Responding Party	Document Reference	Requested Change	Rationale for change	Other Comment
Association of Compliance Officers In Ireland	Section 1.1 & 1.2	**Request for Clarification in respect of:** "The Guidelines set out the expectations of the Central Bank of Ireland ('Central Bank') regarding the factors that firms should take into account when identifying, assessing and managing ML/TF risks [..] The Guidelines do not take the place of a firm performing its own assessment of the manner in which it shall comply with its statutory obligations. The Guidelines are not a checklist of things that all firms must do or not do in order to reduce their ML/TF risk, and should not be used as such by firms. The Guidelines are not the only source of guidance on ML/TF risk. Firms are reminded that other bodies produce guidance that may also be relevant and useful.	Given introduction and transcription of ESA Guidance on Risk Factors with minor, significant changes (such as "may" being amended to "should") within the Central Bank Guidance Notes as drafted, what reliance might be placed on the Guidance Notes as a capture of the Central Bank approach to regulation of Designated Persons and the capture of AML/CFT Risk? Irish Guidelines repeat the ESA Guidelines on Customer Risk Factors, but not in all cases. This could be confusing, especially when the Central Bank uses word such as "firms should". The ESA Guidelines clearly state that not all factors outlined need to be taken into account and this principle should be clear in the Irish Guidelines also (noting the firm must be able to demonstrate why certain factors may not be as relevant). Clarification is sought as to relevant bodies - is this FATF and ESA or can Designated Persons cross-reference from other bodies also e.g. Law Society of Ireland?	Request for clarification
Association of Compliance Officers In Ireland	Para 4.4	**Request for Amendment to Wording to:** 'the customer's and the beneficial owner's reputation insofar as it informs the customer's or beneficial owner's financial crime risk'	A customer's reputation can have many facets e.g. commercial, treatment of customers, management etc, and these general reputation are not relevant to the assessment of AML risk. There may be an unintended consequence of a strict interpretation of this provision leading to business relationships being terminated for reasons other than financial crime risk.	Request for amendment
Association of Compliance Officers In Ireland	Section 4.4.1	**Request for Clarification** If one director of a customer is a PEP, therefore the customer is to be considered as a higher risk entity i.e. incorporated entity is subject to Enhanced Due Diligence (EDD); Senior Management approval; more frequent ongoing monitoring; etc. **Suggested wording for inclusion in 4.4.1;** The steps to be taken by firms under Section 37 should reflect the level of risk that the customer or beneficial owner is involved in money laundering or terrorist financing.	Clarification is sought regarding the scope of application and extent of the definition of a PEP. Members advise that there will be significant issues is determining the following given that these do not fall within the definitiion of a PEP and may be difficult to identify; • Decision-making members of high profile sporting bodies; • Individuals that are known to influence the government and other senior decision-makers	Request for clarification

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Association of Compliance Officers In Ireland	Para 4.7.2	Some additional guidance would be welcome as to measures that could be taken to detemine whether: - CDD measures and records are equivalent to EEA standards; and - AML/CFT obligations are comparable. The JMLSG in the UK has provided guidance on this point whereby it is suggested that such assessments could be conducted by reference to the content of FATF mutual evaluation reports (Annex 4-I of Part 1, paragraph 26 - full extract below) . "Implementation standards (including effectiveness of supervision) 26. Information on the extent and quality of supervision of AML/CTF standards may be obtained from the extent to which a jurisdiction complies with Recommendations 17, 23, 29 and 30."	It would be to the benefit of industry as a whole if firms were to take a broadly consistent approach when determining equivalance. The JMLSG in the UK has provided guidance on this point.	Request for clarification
Association of Compliance Officers In Ireland	Section 5.2	**Suggested wording for inclusion should the Central Bank not publish a list of acceptable documentation.** *Proposed location* : At the beginning of the section on Customer Due Diligence 'The Central Bank has not included prescriptive / definitive examples of documentation that it considers would satisfy customer identification and verification requirements. Firms, in applying a risk based approach must maintain their own lists of documents which it will accept, in satisfaction of this obligation and in accordance with relevant national and international laws and standards and taking into account other obligations such as financial inclusion and Data Protection. Such lists will be subject to review for ongoing appropriateness taking into account, among other things, a firms evolving processes and adoption of new technology.'	The ACOI acknowledges the risks that a prescriptive list in Guidelines would present, i.e. it would be difficult to future proof and difficult to change which might be required given e.g. given the pace of technological developments. Members, however may face challenge when requesting documentation from potential customers when there is no list specified in any legislation / regulation. If a firm is required to maintain their own list under the Guidelines, this would underpin the response to any challenge.	Request for amendment

