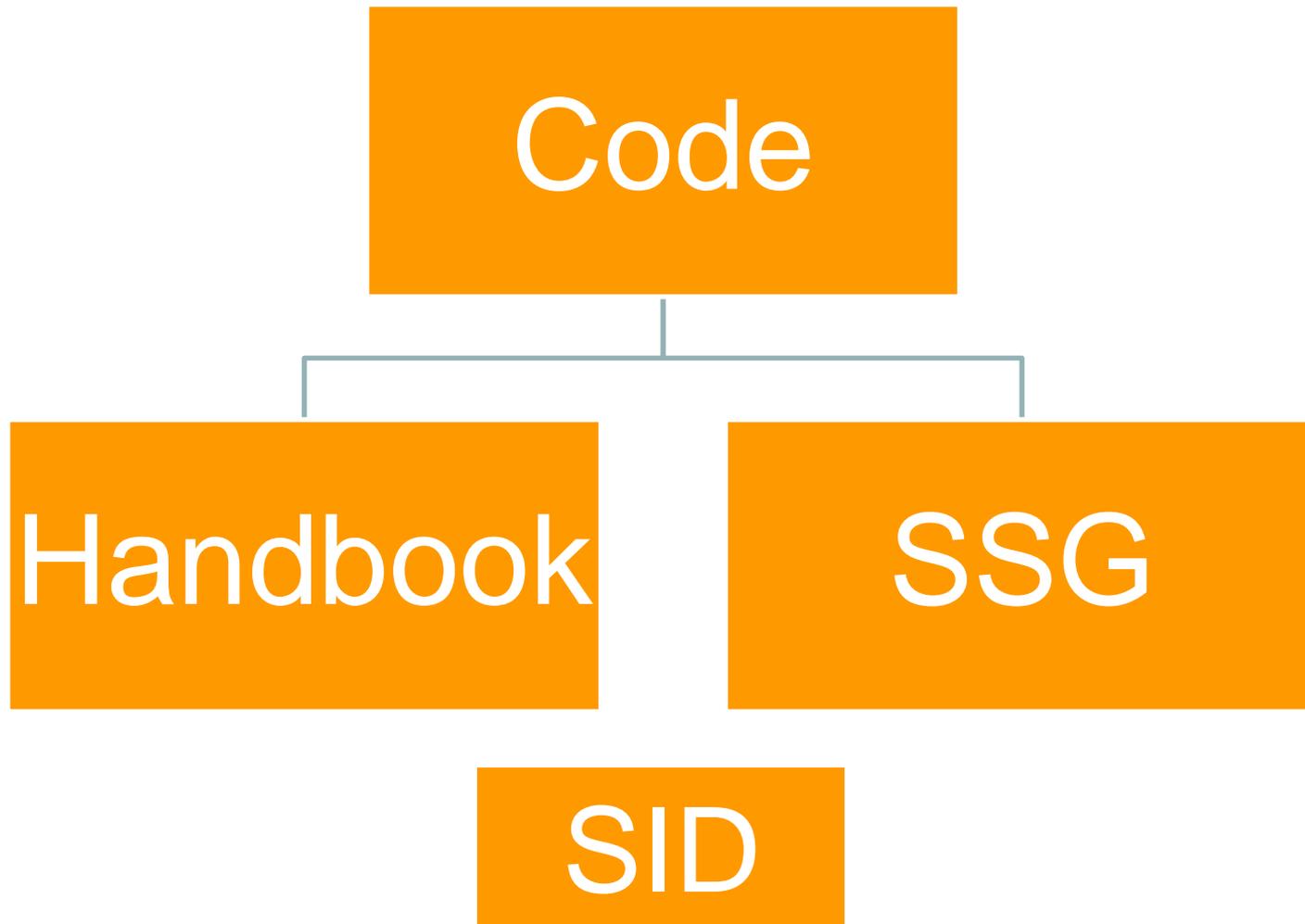




The FSA's updated AML/CFT Handbook

October 2021

The updated Handbook



Significant focus on risk based approach

- “A reasonable, proportionate and risk based approach” (1.1)
- “all of the procedures and controls required to be established by relevant persons including risk assessments, customer due diligence (“CDD”), compliance and record keeping as well as some miscellaneous requirements must be risk based” (2.2.2)

