




FINANCIAL ACTION TASK FORCE
GROUPE D'ACTION FINANCIÈRE

The Revised FATF Standards

11. Regulation and Supervision

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Overview

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 - Definitions (Glossary)
 - Risk Based Approach
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Regulation and Supervision

Definitions

- Competent authorities, Supervisors (including Financial Supervisors) and Self-Regulatory Bodies (SRBs) may be involved in regulation and/or supervision
- **Competent authorities:**
 - Public authorities with designated responsibilities for combating money laundering and/or terrorist financing
 - *More examples:* Authorities with function of investigating and/or prosecuting ML, associate predicate offences and TF, authorities receiving reporting on cross-border transportation of currency & BNI etc.

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Regulation and Supervision

Definitions

- **Supervisors / Financial Supervisors:**
 - Designated competent authorities or non-public bodies ensuring compliance by financial institutions ("*financial supervisors*") and/or DNFBPs with AML/CFT requirements
 - Non-public bodies should have AML/CFT supervision and sanction powers. They should also be empowered by law and supervised by a competent authority
- **Self-Regulatory Bodies (previously SROs):**
 - Represents a profession, is made up of members from the profession, has a role in regulating the members, and performs certain supervisory or monitoring type functions
 - Such bodies should enforce rules to ensure that high ethical and moral standards are maintained by those practising the profession

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Regulation and Supervision

Risk-Based Approach (RBA)

- RBA to supervision / monitoring for financial institutions and DNFBPs – INR.26 / INR.28
 - Take into account national ML/TF risks (see R.1)
 - Understand the sectoral ML/TF risks
 - Understand specific ML/TF risks of entities supervised / monitored
 - Resources allocated according to risks - focus on higher risk areas
 - Not static – periodic reviews
- Supervisors / SRBs should have :
 - Adequate powers, including access to information
 - Adequate resources and professional staff
 - Sufficient operational independence for Supervisors

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Regulation and Supervision

Risk-based supervision – Financial institutions (R.26)

- Onsite / Offsite access on domestic & international risks
 - E.g. customers, products, services, size, quality of compliance
- Degree of discretion for financial institution, and its risk assessment
- Take into account internal controls and mitigating measures - financial group controls and consolidated supervision is relevant
- Frequency & intensity of supervision dependent on risks
- Triggers for periodic reviews: e.g. major events, changes in management or operations of financial institution

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Regulation and Supervision

Risk-based supervision/monitoring - DNFBPs (R.28)

- Consider its risk profile
- Assess the adequacy of the DNFBP's AML/CFT internal controls
- Degree of discretion allowed to DNFBP under the RBA
- Frequency & intensity of supervision / monitoring dependent on risks

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Regulation and Supervision

Supervision of Financial Institutions (R.26)

- No real change
- Countries / Supervisors – not approve / continue operation of shell banks
- Core Principles Financial Institutions – regulated and supervised
 - Consolidated Group Supervision for AML/CFT purposes
- Other Financial Institutions – *adequately* regulated, and subject to supervision *or* monitoring for AML/CFT purposes

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Regulation and Supervision

Powers & Sanctions (R.27)

- Powers of sanctions in line with R.35 – i.e. range of effective, proportionate and dissuasive sanctions, whether criminal, civil or administrative
 - R.35 applies to R.6, and R.8 to R.23
 - Specifically, supervisors should have range of disciplinary and financial sanctions, including (i) power to withdraw, and(ii) restrict or suspend the financial institution's license
- Clarification that supervisors should have powers to *supervise* or monitor compliance

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Regulation and Supervision / Monitoring

DNFBPs (R.28)

- Casinos – *licensed, regulated and supervised by a competent authority*
- Other DNFBPs – *supervised or monitored by supervisor or SRBs*
- Fit and proper test applicable for both casinos and other DNFBPs
- Adequate powers to monitor and sanction – consistent with R.35; effective, proportionate and dissuasive, whether criminal, civil or administrative
 - R.35 also applies to R.22 and R.23

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Regulation, Supervision or Monitoring

Money or Value Transfer Services (R.14)

- R.14 also calls for MVTs to be licensed or registered and subject to FATF Recommendations
 - Some overlap with R.26
- Clearer requirement for countries to take action to identify and sanction unlicensed or unregistered MVTs operators

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Regulation, Supervision or Monitoring

MVTs (R.14)

- Agents of MVTs providers should:
 - be licensed or registered by competent authority; or
 - MVTs provider should maintain a list of agents in relevant countries of operation, accessible by competent authorities
- Agents of MVTs providers should be included and *monitored* in the MVTs providers' AML/CFT programmes

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