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Practical Guide

# Anti-Money Laundering and Combating the Financing of Terrorism

December 2019



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# LIST OF ABBREVIATIONS



**AMMC** : Moroccan Capital Markets Authority

**ML/FT** : Money Laundering and the Financing of Terrorism

**WB** : World Bank

**STR** : Suspicious Transaction Report

**IMF** : International Monetary Fund

**FATF** : Financial Action Task Force

**AML/CFT** : Anti-Money Laundering and Combating the Financing of Terrorism

**UN** : United Nations

**PEP** : Politically Exposed person

**LP** : Legal Person

**NRFNP** : Non-Resident Foreign Natural Person

**FNP** : Foreign Natural Person

**MLP** : Moroccan Legal Person

**IS** : Information System

**FIU** : Financial Intelligence Unit

# DISCLAIMER

- This guide is an explanatory document and is not regulatory or mandatory;
- This guide does not replace the legal and regulatory texts which remain the reference in terms of AML/CFT obligations;
- This guide contains information in summary form and is not intended to provide a comprehensive list of AML/CFT controls and measures to be implemented by the subjected person;
- Each subjected person is invited to take into consideration the specificities of their activities which may require the implementation of additional measures;
- This guide is a dynamic document and will be updated regularly.

# I. Scope and definitions

- PURPOSE, SCOPE AND STRUCTURE OF THE GUIDE
- WHAT IS MONEY LAUNDERING ?
- WHAT IS THE FINANCING OF TERRORISM?
- CAPITAL MARKET AND ML/FT RISKS
- LEGISLATIVE AND REGULATORY FRAMEWORK FOR  
AML/CFT
- SUMMARY OF AML/CFT OBLIGATIONS

# PURPOSE OF THE GUIDE

Money laundering and terrorist financing are real threats that can damage a country's reputation and cause considerable economic and social harm. The FATF\* recommendations remain the normative framework for the effective implementation of measures to prevent, detect and mitigate ML/FT threats.

One of the fundamental components of the FATF recommendations is the introduction of a risk-based control approach. As a result, subjected persons must understand, identify and assess their ML/FT risks and take the appropriate mitigating measures while effectively allocating their resources and efforts to the areas of highest risks.

To comply with these standards, in September 2018 the AMMC issued a new circular on the obligations of due diligence and internal monitoring system imposed on the organizations and persons subject to its control.

This guide complements the AMMC's AML/CFT framework and assists the subjected persons to effectively implement the legal and regulatory requirements in this field.

This handbook has been developed by the AMMC with the aim of helping capital market participants to:

1. Understand the legal and regulatory requirements for AML/CFT;
2. Effectively implement AML/CFT mechanisms;
3. Develop and implement risk-based control approaches that make it possible to include the identification, monitoring and reporting of unusual, complex or high-risk transactions;
4. Comply with the best national and international AML/CFT standards;
5. Understand the AMMC's expectations with respect to AML/CFT.

\* <https://www.fatfgafi.org/media/fatf/documents/recommendations/Recommandations20%du20%CAFI202012%.pdf>

In addition, this guide strengthens the national AML/CFT mechanism in order to:

- Detect and effectively manage AML/CFT risks;
- Align the standards of the Moroccan capital market with international standards;
- Consolidate the confidence of national and international stakeholders in the national financial sector and in particular the Moroccan capital market.

## SCOPE OF THE GUIDE

This guide is intended for the following stakeholders, referred to as persons subject to AML/CFT obligations:

- Brokerage firms;
- Account keepers;
- Financial investment advisors;
- Management companies and institutions:
  - Undertakings for collective investment in transferable securities (UCITS);
  - Venture capital investment vehicles (OPCCs);
  - Real Estate Investment Schemes (OPCIs);
  - Securitization Trusts (FPCTs);
- Open-ended investment companies.

# STRUCTURE OF THE GUIDE

This practical guide has been developed by the AMMC to assist subjected persons in the effective implementation of AML/CFT obligations.

As such, the guide presents in a structured manner, the legal and regulatory requirements applicable to the subjected persons in order to protect them against any exploitation for the purposes of ML/FT.

The guide also proposes best practices and examples to better illustrate AML/CFT obligations.

The main parts of this handbook are as follows:

- Risk assessment;
- Due diligence and internal monitoring system;
- Customer identification and due diligence measures;
- Monitoring and control of operations.

## WHAT IS MONEY LAUNDERING?

According to Article 574-1 of the Criminal Code, money laundering is defined as follows: «The following acts, when committed intentionally and knowingly, constitute money laundering:

- the act of acquiring, possessing, using, converting, transferring or transporting property or its proceeds for the purpose of concealing or disguising the true nature or illicit origin of such property, in the interest of the perpetrator or of another person, when it is the product of one of the offences laid down in article 574-2 below;
- the concealment or disguise of the true nature, origin, location, disposition, movement or ownership of property or rights relating thereto which the perpetrator knows to be the proceeds of one of the offences laid down in Article 574-2 below;
- assisting any person implicated in the commission of one of the offences laid down in article 574-2 below to evade the legal consequences of his or her actions;
- facilitating, by any means, the false justification of the origin of the goods or products of the perpetrator of one of the offences referred to in Article 574-2 below, having procured for him a direct or indirect profit;
- assisting or advising in a transaction for the custody, investment, concealment, conversion, transfer or transport of the direct or indirect proceeds of one of the offences laid down in Article 574-2 below;
- attempting to commit the acts laid down in this section».

Based on the above, money laundering is the set of processes used by criminals to conceal the illegal origin and ownership of funds derived from illicit activities\*.

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\* Article 574-2 states that: «The definition provided for in Article 574-1 above shall apply to the following offences, even when committed outside Morocco: - illicit trafficking in narcotic drugs and psychotropic substances; human trafficking; trafficking in immigrants; illicit trafficking in weapons and ammunition; corruption, bribery, influence peddling and misappropriation of public and private property; terrorist offences; counterfeiting or falsification of currency or public credit instruments or other means of payment; membership of a gang organized, formed or established for the purpose of preparing or committing one or more acts of terrorism; sexual exploitation; concealment of property derived from a crime or misdemeanor; - breach of trust; - fraud; - industrial property offences; - copyright and related rights offences; - environmental offences; - intentional homicide, violence and assault; - kidnapping, illegal confinement and hostage-taking; - theft and extortion; - smuggling; - fraud on merchants and foodstuffs; - forgery, the use of forgeries and the use of false, usurped or irregular functions, titles or names; - hijacking, damage to aircraft, ships or any other means of transport, damage to air, sea and land navigation facilities or destruction, damage or deterioration of means of communication; - possession, in the exercise of a profession or function, of privileged information and using it to carry out or knowingly allow one or more transactions to be carried out on the market; - interference with automated data processing systems.

There are three (3) main steps in the money laundering process: placement, layering and integration.

**I. Placement:** this is the placement of the proceeds of crime in the financial system without triggering suspicion. This can be done by splitting large amounts of cash into smaller, less suspicious amounts which are then deposited directly into a bank account or by acquiring various money market instruments\*\*.

**II. Layering:** refers to the movement of money, often in a series of financial transactions that may sometimes pass through several accounts in order to conceal the illegal source and give an appearance of legitimacy. These transactions include the purchase of investment instruments, insurance contracts, wire transfers, etc.

**III. Integration:** Illicit funds enter the legitimate economy through investments until the laundered funds are finally returned to the criminal.

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\*\* <https://www.fatf-gafi.org/fr/foireauxquestionsfaq/blanchimentdecapitaux/>

## WHAT IS THE FINANCING OF TERRORISM?

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The financing of terrorism is the raising of funds for terrorist acts. It may be defined as the provision or collection, by whatever means, directly or indirectly, of any property (I) with the intention of using the property or (II) in the knowledge that the property will be used, in whole or in part, to commit one or more terrorist acts (whether or not the property is actually used).

In addition, article 218-4 of the Criminal Code considers the following offences to be terrorist acts:

- Providing, collecting or managing by any means whatsoever, directly or indirectly, funds, securities or property with the intention that they shall be used or in the knowledge that they will be used, in whole or in part, to commit a terrorist act, regardless of the occurrence of such an act ;
- Assisting or advising in the commission of such an act.

While money laundering consists in concealing the illegal origin of funds, the financing of terrorism can be carried out using funds of totally legal origin.

The financing of terrorism is generally more difficult to detect, but the effective implementation of an internal due diligence and monitoring system will allow the detection and mitigation of both money laundering and terrorist financing risks.

## CAPITAL MARKETS AND ML/FT RISKS

Generally speaking, capital markets may offer opportunities to carry out ML/FT transactions. In particular, these markets can be used in the «layering» and «integration» phases during which «dirty» money can be transformed into financial assets via transactions on these markets. These transactions may benefit from the following factors\*:

- The large volumes of transactions carried out on these markets make it difficult to analyze each transaction from a ML/FT perspective;
- The favorable conditions, in terms of liquidity and rapid trading, offered by these markets are highly sought after by potential criminals;
- The competitive nature of these markets can lead market participants to ignore «suspicious transaction indicators»;
- The compliance culture with respect to AML/CFT remains a relatively new topic;
- The ability to perform transactions through multiple entities so as to avoid easy detection;
- The resources and means allocated to AML/CFT are below the recommended standards for some stakeholders;
- The globalization and integration of financial markets and the accessibility of electronic trading platforms offering possibilities for financial transactions between markets and regions.

\* "EAG Typology Report on MONEY LAUNDERING THROUGH THE SECURITIES MARKETS July 2013"

## LEGISLATIVE AND REGULATORY FRAMEWORK FOR AML/CFT

In the Moroccan capital market, anti-money laundering and combating the financing of terrorism efforts are governed by the following legislative texts:

1. **Law No. 43-05 on money laundering**, as amended and supplemented, which sets out the measures that must be observed by subjected persons in the framework of AML/CFT, in particular: the obligations of due diligence and internal monitoring, the reporting of suspicious transactions to the FIU, the execution of the FIU's opposition decisions, and the freezing of assets ;
2. **Criminal Code**, in particular Articles 218-4, 218-4-1 and 218-4-2 defining and punishing the acts constituting the offence of the financing of terrorism and Articles 574-1 to 574-7 for the definition of the offence of money laundering and the penalties laid down in this regard;
3. **Code of Criminal Procedure**, in particular articles 595-1 to 595-5 relating to specific provisions on the financing of terrorism;
4. **AMMC Circular No. 1/18** on the obligations of due diligence and internal monitoring defining the modalities of application of the measures and procedures imposed by Law 43-05 and the 40 recommendations of the FATF;
5. **FIU Decision No. D.4/11** relating to the reporting of suspicions and the disclosure of information to the FIU;
6. **Decision No. D.6/13 of the FIU** relating to the freezing of assets for terrorist offenses.

