



Securities Sector

Money Laundering (ML)/Terrorist Financing (TF) Risks, Vulnerabilities and Preventive Measures

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Laundering/Anti-Terrorist Financing (AML/ATF) Department and
the Financial Intelligence Agency (FIA)

7 November 2024

Agenda

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Sector Overview

- The varying roles that securities providers and other intermediaries play in transactions
- Money Laundering/Terrorist Financing (ML/TF) risks stem mainly from the types of securities products and services, customers, investors and payment methods used in the securities sector; noting that cash is generally not accepted by securities providers in many jurisdictions
- Global reach of the securities sector and speed of transactions across a multitude of onshore/offshore jurisdictions and financial markets
- Ability to transact securities products via an intermediary which may provide a relative degree of anonymity
- Complex products that may be offered before they are regulated (or not regulated at all) or rated for ML/TF risks (e.g., the crypto-assets)
- Common involvement of a multitude of securities providers and intermediaries on behalf of both buying and selling principals or agents



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

		Securities Sector - Inherent ML Risk Rating				
		L	ML	M	MH	H
OVERALL ML THREAT	H	M	M	MH	H	H
	MH	M	M	MH	MH	H
	M	ML	M	M	MH	MH
	ML	ML	ML	M	M	M
	L	L	ML	ML	M	M
		L	ML	M	MH	H
		INHERENT VULNERABILITY				

Key ML/TF Risks and Vulnerabilities in the Securities Sector:

Layering through complex securities transactions

The Misuse of Market instruments

Market Manipulation

Weak Customer Due Diligence

Outsourcing of AML/ATF and Reliance on third-parties

Involvement of intermediaries

Understanding the ML/TF Risks - Business Risk Assessment

Identify and assess inherent risks

Consider all relevant risk factors with regard to the Regulated Financial Institutions' (RFI) customers/investors, business relationships (including outsourcing and reliance relationships), countries or geographic areas, services, delivery channels, products and transactions to effectively assign inherent risk ratings

Establish risk tolerance

Determine the level of risk the business is willing to accept

Establish risk mitigation measures

Develop and document proportionate and effective policies, procedures and controls in order to minimise and manage the risks that have been assessed



Monitor and review risks

Maintain up-to-date risk assessment information and risk ratings and regularly review, test and improve the policies, procedures and controls put in place

