



Corporate Service Provider (CSP) Sector Outreach

6 May 2024

CSP Outreach Agenda

01 Introduction

02 Prudential
Supervision

03 AML/ATF
Supervision

04 Financial
Intelligence Agency

05 Enforcement

06 Conclusion

CSP Outreach

Banking, Trust, Corporate Service Providers and Investment Business (BTCISI) Department





BTCSI Agenda

- 01** Introduction and Background Information
- 02** Corporate Governance, Management and Administration
- 03** Risk and Compliance
- 04** Key Takeaways

Introduction and Background Information

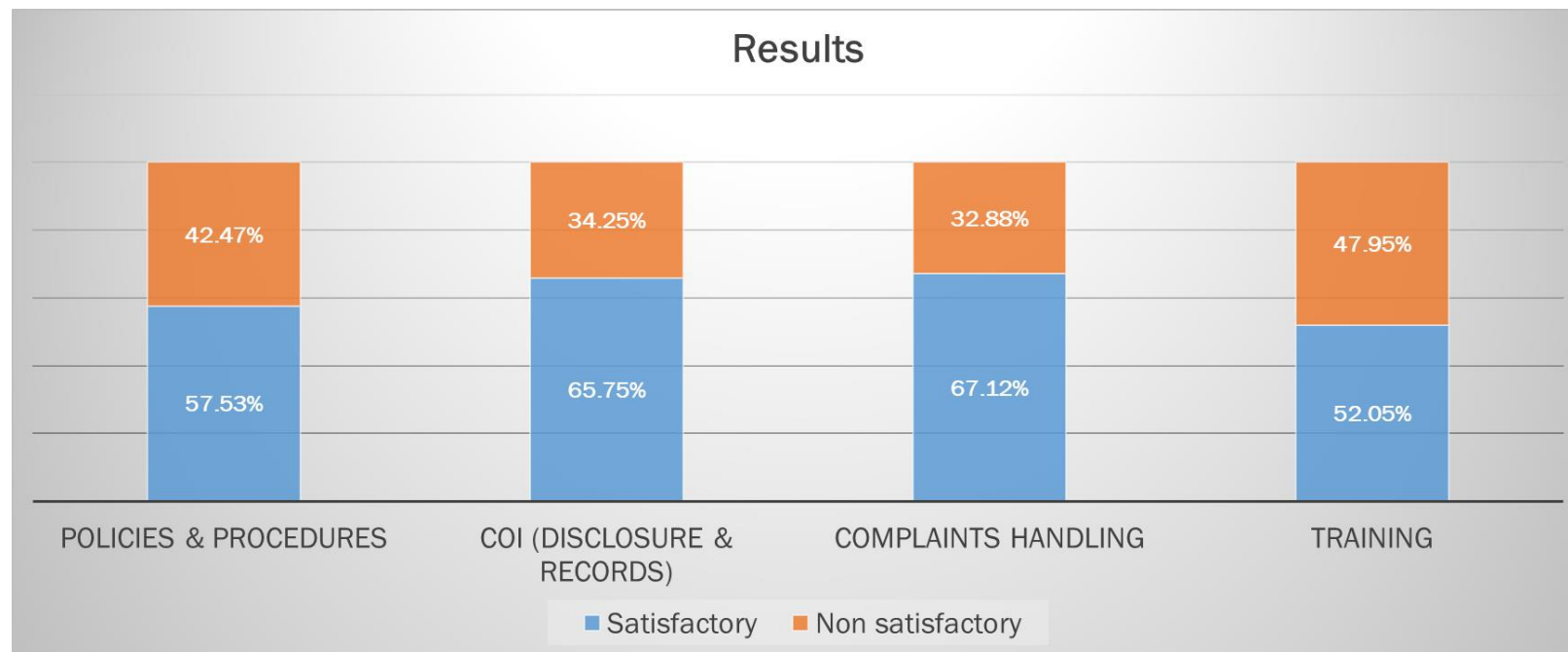
Corporate Service Provider (CSP) Regulatory Framework