## SUMMARY OF AML/CFT OBLIGATIONS

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In short, the subjected persons must:

- 1.** Carry out an assessment of the ML/FT risks relating to their activities and their customers;
- 2.** Have a perfect identification of their customers, principals and beneficial owners;
- 3.** Effectively monitor transactions and operations of an unusual, complex or high-risk nature;
- 4.** Classify and profile customers according to their ML/FT risks;
- 5.** Screen customers against the lists of the competent international bodies;
- 6.** Deploy enhanced due diligence measures for high-risk customers and transactions;
- 7.** Provide the due diligence and internal monitoring system with sufficient and adequate resources, means and powers to be fully operational and periodically assess the effectiveness of this system;
- 8.** To exhaustively and continuously document all controls, analyses, procedures, policies, reports, decisions, training and other measures taken with regard to AML/CFT;
- 9.** Train and awareness building on AML/CFT among staff;
- 10.** File suspicious transaction reports with the FIU;
- 11.** Implement decisions on the freezing of assets and transactions;
- 12.** Record keeping as required by the regulations in force.



# **ML/FT risk assessment**

**A- WHAT IS THE IMPORTANCE OF A ML/FT RISK ASSESSMENT?**

**B- HOW TO PERFORM AN ML/FT RISK ASSESSMENT?**

## A- WHAT IS THE IMPORTANCE OF A ML/FT RISK ASSESSMENT?

The identification and control of ML/FT threats to which the subjected person is exposed is based on the adoption of a control approach based on risk assessment.

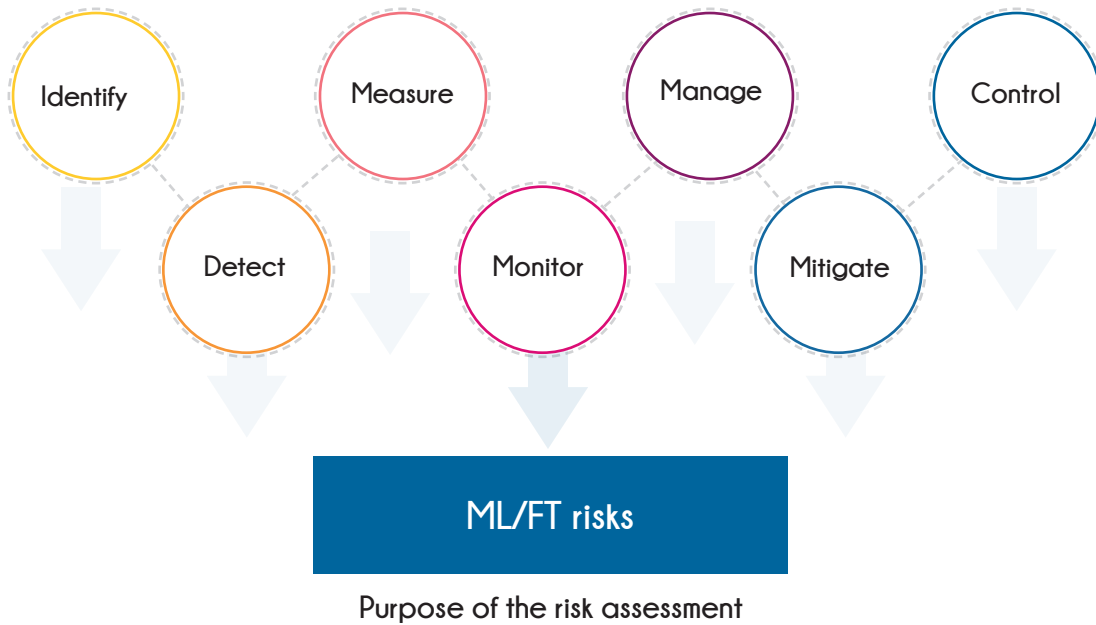
This assessment is used to scale the due diligence system to be implemented according to the risk areas identified.

It should be noted that beyond compliance with legal and regulatory requirements, the adoption of a risk-based control approach offers several operational advantages:

1. Effectively modulate controls based on identified risks;
2. Optimize the allocation of control resources to the areas of highest risk;
3. Be able to provide documented justification to the supervisory authorities for decisions to strengthen/simplify AML/CFT controls.



- It should be noted that there is no single prescribed or universally accepted methodology for conducting an AML/FT risk assessment;
- The risk assessment process described in this handbook is presented for illustrative purposes only. As long as the subjected person complies with its AML/FT regulatory obligations, they can choose the assessment method that best suits their activities;
- However, the AMMC must be able to obtain a clear and documented justification of the methodology by which the risks were assessed and how they were mitigated and controlled by the subjected person.



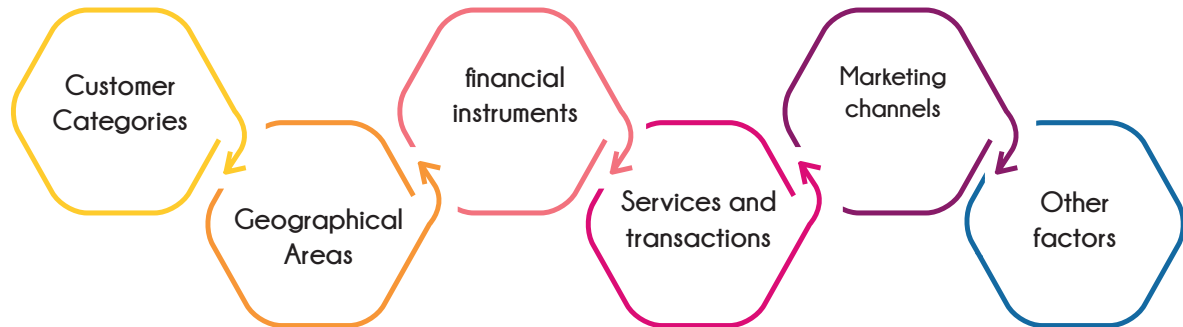
## B- HOW TO PERFORM AN ML/FT RISK ASSESSMENT?

The ML/FT risk assessment would include the following steps:

- ML/FT risk identification;
- ML/FT risk assessment;
- The implementation of risk mitigation measures and key controls;
- The update of the assessment.

### 1. The identification of ML/FT risks

ML/FT risks vary according to the activities carried out by the subjected persons. Therefore, the identification of the ML/FT risks to which a subjected person would be exposed must consider the following factors:



For each risk factor, other sub-factors can be identified, for example:

a) Customer Categories<sup>1</sup>:

- Clients identified as high risk (Politically Exposed Persons, Associations, high-risk activity sectors<sup>2</sup>;
- Client segments (Profession, Legal persons, Foreign residents, non-residents ...);
- Complexity, volume and size of transactions carried out by each client category;

b) Geographical Areas

- Laws, regulations and AML/FT standards of the geographical area;
- The quality and effectiveness of the implementation of the AML/CFT framework<sup>3</sup> (FATF assessment reports and similar bodies);
- Contextual factors such as political stability, high levels of organized crime, increased vulnerability to corruption, etc;
- The sensitivity of a given geographical area to an underlying offence at the national level.

<sup>1</sup> See Part IV of this guide for a more detailed list of client risk factors.

<sup>2</sup> The so-called high-risk ML/FT sectors are generally activities and professions that involve, in particular: The use of cash; The use of anonymity; The use of remote services; Services relating to certain gambling and online gambling; Transactions on high-value items; Services relating to virtual (electronic) assets; Schemes promoting tax evasion; -...

<sup>3</sup> This information can be accessed, for example, via the mutual assessment reports published on the FATF website: [https://www.fatf-gafi.org/en/publications/evaluationsmutuals/?hf=10&b=0&s=desc\(fatf\\_releasedate\)](https://www.fatf-gafi.org/en/publications/evaluationsmutuals/?hf=10&b=0&s=desc(fatf_releasedate))

c) **Services, transactions and financial instruments:**

- Nature, size, diversity and complexity of the subjected person's business activities;
- Nature of products and services offered by the subjected person;
- Geographic scope of activities;
- The use of a specific product by a client category.

d) **Marketing channels**

- Marketing channels (online services, indirect relations with some clients, etc.);
- The development of new products and business practices, including new marketing mechanisms and the use of new technologies.

e) **Other factors**

- The extent to which transactions are outsourced to other group entities or third parties.

The subjected person is advised to consider the risk factors that are most relevant to their activities.

To do so, the subjected person must also rely on reliable and independent sources of information (Conclusions of the national risk assessment report, FATF typology...).

## **2. Assessment of the ML/FT risks identified:**

The subjected person may adopt the most appropriate methodology to assess its ML/FT risks, depending on the nature, size and complexity of its activities, services and products, as well as the ML/FT risk factors identified during the identification of potential risks.

There are two aspects to be considered in the risk assessment:

- The impact of the risks;
- The likelihood of occurrence.

a) Assessment of the impact of ML/FT risks:

In general, a three-level (severity) impact scale (High, Medium and Low) is used, but other categories may be applied at the subjected person's own discretion.

The following factors can be used to assess the impact:

- The nature and size of the activities;
- The nature of the products;
- The financial implications;
- Potential sanctions;
- Legal implications;
- Reputational implications;
- Effects on the national economy;
- Effects on the country's image.

b) Assessment of the likelihood of the subjected person being used for ML/FT purposes:

The subjected person must assign a likelihood of occurrence to each identified ML/FT risk. This likelihood can be assessed according to two approaches:

1. Based on the history of incidents and cases historically identified;
2. Expert opinion: in the absence of sufficient and significant history.

Likelihood		Impact	
High	Very likely risk	High	Serious consequences
Average	Likely Risk	Average	Moderate consequences
Low	Unlikely risk	Low	Minor consequences

Example of likelihood and impact scales

Impact and likelihood assessments can be combined on the same matrix as follows:

Risk Rating		Likelihood		
		Low	Average	High
Impact	High	A	H	H
	Average	L	A	H
	Low	L	L	A

Example of the Likelihood-Impact Matrix

### 3. Risk mitigation measures and key controls in place:

Risk mitigation relates to the implementation of controls to mitigate the ML/FT risks identified in the risk assessment. Therefore, the internal monitoring and due diligence system must be proportionate and appropriate to the ML/FT risks identified.

