

AML Tuesday's Session #12 on:

Conducting a Business Risk Assessment

- Luxury goods sectors (DPMS, Car dealers and Arts & Antique dealers)

April 30, 2024

Discussion Topics

01

Purpose and relevance of the BRA

02

BRA process, sources and phases

03

Practical examples (per BRA phase)



01

Purpose and relevance of the BRA

FATF International standards on combating ML and TF

Recommendation 1 & interpretive note:

- Countries should require FIs and DNFBPs to identify, assess and take effective action to mitigate their money laundering, terrorist financing risks and proliferation financing risks.

Recommendations 10/22 & interpretive note:

- FIs and DNFBPs should determine the extent of CDD measures using a risk-based approach (RBA):
 - Where the risks are higher, they should be required to conduct enhanced CDD measures
 - Where the risks are lower, they could be allowed to conduct simplified CDD measures

The difference between BRA and CRA

BRA

Identifies the risk of ML /FT-P-C posed to the business as a whole based on its activities

CRA

Assessment which specifically identifies the risks that each individual customer poses to the business

Monegasque legal framework

- **Art. 3 of Law No. 1.362**, as amended, lies down the obligation for FIs and DNFBPs to apply **appropriate vigilance measures according to their assessment of the risks presented by their activities** in terms of ML/FT-P-C.
- To this end, they shall **define and implement mechanisms for identifying, assessing and understanding the risks of ML, FT-P-C** to which they are exposed, as well as **a policy adapted to these risks**. In particular, they shall develop a risk classification and take appropriate measures to manage and mitigate their risks.
- Art. 3 further outlines the **categories of risk factors** and some main **sources** (e.g. NRA) to be taken into account in the risk identification and assessment.
- **Breaches of Art. 3 can be sanctioned** as per Art. 65 et seq. both at entity-level and at level of directors, employees, agents & persons acting on behalf of the entity based on personal involvement,

Recent AMSF Guidance on the BRA (February 2024)

LUTTE CONTRE LE BLANCHIMENT DE CAPITAUX, LE FINANCEMENT DU TERRORISME
ET DE LA PROLIFÉRATION DES ARMES DE DESTRUCTION MASSIVE ET LA CORRUPTION

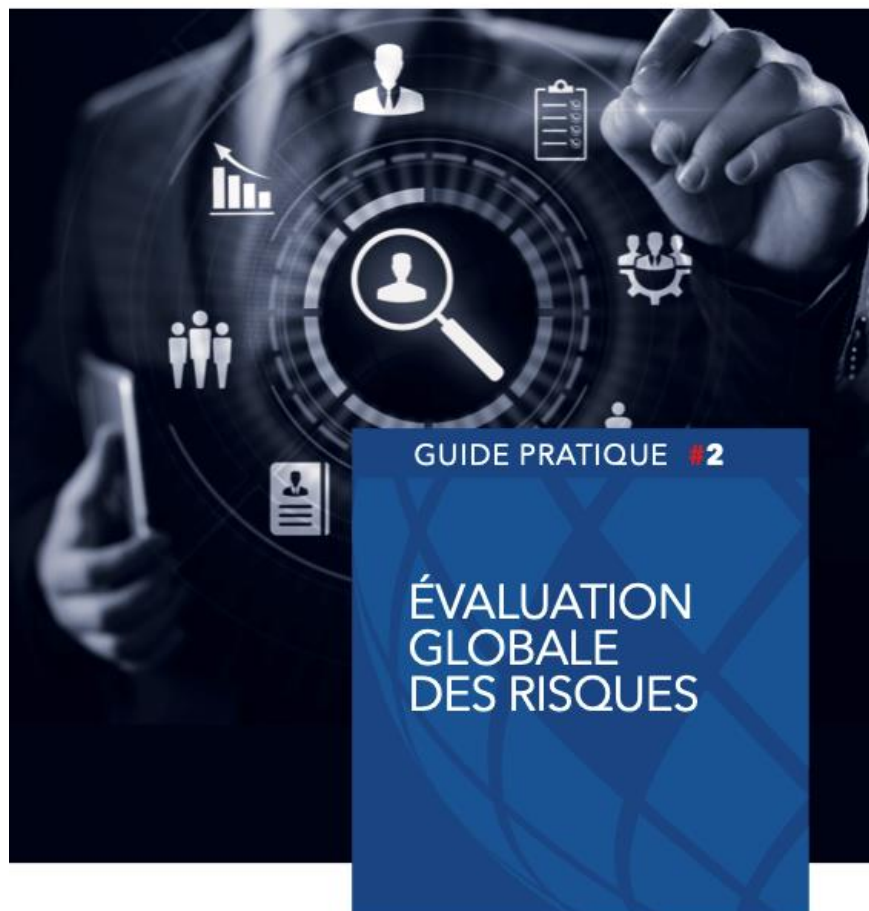


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BRA process, sources and phases