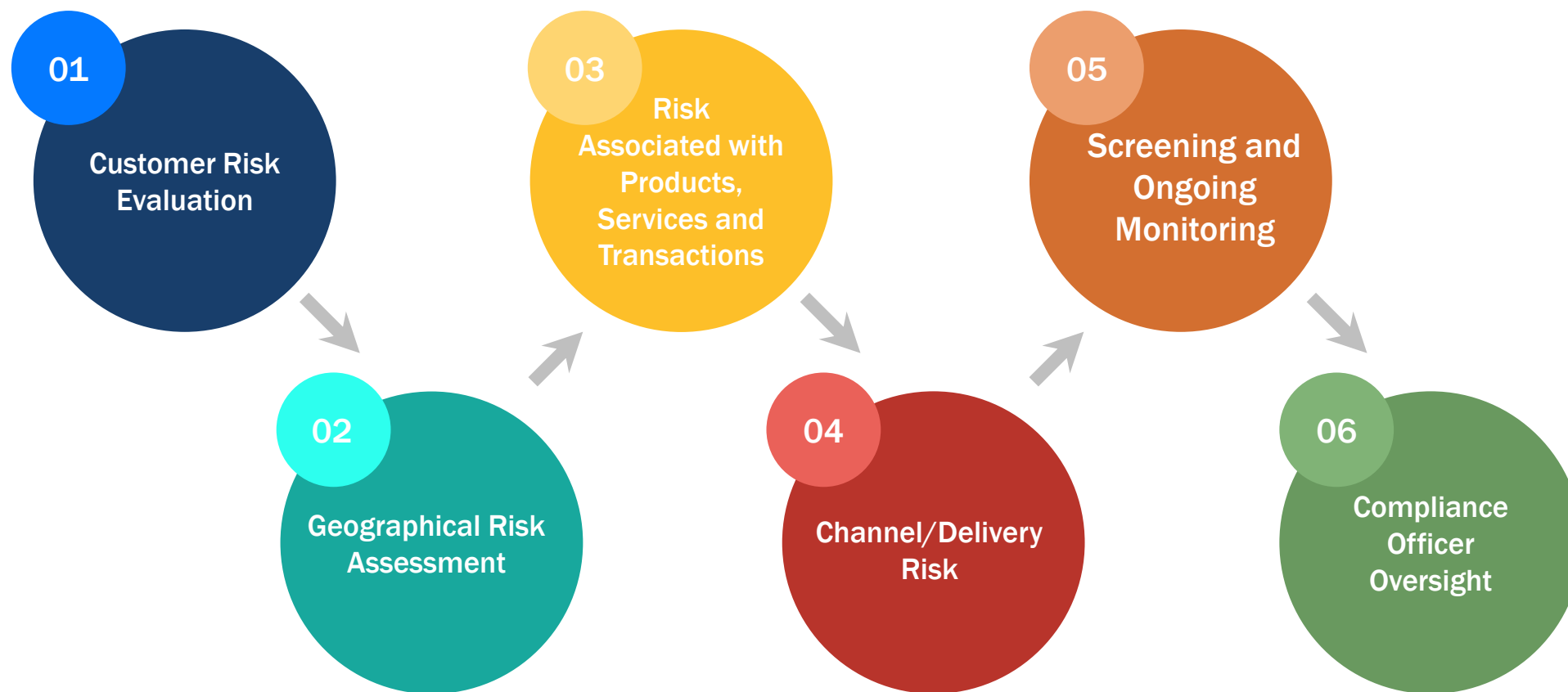
Implement risk mitigation measures

Apply the risk mitigation policies, procedures and controls that have been developed and documented

Evaluate residual risks

Determine the level of risk remaining after taking mitigation measures into consideration

Understanding the ML/TF Risks - Customer Risk Assessment



Minimum requirement for assessing Customer Risk

Preventative Measures - Red Flag Indicators



**Identifying
Natural
Persons**

**Dealing with
High-risk
Jurisdictions**

**Routing Payments
through
Correspondent
Accounts**

**Involvement of
Intermediaries or
Third-Party Service
Providers**

**Reliance on,
Outsourcing to, or
Acceptance of
Insufficiently
Reviewed Persons**

Preventive Measures – Securities Sector

Customer Due Diligence (CDD):

- Verify identities
- Risk classification
- Ongoing monitoring

Transaction Monitoring:

- Detection systems
- Suspicious transaction reporting

Record Keeping:

- Documentation maintenance
- Comprehensive record keeping



Preventive Measures – Securities Sector (Cont'd)

Risk-Based Approach:

- Tailored preventive measures
- Resource allocation

Employee Training and Awareness:

- Regular training
- Risk awareness

Reporting Obligations:

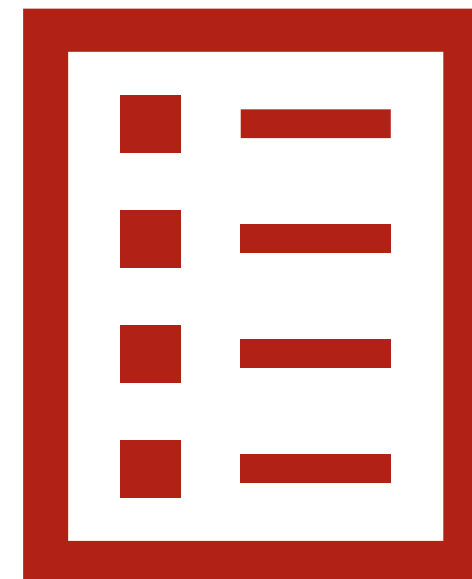
- Suspicious Activity Report (SAR) submission

Internal Controls and Policies:

- Effective controls
- Policy alignment
- Reliance and outsourcing
- AML Independent Audit

Screening:

- Relevant sanctions lists
- Robust screening procedures

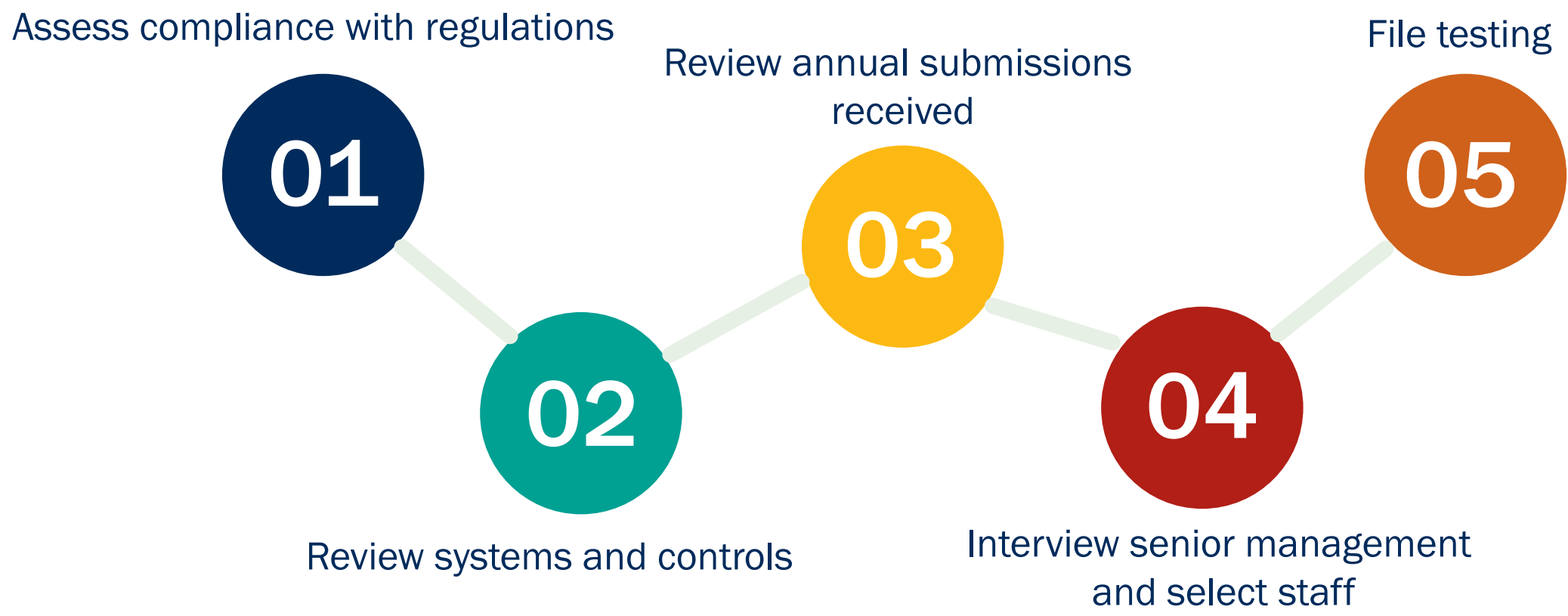


Onsite Findings and Examination Process - Non-compliance Trends

- Outdated Policies and Procedures
- Lack of Ongoing Monitoring
- Inadequate Business Risk Assessment and Customer Risk Assessment
- Use of 'Shelf' policies
- Inadequate Bermuda Specific Training
- Lack of quality Independent ML/TF Audits
- Lack of Remedial action regarding ML/TF Independent Audit findings
- Balancing prudential responsibilities with AML/ATF Regulatory Compliance



Onsite Findings and Examination Process - AML/ATF Onsite Examination Process



Sector-Specific Resources

Resource Guidance	Links
Summary of key laws related to AML/ATF in Bermuda.	<p>https://www.gov.bm/international-sanctions-measures</p> <p>https://www.gov.bm/sites/default/files/FSIU_Financial_Sanctions_Guidance_September_2021.pdf</p> <p>https://www.bma.bm/viewPDF/documents/2023-11-08-14-03-55-Proceeds-of-Crime-Anti-Money-Laundering-and-Anti-Terrorist-Financing-Regulations-2008.pdf</p> <p>https://www.bma.bm/viewPDF/documents/2023-11-08-14-05-27-Proceeds-of-Crime-Anti-Money-Laundering-and-Anti-Terrorist-Financing-Supervision-and-Enforcement-Act-2008.pdf</p> <p>https://www.bma.bm/viewPDF/documents/2023-11-08-14-06-43-Anti-Terrorism-Financial-and-Other-Measures-Businesses-in-Regulated-Sector-Order-2008.pdf</p> <p>https://www.bma.bm/viewPDF/documents/2023-11-08-14-07-22-Financial-Intelligence-Agency-Act-2007.pdf</p> <p>https://www.bma.bm/viewPDF/documents/2023-11-08-14-07-43-Anti-Terrorism-Financial-and-Other-Measures-Act-2004.pdf</p> <p>https://www.bma.bm/viewPDF/documents/2023-11-14-17-11-02-International-Sanctions-Regulations-2013.pdf</p>

Sector-specific Resources (Cont'd)

Resource Guidance	Links
Bermuda Monetary Authority Guidance Notes	https://www.bma.bm/viewPDF/documents/2023-06-12-15-17-06-General-Guidance-Notes-for-AMLATF-Regulated-Entities-Revised.pdf
Specific guidelines provided by the regulatory authority	https://www.bma.bm/viewPDF/documents/2024-06-13-16-06-13-2023-02-15-10-03-31-AML-ATF-Sectoral-Guidance-Notes-for-the-Securities-Sector.pdf
ML/TF NRA and AML/ATF General Guidance Notes Industry Outreach Session	https://www.youtube.com/watch?v=iuAN6poHamA
BMA Service Provider Training Course	https://www.bma.bm/viewPDF/documents/2022-09-06-11-42-02-FAQ--Service-Provider-Training.pdf
FATF Guidance:	https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Rba-securities-sector.html https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/ML%20and%20TF%20in%20the%20Securities%20Sector.pdf.coredownload.pdf
Bermuda Laws and Regulations	https://www.bermudalaws.bm/