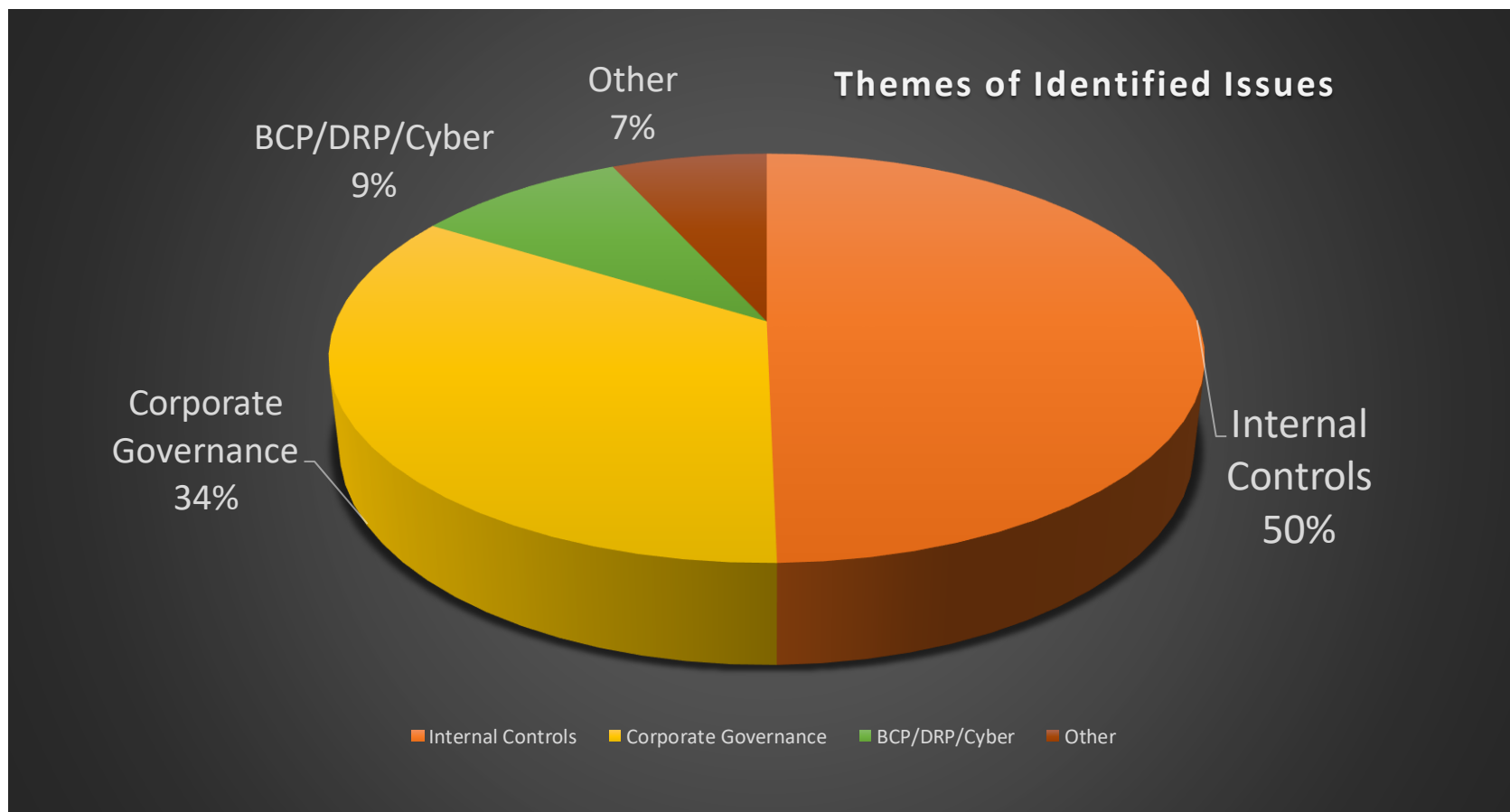
Background Information - Thematic Review