Based on the risks identified, this system must, in particular, provide for the following:

- Reinforced / simplified due diligence measures;
- Processes for monitoring and controlling transactions;
- Processes for suspicious transaction reporting;
- Processes for blocking transactions and freezing assets.

All identified risks must be adequately mitigated by policies, procedures and controls. The subjected person must also document the mitigating factors and controls put in place to provide an audit trail of how the assessed risks have been mitigated.



The results of this assessment and the related action plans must be documented and brought to the attention of the administrative body of the subjected person.

#### 4. Assessment Update:

Regardless of the risk assessment approach used by the subjected person, it must be reviewed and revised regularly to ensure its effectiveness.

Based on the results of these reviews, measures should be taken to address any deficiencies or shortcomings identified. This updating work should also be documented.

- The results of the ML/FT risk assessment shall be reported to the AMMC no later than three months after the end of the fiscal year under review.
- The assessment must be conducted at least once a year and must be regularly updated.
- The risks considered in this assessment must be reviewed periodically and in particular on the occasion of the:
  - Development of new financial instruments and business practices, including new marketing mechanisms.
  - Use of new technologies in the conduct of its business.



## **Due diligence and internal monitoring system**

- A- WHAT IS VIGILANCE AND INTERNAL MONITORING SYSTEM?**
- B- WHAT AML/CFT POLICIES AND PROCEDURES SHOULD BE IMPLEMENTED?**
- C- WHAT ARE THE MINIMUM FUNCTIONALITIES OF AN AML/CFT COMPLIANT INFORMATION SYSTEM?**
- D- WHAT MEASURES SHOULD BE IMPLEMENTED FOR THE RECORD KEEPING?**
- E- WHAT MEASURES SHOULD BE TAKEN FOR STAFF TRAINING AND AWARENESS BUILDING?**

## A- WHAT IS VIGILANCE AND INTERNAL MONITORING SYSTEM?

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The subjected person is required to implement an internal due diligence and monitoring system that is an integral part of the overall risk management system.

This system can be defined as all the policies, procedures, controls, resources, organizations and systems that enable ML/FT risks to be controlled.

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### The system must be:

- Proportional and in line with the risks identified in the ML/FT<sup>4</sup> risk assessment;
  - Documented, accessible and understood by all relevant staff;
  - Adaptive and take into consideration the evolution of ML/FT risks and new operational needs (new products and services, new regulations, etc.);
  - Regularly evaluated to ensure compliance and effectiveness;
  - Regularly updated.
- 

Depending on the size and complexity of its activities, the subjected person is expected to allocate the following resources to this system:

- Qualified and experienced human resources;
- An organization and independence to enable it to achieve its objectives effectively;
- Technical means adapted to the needs and specificities of AML/CFT controls;
- Free access to any necessary information, data or documents.

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<sup>4</sup> See Part II of this handbook

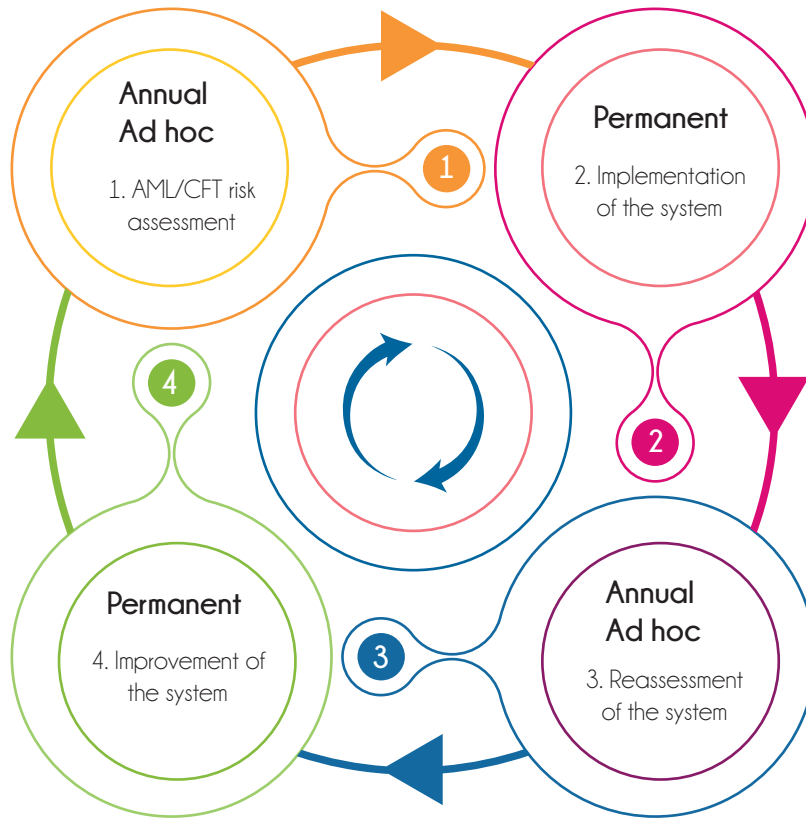
The internal monitoring and due diligence system is under the control of a supervisor<sup>5</sup> who ensures that the following controls are carried out:

- The effective and efficient deployment of the system;
- The system's compliance with the legal and regulatory framework;
- The periodic and ad hoc evaluation<sup>6</sup> of the system;
- The regular updating of the system and the proposal of an appropriate action plan;
- Documentation of procedures, policies and other elements relating to the system;
- Keeping all documents and information relating to the system;
- Where applicable, the proposal for AML/CFT training for the subjected person's staff;
- The identification and prevention of conflict of interest situations that may hinder the proper implementation of the system;
- Where appropriate and if the subjected person is part of a financial group, verification that the subjected person's system is properly integrated into the group's overall system;
- Reporting to the FIU, without delay, of any suspicious transactions;
- Implementation of decisions to block transactions and freeze assets;
- Exchange with the directors, the AMMC, the FIU and other competent authorities.

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<sup>5</sup> Depending on the size, volume and complexity of the subjected person's activities, the due diligence and internal monitoring system may be assigned either to a dedicated unit or to internal control.

<sup>6</sup> Particularly at the launch of a new product, service, practice or technology to identify potential ML/FT risks and implement appropriate mitigation measures and controls.



### Due diligence and internal monitoring system and risk assessment

The directors<sup>7</sup> must be informed of the results and measures undertaken following periodic evaluations of this system.

<sup>7</sup> The directors of the subjected person is involved in other aspects relating to AML/CFT, in particular:

- Becoming aware of the results of the AML/CFT risk assessment;
- Becoming aware of the results of the controls of the internal monitoring and due diligence system and the related action plans;
- Granting authorizations before entering into or continuing business relations for high-risk clients and business relations.

## B- WHAT AML/CFT POLICIES AND PROCEDURES SHOULD BE IMPLEMENTED?

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Due diligence and internal monitoring system includes a set of policies and procedures that enable the implementation of AML/CFT obligations.

These procedures are set out in a manual, which must be:

- Approved by the directors of the subjected person;
- Updated periodically.

The said policies and procedures provide a description of all handlings controls and clearances associated with the following aspects:

- Customer identification rules
- Updating and keeping documents
- Client screening rules
- Follow-up and monitoring of operations
- Report suspicious transactions to the FIU
- Staff awareness-raising and training
- Blocking of transactions and freezing of assets

The procedures manual should be disseminated to all staff and to new recruits.



### Special case of subsidiaries of financial groups:

A subjected person that is a subsidiary of a financial group must apply, in addition to the obligations of due diligence, additional policies and procedures relating to:

- The **periodic** exchange of information between the head of the system at group level and the branches and/or subsidiaries as part of the due diligence system;
- The **ad hoc** transmission, within a reasonable time, by the branches and/or subsidiaries to the head of the system at the Group level, of information relating to customers, accounts and transactions, to enable consolidated control of ML/FT risks.

These procedures should take into account the different types of information that may be shared and data security requirements.

## C- WHAT ARE THE MINIMUM FUNCTIONALITIES OF AN AML/CFT COMPLIANT INFORMATION SYSTEM?

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The subjected person must implement an information system that supports the AML/CFT functionalities and controls. In particular, this system must satisfy the following conditions:

**Database:** The database must include:

- All the information relating to client identification;
- The positions and transaction histories of the various client accounts;

**Functionalities:** The IS must allow:

- A classification of customers according to their risk profiles;
- Monitoring of unusual, complex or high-risk transactions;
- Detection (screening) of potential clients, originators and beneficial owners whose names are included in the lists of the relevant targeted financial sanctions bodies.<sup>8</sup>

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<sup>8</sup> Refer in particular to the lists published on the FIU website: [http://www.utrf.gov.ma/index.php?option=com\\_content&view=article&id=129&Itemid=853&lang=fr](http://www.utrf.gov.ma/index.php?option=com_content&view=article&id=129&Itemid=853&lang=fr)

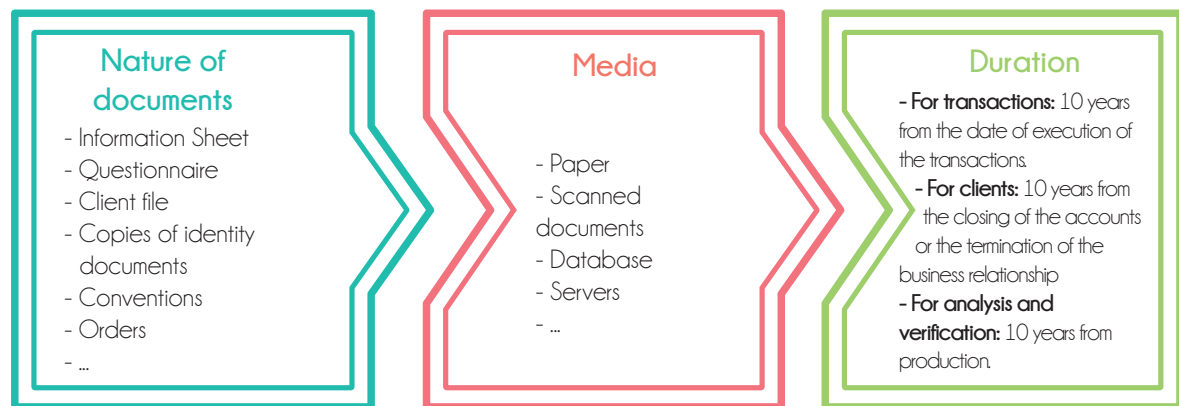
## D- WHAT MEASURES SHOULD BE IMPLEMENTED FOR THE RECORD KEEPING ?

The subjected person must have policies/procedures for the storage of documents and information collected when identifying customers, opening accounts and executing transactions.