Securities Outreach

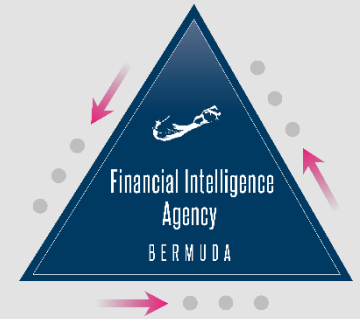
Financial Intelligence Agency



Overview of SAR/STR Filings (2021-2024): Fund Administrators

SAR/STR Filings (2021-2024)

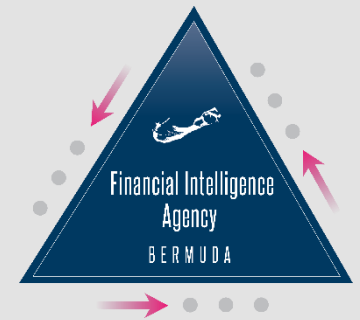
2021	2022	2023	2024 (Q1)	2024 (Q2)	2024 (Q3)
7	8	6	4	0	0



Overview of SAR/STR Filings (2021-2024): Investment Businesses

SAR/STR Filings (2021-2024)

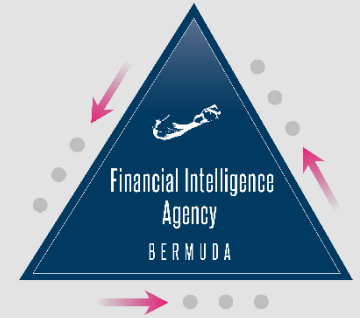
2021	2022	2023	2024 (Q1)	2024 (Q2)	2024 (Q3)
28	42	18	8	14	9



Overview of SAR/STR Filings (2021-2024): Investment Funds

SAR/STR Filings (2021-2024)

2021	2022	2023	2024 (Q1)	2024 (Q2)	2024 (Q3)
0	1	0	0	0	0



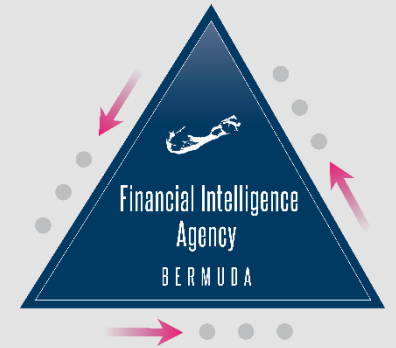
TRENDS: Funds Administrators

- Market abuse
- Use of false documents (by an investment manager)
- Transfer of the ownership of shares of a new holding company believed to be owned by a sanctioned person just before the date of the UK sanctions
- Adverse media identified involving sanctions and fraud
- Refusal to provide SoF, SoW and UBO documents
- Frequent high-value distribution requests by client to be paid urgently



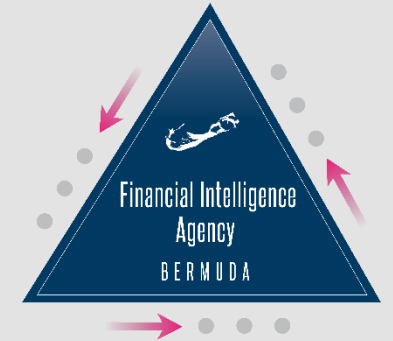
TRENDS: Investment Businesses

- Declined business due to adverse media identified
- Declined business due to suspect activity
- Market abuse - insider trading and market manipulation
- Contradiction of client's instructions by lawyers
- Adverse media identified involving sanctions, ML, drug trafficking and fraud e.g., Ponzi scheme and tax evasion
- Refusal by client to provide SoW documents prior to transfer of funds



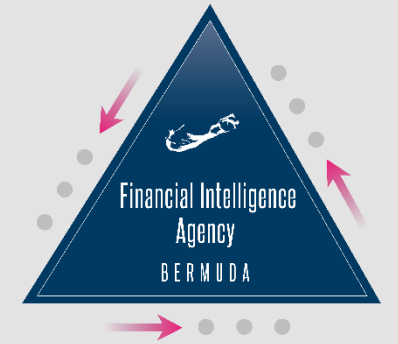
TRENDS: Investment Funds

- Insufficient KYC/CDD documents e.g., ID copies of authorised signatories
- Refusal to provide KYC/CDD documents
- Adverse media identified
- Investor location links to high-risk countries
- A financial adviser ending a relationship with the investor
- A pass-through vehicle, for example, a deposit made with the intention to invest in a closed client account



