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FINANCIAL ACTION TASK FORCE
GROUPE D'ACTION FINANCIÈRE

The Revised FATF Standards

7. Customer Due Diligence – General Requirements

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Overview

- Customer due diligence (R.10)
- Record-keeping (R.11)
- Reporting of suspicious transactions (R.20)
- Tipping-off and confidentiality (R.21)
- Financial secrecy laws (R.9)
- DNFBPs: customer due diligence (R.22)
- DNFBPs: other measures (R.23)

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Customer Due Diligence (R.10)

- The scope and nature of the main requirements remain unchanged.
- In particular, the 4 "basic" CDD requirements have not changed:
  - Identifying the customer and verifying its identity
  - Identifying the beneficial owner and taking reasonable measures to verify its identity
  - Understanding the purpose and intended nature of the business relationship
  - Conducting ongoing due diligence
- The requirements have been clarified and additional guidance is provided

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Customer Due Diligence (R.10)

- Greater specificity on the requirement to identify and take reasonable measures to verify the beneficial ownership:
  - Definition of "reasonable measures"
  - Legal arrangements: list of natural persons to identify
  - Legal persons: step-by-step approach

Customer Due Diligence (R.10)

- Beneficial owners of legal persons:
  - **Step 1**: the natural persons who ultimately have a controlling ownership interest;
  - **Step 2**: when (i) there is doubt as to whether the natural person identified under step 1 is the beneficial owner or (ii) no natural person is identified under step 1, the natural persons exercising control through other means;
  - **Step 3**: when no beneficial owner is identified under steps 1 and 2, the relevant natural person holding the senior management official position.

Customer Due Diligence (R.10)

- Introduction of examples of documents needed to identify and verify the identity of the customer
- Clarification of the specific measures that apply in relation to the beneficiaries of life insurance policies
- Additional guidance on how the RBA affects R.10:
  - Examples of risk factors
  - Examples of possible measures
  - Nature of FATF Standards examples

Record-Keeping (R.11)

- The requirements are unchanged: financial institutions should maintain for at least 5 years all necessary records on transactions.
- Introduction of a restrictive exemption regime for R.11 under the RBA: any information gathered by financial institutions should always be retained consistent with R.11.

Reporting of Suspicious Transactions (R.20)

- This Recommendation is unchanged:

"If a financial institution suspects that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required to report promptly its suspicions to the FIU".

- One of the three fundamental principles that need to be introduced in law (with CDD and record-keeping).

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Tipping-Off and Confidentiality (R.21)

- The requirements are unchanged:
  Financial institutions, their directors, officers and employees should be:
  - Protected by law from criminal and civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith to the FIU.
  - Prohibited by law from disclosing the fact that a suspicious transaction report is being filed.

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Financial Secrecy Laws (R.9)

- This Recommendation is unchanged:
  Financial institution secrecy laws should not inhibit the implementation of the FATF Recommendations.
- Clarification of the interplay between AML/CFT and data protection & privacy laws was considered.

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Designated Non Financial Businesses and Professions (R.22 & 23)

- DNFBPs are required to apply most of the requirements on financial institutions (CDD, record-keeping, PEPs, new technologies, third party reliance, internal controls, higher risk countries, reporting of suspicious transactions)
- The scope of the professions and activities covered, as well as the scope of the requirements that apply to DNFBPs, are unchanged