Requirements for development of BRA

Formalities

Documented

Explicit methodology

Overall conclusion on risk exposure

Transmitted to supervisor upon request

Content

Tailored & specific to the business

Distinction ML/TF

Inherent risk/controls/residual risk

Use NRA + other sources

Input from relevant persons/services

Approval & updates

High-level approval

Regular updates

Living document

High-level external sources on risks

International guidance & typologies

Country-level evaluation reports

Black lists & grey lists

Sanctions lists

Topical risk assessments

Monaco National Risk Assessment

Sectorial risk assessments

Threat & risk assessments of other jurisdictions/regions

Communications by competent authorities

Guidance published by AMSF

Information from professional sectorial bodies

Reports from media



Financial Action Task Force
Groupe d'action financière

**RBA GUIDANCE FOR DEALERS IN PRECIOUS
METAL AND STONES**

17 June 2008



FATF REPORT

**MONEY LAUNDERING
AND TERRORIST
FINANCING THROUGH
TRADE IN DIAMONDS**

October 2013



FATF REPORT

**Money laundering /
terrorist financing
risks and vulnerabilities
associated with gold**

July 2015



FATF REPORT

**Money Laundering and
Terrorist Financing in
the Art and Antiquities
Market**

February 2023



High-level external sources on risks

International guidance & typologies

Country-level evaluation reports

Black lists & grey lists

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ÉVALUATION NATIONALE DES RISQUES #2
NATIONAL RISK ASSESSMENT
 DE BLANCHIMENT DE CAPITAUX ET DE FINANCEMENT DU TERRORISME
 OF MONEY LAUNDERING AND TERRORIST FINANCING



76

Medium-high residual risk ratings for all three sectors
 DPMS, Car dealers & Arts/Antique dealers

High-level external sources on risks

International guidance & typologies

Country-level evaluation reports

Black lists & grey lists

Sanctions lists

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Reports from media



Brussels, 27.10.2022
SWD(2022) 344 final

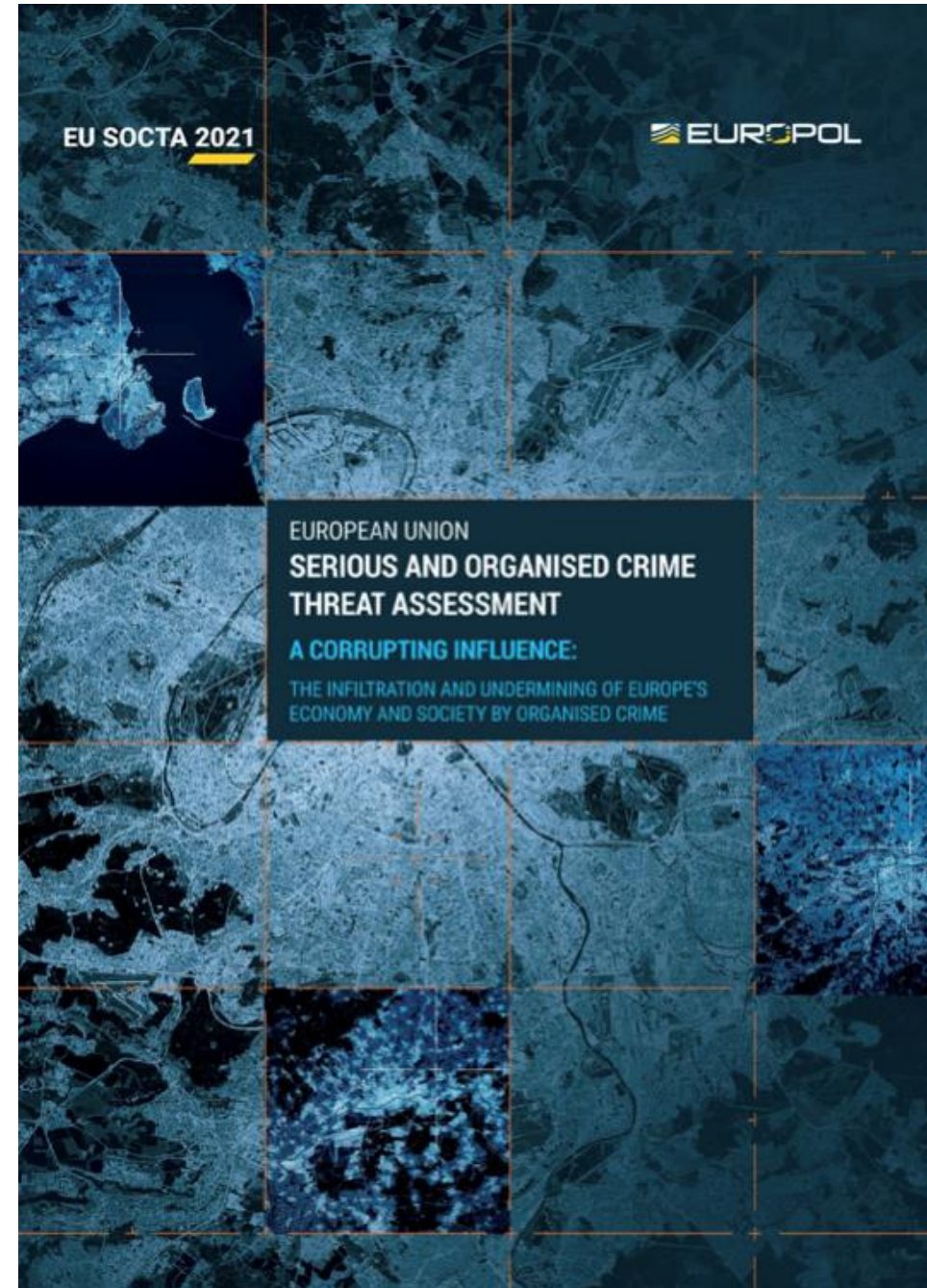
COMMISSION STAFF WORKING DOCUMENT

Accompanying the document

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the assessment of the risk of money laundering and terrorist financing affecting the
internal market and relating to cross-border activities**

{COM(2022) 554 final}



High-level external sources on risks

International guidance & typologies

Country-level evaluation reports

Black lists & grey lists

Sanctions lists

Topical risk assessments

Monaco National Risk Assessment

Sectorial risk assessments

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Communications by competent authorities

Guidance published by AMSF

Information from professional sectorial bodies

Reports from media

Significant & recent by Interpol & Europol authorities and media reports on large-scale ML operations involving the DPMS, Car & Arts/Antiquity sectors

Watches, cars and villas seized in cross-border fraud raids

5 April 2024
By Ian Aikman, BBC News

Share



Police across Europe have seized luxury flats, villas, Rolex watches and sports cars in raids on an alleged criminal network.