Significant focus on risk based approach

- “Relevant persons should be able to explain the effectiveness of their AML/CFT procedures and controls and how those procedures and controls are commensurate to the risks identified”
- “The BRA should form the basis of a relevant person’s risk based approach and its risk appetite making clear the types of risk and the risk level the relevant person is prepared to accept”

Significant focus on risk based approach

- “Risk assessments and mitigation measures are in a continuous feedback loop”

No set timeframe for risk reviews

- “Setting a date for periodic CDD/ECDD reviews on a risk sensitive basis. The depth and breadth of CDD/ECDD to be reviewed and the frequency of such reviews being determined per the risk assessments, where higher risk customers are reviewed more frequently and to a greater degree in more detail.” (2.2.6)

No set timeframe for risk reviews

- “Reflecting new/emerging risks, risks that have increased or changes in circumstances (where appropriate) within the risk assessment(s) as soon as possible” (2.2.6 and 3.4.6.1)
- “the CRA must be viewed as a living document that develops as more documents, data and information is obtained for that customer” (2.2.9.1)

What does 'meeting a customer' mean?

- “relevant persons will need to have clearly established policies and procedures as to what it means, in their view, to meet a customer. This is both in respect of methods used to meet a customer and, where a customer is a non-natural person, in determining which natural persons should be met in any particular case”
(2.2.9.2)

What does 'meeting a customer' mean?

- “Where the relevant person is determining whether an introducer has met the customer the relevant person will need to understand what “meeting the customer” means to the introducer and whether the processes and procedures they have followed in any particular case would satisfy the relevant person’s own policies and procedures for meeting a customer” (2.2.10.4)

Support for digital identity

- “In addition, both the Code and this guidance are technology neutral, so provided a relevant person can demonstrate the sources used enable them to comply with their CDD obligations and are commensurate with the ML/FT risks posed by the business relationship/occasional transaction, relevant persons can use alternative sources such as new technologies and innovative solutions”
(3.3.4)

Significant change to position on certification



- “a suitable certifier may aid relevant persons to establish the independence and reliability of the documentation” (3.3.4.4)
- “assessing the reliability and independence of certified copy source documents involves assessing both the certifier and the document itself. The results of the BRA and CRAs and the reliance to be placed on the certified documents will be primary considerations” (3.3.4.4)

Significant change to position on certification



- “relevant persons should establish their own list of the types of certifiers they would consider suitable, bearing in mind the principles and considerations set out in this guidance. Such lists should be maintained and reviewed to ensure they continue to be appropriate taking into account the BRA, CRAs and TRA and any reviews of these risk assessments” (3.3.4.4)

Significant change to position on certification



- “Relevant persons will also need to ensure the certifier is clearly identifiable, contactable and accountable”
(3.3.4.4)

Wider position on sanctions

- “Relevant persons should check a customer’s (including beneficial owner’s and controller’s where appropriate) nationality, residency, expected activities and source of funds to ensure that they are not subject to any relevant financial sanctions both at the outset of the relationship and also on an ongoing basis” (3.3.8)

Impact on ID & V procedures

- “Relevant persons must take a risk based approach and (where not otherwise required by the Code) consider verifying the identity of persons able to exercise a high level of control over the customer or where other high risk factors are present” (3.4.5.4)

Impact on ID & V procedures

- “It is for relevant persons to make their own reasoned judgements in any particular case as to the extent of identity information to gather, and it is for relevant persons to ensure they can justify their decisions. Adequately recording the decisions taken as well as the reasons for the decisions is essential in enabling relevant persons to do this” (3.5)

Impact on ID & V procedures

- “For the most part, the Code does not prescribe which pieces of identity information must be verified and nor does this guidance, except where explicitly required by the Code or other legal (including AML/CFT) obligations....The risk based approach allows flexibility regarding the extent of verification measures to undertake, such as which specific pieces of identity information to verify and methods to use” (3.6)