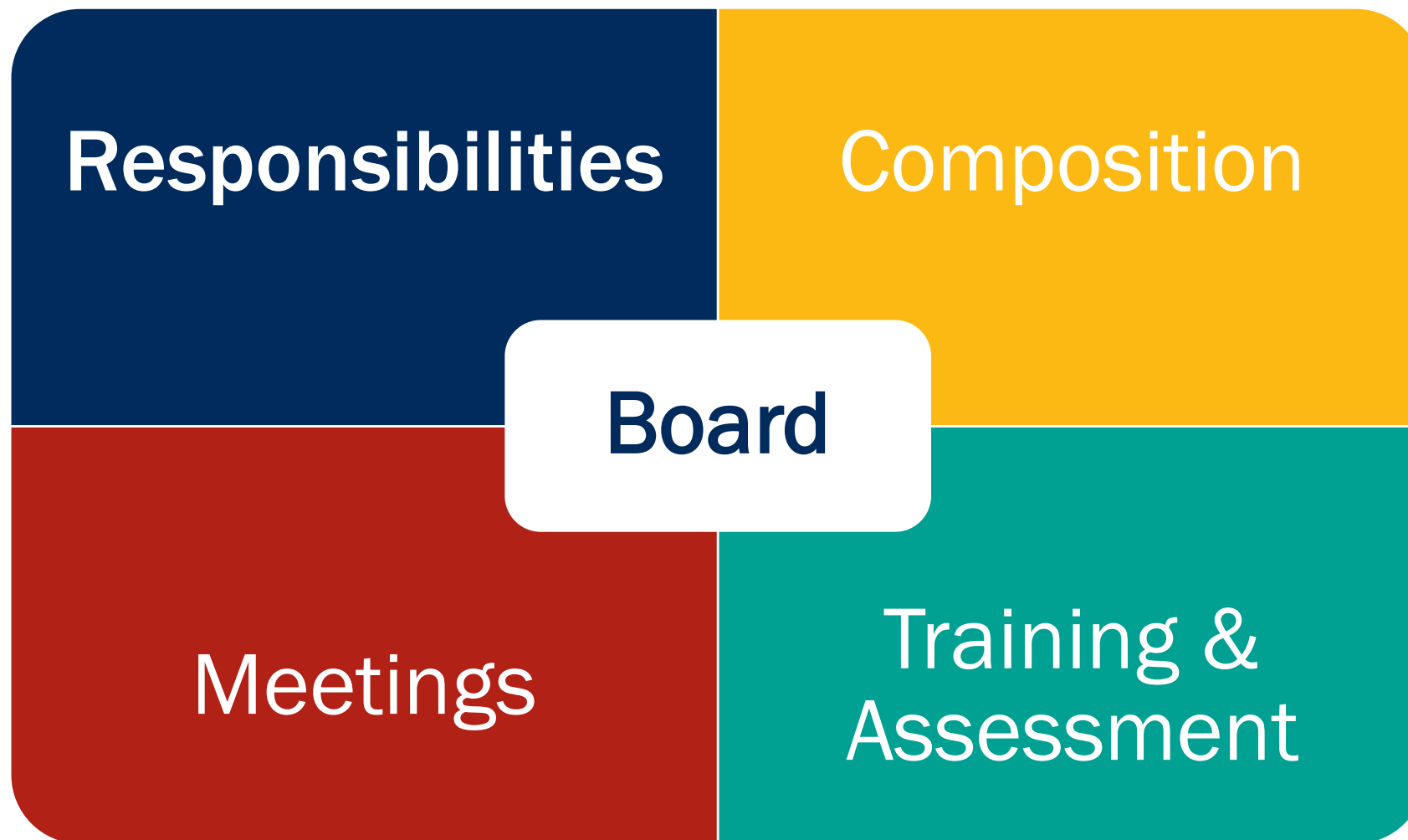
Background Information - Thematic Review



On-site Issues



Corporate Governance, Management and Administration | Board of Directors



Corporate Governance, Management and Administration | Senior Management and Committees

Senior Management:

- Responsible for day-to-day operations
- The structure
 - Depends on size, complexity, structure and risk profile of each licensee.
 - Should eliminate or reduce any potential or actual conflict of interest (e.g., if CEO is also Head of Compliance)

Committees:

- The board should assess whether the establishment of committees is appropriate
- For every formal committee, a Terms of Reference must be created and regular reporting to the board is required

Senior management and committees do not alleviate the board of its responsibilities.

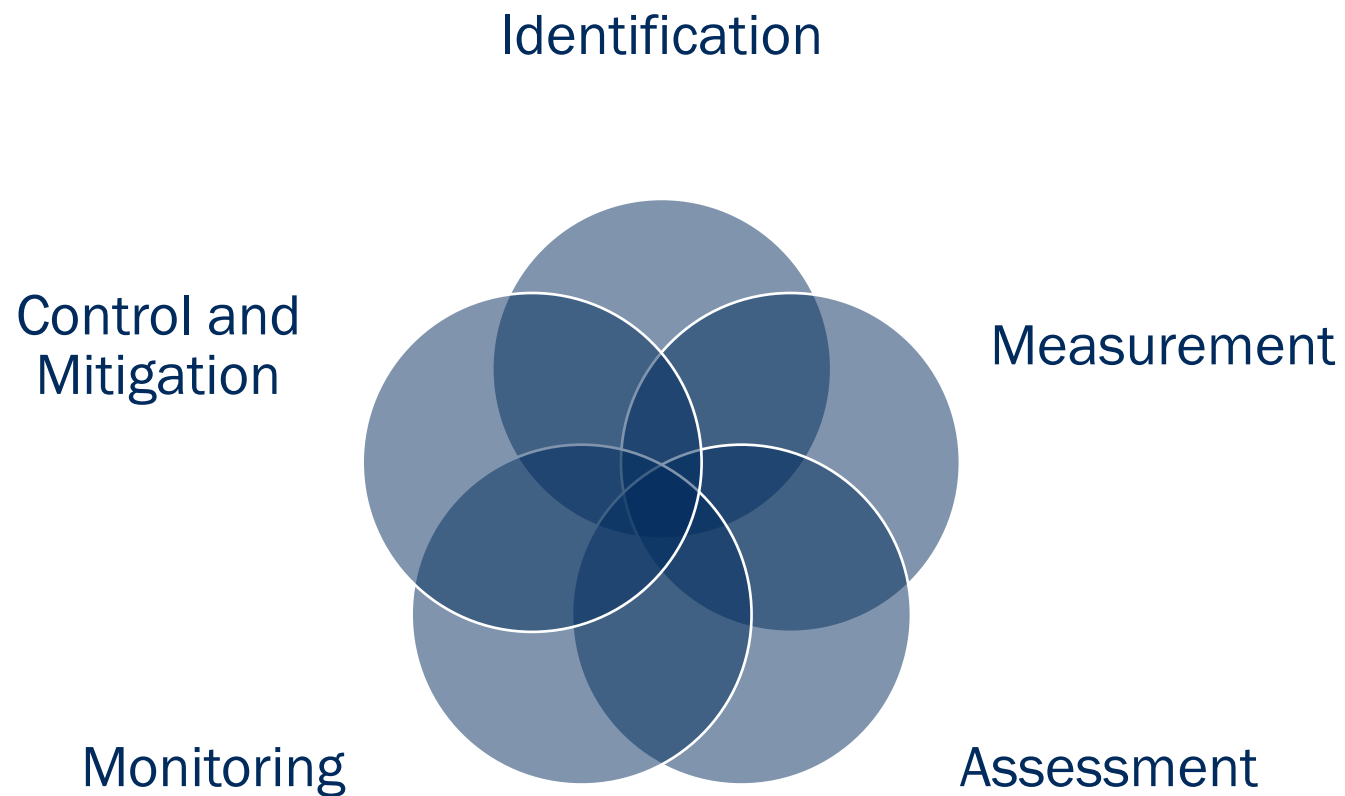
Corporate Governance | Conflicts of Interest (Col)

