

Private Banking Business Models Outreach Conduct Supervision and Enforcement

5 March 2024

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Legal Disclaimer

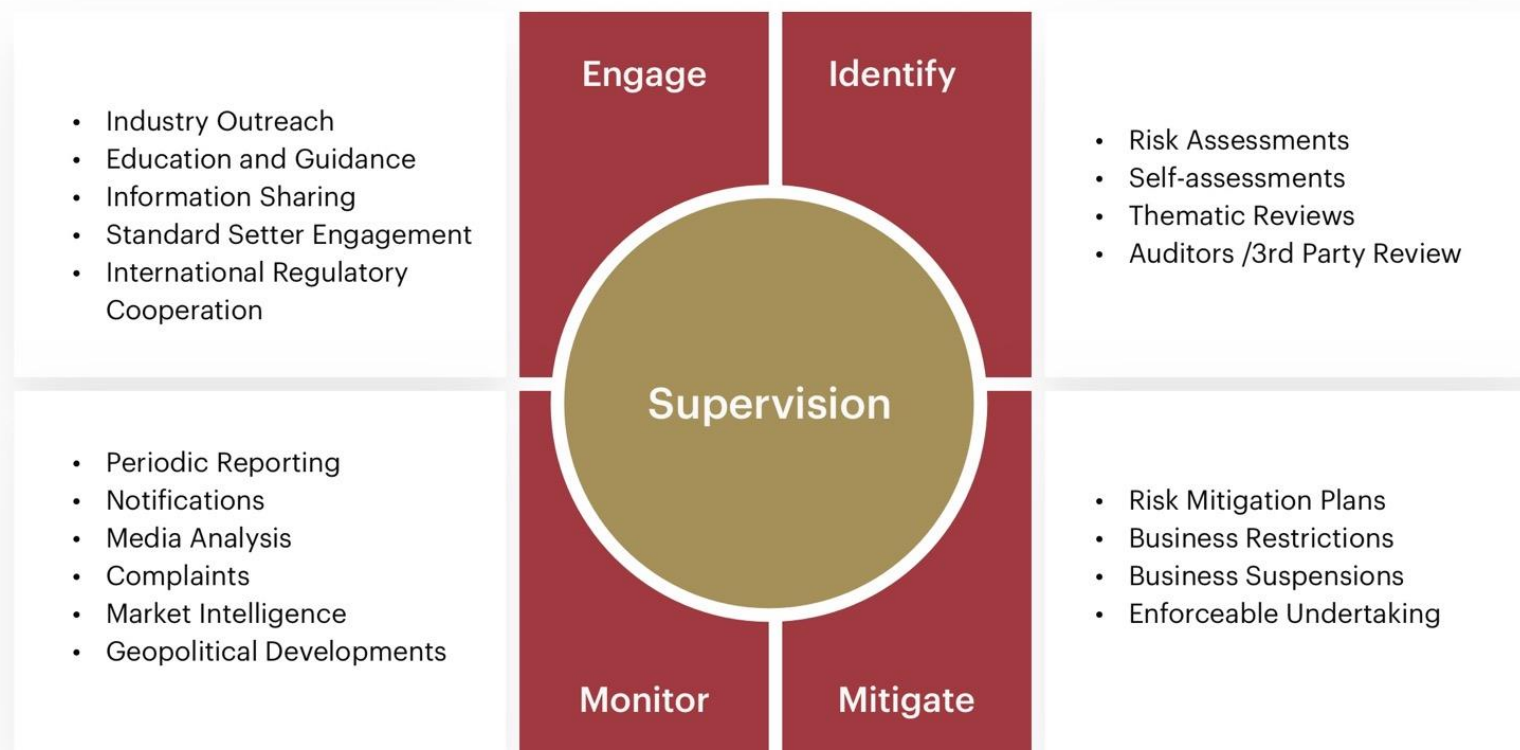
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Opening Remarks

