



Customer Due Diligence and Ongoing Due Diligence Recommendation 10

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When is Customer Due Diligence required?

- Establishing business relations
- Carrying out occasional transactions
 - (i) above applicable designated threshold (USD/EUR 15,000) or
 - (ii) that are wire transfers in the circumstances set out by the Interpretative Note to R. 16
- There is suspicion of money laundering or terrorist financing or
- The financial institutions has doubts about the veracity or adequacy of previously obtained customer identification data

Main requirements of CDD are unchanged:

- Identifying the customer and verifying its identity
- Identifying the beneficial owner and taking reasonable measures to verify its identity
- Understanding the purpose and intended nature of the business relationship
- Conducting ongoing due diligence

What is **new** for Rec. 10?



Greater specificity on:

- Measures to identify the beneficial ownership of customers that are legal persons or arrangements:
 - Notion of “reasonable measures”
 - Legal persons: step-by-step approach
 - Legal arrangements: list of natural persons to identify
- CDD measures to beneficiaries of life insurance policies:
 - Examples of possible lower & higher ML/TF risk factors
 - Examples of simplified & enhanced CDD measures



What is the **purpose** of identification and verification of the customer?

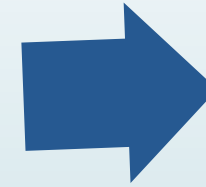
To prevent the unlawful use of legal persons and arrangements, by gaining a **sufficient understanding of the customer** to be able to properly assess the potential ML/TF risks

To take appropriate steps to mitigate the risks

But, how to reach this purpose?

Identifying the customer and verifying its identity

Identifying the BO of the customer and taking reasonable measures to identifying them



CDD

Type of information to Identify the customer and verify its identity

- ▶ Name, legal form and proof of existence – verification through certificate of incorporation, certificate of good standing, partnership agreement, deed of trust or other documentation from a reliable independent source
- ▶ Powers that regulate and bind the legal person or arrangement (e.g. memo and articles of association) as well as names of relevant persons having a senior management position in the legal person or arrangement
- ▶ The address of the registered office and if different a principal place of business.

Legal persons: step-by-step approach



Step 1

- Natural persons who ultimately have a controlling ownership interest

Step 2

- Natural persons exercising control through other means when:
 - there is doubt as to whether the natural person identified under step 1 is the beneficial owner
 - no natural person is identified under step 1

Step 3

- Natural person holding the senior management official position when:
 - no beneficial owner is identified under steps 1 and 2

Type of information to Identify the beneficial owners of the customer: (For Legal arrangements)

- Trusts – the identity of the settlor, the trustee(s), the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership)
- Other types of legal arrangements – the identity of persons in equivalent or similar positions.

CDD measures for beneficiaries of life insurance policies



- ▶ For beneficiary(ies) that are identified as specifically named natural or legal persons or legal arrangements – taking the name of the person
- ▶ For beneficiary(ies) that are designated by characteristics or by class(e.g. spouse or children at the time that the insured event occurs) or by other means (e.g. under a will) – obtaining sufficient information concerning the beneficiary to satisfy the financial institution that it will be able to establish the identity of the beneficiary at the time of payout.

CDD measures for beneficiaries of life insurance policies

- ▶ Information in (a) and (b) should be recorded and maintained in accordance with the provisions of R. 11 (Record keeping)
- ▶ ***Verification of the identity of the beneficiary(ies) should occur at the time of payout***



Ongoing Due Diligence

Financial institutions should be required to conduct ongoing due diligence on the business relationship, including:

- (a) scrutinizing transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the financial institution's knowledge of the customer, their business and risk profile, including where necessary, the source of funds

* Criterion 10.7 of the Methodology for Assessing Technical Compliance with the FATF Recommendations and Effectiveness of AML/CFT Systems



Ongoing Due Diligence

Financial institutions should be required to conduct ongoing due diligence on the business relationship, including:

- b) ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant, by undertaking reviews of existing records, particularly for higher risk categories of customers.

* Criterion 10.7 of the Methodology for Assessing Technical Compliance with the FATF Recommendations and Effectiveness of AML/CFT Systems

Risk Based Approach

- Risk examples are not mandatory elements of the FATF Standards but are included for guidance only.
- They are not comprehensive and may not be relevant in all circumstances.
- There are examples for higher risks, lower risks and risk variables



Examples of higher risk situations can be categorized as follows:

- ▶ Customer risk factors
- ▶ Country or geographic risk factors
- ▶ Product, service, transaction or delivery channel risk factors

Potentially high risk situations

Customer risk factors:

- The business relationship is conducted in unusual circumstances (e.g. significant unexplained geographic distance between the financial institution and the customer)
- Non-resident customers
- Legal persons or arrangements that are personal asset-holding vehicles
- Companies that have nominee shareholders or shares in bearer form
- Business that are cash-intensive
- The ownership structure of the company appears unusual or excessively complex given the nature of the company's business.

Potentially high risk situations

Country or geographic risk factors:

- Countries identified by credible sources, such as mutual evaluation or detailed assessment reports or published follow-up reports, as not having adequate AM/CFT systems
- Countries subject to sanctions, embargoes or similar measures issued by e.g. United Nations
- Countries identified by credible sources as having significant levels of corruption or other criminal activity
- Countries or geographic areas identified by credible sources as providing funding or support for terrorist activities, or that have designated terrorist organizations operating within their country.

Potentially high risk situations

Products, service, transaction or delivery channel risk factors:

- Private banking
- Anonymous transactions (which include cash)
- Non-face –to-face business relationships or transactions
- Payment received from unknown or un-associated third parties.

Examples of Enhanced CDD measures:



- Obtaining additional information on the customer (e.g. occupation, volume of assets, information available through public databases, internet, etc) and updating more regularly the identification data of the customer and beneficial owner
- Obtaining additional information on the intended nature of the business relationship
- Obtaining information on the source of funds or source of wealth of the customer
- Obtaining information on the reasons for intended or performed transactions

Examples of Enhanced CDD measures:



- Obtaining senior management approval to commence or continue the business relationship
- Conducting enhanced monitoring of the business relationship by increasing the number and timing of controls applied and selecting patterns of transactions that need further examination
- Requiring the first payment to be carried out through an account in the customer's name with a bank subject to similar CDD standards

Examples of Simplified CDD measures

- Verifying the identity of the customer and the beneficial owner after the establishment of the business relationship (e.g. if account transactions rise above a defined monetary threshold)
- Reducing the frequency of customer identification updates



Examples of Simplified CDD measures



- Reducing the degree of on-going monitoring and scrutinizing transactions based on a reasonable monetary threshold
- Not collecting specific information or carrying out specific measures to understand the purpose and intended nature of the business relationship but inferring the purpose and nature from the type of transactions or business relationship established.