Minimising the Money Laundering Risks of Emerging Technologies: Virtual Worlds, e-Currencies and Mobile Payments

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Example:

The approach of the e-money industry to AML Guidance

Overview

- Background and purpose of the guidance
- Terms and their meaning
- Principles underpinning simplified due diligence (SDD) and the risk-based approach
- Enhanced due diligence
- Evolution of the guidance

Overview

- Regulation on payer information accompanying money transfers
  - E-money issuers as PSPs for payer, payee and intermediary PSPs
  - Exemption for payments using credit and debit cards
  - Payments where funds are commingled

- Open discussion and specific issues not covered
  - Guidance on two or multiple card remittance sch

Background to the guidance

Guidance developed in 2002 primarily to address business needs:

- **Barriers** to take up of products by customers
- Cost of verification as a **percentage of income** per purse
- High **churn** rate for e-money products

Opportunity to benefit from **safe harbour** provisions of the Proceeds of Crime Act 2002

SDD and risk-based approach

Principles are:

- Reduce risk by limiting turnover, transaction size etc
- Allow money to enter system but largely not to exit without verification
- Implement systems to detect abuse of limits by multiple account opening etc

SDD and risk-based approach

Conditions for SDD in the guidance add requirement for systems to detect abuse; absent in the 2007 ML regulations

- These relate mainly to monitoring for abuse

Principles are:

- Reduce risk by limiting turnover, transaction size etc
- Allow money to enter system but largely not to exit without verification
- Implement systems to detect abuse of limits by multiple account opening etc

What is a risk-based approach to AML?

- An approach whereby resources are prioritised so that the greatest risk receives the greatest attention
- It implies risk management: identifying the risks, assessing their impact and then applying resources accordingly

What areas does it apply to?

Customer due diligence as part of legislative requirements and as a methodology

- Standard baseline, vary according to risk, identify beneficial owner and circumstances of business

Monitoring of customers and transactions: depends on risk, on size of business, means and resources available

Suspicious transaction reporting: reporting mandated, but allocation of resources in detecting suspicious activity is risk-based, seeking to address greatest risks

Applicable areas…

Training and awareness: the amount of training, the staff that are trained, frequency and means of delivery can all be risk-based.

Internal controls: depending on complexity of business, geographic spread, size and channels used, and degree of risk associated with each activity

- Senior management engagement and leadership
- Accountability
- Culture of compliance

How is the RBA applied?

Begin by identifying the risks - risk categories include:

- **Product or services** risk: international transactions etc; regulation and oversight, level of assets
- **Customer** risk: unusual circumstances, corporate structure, cash intensive businesses, charities, PEPs; length of relationship, purpose
- **Country or geographic** risk: sanctions, crime, corruption; familiarity

These need to be weighed up, either individually or in combination

Enhanced due diligence

- Apparent conflict between requirement for EDD for non-face to face transactions and SDD for e-money
- Application of EDD to PEPs, and SDD
- Cumulative approach to EDD
- Factors increasing risk are set out in the guidance; balanced against factors decreasing risk

Evolution of the guidance

- The guidance's approach to **enabling SDD** by putting in place purse limits and limiting the exit of funds from the system is seen as innovative
- Reliance on third parties through micro-deposit processes is innovative
- The 2008 guidance introduced the parameter of 'time' into the guidance, giving weight to transaction history
- In future iterations, the electronic footprint of users that may be available over a period of time could be utilised as evidence for DD
- Informal means of verification through personal relationships are also receiving acceptance; particularly where cash loading is involved

Thank you

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