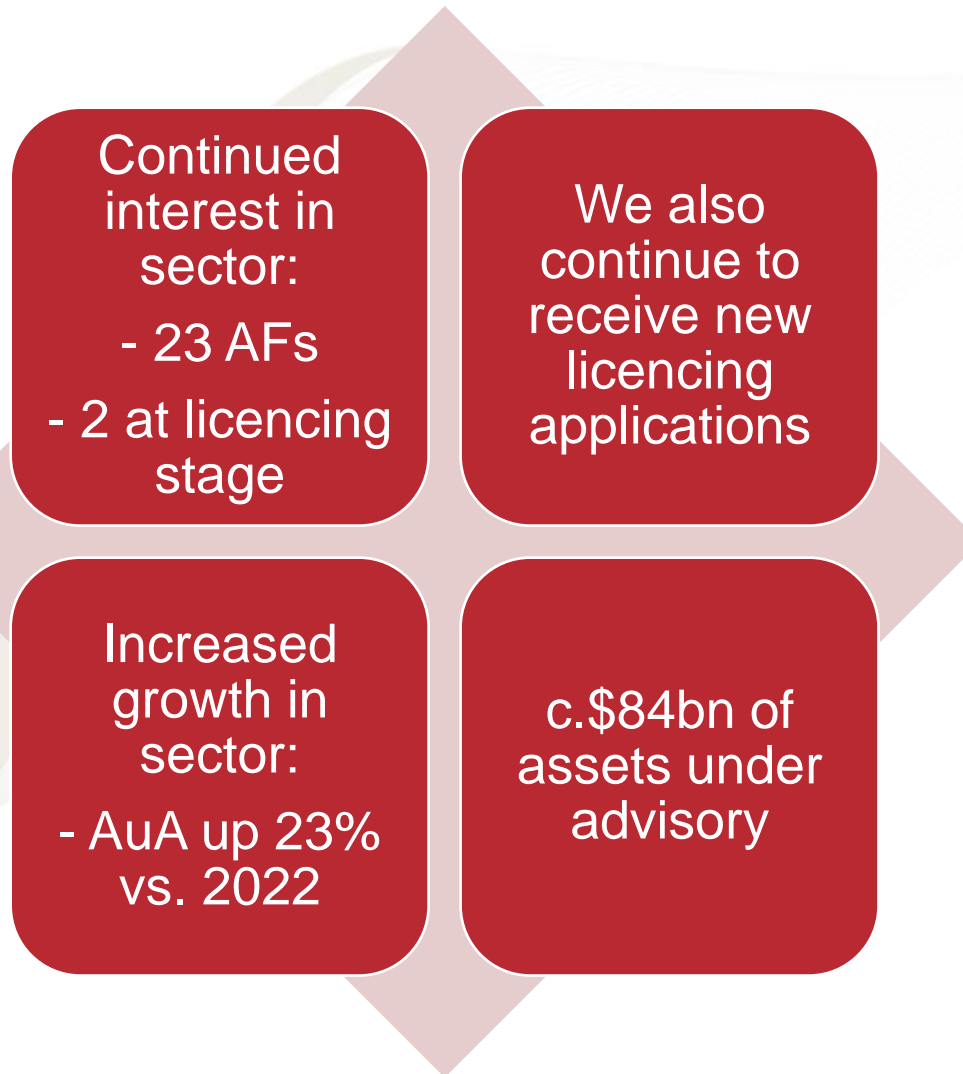
Chris Cameron
Director, Conduct Supervision

Supervision: Risk Based Supervisory Approach



Dear SEO Letter dated 23 February 2024 - Key Themes and Findings from 2023 DFSA Risk Assessments: Private Banking Business Models

Supervision: Private Banking Sector in Context





Supervision: Key Themes & Findings (Conduct)

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1. Governance
arrangements

3. Compliance
with
suitability
requirements

5. Outsourcing
and reliance
on Head
Office/Group
entities

2. Resourcing
of compliance
function

4. Client
classification
processes
and
procedures

6. Handling of
staff related
misconduct

Supervision: Key Themes & Findings (Conduct)

1. Governance arrangements – GEN 4.2.11, 5.2, 5.3.2, 5.3.3

- Lack of clarity on roles, responsibilities and reporting lines of senior management.
- Particular care needed where senior management have dual reporting lines at firm and Group level.

Actions:

- Firms must review the adequacy of their current governance arrangements to ensure they are appropriate and aligned to the nature, scale and complexity of their business activities.

Supervision: Key Themes & Findings (Conduct)

2. Resourcing of compliance function - GEN 5.3.7, 5.3.9

- Inadequate resourcing levels and capacity of the compliance function.

Actions:

- Firms must review the adequacy of their current compliance resources, particularly in light of the pace of business growth. Where appropriate, firms should strengthen their compliance functions with additional resources.