Removing PEP status

- “If, following a review of the CRA a relevant person determines that an individual should not be treated as a PEP, they should ensure that a clear and detailed rationale explaining this is recorded” (3.8.12)
- “Subjecting the decision (to change the classification of an individual from PEP to non-PEP status) to a senior management review and approval may assist relevant persons to manage and mitigate their ML/FT risks and ensures consistency in approach” (3.8.12)

More risk based approach to AOBO

- How you satisfy yourself that the allowed business has the appropriate standard of CDD procedures is risk based (4.3.4.1)
- Annual testing of appropriateness of using the concession is a minimum. Document why the minimum is appropriate in view of the risks (4.3.5)
- No set AOBO certificate

More risk based approach to AOBO

- “the receiving regulated person and the allowed business should have a clear understanding of each other’s CRA processes and thresholds. Receiving regulated persons should have confidence in the allowed business’s CRA procedures such that they are confident that they will not inadvertently take on the underlying clients of their customer without the mitigations that they would consider necessary if that underlying client were taken on by the receiving regulated person direct. Confirmation from the allowed business to the receiving regulated person should be in writing.” (4.3.4.2)

Compliance monitoring

- “Planned monitoring programmes must be appropriately recorded so that staff know when and to what depth monitoring checks are to be undertaken for any particular customer. Whether monitoring programmes are recorded centrally or attached to individual client files is for relevant persons to decide depending on what they consider will most enable staff to operate the procedure for that particular customer as planned, and ensure they can demonstrably meet the Code’s requirements” (3.4.6.6)

Compliance monitoring

- “Relevant persons’ procedures must ensure that ongoing monitoring that has been undertaken on a business relationship is properly documented. This includes the process and analysis undertaken for each relationship as well as the outcomes” (3.4.6.7)

Staff screening

- “Relevant persons should document the steps taken to satisfy the requirements of the Code, including any information and confirmations obtained. Relevant persons should also document where they have decided not to, or it has not been possible to, obtain the information they would generally request, including the reasons why this is the case.” (6.2)

AML/CFT training

- “Training carried out by relevant persons should be designed to mitigate potential AML/CFT risks occurring by, at or through the relevant person as well as ensuring that staff have an understanding of the AML/CFT environment” (6.3)
- “Training must be risk sensitive and relevant to a person’s role” (6.3)

AML/CFT training

- “Consequently, though not explicitly stated in the Code, relevant persons should also ensure that employees and staff have an appropriate level of knowledge regarding the relevant person’s products and services, what their ‘normal use’ is and how they may be abused for the purposes of ML/FT” (6.3)

Potential slip and trips

- Procedures for developing, documenting and maintaining AML/CFT procedures (2.1.2)
- Recorded procedures and controls for BRA, CRA, TRA (2.2.3)
- Capturing the rationale for any variation to procedures when these are updated (2.2.3)
- Introduction of new technologies by Group (2.2.11)

Potential slip and trips

- Documenting who your customer is and whether they're acting for another person (3.4.5)
- Independence of ongoing monitoring (3.4.6)
- Instructions for staff on what to do if (3.4.6.1)
 - CDD is out of date, inaccurate or inappropriate
 - CDD review changes risk rating to high/identifies a PEP/removes previous concession
- Maintaining the status quo without documenting why that's appropriate for the risks faced (3.6.3)

Potential slip and trips

- Honorary consuls (3.8.9)
- Compliance monitoring procedures approved by senior management (6.1)

Helpful guidance

- Risk assessments and risk weightings (2.2.4.1.1 and 2.2.4.2.1)
- Group BRA (2.2.8.1)
- What should be in a BRA (2.2.8.3)
- Risk factors for CRA (2.2.9.2)
- What should be in a TRA (2.2.11.2)
- Digital identity (3.3.4.5)
- Unusual activity (3.4.6.4)

What next?

- Update training records
- Have a plan
- Review AML/CFT procedures, documents, processes etc
- SSG

- Sinead@dq.im