

# Consultation on Proposed Amendments to Module FC

Industry Comments and Feedback

Volume 4 Investment Business Firms

April 2014

<b>Specific Comments:</b>			
<b>Reference to the draft Directive:</b>	<b>Comments</b>	<b>REF</b>	<b>CBB's Response</b>
<b>FC-1.1.2A Investment firm licensees must understand, and as appropriate, obtain information on the purpose and intended nature of the business relationship.</b>	<p>An Investment Firm noted the following:</p> <p>Could CBB guide on what documents or information would give comfort to it on how the licensee would 'understand and obtain information on the purpose and intended nature of the business relationship'.</p>	SP1	<p>Such information can be obtained through the information and documents listed in Paragraphs FC-1.2.1 and FC-1.2.7 specifically the following:</p> <p>(j) Type of account, and nature and volume of anticipated business dealings with the licensee;</p> <p>Also face-to-face discussions would provide this.</p>
<b>FC-1.1.2B Investment firm licensees must conduct ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, including, where necessary, the source of funds.</b>	<p>An Investment Firm noted that by virtue of their business model they have Accredited investors only, so they know on each transaction of the client i.e. from where money is coming and where it is invested by the Company on its behalf and if there is a return then the money go back to the same bank account from where the money flows in. Since they know about the full trail of fund flows could there be an exception for a business model like The Investment Firm.</p>	SP2	<p>Disagree. This is a FATF requirement and must be met for any financial institution and any business model with no exception.</p>

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## Industry Comments and Feedback

### Volume 4 Investment Business Firms

April 2014

<p><b>FC-1.5.3 Where an existing customer is a PEP, or subsequently becomes a PEP, enhanced monitoring and customer due diligence measures must include:</b></p> <p>(a) Analysis of complex financial structures, including trusts, foundations or international business corporations;</p> <p>(b) A written record in the customer file to establish that reasonable measures have been taken to establish both the source of wealth and the source of funds;</p> <p>(c) Development of a profile of anticipated customer activity, to be used in on-going monitoring;</p> <p>(d) Approval of senior management for allowing the customer relationship to continue; and</p> <p>(e) On-going account monitoring of the PEP’s account by senior management (such as the MLRO).</p>	<p>An Investment Firm noted that PEP is always considered high level of risk, so does it mean that FC-1.5.3 apply only to cases of higher risk? Is there any criteria to identify higher risk? Or it is based on the Firm’s judgments?</p>	<p>SP3</p>	<p>FC-1.5.3 only applies where an existing customer is a PEP, or subsequently becomes a PEP. Higher risk is already covered in FC-1.3 to FC-1.5 inclusive as stated in Paragraph FC-1.1.4.</p>
<p><b>FC-1.5.3B The requirements for all types of PEP must also apply to family or close associates of such PEPs.</b></p>	<p>An Investment Firm noted that it would be practically difficult to comply with the suggested rule as it is not possible to identify PEP relatives unless client provides such information. Clients</p>	<p>SP4</p>	<p>This is an FATF requirement and does not allow for any flexibility in implementation. Licensees are required to obtain this information to be compliant.</p>

**Consultation on Proposed Amendments to Module FC**  
**Industry Comments and Feedback**  
**Volume 4 Investment Business Firms**  
**April 2014**

	<p>generally do not disclose such information to the Banks/Financial Institutions.</p> <p>Banks/Financial Institutions will face resistance from relatives or associates of PEP if treated as PEPs, the additional scrutiny may seem intrusive and unnecessary and will very likely not be accepted.</p>		
<p>FC-1.5.4 ‘Politically Exposed Persons’ means individuals who are, or have been, entrusted with prominent public functions in Bahrain or a foreign country, or persons who are or have been entrusted with a prominent function by an international organisation, such as Heads of State or government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations or important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to PEPs themselves. The definition is not intended to cover middle-ranking or more junior officials in the foregoing categories. Bahraini PEPs would include all Ministers, all MPs, and all Ministry officials with the rank of Undersecretary or</p>	<p>An Investment Firm noted that the criteria of considering the organization as an international organization, is subjective. Also not clear what is regarded as ‘prominent function’, will it be Board members, CEO, CFO etc. SFS believe this inclusion will cause confusion and may not serve the purpose intended. They suggest deleting the requirement, otherwise clarify what is considered as International and define Prominent Position. They also suggest classifying these customers as Prominent Function Person (PFP) to segregate from PEP.</p>	<p>SP5</p>	<p>This is a matter for banks to address. Generally such organizations are the UN, the OECD, multilateral development banks, pan-governmental bodies such as the GCC or the EU, FIFA, UEFA or any body which has cross-border authority.</p>

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### Volume 4 Investment Business Firms

April 2014

above.			
<p><b>FC-2.1.1 Investment firm licensees must implement programmes against money laundering and terrorist financing which establish and maintain appropriate systems and controls for compliance with the requirements of this Module and which limit their vulnerability to financial crime. These systems and controls must be documented, and approved and reviewed annually by the Board of the licensee. The documentation, and the Board's review and approval, must be made available upon request to the CBB.</b></p>	<p>An Investment Firm enquired the following:  What does the term 'Programmes' refer to, is it system based or something else?</p>	SP6	<p>Programmes could be review exercises or training seminars in order to establish and maintain AML/CFT systems.</p>
<p><b>FC 3.3 : Compliance Monitoring</b></p>	<p>An Investment Firm noted that they seek CBB's guidance as to whether a CBB licensee -which is a branch of a foreign financial institution -would be considered compliant with the requirements of FC-3.3.1 by participating in a group level exercise conducted for the purpose of complying with a regulatory requirement at the Head Office level. In their particular case, The Firm's lead regulator, mandated that firms conduct a Compliance Risk Assessment (CRA) exercise and that the results be reported to their Executive Boards. Therefore,</p>	SP7	<p>The Investment Firm should contact the CBB's Compliance Directorate directly regarding this matter.</p>

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April 2014

	<p>their Bahrain branch participates in the CRA exercise annually as integral part of the Compliance planning and reporting process. Compliance Risk Assessment includes a series of theme based Inherent Risk questions and Control Effectiveness questions that the local Compliance Officer must answer to complete the review. Furthermore, quantitative metrics are used to support the completion of the qualitative questionnaires.</p>		
<p><b>FC-3.3.1 Investment firm licensees must take appropriate steps to identify and assess their money laundering and terrorist financing risks (for customers, countries or geographic areas; and products, services, transactions or delivery channels). They must document those assessments in order to be able to demonstrate their basis, keep these assessments up to date, and have appropriate mechanisms to provide risk assessment information to the CBB. The nature and extent of any assessment of money laundering and terrorist financing risks must be appropriate to the nature and size</b></p>	<p>An Investment Firm noted the following:</p> <p>Is CBB going to set a standard risk assessment for licensees similar to FC-3.3.1B or it is based on the Firm's judgments?</p>	<p>SP8</p>	<p>The risk assessment should be based on the firm's judgments.</p>

**Consultation on Proposed Amendments to Module FC**  
**Industry Comments and Feedback**  
**Volume 4 Investment Business Firms**  
**April 2014**

<p><b>of the business.</b></p> <p>FC-3.3.1A Investment firm licensees should always understand their money laundering and terrorist financing risks, but the CBB may determine that individual documented risk assessments are not required, if the specific risks inherent to the sector are clearly identified and understood.</p>			
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