Supervision: Key Themes & Findings (Conduct)

3. Compliance with the suitability requirements - COB 3.4

- Suitability assessments were generic and lacking in detail.
- Tick-box approach adopted in some cases.
- Lack of documented rationale as to why one product had been recommended over another.

Actions:

- Firms must review the adequacy of their suitability frameworks with any deficiencies addressed as a **matter of priority**.

Supervision: Key Themes & Findings (Conduct)

4. Client classification processes and procedures - COB 2

- Knowledge and experience assessments found to be unsatisfactory.
- Lack of documented rationale and/or supporting evidence.
- Another area where a 'tick-box approach' was being taken by some firms.
- Lack of evidence of monitoring and challenge by compliance function.

Actions:

- Firms must review the adequacy of their client classification processes and procedures as a **matter of priority**.

Supervision: Key Themes & Findings (Conduct)

5. Outsourcing & reliance on Head Office/Group entities - GEN 5.3.21

- Failure to properly tailor Group policies and procedures to meet local/DFSA requirements.
- Relevant DIFC staff not demonstrating an adequate understanding or oversight of functions outsourced to Group entities.

Firms are reminded they cannot outsource their regulatory obligations on outsourcing and remain accountable.

Actions:

- Firms must review their oversight arrangements of key functions or activities outsourced to Head Office/Group entities and ensure they meet DFSA requirements.

Supervision: Key Themes & Findings (Conduct)

6. Handling of staff related misconduct - GEN 5.3.18/19

- Weaknesses in recruitment processes, including background checks.
- Delays in dealing with staff misconduct or failure to take any disciplinary action at all.
- Deficiencies in implementing compliance training for staff.

Actions:

- Firms must review their systems and controls relating to staff and agents. This includes HR disciplinary processes and staff training programs.

Supervision: Key Themes & Findings (Financial Crime)

Supervision: Key Themes & Findings (Financial Crime)

**1. Assessing
AML risks**
a) business
b) customers

**3. Enhanced
Customer
Due Diligence**

**5. Suspicious
Activity
Reports**

**7. AML
Training and
Awareness**

**2. AML
systems and
controls**

**4. Ongoing
Customer
Due Diligence**

6. Outsourcing

Supervision: Key Themes & Findings (Financial Crime)



1a) Assessing Business AML Risks – BARA - AML 5.1

- Lack of a clear business risk assessment and scoring methodology.
- No inherent risk, controls effectiveness and/or residual risk ratings.
- Too generic and not sufficiently granular.
- No consideration of quantitative data to support inherent risk results.
- Failure to include Targeted Financial Sanctions (including proliferation financing) risk.
- Not considering the UAE NRA outcomes.

Actions:

Firms are reminded of their obligation to take appropriate steps to identify and assess money laundering, terrorist financing and proliferation financing risks to which its business is exposed, taking into consideration the nature, size and complexity of its activities as set out in AML 5.1.

Supervision: Key Themes & Findings (Financial Crime)

1b) Assessing Customer AML Risks - AML 6.1

- Unclear customer risk assessment / scoring methodology.
- CRA methodologies omitted some risk factors set out in AML 6.1.1 e.g.;
 - Nature of business
 - Product or service
- Customer AML risk rating was amended during ongoing review with no clearly documented reasons.

Actions:

Firms must establish an appropriate customer risk assessment framework.

Supervision: Key Themes & Findings (Financial Crime)

2. AML systems and controls - AML 5.2

- AML policy and procedures for some firms not customised to the firm's business activities and processes.
- Reliance placed on group Sanctions procedures but lacking detailed local operational procedures to comply with the UAE TFS requirements.
- Lack of Management Information / metrics covering key AML processes, hampering effective local senior management oversight.

Actions:

Firms should ensure they establish and maintain effective AML policies, procedures, systems, and controls which are tailored to the nature, scale, and complexity of its business activities.

Supervision: Key Themes & Findings (Financial Crime)

3. Enhanced Customer Due Diligence - AML 7.4

- Deficiencies in corroboration of source of funds (SOF) and source of wealth (SOW) for high-risk clients.
- Common findings observed:
 - limited SOW journey narratives;
 - lack of supporting evidence documents; and
 - over-reliance on benchmarking or inappropriate application of benchmarking.