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Association of Compliance Officers In Ireland	Section 5.2.2	Beneficial Ownership – situations where it is required to “identify” and “verify” is ambiguous: • Situations where it is, or is not required, to identify beneficial owners is ambiguous in the Guidelines and would benefit from clarification. • For example: o 5.4.1 (Simplified Due Diligence) states that “firms can no longer avail of exemptions previously contained under CJA 2010”. This follows that, there can be no circumstances where a firm has not identified a beneficial owner (this includes regulated entities). o 5.4.1.(page 37) : SDD measures which Firms may apply to Business Relationships or Transactions. The Guidance states – “This does not result in a de facto exemption from CDD. Firms should ensure that the customer’s or beneficial owner’s identify will ultimately be verified”.–This may lead to substantial difficulty for ACOI members especially in the funds industry where there is a use of Nominee Accounts which are effectively pooled accounts for Regulated Entities. o Section 5.2.2 (Beneficial Ownership”) states that “where the product or service is of a type where it is obvious that it is being provided for the customer only and that there is no beneficial owner involved”. This implies that there can effectively be a beneficial owner exemption in relation to “simplified products”. • In addition, the Guidelines refers in part to a requirement to always “verify” beneficial owners, even in a simplified due diligence context. In other parts, it acknowledges that at a minimum there is a requirement to “identify” but not verify.	Clarification sought as it's not clear what product or service has no beneficial owner. Examples of the product or service referred to would be helpful	Request for clarification
Association of Compliance Officers In Ireland	Section 5.2.2	In all other instances, firms are required to verify the beneficial owner's identity in accordance with Section 33(2) of the Criminal Justice Act As Amended to ensure that they are satisfied that they know who the beneficial owner is.	The definition of beneficial ownership under the 4th MLD is broad and introduces complexity in relation to different scenarios (for example, the test to identify ownership through control refers to a directive on consolidated financial statements). If this test also fails, the definition requires the “Senior Managing Official(s)” to be listed as the beneficial owner. The Guidelines would benefit from elaborating on this definition to assist in consistency of application in different scenarios.	Request for clarification

Responding Party	Document Reference	Requested Change	Rationale for change	Other Comment
Association of Compliance Officers In Ireland	Section 5.2.6	**Suggested amend wording to** "Firms may not rely on the third party to fulfil the ongoing monitoring requirements, which they are obliged to conduct as warranted by the risk of their underlying customers, as prescribed by Section 35(3) without documented outsourcing agreements e.g. Statement of Work for Outsourcing. Firms should note that they cannot rely on the third party to perform the EDD measures without a documented dependance agreement. Third parties may not provide senior management approval"	Further information and detail is sought regarding how this is potentially to work in practice where there is third party reliance for elements of completion of EDD e.g. providing banking facilities to providers of pooled client accounts where we rely on that provider to confirm that they have carried out CDD/EDD on the individual clients. **Suggestions for implementation include**: • the third party can complete the gathering of documentation / information • decision- making on retention / exiting / change of customer risk rating to be retained with in-house person or function charged with this duty e.g. the Money Laundering Reporting Officer (MLRO) • Where there is no change to the existing risk rating, the third party gathers the document and can confirm the ongoing monitoring requirement has been met.	Request for amendment
Association of Compliance Officers In Ireland	Section 5.3 Ongoing Monitoring	**Suggested amended wording; 5.3, third bullet** Periodic reviews of ~~all~~ customers, the frequency of which is commensurate with the level of ML/TF risk posed by the customer, the trigger events in place for customer reviews and the Firm's approach to the monitoring of transactions. Firms should also ensure that staff are provided with specific training on how to undertake a periodic review;	For clarity: requesting deletion of 'all'. For customers who are rated as posing a higher risk, these are subject to regular periodic reviews (in addition to review at specific trigger events). For customers that pose a lower risk, they are subject to on-going review at specific trigger events and transaction monitoring only. For lower risk customers, Firms should be able to rely on their transaction monitoring and trigger event processes to fulfil their obligations to review all customers. In addition, it would be an extremely cumbersome, time consuming and resource intensive exercise to periodically review all customers outside of trigger events (including standard risk) for firms with very high numbers of customers and would have detrimental effect on the successful operations of an AML Framework for a Bank as resources and budgets would be focused towards this exercise rather than targeted on the areas that pose the higher risk.	Request for amendment