Storage obligations also apply to the following:

- The analyses and controls carried out;
- Elements relating to suspicious transaction reports (analyses, reports, matches, etc.);
- Internal AML/CFT reporting;
- Training materials.

These policies/procedures should take into consideration the following aspects:



The information must be kept in a format (physical, electronic or scanned) that facilitates the detailed reconstruction of transactions, so as to:

- provide, if necessary, evidence for any investigation or inquiry;
- enable the subjected person to respond promptly to requests for information from the AMMC, the FIU or the competent authorities.

## E- WHAT MEASURES SHOULD BE TAKEN FOR STAFF TRAINING AND AWARENESS BUILDING?

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### 1- Staff training:

The subjected person shall ensure that its managers and staff, directly or indirectly concerned by the implementation of the due diligence system, receive adequate training in anti-money laundering and combating the financing of terrorism, adapted to the nature of their duties.

The content of such training may cover, in particular:

- AML/CFT legislative and regulatory requirements;
- FATF Recommendations;
- Typologies of AML/CFT specific to the activities of the subjected person;
- Identification, assessment and management of ML/FT risks;
- The design and implementation of internal AML/CFT risk-based control systems;
- The design and implementation of monitoring and control programs for AML/CFT transactions;
- The identification and handling of suspicious activities and transactions;
- Reporting and declaration of unusual, complex or high-risk activities;
- The process for submitting a suspicious transaction or activity report to the FIU;
- The processing of asset freezing decisions;
- ML/FT vulnerabilities of the services and products used;
- Trends and new types of ML/FT.

## 2- Staff awareness building:

The subjected person shall ensure that all the information, documents and means constituting the due diligence system in place are made available to its managers and staff.

The subjected person shall also organize, at least once a year, an awareness-raising campaign. It shall continuously and on an ad-hoc basis raise its staff awareness of the liability risks likely to be faced if used for ML/FT purposes.

These awareness-raising campaigns may cover AML/CFT regulatory developments, the presentation of the risks identified at the level of the subjected person and the possible measures to control them.

# **IV. Customer identification and due diligence measures**

**A- WHAT ARE THE STEPS TO CLIENTS' IDENTIFICATION?**

**B- HOW TO IDENTIFY THE BENEFICIAL OWNER?**

**C- HOW TO PERFORM CLIENTS RISK CLASSIFICATIONS?**

**D- WHAT ARE ENHANCED DUE DILIGENCE MEASURES?**

**E- WHAT ARE THE STEPS TO BE TAKEN IN THE EVENT  
OF RELIANCE ON THIRD PARTY FOR CLIENT  
IDENTIFICATION?**

**F- WHAT ARE THE DUE DILIGENCE REQUIREMENTS FOR  
CROSS-BORDER RELATIONS?**

## A- WHAT ARE THE STEPS TO CLIENTS' IDENTIFICATION?

The subjected person is required to implement a process for identifying its customers. This process includes the collection, verification, storage and updating of client information.

The subjected person must document its identification processes in the form of policies and procedures. These policies and procedures must be regularly updated according to the needs and risks identified during the ML/FT risk assessment.

Client identification must be carried out prior to the execution of the transaction or at the time of the establishment of the business relationship and should enable the development of a perfect knowledge and identification of the possible ML/FT risks that may be generated by the business relationship.

The said identification process must be extended to all customer categories, in particular:

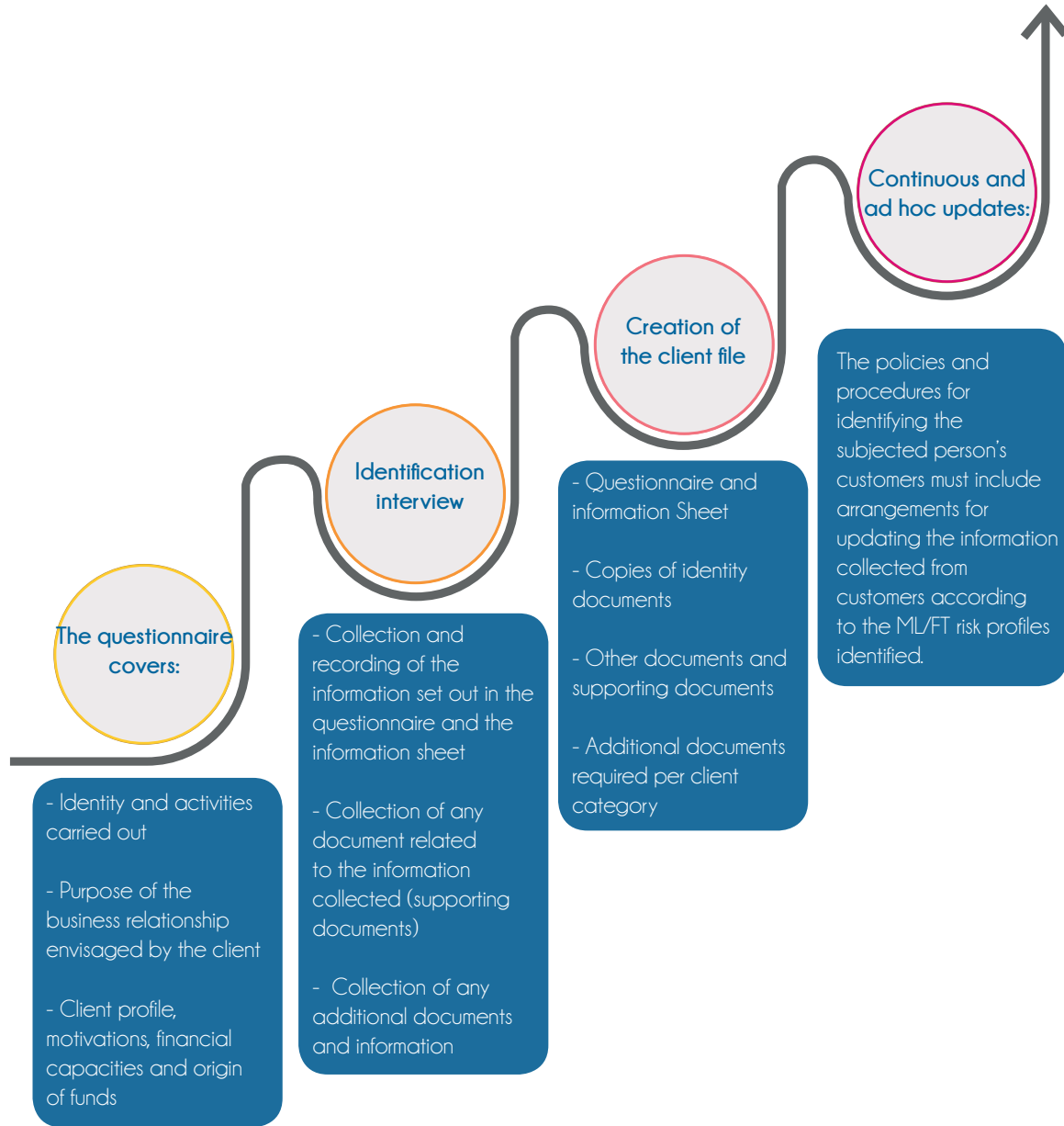
- Existing clients;
- New, occasional and potential clients;
- Actual beneficial owner
- Agents and originators ;
- Persons authorized to operate the accounts of legal persons;

To this end, the identification process must implement provide the following identification tools for all of the above categories:

- The questionnaire and information sheet;
- The identification interview;
- The constitution of the client file;
- The continuous and punctual updating of client documents and information.

The lists of documents and information to be collected from each client category are available in the appendices of thisguide.

The implementation of an effective client identification process will prevent the use of the activities and services of the subjected person for ML/FT purposes.



### Key steps in the customer identification process

- The subjected person must screen its customers, originators and beneficial owners against the lists of the competent international bodies (e.g. UN Security Council sanctions lists issued by the FIU);
- In case of inability to comply with customer identification obligations or when the identity of the persons concerned is incomplete or evidently fictitious, the subjected person must:



- Any reluctance or delay on the part of the client to provide credible and verifiable information and answers should lead the subjected person to examine the reason for this reluctance and to take appropriate due diligence measures.



#### Points of Due diligence:

- Documents, data and information obtained in the context of customer identification must be regularly updated at a frequency determined according to the ML/FT risks identified.
- Check the apparent regularity of the documents and ensure that there are no anomalies or discrepancies.
- Ensure by all means the accuracy of the data and information collected from clients: identity, address...

## Special cases

### Request to open an account from abroad:

In addition to the aforementioned rules, account keepers are required to comply with the following additional obligations when opening an account from abroad:

- Obtaining an additional supporting document to confirm the client's identity (residence permit or passport, for example);
- The requirement that the first transaction to be credited to the new cash account be carried out by the customer from an account opened in his name with another account keeper located in a country complying with the standards of the Financial Action Task Force "FATF";
- The adoption of enhanced due diligence measures on the customer's account(s). (See section on enhanced measures).

However, and in the absence of submitting to the account keeper the original documents that constitute the client file (supporting documents and additional documents), copies of said documents, subject to international conventions duly ratified and published in the Official Gazette, must be authenticated by the relevant authorities.

### Online transactions

The subjected person must take appropriate due diligence measures with respect to online customers. In cases where the client has not physically gone to the subjected person to perform the identification process, it may become difficult to match the identification documents with the true identity of the client.

In this situation of absence of physical presence of a customer, the subjected person is requested to take the following measures:

- Ensure the identity of the customer and the conformity of the documents provided;
- If necessary, search for additional information about the client via other reliable and independent sources of information.

## B- HOW TO IDENTIFY THE BENEFICIAL OWNER?

The identification of the beneficial owner in business relationships is of paramount importance in the client identification process.

The subjected person must take all reasonable and possible measures to ascertain the identities of the beneficial owners of its clients.

While the identification of beneficial owners can often be done through a simple client declaration, there are cases where the subjected person must make use of other independent and reliable sources of information.

### How to identify the beneficial owner?

The beneficial owner is:

- The natural person or persons who ultimately own (or control) a client;
- The natural person or persons on whose behalf a transaction is carried out, a transaction is executed or an activity is performed.
- For legal persons: it refers to the natural person or persons who:
  - Either directly or indirectly hold more than 25% of the company's share capital or voting rights,
  - Exercise, by any other means, control over the management, administrative or executive bodies or over the general meeting of shareholders.
- If the above criteria do not allow the identification of the beneficial owner, in this case it is the natural person who holds the position of principal manager or legal representative of the customer. légal du client.