Actions:

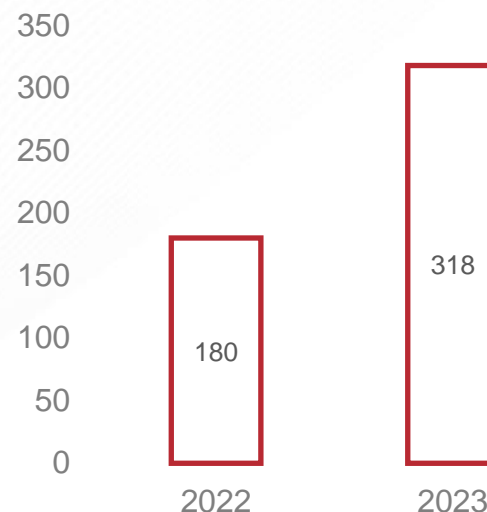
Firms to implement robust EDD procedures, including appropriate corroboration steps, and to ensure compliance by relevant employees responsible for conducting customer due diligence and those approving high risk client files.

Supervision: Key Themes & Findings (Financial Crime)

4. Ongoing Customer Due Diligence - AML 7.6

- Failure to conduct periodic CDD review as per the cycle established by the firm, resulting in huge backlogs.
- Ineffective performance of periodic CDD reviews – outdated ID&V documents and absence of commentary on transactional activity patterns.

How many customers was the Relevant Person NOT able to complete the review of CDD for applicable customers during a periodic review in the relevant period?

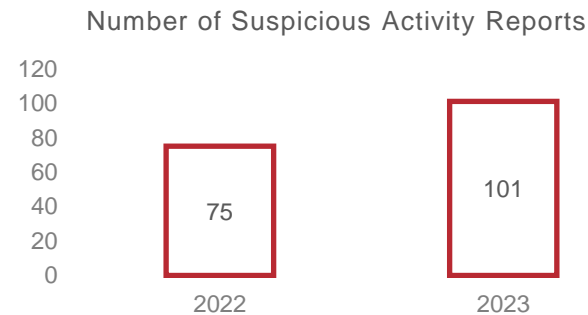
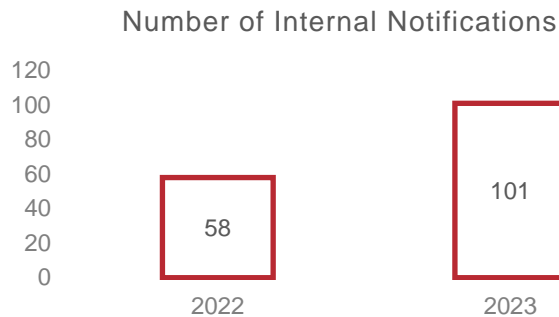


Actions:

DFSA expects firms to implement effective procedures, systems and controls, and monitoring mechanisms to ensure ongoing customer due diligence is conducted effectively and in a timely manner.

Supervision: Key Themes & Findings (Financial Crime)

5. Suspicious Activity Reports - AML 13.2/13.3



- Instances where filed STRs / SARs lacked detailed context and key information such as account balances, assets under management, source of wealth and other connected accounts.

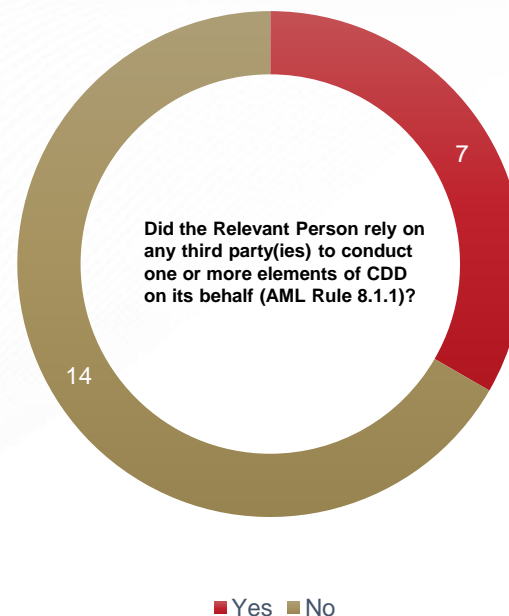
Actions:

A firm must establish and maintain policies, procedures, systems, and controls to monitor and detect suspicious activity or transactions in relation to potential money laundering or terrorist financing and report to the FIU.