Policy and procedures

Disclosure

Record keeping

Risk and Compliance - Risk Management Framework



Risk Management Framework | Additional considerations

Risk
Management
Tools

Reporting

Risk
Awareness
Culture

Oversight

BCP/DRP

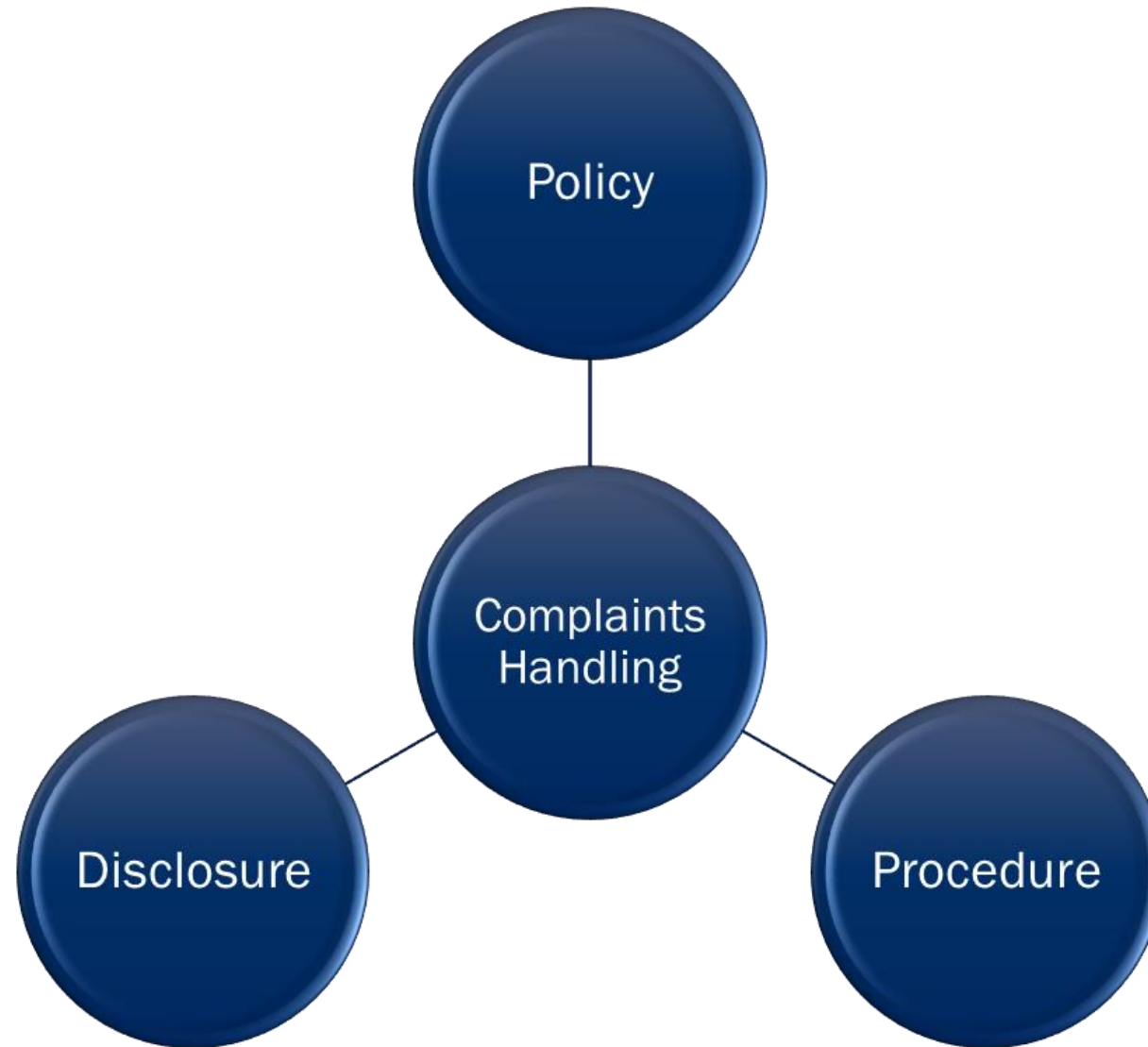
Compliance | Key area: Compliance Programme