In the case of companies, the beneficial owners are determined according to two approaches:

### A quantitative approach

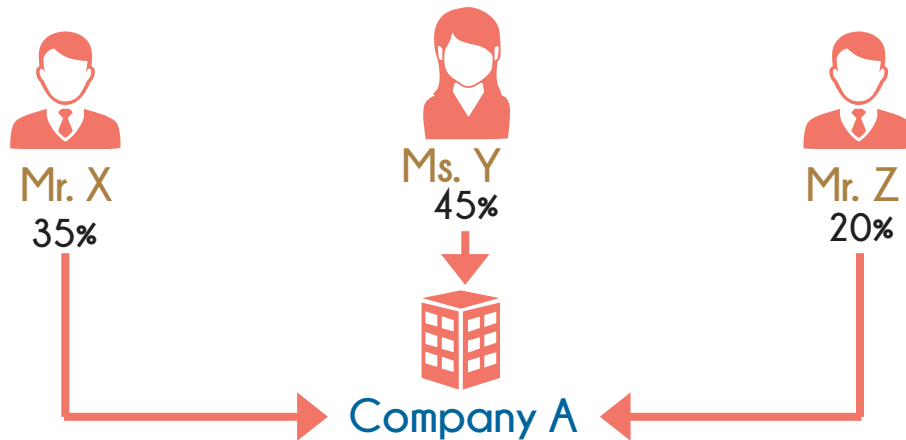
By analyzing direct or indirect ownership. Once a natural person reaches the threshold (over %25) of the capital or voting rights, he or she is considered to be the beneficial owner

### A legal approach

Which makes it possible to identify the beneficial owner through an analysis of legal deeds: shareholders' agreements, joint ownership agreements, legal structures...

Some possible scenarios that may arise are:<sup>9</sup>

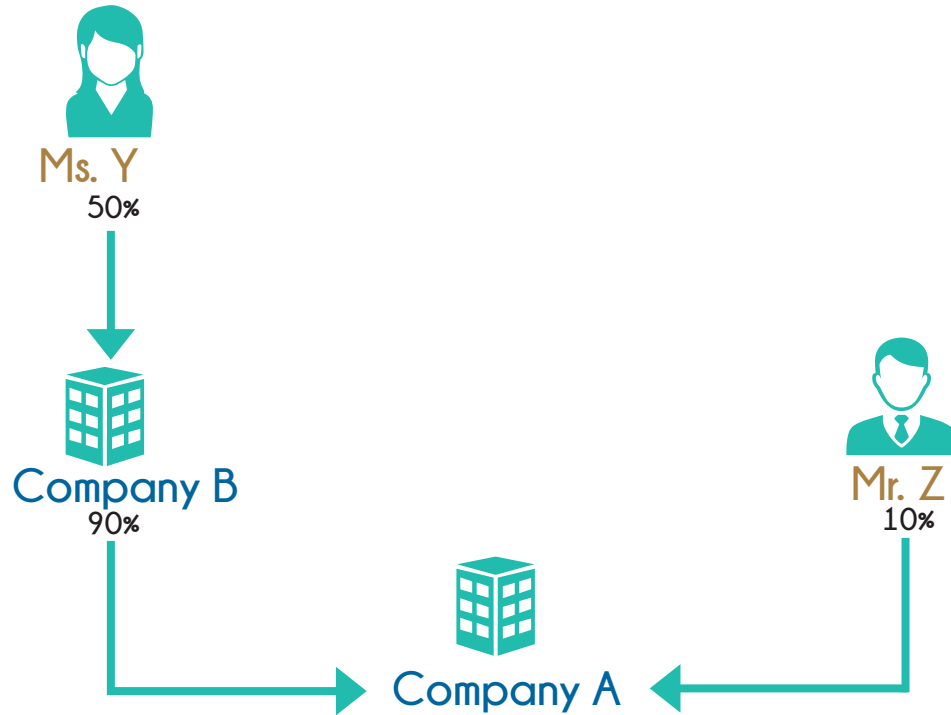
Case No. 1: Direct capital ownership:



Ms. Y and Mr. X are the beneficial owners of Company “A” because they hold more than 25% of the company’s capital (45% and 35% respectively).

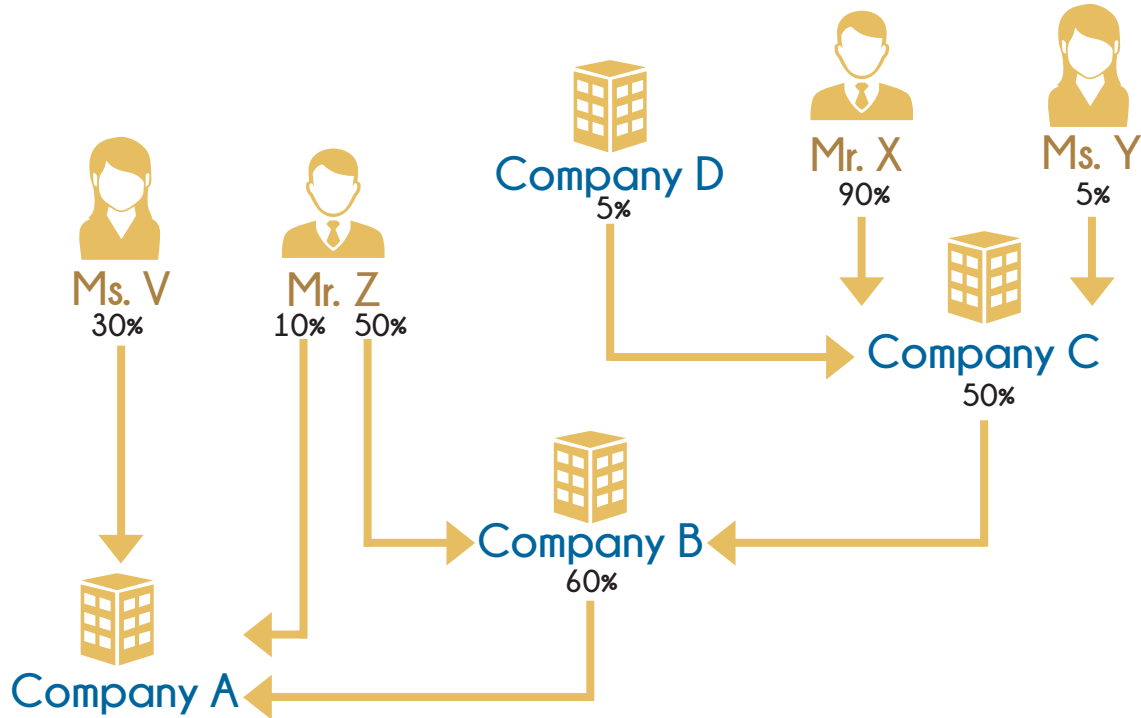
<sup>9</sup> Drawn from <https://www.infogrefe.fr/tbe>

### Case No. 2: Indirect capital ownership:



Mrs. Y is the beneficial owner of Company "A" because she holds more than 25% of the capital ( $50 \times 90\% = 45\%$ ).

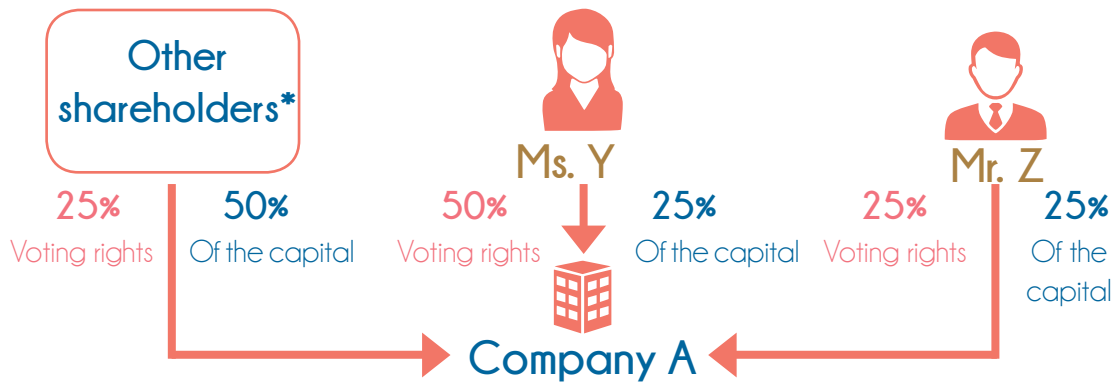
Case No. 3: Direct and indirect capital ownership:



Mr. X, Mr. Z and Ms. V are the beneficial owners of Company "A" because:

- Mr. X indirectly holds 27% of the capital of company A:  $90 \times 50\% \times 60\% = 27\%$
- Mr. Z holds 40% of the capital of company "A", i. e. 10% directly and 30% indirectly:  $10 + (50 \times 60\%) = 40\%$
- Ms. V directly holds 30% of the capital of company "A"

#### Case No. 4: Direct holding of voting rights:

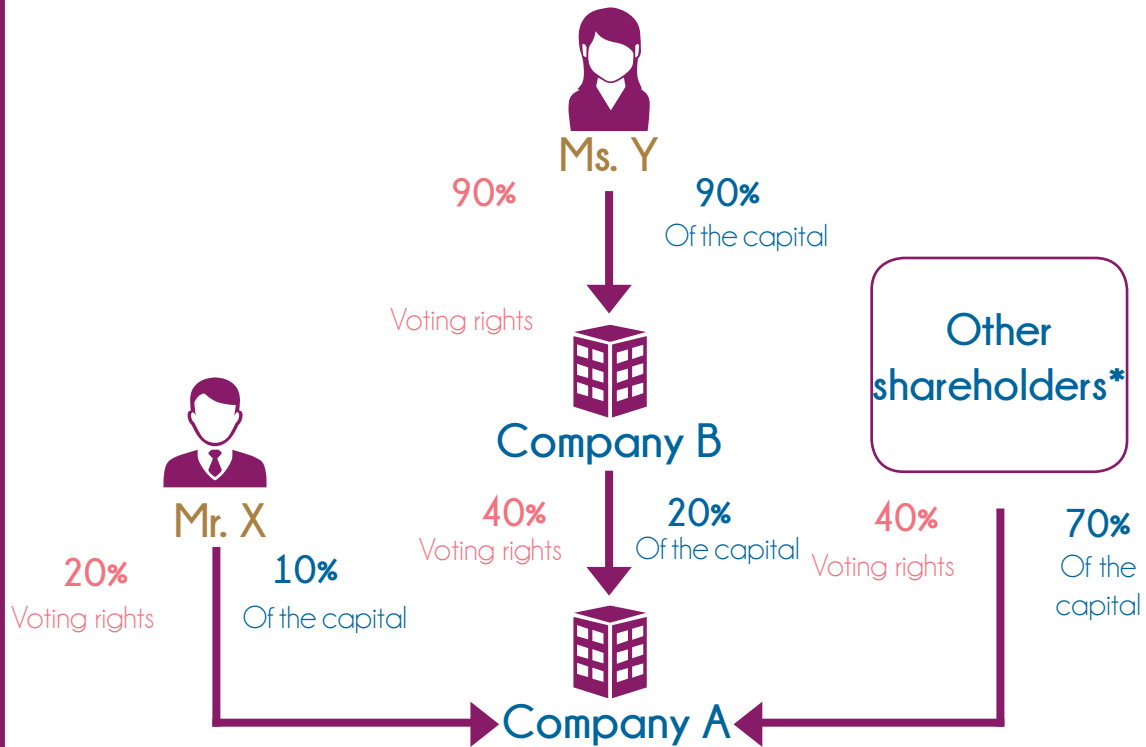


Ms. Y is the beneficial owner of Company "A" because she holds 50% of the voting rights of Company "A", i.e. more than the required 25%.