FRANCE Faits divers

Démantèlement d'un vaste réseau de blanchiment dans le sud-est de la France

Saisies de véhicules de luxe, de bijoux et d'œuvres d'art, et huit personnes mises en examen: à Marseille, la justice a annoncé jeudi le démantèlement d'un réseau soupçonné d'avoir blanchi depuis 2017 plus de 45 millions d'euros, provenant notamment du trafic de drogue.

AFP • Publié le 01/06/2023 à 13:15, mis à jour le 01/06/2023 à 13:15



4 mai 2023

Accueil > Actualités et événements > Actualités > 2023 > 60 personnes arrêtées et plus de 11 000 objets retrouvés au cours d'une ...

130 enquêtes sont encore en cours.

LYON (France) – Les services chargés de l'application de la loi ont arrêté 60 personnes et retrouvé 11 049 objets volés dans le cadre d'une opération internationale d'envergure menée contre le trafic d'œuvres d'art dans 14 pays membres d'INTERPOL.

Un vaste trafic de montres de luxe volées démantelé

Trente-trois personnes ont été interpellées en France et à Anvers, entre les 21 et 23 juin, membres, selon les autorités, d'un « réseau criminel international de grande envergure »

Par Luc Leroux (Marseille, correspondant)

Publié le 28 juin 2022 à 10h17 · Lecture 3 min · [Read in English](#)

BRA operational/internal sources - examples

Data on customers:
numbers,
residence, value of
activity

Data on beneficial
ownership of
customers

Results of analyses
of unusual &
suspicious
transactions

Findings of internal
or external auditors

Volume of
transactions

Proportion of cash
transactions

Product range and
characteristics

Reports from
compliance

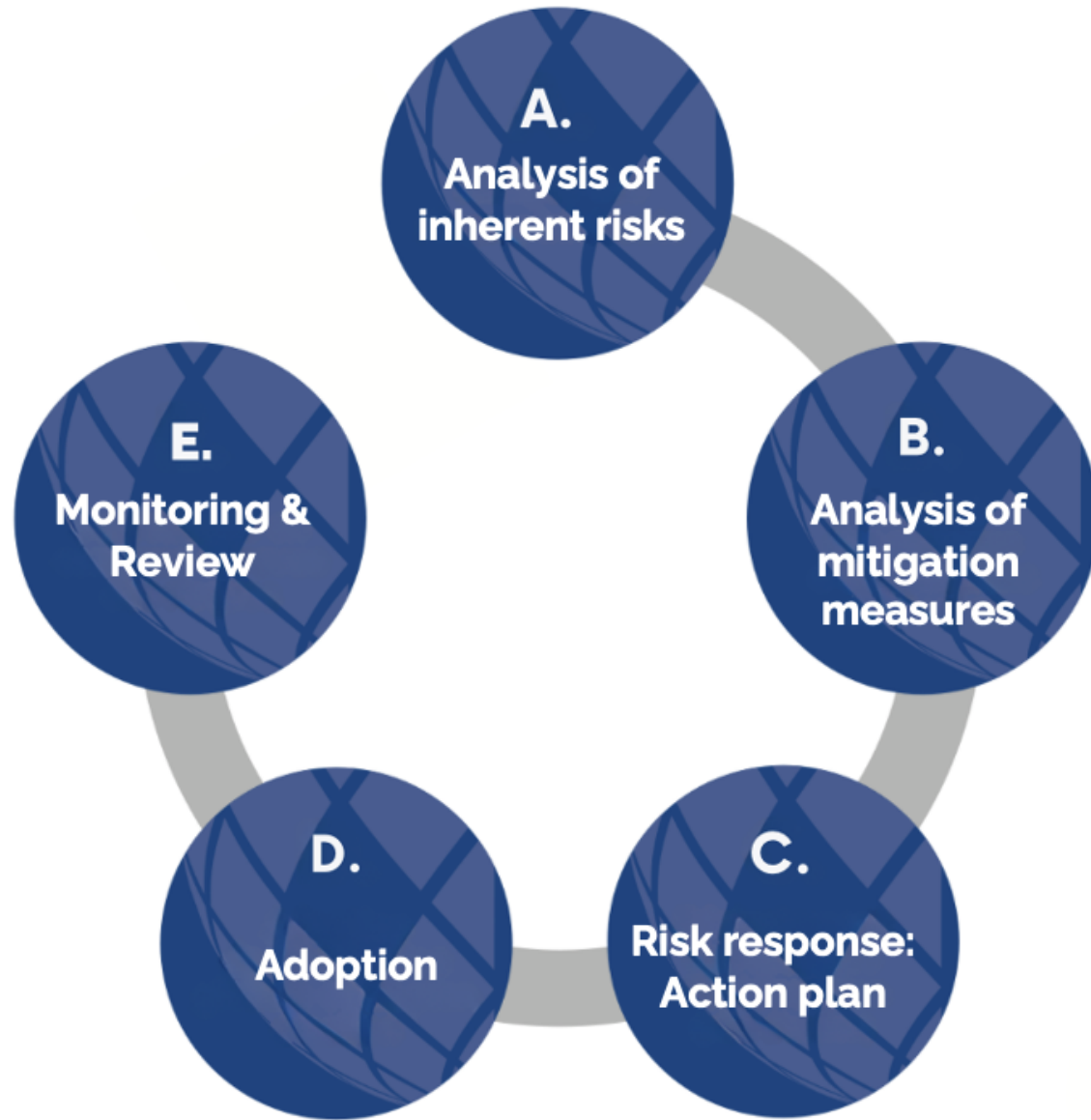
Exposure to
customers active in
higher-risk
industries/sectors