Compliance | Key area: Outsourcing



Compliance | Key area: Complaints Handling



Key takeaways



Governance Arrangements



Risk Management



Compliance



Complaints Handling



CSP Outreach

Anti-Money Laundering & Anti-Terrorist Financing Department

AML/ATF Agenda

- 01** Overview of AML/ATF and Sanctions Legislation
- 02** Understanding the ML/TF Risks (Sectoral and Institutional)
- 03** ML/TF Trends & Typologies
- 04** Preventive ML/TF Measures

Overview of AML/ATF and Sanctions Legislation

- 1997 Proceeds of Crime Act
- 2004 Anti-Terrorism Financial and Other Measures Act
- 2008 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act
- 2008 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations

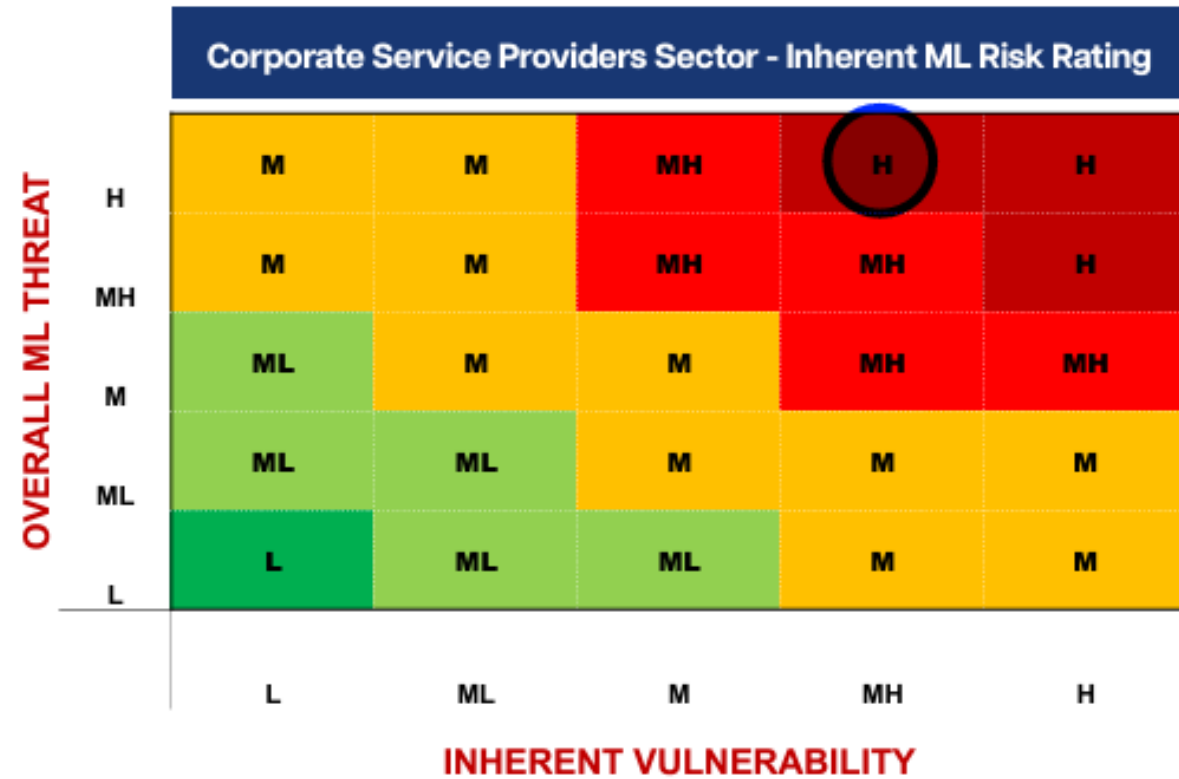


2003 International Sanctions Act*

**This is separate to AML/ATF requirements*

National Risk Assessment (NRA)

Overall, Threat and Vulnerability Scores



Graph provided from Report on 2020 Money Laundering and Terrorist Financing Risk Assessment

CSP Sector Overview - Understanding the ML/TF Risks

Red Flag indicators

- Complex transactions and use of opaque legal entities and arrangements
- Use of foreign private foundations that operate in countries with secrecy laws
- Use of nominee agreements to hide beneficial ownership
- Intercompany loan transactions and/or multi-jurisdictional wire transfers
- Operation of virtual offices providing CSP services
- Formation by CSP of shell companies
- Unethical CSP having full discretionary authority over the customer's accounts