- Since the shares held by Ms. Y are shares with double voting rights.

\* It should be noted that none of the other shareholders individually holds more than 25% of the share capital or voting rights and that there are no shareholders' agreements.

### Case No. 5: Indirect holding of voting rights



Ms. Y is the beneficial owner of Company "A" because she indirectly holds 36% of the voting rights of Company "A", i.e. more than the required 25%. ( $90 \times 40\% = 36\%$ )

\*It should be noted that none of the other shareholders individually holds more than 25% of the share capital or voting rights and that there are no shareholders' agreements.

## C- HOW TO PERFORM CLIENTS RISK CLASSIFICATIONS?

The subjected person must be able to classify his/her clients according to the ML/FT risks they represent. This risk classification of clients must be a continuous and evolving process. It should be noted that the application of this classification is not intended to restrict the subjected person's business activity but rather to assist them in better managing and mitigating any ML/FT risks.

The expected objective of this classification is to apply due diligence measures in accordance with the risks identified. In other words, the nature, frequency or extent of customer due diligence varies depending on the assessment of the ML/FT risks associated with each client or business relationship. In short, the application of a risk-based approach to classifying clients will help:

- Adjust the scope of the due diligence to be applied for each client: enhanced, normal or simplified due diligence, the scope of the measures to be taken to identify beneficial owners, the frequency of document updates, etc.;
- The level of monitoring of the transactions to be undertaken;
- Appropriate measures to be implemented to mitigate the identified risks.

The subjected person must document all aspects relating to the classification of their clients according to ML/FT risks and must be able to substantiate, to the AMMC, all the due diligence measures undertaken with respect to their clients according to the risks identified.

This classification takes into account the following sources of information:



In addition to the information provided by clients, the subjected person may use other independent sources of information such as:

- Government bodies;
- The relevant authorities;
- The relevant foreign authorities;
- Other reliable and independent sources of information recognized by the relevant authorities.

For the risk classification of clients, the following factors can be considered:

1. The nature and purpose of the business relationship, transaction volumes and the origin and destination of the funds;
2. The products and services to which the client has access, particularly those that present a higher risk, such as online services, electronic transfers, etc.;
3. Geographical location of the client:
  - Countries assessed by the FATF as having gaps in their AML/CFT system ;
  - Countries under embargo or sanctions by the United Nations Security Council;
  - Countries vulnerable to corruption, areas known for their possible links with terrorist activities<sup>10</sup> ;

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<sup>10</sup> When analyzing risks related to geographical areas, data may be available on websites: UN, IMF, WB, FATF, etc.

#### 4. Client (and account) types and whether they fall into high-risk categories:

- Politically Exposed Persons;
- Non-resident clients;
- Clients reluctant to provide the elements required for identification;
- Remote clients and without face-to-face contact;
- Clients with irregular identification documents;
- Large number of accounts with the same account holder, agent or authorized signatory;
- Clients with a focus on confidentiality and anonymity aspects;
- Accounts opened with names very similar to other established business entities;
- Clients who appear to be carrying out transactions for the benefit of persons denied access to the capital market;
- Newly created companies with insufficient history;
- Legal persons with complicated shareholding structures;
- Clients whose beneficial owners are difficult to identify;
- Clients associated with high-risk activities;
- Suspicions of links to known criminals;
- Non-profit organizations;
- Companies whose capital is represented by bearer shares;
- Legal set-ups including trusts or any equivalent legal structures;
- Etc.

The aforementioned list may be supplemented, at the discretion of the subjected person, by other factors.

The factors used for classification purposes can be considered in combination by adopting a weighting based on the relative importance of each element.

The assessment of the risk level associated with each client can be explored according to a specific scale, for example: "Low, Standard, High".

The classification initially assigned to a client may change over time based on new information that becomes available, transactions performed and other relevant considerations. Changing a client's classification will have a direct impact on the nature of the due diligence and monitoring to be exercised.

In addition, the subjected person is requested to periodically review and assess their client classification approach to ensure its relevance and effectiveness.



Classifying a client as high risk does not mean systematically refusing to establish or continue the business relationship.

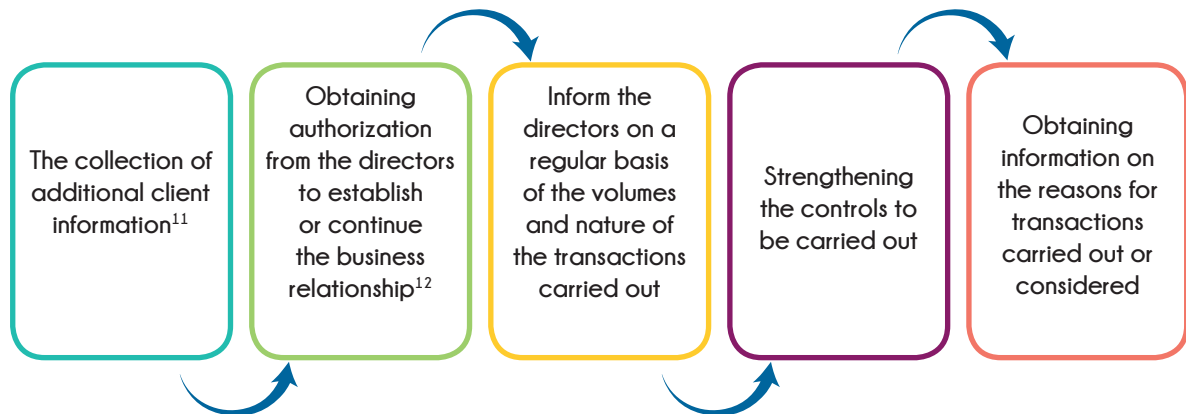
## D- WHAT ARE ENHANCED DUE DILIGENCE MEASURES?

The subjected person uses the results of their ML/FT risk assessment and the results of their client classification to adjust and adapt the appropriate due diligence to be applied. Also, the identification of clients or transaction types as high risk requires the application of enhanced due diligence measures.

In this context, due diligence and internal monitoring system must clearly detail:

- The situations to which enhanced due diligence must be applied;
- The different steps, measures, controls and actions constituting enhanced due diligence;
- Authorizations and liabilities relating to the various components of enhanced due diligence;
- The arrangements for storing documents and information.

Enhanced due diligence consists in particular of:



<sup>11</sup> Obtaining additional information about the client, for example: information available in public databases (OMPIC, Land Registry, etc.), social networks, etc.

<sup>12</sup> The directors may give a mandate to the manager to authorize on his behalf the entry into or continuation of a business relationship with a high-risk client or business relationship.

Enhanced due diligence may also include:

- In-depth verification of the identities of beneficial owners and principals;
- In-depth verification of the origins of the funds (and the destination of the funds if applicable);
- Strengthening the monitoring of operations and transactions;
- An analysis of account behaviors and activities and service usage by the relevant clients;

Nevertheless, simplified measures may be applied for the identification of clients of the following organizations:

- Publicly traded companies;
- Credit institutions and similar bodies;
- Insurance and reinsurance companies;
- Social security bodies;
- Brokerage firms;
- Securities account keepers;
- Companies and management institutions of collective investment undertakings;
- Collective investment undertakings;
- Public companies and institutions.

These simplified measures consist of:

- Verifying the customer's and beneficial owner's identity after the business relationship has been established;
- Reducing the frequency of updates of client identification elements.



Being identified as having a higher ML/FT risk does not automatically mean that a client is a money launderer or a terrorism financier. Similarly, identifying a client as having a lower ML/FT risk does not mean that the client does not pose any risk.

## **E - WHAT ARE THE STEPS TO BE TAKEN IN THE EVENT OF RELIANCE ON THIRD PARTY FOR CLIENT IDENTIFICATION?**

The outsourcing of the identification process (totally or in part) to a third party implies for the said party:

- Compliance with legislation and regulations relating to anti-money laundering and combating the financing of terrorism and the presence of sufficient policies and procedures to this end
- Compliance with due diligence obligations regarding the identification and storage of documents relating to the due diligence system
- Immediate communication to the subjected person of information concerning the identification of the proposed business relationship, occasional clients and beneficial owners as well as the purpose and nature of the relationship
- The immediate delivery to the subjected person, at their request, of a copy of the identification data and other relevant documents related to the duty of due diligence.



- The aforementioned third party may not entrust another party with the tasks assigned to it by the subjected person;
- The subjected person must also take into account the available information on the risk level related to the country in which the third party is established.
- The ultimate responsibility for the implementation of customer due diligence measures lies with the subjected person who has used the third party.

## F - WHAT ARE THE DUE DILIGENCE REQUIREMENTS FOR CROSS-BORDER RELATIONS?

As a result of their activities, the subjected person may have to establish business relations with capital market participants subject to foreign law. These are:

- **Account keepers**
- **Brokerage firms**
- **Financial asset management companies**
- **Other entities engaged in a similar activity**

To this end, and prior to the establishment of a business relationship with one of these participants, the subjected person must fulfil the following obligations:

- Collect sufficient information to understand the nature of their activities and know their reputation and the nature of the control to which they are subject
- Evaluate the controls put in place by these participants in terms of AML/CFT
- Check whether they are subject to AML/CFT legislation at least equivalent to that applicable in Morocco

- Ensure that their due diligence system is regularly monitored by the supervisory authority to which they are subject
- Collect additional information as necessary, by holding meetings with the management and the person in charge of the AML/CFT system and its supervisory and control authority

Also, the subjected person must:

- Assess the money laundering and financing of terrorism risks associated with their activities;
- Apply appropriate due diligence measures;
- Approve by its directors the decision to accept or continue the business relationship with these players;
- Refuse to establish or maintain a business relationship with persons or fictitious entities incorporated or established in a State or territory where they do not have a physical existence and do not belong to a group of companies subject to the control of a supervisory or control authority.