Size of the business

Use of third parties

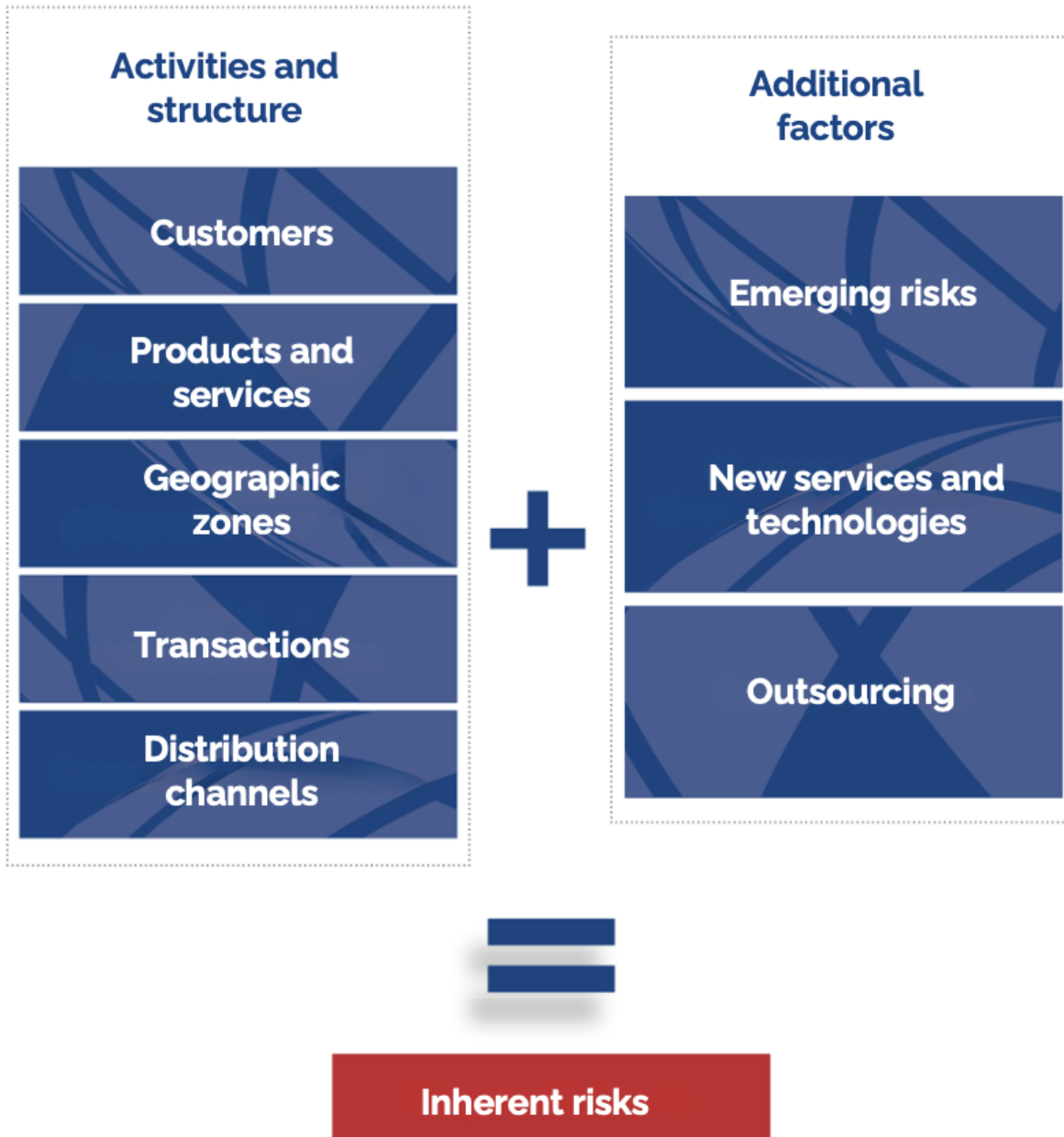
Extent of non-face-
to-face business

BRA phases



A. Analysis of inherent risks

- This phase relates to the **identification, assessment and understanding the inherent risks across the business**
- **Inherent risk** = the risk of ML/FT-P-C occurring without consideration of any controls or mitigant in place to alter the likelihood or impact of the risk
- For every risk factor, the obliged entity must identify the **risks**, evaluate the **probability** that the risks will materialise and measure their potential **impact** on the business
- A **range of risk factors grouped under different categories** should be assessed – see next slide
- Data used should include up-to-date **quantitative and qualitative information**
- Risk factors should be **weighted depending on their relative importance** for the business. There is no one-size-fits-all method for this. The AMSF guidance sets out considerations to be taken into account by obliged entities when deciding on the weightings.



International documents (FATF, MONEYVAL) & **AMSF guidance & outreach** (e.g. Practical Guide for BRA / Part 1 of the Generic Guidelines / previous AML Tuesday presentations) give a range of information on the **risk factors, topics and types of data** to be considered for each risk category.