Supervision: Key Themes & Findings (Financial Crime)

6. Outsourcing - AML 8.2

- Lack of clearly defined service level agreements (SLAs) for internally outsourced AML processes.
- MLRO and local senior management oversight and assurance lacking over outsourced AML processes.



Actions:

Firms should ensure that there is a clearly documented binding agreement, including service standards, with any outsourced service provider.

Supervision: Key Themes & Findings (Financial Crime)

7. AML training and awareness - AML 12.1

- Targeted financial sanctions risk training for staff was either absent or insufficiently covered in the firm's training program.
- Lack of tailored and specialised training for front line and support staff involved in client onboarding and ongoing customer due diligence processes.

Actions:

Firms are reminded to put in place a comprehensive AML training and awareness program which is appropriately tailored to the firm's activities.



Enforcement Update

Patrick Meaney
Managing Director, Head of Enforcement

Enforcement Update

Case Study 1 – Bank of Singapore Limited (BOS) – Findings

- Inadequate:
 - AML risk assessments and client risk ratings;
 - Customer Due Diligence (CDD) and Enhanced CDD practices;
 - Identification of Clients' sources of wealth and sources of funds;
 - Suspicious Activity Reporting.
- Also acted outside scope of licence (Long Term Insurance contracts).

Enforcement Update

Case Study 1 – Bank of Singapore Limited (BOS) - Outcome

- November 2022 fined USD 1,120,000 – reduced from USD 1.6 million due to 30% settlement discount.
- Enforceable Undertaking (EU):
 - Undertake remediation exercise;
 - Engage external compliance expert to assist with and verify remediation.

Enforcement Update

Case Study 2 – Mirabaud (Middle East) Limited – Findings

- AML systems and controls did not pick up (nor report) possible layering activity:
 - Nine interconnected Client accounts;
 - Same Relationship Manager;
 - Accounts operated by same group of individuals;
 - Funds deposited from third party accounts;
 - Funds transferred to companies with opaque ownership structures and bank account in unrelated jurisdictions.
 - For commercial purposes even though bank policy did not allow.
 - Funds flowing repeatedly between connected entities.

Enforcement Update

Case Study 2 – Mirabaud (Middle East) Limited – Outcome

- Fine USD 3,022,500 – July 2023.
- Included disgorgement of USD 975,000.
- Settlement therefore 30% discount.

Enforcement Update

Case Study 3 – FFA Private Bank (Dubai) Limited – Findings

- Inadequate systems and controls to identify, assess and report suspicious trading;
- Limited STORs filed with DFSA;
- Possible facilitation of market abuse;
- Much of the trading by the two Clients was potentially suspicious;
- FFA outsourced monitoring of Client trading but failed to effectively supervise.

Enforcement Update

Case Study 3 – FFA Private Bank (Dubai) Limited — Outcome

- Fine USD 373,842 – November 2023.
- Settlement therefore 30% discount.

Enforcement Update

Case Study 4 – R.J. O'Brien (MENA) Capital Limited – Findings

- Inadequate compliance systems and controls;
- Firm acquired another broker firm;
- Failed to analyse and plan for the additional compliance resources required;
- Senior management aware of the lack of compliance resources - failed to address the issue;
- Clients allowed to trade before onboarding completed;
- RM used an unauthorized method to communicate with clients
 - was not disciplined for it at the time it was discovered.

Enforcement Update

Case Study 4 – R.J. O'Brien (MENA) Capital Limited – – Outcome

- Fine USD 1,368,767 – December 2023.
- Settlement therefore 30% discount.
- Private Warning Letter issued to an individual.

Enforcement Update

Lessons Learned from 2023 Enforcement Actions

- Proper KYC, CDD and EDD checks, including source of wealth, need to be comprehensive and timely;
- All possible sources of information about a client should be searched when setting customer risk ratings;
- High variable remuneration based on revenue generation creates compliance risks that require a risk mitigation strategy;
- Compliance and risk management functions need to be adequately resourced both in terms of skills and headcount and have a strong voice – they should not be easily overruled by the business;
- Senior management are responsible ensuring compliance and should view their compliance staff as advisers assisting them to discharge this responsibility; and
- Non-compliant staff should be disciplined appropriately.



Q&A



Closing Remarks

Patrick Meaney
Managing Director, Head of Enforcement

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Thank you!