### In short

Four principles form the core of the due diligence obligation of the subjected person with regard to their customers:

1. In-depth knowledge of the client, originator , beneficial owner and the purpose of the business relationship;
2. Classification of customers according to ML/FT risk profiles and update of this classification;
3. Application of due diligence measures adapted to each client category according to the ML/FT risks identified;
4. Documentation and storage of information related to the customer identification process;

# **V. MONITORING AND CONTROL OF TRANSACTIONS**

- A- HOW TO DETECT UNUSUAL, COMPLEX OR HIGH-RISK TRANSACTIONS?**
- B- WHAT MEASURES SHOULD BE PUT IN PLACE FOR REMITTANCES AND TRANSFERS?**
- C- HOW TO REPORT SUSPICIOUS TRANSACTIONS TO THE FIU?**
- D- CASES REQUIRING BLOCKING TRANSACTIONS AND FREEZING ASSETS**

## A- HOW TO DETECT UNUSUAL, COMPLEX OR HIGH-RISK TRANSACTIONS?

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The subjected person must be able to monitor the transactions carried out by their customers in order to detect any unusual, complex or high-risk transactions.

### How do you determine whether a transaction is unusual, complex or high-risk?

May be considered unusual, complex or high-risk transactions:

- Transactions that are incompatible with the client's profile (profession, socio-economic status, etc.);
- Transactions that are abnormally different from past activities typically recorded on the client's account;
- Transactions involving the use of multiple accounts by the same client;
- Unaccounted for transfers between different accounts;
- Sudden transactions on an inactive account;
- Transactions that appear to be overly complex and different from usual practice;
- Transactions that do not appear to have any economic justification or apparent lawful purpose;
- Transactions that may be related to insider trading;
- Transactions that may be related to price manipulation;
- Cross-border transfers of large amounts of money for transactions;
- Transactions representing a large proportion of the volume traded during the trading session;
- Transactions resulting in unreasonable gains/losses by giving the impression of not seeking profit, by not taking into account the risks and costs of investments;
- Simultaneous buy and sell orders with prices significantly different from those traded on the market;
- Transactions carried out by or for the benefit of persons residing in countries with a high risk of ML/FT;

In addition, certain behaviors must be monitored and controlled by the subjected person:

- Client questioning the traceability of transactions or the reporting of transactions to the relevant authorities or detection/reporting thresholds.
- Inconsistency between the nature and volume of transactions and those expected from the relevant client category or those expected on the basis of information provided by the client;
- The client trades large quantities of securities shortly after opening the account and closes the account shortly after;
- Sudden closing of the account or transaction/position without good reason or regardless of market conditions;
- The origin of the transaction funds is not clearly established;
- Clients who frequently receive remittances within a short period of time which are clearly unrelated to their profile or business sector;

The subjected person must also pay special attention to:

- Financial transactions carried out by intermediaries in real estate transactions;
- Financial transactions carried out by casinos;
- Transactions carried out by persons whose postal address is domiciled with a third party;
- Accounts of natural persons managed by agents;
- Practices and transactions not involving a physical presence of the client or likely to promote anonymity.

The subjected person must always and for any transaction, in particular in the event of detection of unusual or complex transactions, obtain information from the client on:



Therefore, the subjected person must have a system in place to detect these transactions and, after further analysis, report suspicious activity to the FIU whenever there is a suspected case of ML/FT.

## B - WHAT MEASURES SHOULD BE PUT IN PLACE FOR TRANSFERS?

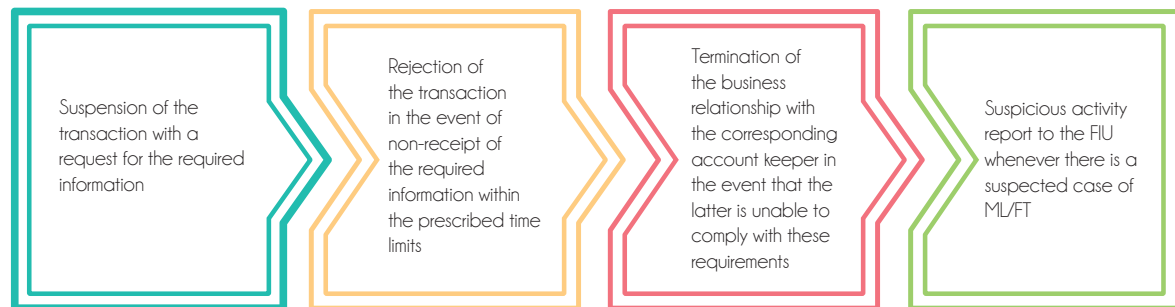
Transfers of funds or securities must be subject to certain monitoring and control rules, which can be summarized as follows:

### 1. These transactions must include at least the following information:

- The full names or corporate name of the originator, beneficiary, beneficial owner and their identification (identity document: type, number, nationality and/or date and place of birth for natural persons, commercial register number and court for legal persons.);
- The account numbers of the originator, the beneficiary and the beneficial owner;
- Where applicable, a unique transaction reference number;
- The address of the originator, their customer identification number or his date and place of birth, as well as his identity document (number, type, nationality, etc.);
- The purpose of the transaction;
- The value of the transaction

### 2. This information must be incorporated into the information system.

In the event of failure to provide the required information to support such transactions, the subjected person must put in place risk-based procedures that provide for the application of the following **incremental measures**:



## C - HOW TO REPORT SUSPICIOUS TRANSACTIONS TO THE FIU?

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Suspicious transaction reports are an important aspect of the internal due diligence and monitoring system to which special attention should be paid.

The subjected person must ensure that the suspicious transaction reporting process is deployed efficiently and continuously. Also, the internal due diligence and monitoring system must provide for clear policies and procedures that detail, in particular:

- Indications on the objective elements of assessment to be considered when defining a suspicious transaction;
- Steps and deadlines for processing suspicious transaction reports;
- The procedures for processing urgent reports;
- Explanations on the functionalities of the so-called “GoAML” reporting system;
- The authorizations and liabilities of the persons involved in this process;
- The procedures for storing suspicious transaction reports, related analyses and analyses that did not result in reporting.

According to the provisions of Law No. 43-05 on Anti-Money Laundering, the subjected participant is required to report any suspicious transaction to the FIU concerning:

- All sums, transactions or attempts to carry out transactions suspected of being related:
  - Money laundering (Article 574-1 of the Criminal Code);
  - One or more of its underlying offences (Article 574-2 of the Criminal Code);
  - The financing of terrorism (Article 218-4 of the Criminal Code);
- Any transaction for which the identity of the originator or beneficiary is questionable.

Therefore, special attention should be paid to certain situations requiring the completion of suspicious transaction reports:

- Inability to respect client identification obligations;
- Incomplete or obviously fictitious identity;
- Suspension of due diligence obligations if they are likely to catch the client's attention.

In addition, in the event of confirmation of a proven case relating to an unusual, complex or high-risk transaction, the subjected person must report the suspicious transaction without delay.



- The suspicious transaction report is a simple factual statement that does not entail a judgment on the part of the subjected person.
- The report must be made in good faith, and the suspicious transaction must be substantiated and documented.

## PROCESS OF SUSPICIOUS TRANSACTION REPORTS (STR)

### WHO CAN DO AN STR?

- A correspondent and his substitutes must be appointed. They shall be authorized to do STRs and liaise with the FIU.
- This appointment is made on the basis of an appointment letter signed by the head of the subjected person and attached to an appointment form available at: [www.utrf.gov.ma](http://www.utrf.gov.ma)
- This form should be subject to the FIU.

### HOW TO REPORT

- By electronic reporting via the UTRFNet portal after registration
- Verbally in case of emergency subject to confirmation by UTRFnet
- By any other means of communication agreed with the FIU departments

### CONTENT OF THE REPORT

- Identification of the subjected person and the reporting person
- Identification of suspicious transactions and their description
- Identification of the natural persons and entities involved in these transactions
- The expected date for the execution of the not yet executed transactions
- Any other useful information

### IMPACT ON THE NOT YET EXECUTED TRANSACTION

- Blocking and postponement of the execution of the suspicious transaction for a period of 2 working days from the receipt of the report by the FIU
- Execution of the transaction after the expiry of 2 working days constituting the opposition period granted to the UTRF as from the FIU's receipt of the report
- This period may be extended by 15 days by a court decision received from the FIU.

The suspicious transaction report may also cover:

- Transactions already executed in cases where it was impossible to suspend their execution;
- Transactions whereby it became apparent, subsequent to their execution, that the sums in question are from money laundering

### Protection of subjected persons, their managers and agents

Law No. 43-05 provides legal protection for the subjected person and their managers and agents against any civil or criminal liability action brought against them in the course of carrying out their duties.

Thus, no action based on the disclosure of professional secrecy may be brought against the subjected person, or against his managers and agents who, in good faith, have filed a suspicious transaction report. (Article 25 of Act No. 43-05)

Similarly, no civil liability action may be brought or any sanction imposed, in particular for slanderous denunciation, against a subjected person, his managers or agents, where the suspicious transaction report has been filed in good faith. (Article 26 of Law 43-05)

## D - CASES REQUIRING BLOCKING TRANSACTIONS AND FREEZING ASSETS

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During the course of the business relationship, the subjected person may be required to adopt preventive measures in the exercise of their due diligence and internal monitoring obligations, such as blocking transactions and freezing assets.

### a. Blocking of transactions:

The subjected person blocks or suspends the execution of a transaction when:

- 1- The transaction is the subject of a suspicious transaction report, which may be opposed by the FIU;
- 2- The identity of the persons concerned could not be verified or when it is incomplete or clearly fictitious.

### b. Assets freeze:

It refers to the prohibition of the transfer, conversion, assignment or movement of funds or other property. This measure can be applied in three cases:

#### 1- In the context of an investigation related to a money laundering offence:

The Public Prosecutor may order, during the investigation phase, for a period not exceeding one month, renewable once, that the transfer, conversion, disposition or movement of property be temporarily prohibited, or that an institution or private body be designated for temporarily ensuring the custody or control of the property.