Understanding the Institutional ML/TF risks - Business Risk Assessment process



CSP ML/TF Typologies

Financial Action Task Force (FATF) Typologies

- Multi-jurisdictional structures
- Specialised financial intermediaries/professionals
- Use of Nominees
- Shell Companies

Concealment of beneficial ownership



CSP Outreach

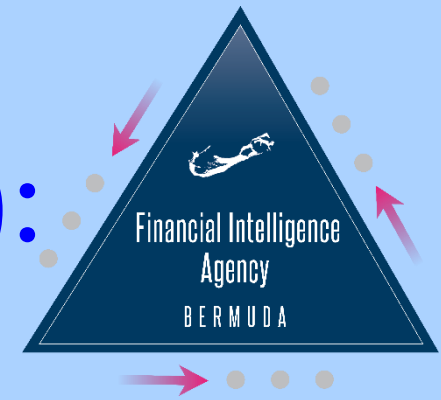
Financial Intelligence Agency



FIA Agenda

- 01** SAR Filing Stats
- 02** CSP Trends and CSP Typology
- 03** Quality of SAR Reporting
- 04** Reminders: SAR Filings

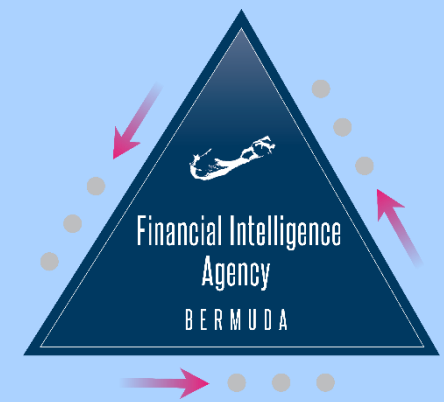
Corporate Service Providers (CSPs): Overview of SAR Filings (2023)



Number of SAR Filings per Quarter (2023)

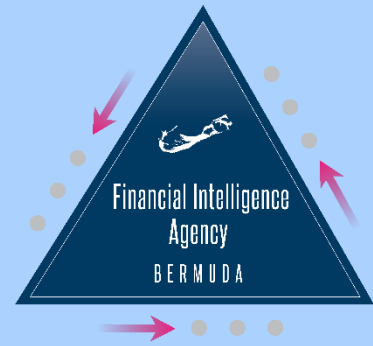
Q1	Q2	Q3	Q4	Total Filings
2	2	0	0	4

CSP Trends



- Sanctions
- Fraud
- Tax Offences
- Corruption
- Shared Subject/Entity/Activity noted in a CSP Filing and a Request for Information from an Overseas FIU
- Declined/Refused Business due to suspect activity
- Refusal by clients to comply with CDD requirements

CSP Typology



The client requested that CDD information be sent by the CSP to a sanctioned bank in Eastern Europe.

CSPs: Quality of SAR Filings



Overall Quality: Good

(*N.B.* Always provide supporting documentation e.g., copies of IDs, account opening documents, adverse media links)

Upcoming Actions for the FIA:

- To provide guidance to CSPs about the Bermuda consent regime as it pertains to the termination of clients due to suspect activity

REMINDERS - SAR Filings



Declined Business:

- Report declined business to the FIA when adverse media or suspicious activity is identified.

Remember:

- Keep a Declined Business Log. This log may provide value for future analysis/investigations by the FIA or the Bermuda Police Service.

*The FIA discourages filings based solely on a client's or potential client's refusal to provide CDD when no suspect activity can be identified.

CSP Outreach

Anti-Money Laundering & Anti-Terrorist Financing Department



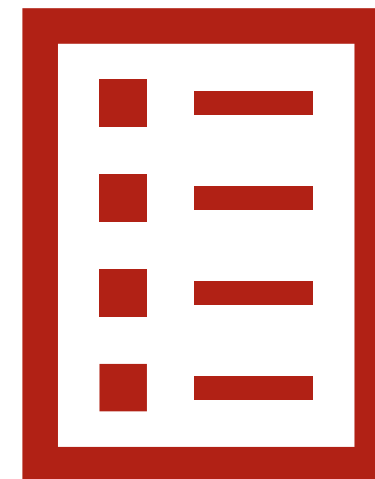
AML/ATF Supervision Agenda

- 01** Trends in Non-Compliance
- 02** AML/ATF Monitoring and Controls
- 03** Onsite and Offsite Examination Process

CSP on-site/off-site examination trends of non-compliance

- Outdated Policies and Procedures
- Lack of ongoing monitoring processes
- Inadequate Business Risk Assessments and Customer Risk Assessments
- Inadequate AML/ATF Training
- Lack of quality Independent AML/ATF Audits
- Use of AML/ATF consultants*