Such examples are **not exhaustive** – additional factors and information may need to be taken into account according to the variety of activities and complexity of the business.

B. Analysis of mitigation measures

- This phase relates to an assessment of the **level and adequacy of the risk mitigation measures** which are in place within the business.
- Obligated entities must adopt **measures, policies, controls and procedures** that should prevent risks from materializing or mitigate their existence. The level of inherent ML/TF risk influence the type of controls and level of AML/CFT resources.
- Such controls should include **customer due diligence measures**, record-keeping & reporting measures, and measures relating to **risk management & internal controls**, such as client acceptance policies, procedures for customer risk assessment, compliance, independent testing of controls, standards for hiring and training employees, etc.
- The effects of such controls depend on their implementation in day-to-day operations. Therefore, their implementation should be **monitored on an ongoing basis**, to guarantee their effective application, determine their effectiveness and enable timely remediation of any gaps or issues.

Examples of information on controls to be considered

Since when has the control been implemented?

Dedicated resources to implement the control

Training provided to persons implementing the control

Level of oversight on the application of the control

Has the control been subject to independent testing?

Budget for EDD on (very) high-risk clients, e.g. obtaining external intelligence

Availability of reliable data on domestic & foreign BOs

Frequency of KYC reviews

Automatic versus manual controls

Periodic screening of whole customer database

Commercial databases used for sanctions & PEP screening

Responsibilities and timeframes for updating of sanctions lists

C. Residual risk response: Action plan

- Phase A & B should result in **the determination of the level of residual risk**: formed by the risks which remain after application of the controls.
- ML/TF/PF/C risk cannot be 100% eliminated regardless of how effective the control framework is.
- In this phase, the obliged entity should verify whether the residual risks to which it is exposed are aligned with its **risk appetite**: the level of risk that it is willing to accept.
- The entity should put an **Action Plan** in place following the identification and assessment of inherent risk & controls.



D. Adoption

- The BRA and the Action Plan should be formalized in a **written document** (on paper or digital format).
- The document should be **approved by senior management** and be made **available to AMSF** upon request.
- It is also important that **employees are made aware of the results** of BRA, for instance through the ongoing employee ML/TF training programme. This ensures that employees are aware of the main risks that their entity is exposed to and that they can effectively execute the policies, procedures and controls determined by senior management to mitigate the risks.

E. Risk monitoring and review

- As ML/TF/PF/C risks evolve constantly, the BRA is a **cyclical process** that should remain under regular review and updated on a periodic basis to ensure that **changing, new or emerging risks** are adequately taken into account.
- The BRA should be **updated periodically** on the basis of **(new) threats and vulnerabilities** that may be identified and take into account **any changes in the business model/clientele/activities** since the previous iteration.
- The BRA should be reviewed at least once a year. The exact scope/frequency of the updates should be **proportionate to the risks**. Reviews and updates should be **transparent and documented**.
- **Ad-hoc updates** are called for whenever there are **major developments** in management and operations (e.g. change in the business model, launch of a new product, implementation of new technologies, new geographic scope of business, change in clientele, risk exposure, etc.). FIs/DNFBPs are recommended to develop an **internal list of trigger events** that trigger such ad hoc review.



03

Practical examples (per BRA phase)

Examples per BRA phase



Assessing inherent risks

Focus on assessing inherent risks relating to distribution channels



Assessing controls

Focus on assessing controls relating to PEP customers



Develop action plan

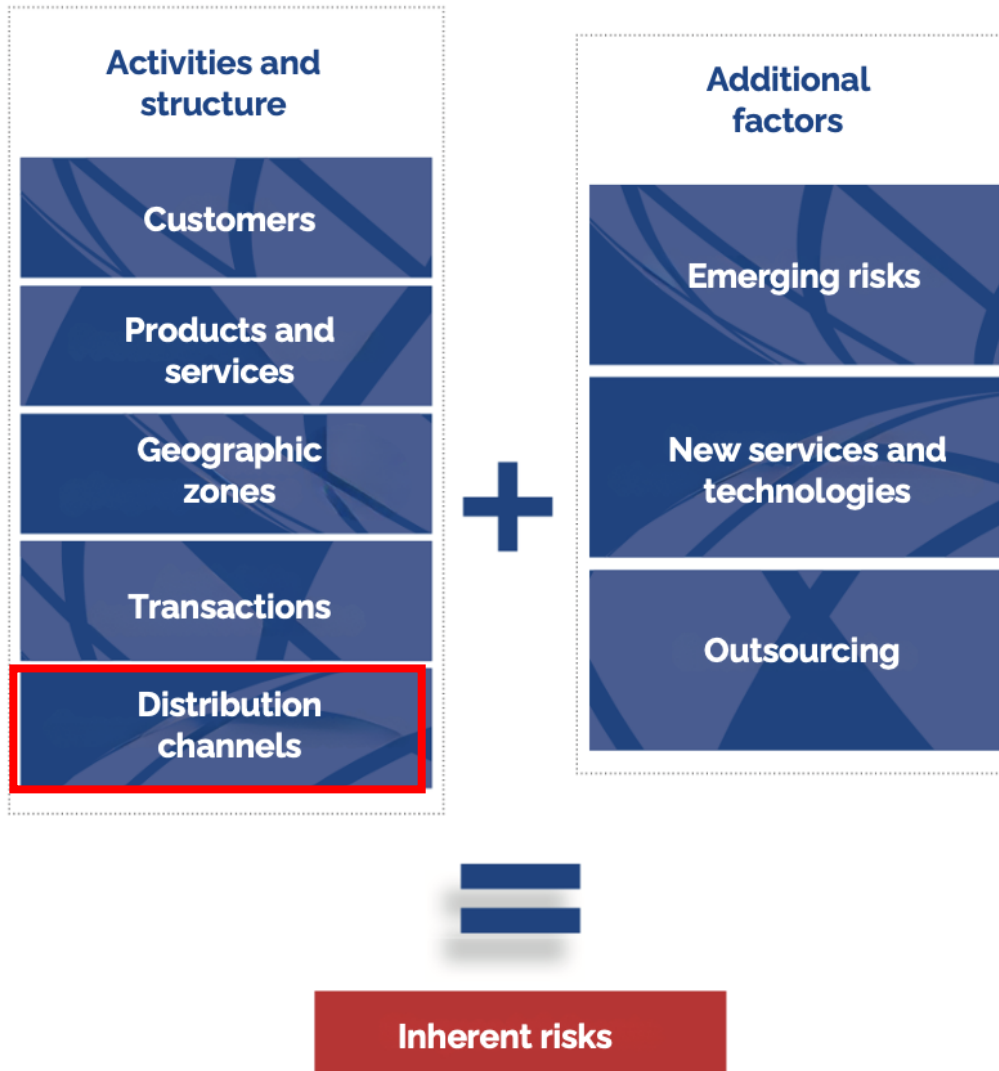
Focus on developing an Action Plan relating to HNWI's



