



THEMATIC REVIEW

To assess the understanding of obligations and compliance with

Targeted Financial Sanctions (International and Domestic) Of a Section of Capital Market Sector

(With reference to the obligations on FIs as per UAE Cabinet Decision no. 74 of 2020 regarding Terrorism Lists Regulation and Implementation of UN Security Council Resolutions on the Suppression and Combating of Terrorism, Terrorist Financing, Countering the Proliferation of Weapons of Mass Destruction and its Financing)

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1. INTRODUCTION:

In accordance with FATF's Recommendations for Anti-Money Laundering and Countering Terrorist Financing, it is required of jurisdictions to have strong systems and procedures for ensuring that the targeted financial sanctions (TFS) imposed by the resolutions of the UN Security Council to contain terrorism and proliferation of weapons of mass destruction are implemented. The UAE Cabinet has issued resolution no. 74 of 2020 in this regard which mandates the creation of the Executive Office tasked with ensuring UAE wide adoption of adequate TFS compliance measures. The said resolution also lays down the obligations of the FIs and DNFBPs and their respective supervisory authorities in order to meet the UAE's TFS compliance requirements.

SCA conducts inspections of licensed companies to assess their compliance with AML/CFT requirements, which also covers assessment of their compliance with TFS obligations. SCA adopts the risk based approach for selecting the companies for either a full scope or focused inspection. Under this approach, apart from full scope and focused inspection, some companies are selected for a Compliance Meeting. The risk based supervision approach requires that the full range of supervisory tools must be put to use for ensuring a robust supervision framework. Therefore, apart from the inspections and compliance meetings, under which individual entities are assessed, thematic reviews are conducted on a selected subset of SCA's licensed companies. The purpose is to assess the understanding and practices, assess the level of compliance as well as understand the trends and common issues underlying a particular sub-sector or a particular licensed activity for the selected thematic area of AML/CFT compliance.

Among the SCA's licensed activities, one of the major activity group is of the brokerage companies in the securities markets. The securities brokerage companies have the longest track record of operations in the capital market sector of the UAE and are therefore, expected to have more mature compliance policies, procedures and systems. Securities brokerage companies are the gateway for



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capital market investors to enter the financial markets. The nature of brokerage activity is very transaction intensive. In the National Risk Assessment, the broking activity was considered as having medium high vulnerability for AML-TF. Thematic review to assess the compliance with TFS obligations was conducted on the companies conducting brokerage activity in securities markets.

2. METHODOLOGY:

The methodology for the thematic review involved designing a questionnaire which included questions to assess the compliance structure, including the policies, systems and procedures required to be implemented by the brokerage companies for having a strong and effective TFS compliance framework. The questions were designed to assess the level of appreciation and understanding by the company and its Compliance Officer/MLRO of the importance of TFS compliance and the mechanisms implemented to achieve it. Questions to determine the understanding of TFS risks by the company were also included. The companies were advised to attach a copy of their relevant TFS policies and procedures to support their responses.

Towards the end of the review questionnaire and in order to form a view on the TFS risks as perceived by the company, they were required to list down 3 TFS related risks given the nature of their business activity, client profile addressed by the company, trading patterns of clients, their geographical distribution, product selection, etc.

The questionnaire had a total of 29 questions. The reference time period for review was from beginning of 2020 till August, 2021.

3. FINDINGS

The questionnaire elicited good response and 96% of the addressed companies and 100% of the active companies provided timely responses.

The findings of the survey can be summarized as below:

- a) 65% of the companies said that they were conducting separate risk assessment for TFS. For the remaining, it was part of business wide AML risk assessment.
- b) 100% of the respondent companies' risk assessment and compliance procedures were subject to audit.
- c) 81% of the companies had their risk assessments approvals at the level of CEO/Boards.
- d) About two-thirds of the companies had internal audits of the risk assessment process and about 20% had both internal and external audits.
- e) All except one company performed these audits either annually or at lesser intervals.
- f) 70% of respondents stated that they were using third party sanctions screening IT systems for screening for TFS designated names.
- g) 81% of respondent companies were doing screening on a daily basis irrespective of whether there was an update to the list of sanctioned names.
- h) It was noted that in 88% companies, screening was done by either the Compliance Officer/MLRO or by staff within the Compliance Dept. 3 respondents stated that screening was being done by the frontline staff or the onboarding team.
- i) As a result of screening, in 2020, the companies did not find any match, while in 2021, one company found a match, reported the match and had frozen client assets.
- j) It was also enquired whether the companies, being aware of their TFS obligations, were being pro-active and taking any steps over and above their mandatory obligations. 77% companies reported that they were screening against listed names on the OFAC or EURO sanctions lists as well.

- k) The participation of NPO clients was assessed. 81% companies responded that they did not have any NPOs as clients.
- l) One company confirmed that it had submitted a request for delisting in response to this question in the survey.
- m) Companies were requested to list the top 3 TFS related risks as perceived by them in view of their particular business profile and activity. The responses are tabulated here:

Risk	No. of times risk has been listed among top 3 risks
Client or customer risk	26
Country or jurisdiction risk	5
Beneficial Owner	5
Source of income	7
High value transactions	2
Non-resident clients	1

Almost all companies have listed risk emanating from clients or customers among their top 3 risks. This can be attributed to the fact that TFS Compliance is based on regular and consistent screening of sanctioned persons and hence the customer risk gains prominence.

5 companies have listed the geographical risk among their top 3 risks and one company specifically pointing out to the risk arising from non-resident clients.

5 companies have also listed the risk arising from a beneficial owner being on the sanctioned list as one of their top 3 risks.

4. SUGGESTED GOOD PRACTICES AND CONCLUSIONS:

- a) A substantial number of companies have focused on TFS risk separately from the AML/CFT risk and have obtained senior management approval of their risk assessment. It is pertinent to emphasize here that risk assessment forms the core of the risk based approach recommended for AML/CFT and TFS compliance. That being so, it is a good practice that the risk assessment is conducted on a firm wide basis, there is focus on assessment of TFS risk separately and most importantly, senior management is kept informed, they are aware and they approve of the specific risks faced by the company.
- b) Since a majority of companies are using third party systems for screening for sanctioned names, it is important to confirm the robustness and coverage of the third party screening system, especially with respect to their coverage of UAE domestic lists.
- c) It is also recommended that companies ensure the time lag by which the third party system gets updated whenever there is an update to the sanctioned entities lists, so as to avoid the consequences of not being able to detect a positive match on time.
- d) While deployment of screening systems would take care of the screening of lists and determining matches, the subsequent compliance related to reporting obligation should be built into the policy, procedures and systems of the company and responsibilities related to the same should be clearly defined.
- e) Substantial number of companies are also screening against sanctioned names in the OFAC and EC lists which is a good risk management practice.

- f) Most of the companies have confirmed that they are screening their databases on a daily basis and not only whenever there is an update, which is also a healthy compliance practice.
- g) It is recommended that procedures cover the aspect of periodically visiting and referring to the portal of the Executive Office of Export and Import Control in order to check for any updates requiring compliance or any guidance or typologies related to TFS compliance issued by them. Being proactive in this regard helps ensure robust compliance.