*Does not always result in non-compliance



CSP Preventive AML/ATF Measures/Controls

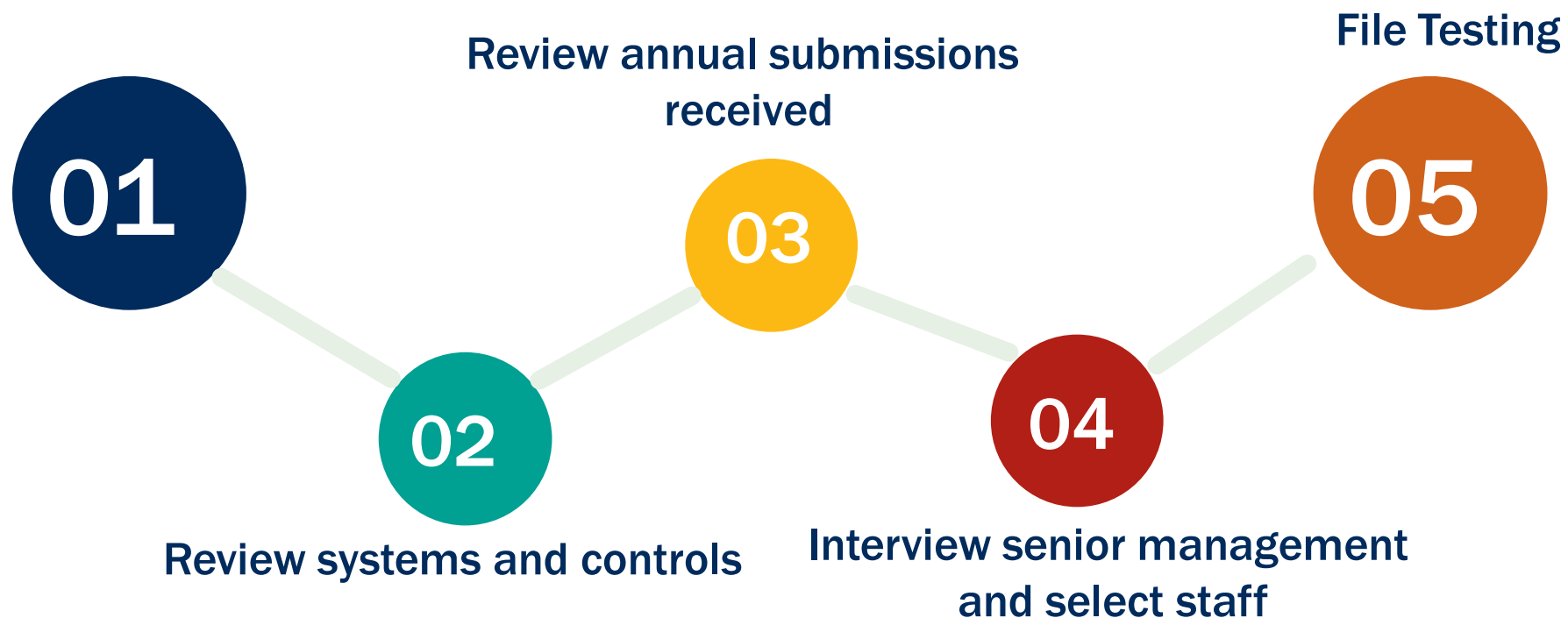
Examples

- Assess and document the robustness of your AML/ATF framework
- Ensure there is adequate AML/ATF training
- Document all AML/ATF processes
- Quality assure/test your AML/ATF controls
- Perform & action Independent AML/ATF Audit