Focus on assessing inherent risks relating to
distribution channels

→ *The examples on the next slides are targeted to Arts
& Antique sector, but may also have relevance for
DPMS & Car dealers*

Inherent risks: Risk categories & risk factors



- **FATF Report on ML/TF in the Arts & Antique markets** lists a range of ML/TF vulnerabilities relating to markets, traded objects & market participants, including **ML/TF risks relating to online distribution channels**.
- **Monaco NRA 2 on distribution channel risks in arts & antique sector:**

"In addition to the known ML/TF typologies involving this sector and already identified by the FATF, the sector is also at risk of money laundering due to the wide use of cash, **online sales**, the highly speculative nature of certain transactions, and the ability for customers to engage in financial transactions **anonymously**."

"The proportion of **sales conducted online** is following a rising trend, and these now account for a quarter of all sales."

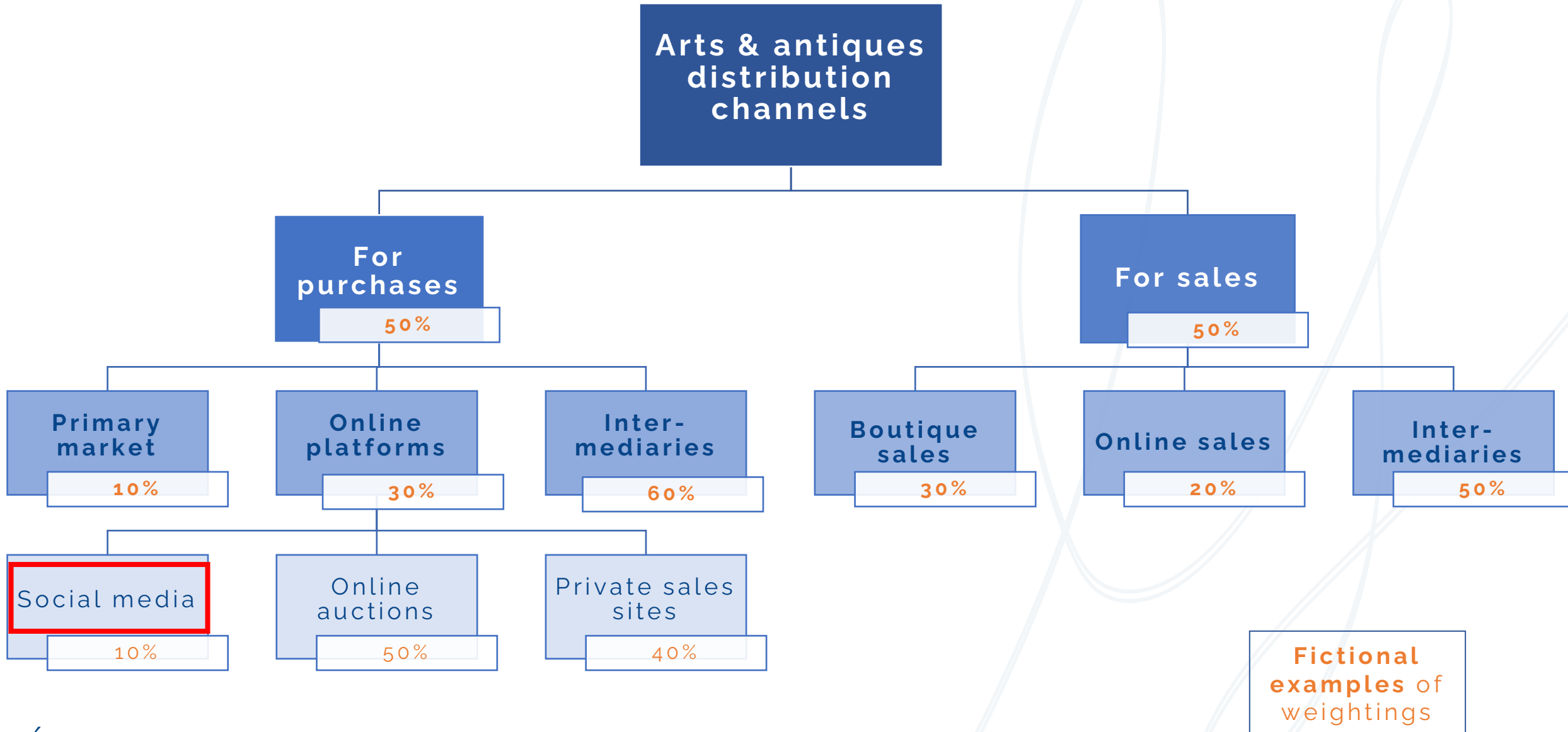
Examples of **qualitative factors** to be taken into account when assessing inherent risks associated to distribution channels:

- Use of face-to-face channels for forming business relationships
- Use of non-face-to-face channels for forming business relationships
- Delivery of services through internet (e.g. online sales)
- Recourse to client introducers
- Recourse to intermediaries
- Recourse to third parties for CDD
- New distribution channels
- Geographic location of introducers/intermediaries/third parties
- Client/counterparty (risk) profile for each distribution channel

Examples of **quantitative factors** to be taken into account when deciding on (sub-)weightings and ratings of inherent risks relating to distribution channels:

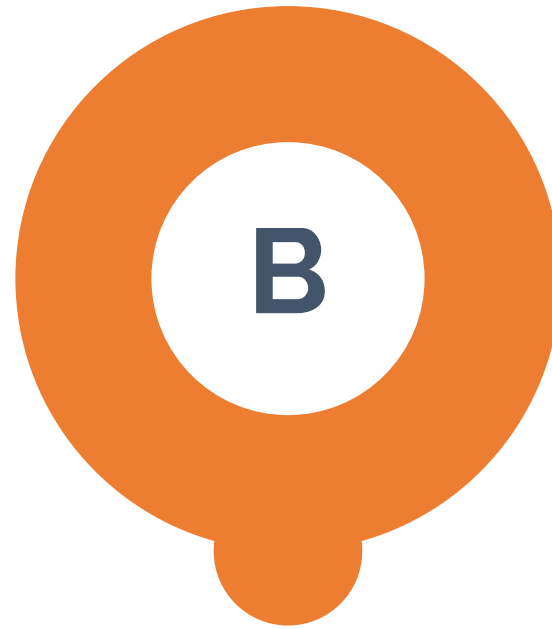
- Number of business relations initiated through each channel
- Number of transactions conducted through each channel
- Volume of transactions conducted through each channel
- Number of intermediaries/introducers/third parties

Simplified example of risk analysis for distribution channels - overview



Simplified example of risk factor analyses for purchase through social media (with fictional data)

Risk category	Distribution channel risk: Social media (purchases) – TF risks	Distribution channel risk: Social media (purchases) – ML risks
Risk factor	Purchase of antiquities through social media platforms from zones connected to terrorism	Purchase of stolen or counterfeited antiquities through social media platforms
Description	The company acquires antiquities through social media platforms originating from abroad, leading to the risk of dealing directly or indirectly with persons with a connection with terrorists or terrorist organisations or their facilitators	The company acquires antiquities over social media platforms offered by persons unknown to the company, leading to an increased risk of acquiring stolen or counterfeited products
Assessed risk level (1 to 5)	3 (Medium)	4 (High)
Justification (using combination of qualitative & quantitative data)	<p>As per the 2024 AMSF TF Awareness Guide, the 2023 TF NRA identified the overall risk for Monaco to be used for the movement of terrorism related funds as medium-high, and the specific risk of the use of high-value commodities to move value for terrorism related purposes also as medium-high. Arts & antiques are cited as commodities particularly exposed to this risk (see p. 11 of the Guide). TF risks are particularly elevated where artefacts originate from conflict zones (see EU 2022 sNRA, p. 156) and where they are proposed through social media (see 2023 FATF guidance, para. 48). As for the business, acquisitions through social media are rare. Over the past year, the company has acquired a total of 70 items through social media channels. Only 3 of them were high-value (>10.000 euros) and none of them were acquisitions related to artefacts originating from conflict zones or their neighbouring regions, moderating the risk level to medium (3/5).</p>	<p>Purchases of antiquities through social media raises risks that the antiquities are counterfeited or of stolen origin. As noted in the most recent Europol report on Serious & Organised Crime (SOCTA 2021), the growth and diversification of online marketplaces (social networks, classified ads websites) have offered criminals new opportunities to sell lower value items that were previously not in demand. Over the past year, the company acquired around 10% of its purchases of antiquities through social media when measured by value of purchase price (70 items). The majority of these items (>95%) were lower-value items (<10.000 euros), hence fitting with the described risk profile. In 2 cases, upon receipt of the items, the company suspected them to be frauds and has filed police reports (investigation ongoing). The relatively low value of the items involved compared to the overall portfolio of the company moderates the risk to level 4/5 rather than 5/5.</p>



Focus on assessing
controls relating to
PEP customers

Example Phase B: Assess controls relating to PEP risks

- **Monaco NRA 2 (2021)** points at difficulties amongst professionals in DPMS, motor vehicle & arts/antique sectors to detect high-risk clients, including difficulties to identify PEPs.
- **Fictive example of Company ABC:**
 - Company ABC assessed its PEP controls in its 2022 BRA as **weak**.
 - ABC's senior management then endorsed an Action Plan to introduce new controls (e.g. automated screening) and enhance existing controls (e.g. increase frequency of KYC reviews) to better manage risks relating to exposure to PEPs, which were implemented in the course of 2023.
 - The BRA update in 2024 is to analyse the **adequacy and strength of the new & enhanced PEP controls**.