## 2- In the context of terrorism offences:

Following a measure taken by the FIU in response to requests for freezing of property from authorized international bodies (United Nations Security Council) for terrorism offences.

The lists of persons and entities subject to a property freezing measure are published by the FIU on its official website ([www.utrf.gov.ma](http://www.utrf.gov.ma)). This publication is equivalent to a freeze order.

To this end, the subjected person must regularly visit the FIU website to deal with any updates to these lists.

In the event of a request from listed persons or entities to carry out a transaction or any other transaction, the subjected person must suspend any transaction to which they are parties and refrain from executing any transaction for them.

The data relating to the freezing of assets must be sent without delay to the FIU, which in turn notifies the subjected person of the decision confirming the order to freeze the assets within 2 working days.

The subjected person is authorized to credit any account subject to the freeze with the funds and transfers received, including income from previous contracts, provided that they are frozen and that the FIU is informed without delay.

The partial or total lifting of the freezing measure is ordered by the FIU or by court order.

## 3- In the specific case of the financing of terrorism:

In the context of a judicial investigation following a financing of terrorism offence, the judicial authorities may order the freezing and seizure of assets.<sup>30</sup>

# VI. Appendices

- CUSTOMER IDENTIFICATION DETAILS
- GLOSSARY OF TERMS
- BIBLIOGRAPHY AND USEFUL LINKS
- REVIEW OF SANCTIONS

## ÉLÉMENTS D'IDENTIFICATION DE LA CLIENTÈLE

Content of the information form	
Natural Persons (Client / Originator / Agent / Beneficial owner)	Legal persons
<ul style="list-style-type: none"> <li>- First name(s) and last name</li> <li>- First and last names of parents (if applicable);</li> <li>- Date of birth</li> <li>- MLP: CNI (ID) number, its issue and expiry dates and the issuing authority;</li> <li>- FNP: Number of the registration card for resident aliens, its issue and expiry dates and the issuing authority;</li> <li>- NRFNP: number of the passport or any other ID in lieu thereof for non-resident aliens, its issue and expiry dates and the issuing authority;</li> <li>- Exact address;</li> <li>- Profession;</li> <li>- Registration number in the commercial register, the registration court and the business tax number;</li> <li>- Common Company Identifier Number (ICE);</li> <li>- NP auto-entrepreneurs (self-entrepreneurs), the number of the national register of the auto-entrepreneur provided for in Article 5 of Law 114-13 on the auto-entrepreneur status;</li> <li>- Declarations on the origin of the funds;</li> <li>- Information on the purpose and nature of the business relationship.</li> </ul>	<ul style="list-style-type: none"> <li>- Corporate name;</li> <li>- Legal form;</li> <li>- Business activities;</li> <li>- Head office address;</li> <li>- Tax ID number;</li> <li>- Registration number in the commercial register of the legal person and registration court;</li> <li>- Commercial register registration number, if any, of its agencies and branches and registration court;</li> <li>- Common Business Identifier (ICE) number;</li> <li>- Identity of the persons sitting on the administrative and management bodies of the legal person as well as those authorized to run the customer account;</li> <li>- Information on the purpose and nature of the proposed business relationship.</li> </ul>

Additional documents		
Commercial companies	Associations	Cooperatives
<ul style="list-style-type: none"> <li>- The articles of association;</li> <li>- Legal announcement relating to the establishment of the company and any amendments affecting its articles of association or an extract from the commercial register issued less than 3 months ago;</li> <li>- Summary financial statements for the past financial year;</li> <li>- Minutes of the proceedings of the general meetings that appointed the directors or members of the supervisory board or managers.</li> </ul>	<ul style="list-style-type: none"> <li>- The articles of association;</li> <li>- The final receipt issued to the association by the competent local administrative authority or any other document evidencing the incorporation of the association in accordance with the legislation in force;</li> <li>- The minutes of the constituent general meeting for the election of the members of the bureau, the president and the distribution of tasks within the bureau;</li> <li>- The deed appointing the persons authorized to run the account.</li> </ul>	<ul style="list-style-type: none"> <li>- The articles of association;</li> <li>- The minutes of the constituent meeting;</li> <li>- The deed appointing the persons authorized to run the account;</li> <li>- An authentic copy of the application form for registration in the register of cooperatives, stamped and signed by the competent registry office containing the number and place of registration of the cooperative or the decision authorizing the incorporation of the cooperative, as the case may be.</li> </ul>
Companies in the process of incorporation	Legal Persons other than those mentioned above	Other legal persons (including trusts or any equivalent legal structures)
<ul style="list-style-type: none"> <li>- Delivery of the negative certificate;</li> <li>- The draft articles of association;</li> <li>- All identification details of the founders and subscribers to the capital.</li> </ul>	<ul style="list-style-type: none"> <li>- The constituent act;</li> <li>- Acts appointing legal representatives or establishing the powers of administrative or management bodies</li> </ul>	<ul style="list-style-type: none"> <li>- Be informed in particular of the elements of their constitution, the purposes pursued and the methods of management and representation of the legal structure in question;</li> <li>- Check them by means of any document likely to provide evidence of which it takes a copy;</li> <li>- Require persons responsible for its administration or management and beneficial owners to provide it with the identification details of the persons who constituted the said structure</li> </ul>

## Glossary<sup>13</sup>

### B

- **Beneficial owner:** refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

- **Business relationship:** is a professional or commercial relationship, which is intended, at the time of the establishment of the relationship between a subjected person and a client, to be long-term in nature. The business relationship may be governed by a contract, under which several successive transactions will be conducted between the co-contractors or which creates continuing obligations towards them.

A business relationship is also established when, in the absence of such a contract, a client regularly obtains the assistance of the subjected person for the performance of several transactions or a transaction of a continuous nature.

### F

- **Financing of terrorism:** refers to the financing of terrorist acts, terrorists and terrorist organizations.

- **Freeze:** refers to the prohibition of the transfer, conversion, disposition or movement of any funds and other property held or controlled by designated persons or entities on the basis of an action initiated by the United Nations Security Council, a competent authority or a court and for the duration of the validity of the said action.

- **Funds:** refers to all types of assets, tangible or intangible, corporeal or incorporeal, movable or immovable, regardless of the method of acquisition, as well as legal acts or instruments in any form, including electronic or digital, evidencing ownership or rights in such assets.

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<sup>13</sup> More definitions can be found on the FATF website: <http://www.fatf-gafi.org/fr/glossaire/>

## M

- **Money laundering:** is an offence that consists in giving a legitimate appearance to property or capital that, in truth, originate from illicit activities such as drug trafficking, criminal activities, corruption, prostitution, arms trafficking, certain types of tax fraud...

## P

- **Politically Exposed Person (PEP):** refers to persons, of Moroccan or foreign nationality, exercising or having exercised higher political, military, judicial or administrative public functions in Morocco or abroad, or a high level function within or on behalf of an international organization, and their close family members and closely related persons, whether of Moroccan nationality or foreign, as well as any company in which they hold a share of the capital.

- **Property:** refers to all types of assets, whether corporeal or incorporeal, movable or immovable, tangible or intangible, as well as legal acts or instruments evidencing ownership of or rights in such assets.

## Bibliography and useful links

1. Law n° 43- 05: [http://www.utrf.gov.ma/index.php?option=com\\_wrapper&view=wrapper&Itemid=824&lang=fr](http://www.utrf.gov.ma/index.php?option=com_wrapper&view=wrapper&Itemid=824&lang=fr)
2. AMMC Circular: [http://www.ammc.ma/sites/default/files/Circulaire%20AMMC%20n%C2%B0%2001-18%20relative\\_%20to%20\\_bonds%20\\_of%20\\_vigilance\\_%20and%20contr%C3%B4le%20internal.pdf](http://www.ammc.ma/sites/default/files/Circulaire%20AMMC%20n%C2%B0%2001-18%20relative_%20to%20_bonds%20_of%20_vigilance_%20and%20contr%C3%B4le%20internal.pdf)
3. UTRF Decisions: [http://www.utrf.gov.ma/index.php?option=com\\_content&view=article&id=114&Itemid=825&lang=fr](http://www.utrf.gov.ma/index.php?option=com_content&view=article&id=114&Itemid=825&lang=fr)
4. Lists of persons subject to decisions imposed by United Nations Security Council resolutions: [http://www.utrf.gov.ma/index.php?option=com\\_content&view=article&id=129&lang=fr](http://www.utrf.gov.ma/index.php?option=com_content&view=article&id=129&lang=fr)
5. FATF Recommendations:  
<https://www.fatf-gafi.org/media/fatf/documents/recommendations/Recommandations%20du%20GAFI%202012.pdf>
6. “EAG Typology Report on MONEY LAUNDERING THROUGH THE SECURITIES MARKETS July 2013”  
[https://eurasiangroup.org/files/Typologii%20EAG/WGTYP\\_2013\\_4\\_eng\\_copy0.pdf](https://eurasiangroup.org/files/Typologii%20EAG/WGTYP_2013_4_eng_copy0.pdf)

## REVIEW OF THE SANCTIONS

### Administrative sanctions:

**Article 28 of Law 43-05:** “Without prejudice to more serious criminal sanctions and sanctions provided for by the laws applied to them, subjected persons and, where applicable, their managers and agents, who fail to fulfil their obligations[...] may be sentenced to a financial sanction ranging from MAD 100,000 to MAD 500,000 imposed on them by the body under the control of which they are placed and in accordance with the procedure applicable to them for breach of their duties or of professional rules and ethics”.

**Article 30 of Law 43-05:** “Where, as a result of either a serious lack of due diligence or a failure in the internal control system, a subjected person has not fulfilled the obligations arising from this chapter, the Unit shall refer the matter to the authority vested with the power of control and sanction over that person, with a view to imposing sanctions against them, on the basis of the legislation applicable to them”.

### Criminal sanctions:

**Article 29 of Law 43-05:** “The managers or agents of subjected persons who have deliberately brought to the attention of the person concerned, or of third parties, either the suspicious transaction report of which they have been the subject, or information on the action taken on that report or who have deliberately used the information collected for purposes other than those provided for in this chapter, are liable to the sanctions provided for in article 446 of the Criminal Code, unless the acts constitute a more severely punished offence”.

**Article 574-3 of the Criminal Code:** “Without prejudice to more serious sanctions, money laundering shall be punished:

- for natural persons, by imprisonment for a term of two to five years and a fine of MAD 20,000 to 100,000;
- for legal persons, by a fine of MAD 500,000 to 3,000,000, without prejudice to any sanctions that may be imposed on their managers and agents involved in the offences”