AML/ATF On-site/Off-site Examination Process

Assess compliance with Regulations





CSP Outreach

Enforcement Department



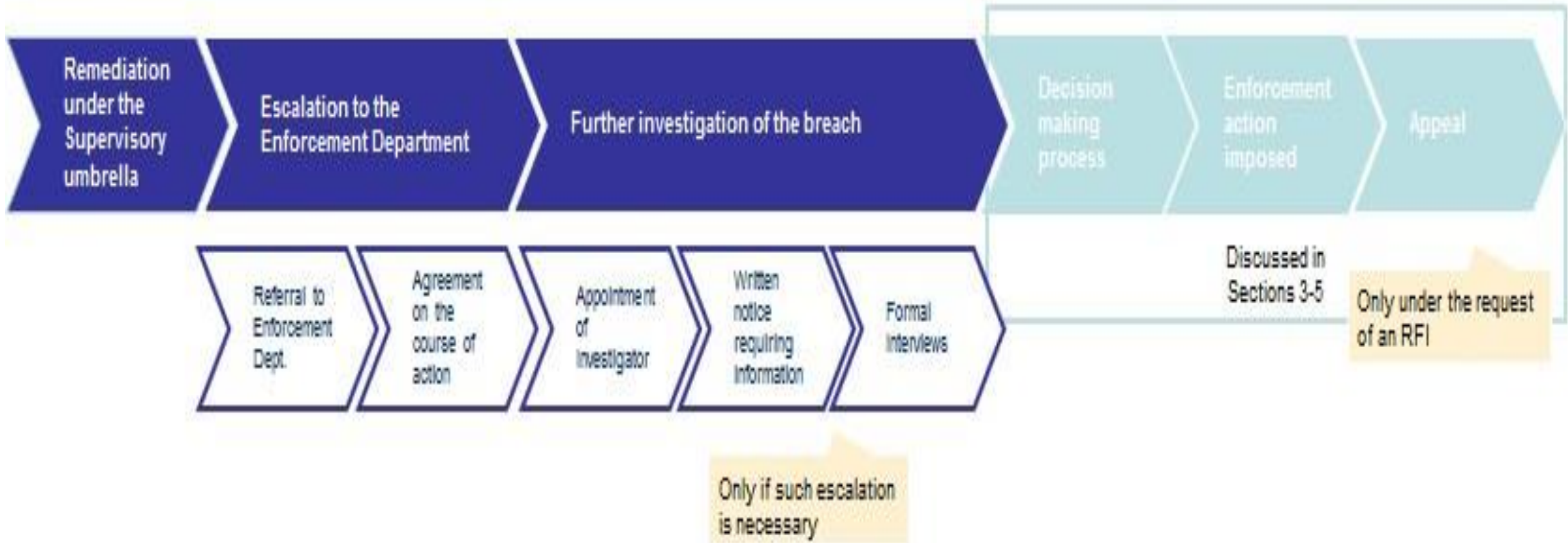
Enforcement Agenda

- 01** Principles of Enforcement
- 02** Referral to Enforcement
- 03** Enforcement Considerations
and Options
- 04** Common Issues

The Principles of Enforcement

- All CSPs are expected to be compliant with all regulatory obligations
- Non-compliance creates risks and may threaten the CSP's long term sustainability
- Post-enforcement action costs for a CSP are usually more significant than the cost of compliance

When will Enforcement Action be Considered?



Referral to Enforcement

- A matter will be potentially serious if it creates a risk of harm to customers or to the reputation of Bermuda as a well-regulated financial centre
- A breach of AML/ATF requirements will always be regarded as serious
- Enforcement action does not operate to suspend ongoing supervision and remediation

Enforcement Options available to the Authority

- Imposition of directions, restrictions, and conditions
- Imposition of a civil penalty
- Public censure
- Prohibition orders against individual directors and officers
- Objections to Controllers
- Revocation of licence
- Winding up
- Referral to Police

Examples of factors taken into consideration

- The nature, seriousness and impact of the breach
- The conduct of the institution following the breach
- The compliance history of the institution
- Action taken by the Authority in similar cases
- Guidance provided by the Authority
- Prevention and deterrence
- Action taken by other regulatory or law enforcement authorities

Process for Arriving at Amount of Civil Penalty

	Minor	Moderate	Major	Critical
Nature of the Breach	Small number of non-systemic and low priority regulatory failings	Several non-systemic, medium priority regulatory failings	Significant failings which may be systemic	Highly significant systemic failings
Risk	No risk or very small risk of loss to clients	Some risk of loss to clients	Significant risk of loss or risk of substantial loss to clients	Significant risk of substantial loss to clients or actual substantial loss to clients
Cooperation with the Authority	RFI was open and co-operative with the Authority	RFI was open and co-operative with the Authority	RFI was not fully open and cooperative with the Authority	RFI was not open and co-operative with the Authority
Reputational Risk to the Jurisdiction	No risk or small risk to reputation of Bermuda	Some risk to the reputation of Bermuda	Significant risk to the reputation of Bermuda	Substantial risk to the reputation of Bermuda
Risk of Financial Crime	No risk or small risk of financial crime (including AML/ATF) or being used to facilitate financial crime	Some risk of financial crime or being used to facilitate crime	Significant risk of financial crime or RFI being used to facilitate financial crime	Financial crime committed or RFI used to facilitate financial crime
Conduct of the Institution	RFI acknowledged breaches straight way; RFI self-reported	Some acknowledgement of some breaches	RFI failed to acknowledge breaches	RFI deliberately withheld the breaches from the Authority in order to obtain a benefit or mitigate loss
Remediation by the RFI	Effective steps taken to rectify breach(es) and prevent recurrence	Some steps taken to rectify breach(es) and prevent recurrence, but inadequate	Few steps taken to rectify the breach(es) and prevent recurrence, but inadequate	No steps taken to rectify the breaches
Range of Civil Penalty – Prudential (\$500k max)	No penalty - \$75,-000	\$75,000-\$200,000	\$200,000-\$350,000	\$350,000 - \$500,000
Range of Civil Penalty – SEA (\$10 million max)	No penalty - \$150,000	\$150,000-\$2.5 million	\$2.5 million - \$6 million	\$6 million - \$10 million

Common Issues noted in CSPs

- Annual Returns
- Material change notifications
- Equity among directors - responsibility to the Authority and the CSP
- Insufficient AML/ATF processes and procedures



**Thank you for your
attention**

Questions?