Information on PEP controls to be considered

Since when has the control been implemented?

Dedicated resources to implement the control

Training provided to persons implementing control

Level of oversight on the application of the control

Has the control been subject to independent testing?

Budget for EDD for high-risk clients

Availability of reliable data on domestic & foreign BOs

Availability of reliable means for identification

Automatic versus manual controls

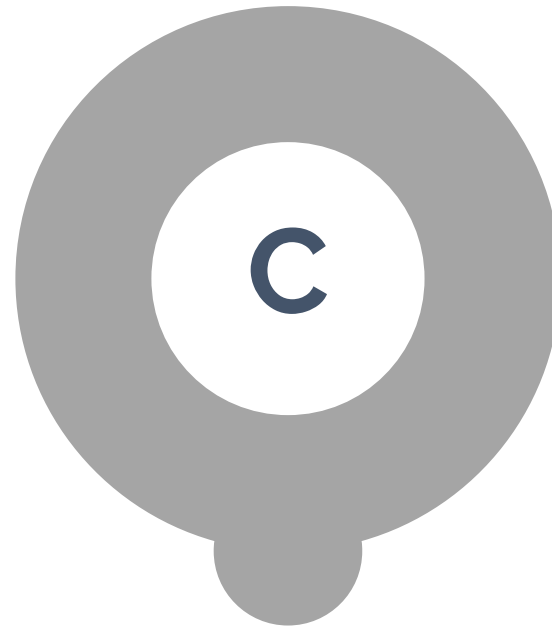
Periodic screening of whole customer database

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Responsibilities and timeframes for updating of sanctions lists

Simplified examples of Risk mitigation analysis for PEP controls (with fictional data/information)

Risk category	Risk factor	Weighted risk rating (1 – 15)	Risk mitigation measures in place	Estimated impact of mitigation	Residual risk (1 – 15)
Customer risk	Customer or BO of customer is a PEP, raising ML risks in particular in relation to laundering of proceeds of predicate offenses such as corruption, embezzlement and influence peddling	12 (High)	<p>Procedure has been updated (< 1 year) to describe more clearly the measures/process to be followed to detect PEPs</p> <p>There is a new process in place (<1 year) to screen the new potential customers & the whole existing customer database against a commercial database on a periodic basis.</p> <p>These measures have improved the PEP detection rate by +10%.</p> <p>The opinion/advice of compliance officer is henceforth sought for every new PEP client.</p> <p>There is senior management approval for every PEP client.</p> <p>Enhanced monitoring, incl. more frequent KYC updates</p> <p>PEP training for frontline staff</p> <p>Pending legacy issues in relation to 20% of files for PEPs who became recurrent clients prior to new tool</p> <p>Independent test of new control planned for Q3-2024</p>	10%	10.8 (High)



Focus on developing
an Action Plan
relating to HNWIs

Phase C: Fictional example of Action Plan for HNWI controls

- The BRA of Company XYZ identified gaps in controls relating to high-net worth individuals (HNWIs), resulting in inadequate mitigation of customer risks.
- The BRA Action Plan of Company XYZ therefore outlines concrete steps for **the improvement of controls relating to HNWIs**.
- Once the BRA & Action Plan are approved by senior management, the **internal procedures will need to be updated** to reflect the new approach to HNWIs and to assign the related roles/responsibilities. **Staff will be informed** of the changes and receive training through dedicated information sessions.
- The adequacy and strength of the enhanced controls as well as the sufficiency of the additional resources dedicated to implement them should be assessed at the **next iteration of the BRA**. It can then be considered to what extent the new controls are implemented in an effective manner and whether further changes/improvements are needed.

Simplified example of Action plan item to enhance controls for HNWIs (with fictional data/info)

Area of concern	Risks and controls relating to high-net worth individuals (HNWIs)
BRA results	Inherent risk score 15 (high-risk); Controls rated as Weak (low impact); Residual risk score 15 (high-risk)
General course of action proposed	The high inherent risk exposure to HNWIs is a matter of fact for the business and it is not intended to seek to lower the exposure. Therefore, in order to reduce the level of residual risk, the focus should be on improving the controls.
Concrete actions proposed to reduce the level of residual risk	<p>The following improvements of controls are proposed for consideration:</p> <ul style="list-style-type: none"> ➤ Update the internal AML/CFT procedures in order to: <ul style="list-style-type: none"> • Define what constitutes a HNWI in the context of the business's client base; • Outline the factors and thresholds to be considered when designating a customer/BO as HNWI; • Outline which enhanced due diligence measures are to be applied to HNWIs. ➤ Design and introduce an enhanced screening process to ensure that HNWIs are screened against public records/internet databases to determine whether they have a criminal history, are (associated to) PEPs, or are subject to negative media concerning possible criminal activity or connections. ➤ Recruit additional resources (1 fte) to support the implementation of EDD measures in relation to HNWIs as well as to implement other controls which are to be introduced or enhanced according to the Action Plan.
Proposed timelines for actions	<ul style="list-style-type: none"> • Update of the procedures to be finalised by the end of Q2-2024 • Existing resources to be trained and new resources to be operational by the end of Q3-2024 • Test phase of enhanced screening process to be implemented by Q4-2024 • New controls to be assessed at next iteration of BRA foreseen in Q1-2025



*Thank you for your
time*

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Next Session:

28.05.2024

Topic:

Customer Risk
Assessment

Today's Host: Tamar Goderdzishvili

Today's Presenter: Suzanna van Es