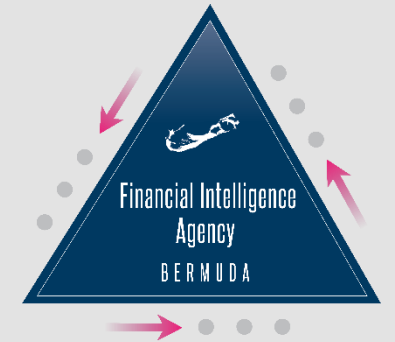
TYOLOGY: Investment Businesses

The client was the principal of XYZ LLC that is purported to be an investment company operating out of South America and the Caribbean. It has been alleged that XYZ LLC is simply a Ponzi scheme. The latest screening confirmed that the individual has now been added to a US law enforcement list.



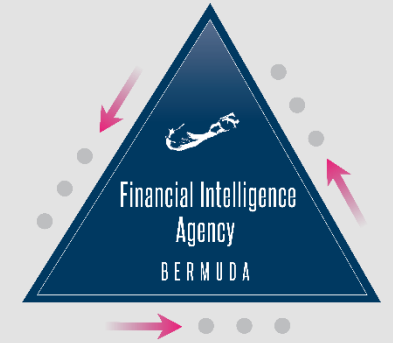
TYOLOGY: Fund Administrators

In 2022, the investor invested USD \$1 million into a fund administered by the fund administrator. The money was wired from an account in the name of the investor's company but the investment was solely in the investor's name. In 2024, the investor requested a withdrawal. Due diligence and Lexis Nexis searches were conducted, and it was discovered that the investor is currently in jail for money laundering, wire fraud and bribery.



TYOLOGY: Investment Funds

Due to a negative Worldcheck screening, the Investment Fund was unable to obtain adequate documentation to provide sufficient assurance as to the source of wealth of the ultimate beneficial owner. Further, as a result of negative Worldcheck screening, the fund was unable to obtain sufficient assurance that the monies received are not the proceeds of crime.

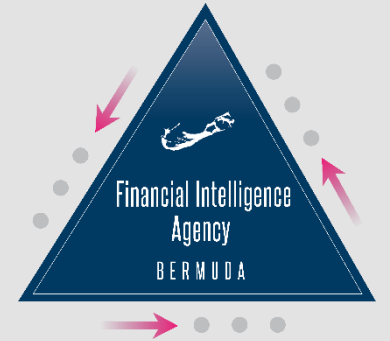


Quality of SAR/STR Filings

Overall Quality: Good

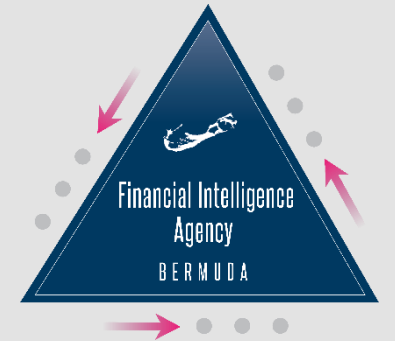
NB. Always provide supporting documents to support the SAR/STR narrative. Also, for consent requests, please provide all of the beneficiary bank account details.

Upcoming Action for the FIA: To provide guidance about the introduction of a new STR report to be specifically used for consent requests.



REMINDERS – SAR/STR Filings

1. Consent requests
2. Declined Business
3. Refusal to Provide CDD
4. Filing Under the Respective Reporting Sector



Securities Sector Outreach - Takeaways

Focus on a risk-based approach to your AML/ATF programme, specifically managing your highest risks including:

- Revising your Business Risk Assessment (BRA) annually and updating it when ML/TF risks change
- Importance of Role of Compliance Officer and Money Laundering Reporting Officer and providing appropriate AML/ATF training
- Having an in-depth understanding of the Regulations (POCR) and Sanctions legislation and implementation of the same
- Gap Analysis: Alignment of your AML/ATF and Sanctions policies, procedures, and controls with the most recent POCR and related legislation
- Outsourcing/Reliance: Importance of maintaining oversight and regularly monitoring those activities

Remember that your Company **will be held accountable** for any failures associated with outsourcing, reliance or any other breaches in the POCR.

Questions & Answers

Email: AML@bma.bm (BMA) or
info@fia.bm (FIA)

