the Central Bank identified the following: ▪ a number of Firms had no Assessment in place. Even where one was in place, in many cases the Assessment did not accurately and / or appropriately reflect the inherent ML / TF risks associated with this sector including: - inherent distribution risk applicable to their business: - the extensive use of outsourcing arrangements; - geographic risk; and - their business activities eg, complex beneficial ownership structures. ▪ an inability to sufficiently demonstrate that processes were in place to measure the effectiveness of the AML / CFT / FS controls implemented to mitigate the inherent risks identified; ▪ an inability to demonstrate that TF had been considered as part of the Assessment; and ▪ a lack of policies and procedures in place sufficiently documenting the Firm's approach to the Assessment.	The Central Bank expects that Firms: ▪ have a documented Assessment, including an Assessment of inherent ML / TF / FS risk and the effectiveness of the AML / CFT / FS control framework and details of the overall residual risk; ▪ employ a methodology for the Assessment that clearly outlines the approach adopted to assess each area of risk and is subject to regular review, update and approval; ▪ complete a full assessment of inherent risks including the known risks which present heightened risk for the funds sector; ▪ be in a position to demonstrate that they have implemented a robust framework to mitigate these risks including controls that are commensurate with the scale, complexity and risk of the Firm's business activities and a process to evaluate and measure the effectiveness of these controls. ▪ ensure that the Assessment is subject to regular review and approval by an appropriate member of senior management and is reviewed by the board at least on an annual basis; ▪ ensure that an assessment of FS exposure and TF risk is included in the Assessment; and ▪ ensure the documented Assessment includes review and consideration of Irish, European and International guidance (eg, National Risk Assessment, the Central Bank Guidelines and the European Supervisory Authority Risk Factor Guidelines).
Outsourced AML / CFT / FS Activities	In relation to outsourced AML / CFT / FS activities, the Central Bank identified the following: ▪ a lack of appropriate arrangements in place governing outsourced AML / CFT / FS activities; ▪ that outsourcing arrangements were not always subject to regular review and assessment at an appropriate senior level; ▪ a lack of available MI and key performance indicators in relation to the AML / CFT / FS activities and processes undertaken by outsourced service providers ("**OSPs**"); and ▪ deficiencies in oversight of the AML / CFT / FS activities undertaken by OSPs, including lack of due diligence reviews and insufficient oversight of technological solutions utilised by OSPs.	The Central Bank expects Firms to have robust processes and procedures in place to oversee the AML / CFT / FS activities that have been outsourced to third parties, including intra-group entities. The Central Bank expects that: ▪ formalised and comprehensive outsourcing arrangements are in place which clearly outline the respective parties' responsibilities and deliverables and are subject to regular review; ▪ there are appropriate processes in place to effectively monitor AML / CFT / FS activities undertaken by OSPs; and ▪ Where a Firm is relying on an OSP to perform AML / CFT / FS activities as part of its control framework, the Firm must ensure that those activities: - are subject to testing to assess the effectiveness and the application of third party AML / CFT / FS policies and procedures; - have been tailored to ensure the Firm meets its obligations under the CJA 2010 and the Firm's obligations in respect of financial sanctions; and - are being performed to a level commensurate with the level of ML / TF risk as identified in the Firm's Assessment.

Customer Due Diligence	In respect of customer due diligence (“**CDD**”) obligations, the Central Bank identified the following: ▪ ineffective CDD control frameworks were in place to ensure that customers are fully identified and verified (where applicable) prior to processing transactions; and ▪ oversight of CDD policies and procedures was not in line with Central Bank expectations.	The Central Bank expects Firms to have comprehensive policies and procedures in place for the identification and verification of customers. In the funds sector CDD is largely outsourced to OSPs but Firms have ultimate responsibility for compliance with the requirements and must be in a position to demonstrate effective oversight of the CDD processes and procedures. The Central Bank expects that: ▪ CDD policies and procedures have been implemented by the Firm and OSPs which explicitly document the Firm’s approach to identification and verification of customers and are reviewed, updated and approved in a timely manner; ▪ appropriate controls have been implemented to ensure that transactions cannot occur until full CDD documentation and information is in place; and ▪ there is sufficient oversight of the CDD activities undertaken by OSPs on their behalf.

Next Steps

Along with the specific expectations outlined above, the Central Bank has highlighted its expectation that Firms implement effective governance, risk and control functions and be able to demonstrate sufficient oversight of the AML / CFT / FS framework to ensure compliance.

It has advised that it will continue to conduct supervisory engagements with Firms in the funds sector and that it expects such Firms to be in a position to demonstrate that they have reviewed the findings and expectations detailed in the Bulletin and, where gaps / weaknesses are identified by Firms, that sufficient steps have been taken to remediate the identified gaps / weaknesses.

The Central Bank has also stressed that, where Firms fail to demonstrate the necessary remediation to ensure compliance, the Central Bank will determine the appropriate action to undertake, within its full range of its regulatory tools, including where necessary utilising its enforcement powers.

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