Responding Party	Document Reference	Requested Change	Rationale for change	Other Comment
Association of Compliance Officers In Ireland	Section 5.6.2	**Suggested wording:** "The Senior Manager approving a PEP business relationship should have sufficient seniority and oversight to take informed decisions on issues that directly impact the firm's ML/TF risk profile" The Firm must allocate responsibility for the approval of PEP relationships, and must ensure that the approval of a PEP relationship is conducted by individuals who are appropriately skilled and empowered, and is subject to appropriate oversight.	Read in conjunction wth 6.2:, "*The Senior Management of firms, including the Board of Directors (the Board) (or its equivalent) have responsibility for managing the identified ML/TF risks by demonstrating active engagement in the firm's approach to effectively mitigating such risk* s" it is not clear if Senior Management refers to PCFs / Board and/or other leaders. The two definitions do not appear aligned. Examples would assist here - or see suggested addition. In practice, it is the experience of members that it is not necessarily Board members who carry out the approval of PEP relationships and the key factor is that the approver should have appropriate eknowledge, experience and authority (seniority).	Request for amendment
Association of Compliance Officers In Ireland	Para 6.3.1	**Suggested Revised Wording for bullet 1:** 'The ~~production~~ receipt and review of regular and timely information ('MI') produced by the relevant function in the firm and appropriate comment and / or escalation to the Senior Management by the MLRO regarding the AML/CFT activities at the firm. Such MI should be sufficiently detailed to ensure a thorough oversight by the MLRO and Senior management is able to make timely, informed and appropriate decisions on financial crime matters.	In many firms, the role of the MLRO is clearly embedded in the Second Line and AML operational activities which are the subject of MI are conducted in the First line of Defence. The separation of duties are clear and are designed to provide for appropriate oversight of AML operational activities. The wording as currently drafted implies that the MLRO will 'produce' the MI which would impair such separation of duties. The current wording may have the unintended consequence of necessitating significant re-alignment of roles and responsibilities within firms which have been developed over time and operating for significant periods of time and would be disruptive.	Request for amendment
Association of Compliance Officers In Ireland	Section 6.6.1	"Section 57 of the CJA 2010 sets out the obligation to implement group-wide policies and procedures where a firm is part of a group"	Expectations should be clarified where the Designated Person is not the parent entity e.g. an entity incorporated by a foreign parent via Foreign Direct Investment. The parent entity may have group-wide policies implemented across all business units including to a wholly owned Irish regulated entity. We recommend the proposed Guidance Notes clarify whether a Designated Person, as a separate legal entity to the parent, is therefore required to have: i) Distinct Policies and Procedures. OR ii) Group Policies and Procedures from parent subject to Corporate Governance requirements around entity-level review, challenge and ownership by Board of Policies and Procedures.	Request for clarification

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Association of Compliance Officers In Ireland	Para 7.3	**Suggested Amended Wording ~~:~~** 'As soon as practicable' means when the firm suspects ~~or has~~ on reasonable grounds ~~to suspect~~ money laundering or terrorist financing before the execution of a transaction or at the same time as the execution of a transaction. In such cases, the firm should ~~immediately~~ file an STR without delay. The firm may need to conduct further analysis and assessment in order to make its determination. Any such analysis and assessment should be conducted without delay, however as soon as the firm has established a suspicion or reasonable grounds, it should ~~immediately~~ promptly file an STR .	1. Where a firm files a STR, section 7.5 paragraph 3 states that " Firms should ensure that STRs submitted to the authorities are sufficiently detailed to assist the authorities in their investigations." If firms are required to file STR's with the FIU without first investigating the transactions, the FIU may be inundated with STRs which are easily explained away after an initial investigation or which of a poor quality. 2. The FIU have consistently fed back to stakeholders including ACOI members that they don't want designated persons to file STR's without requisite detail. If designated persons are forced to file a STR's at the first hint of suspicion without investigating them, the FIU may consume resources triaging / assessing poor quality STR's, and conducting avoidable follow up with a firm.	Request for amendment
Association of Compliance Officers In Ireland	In Section 7.4	**Suggested amendments this section (Indented bullets):-** o All required steps for the reporting of suspicions from staff to the MLRO, or any other person(s) charged under the firm's internal reporting process with investigating and reporting suspicions, and from the MLRO to the authorities; o The timeframes for escalation of suspicious transactions from when a staff member first identifies a suspicious transaction to when it is raised under the internal reporting process, including the timeframe for onward reporting to the authorities ~~to the MLRO;~~ o Formal acknowledgement by the firm~~'s MLRO~~ of suspicions raised internally by staff; and o Information with regard to 'tipping off' so as to ensure that staff are aware of their obligations under he CJA 2010, the enalties for the offence of tipping off and that they exercise cuationafter the filing of an STR	The role of the MLRO in relation to STRs, in particular this section discusses the responsibilities of the MLRO for receiving, acknowledging and reporting the suspicion to the FIU. In the experience of members of ACOI this approach would be appropriate for a firm with smaller staff and customers. For larger firms with large customer bases, the responsibility for investigation and reporting, are often undertaken by a first line Operational AML/Financial Crime Team with oversight from the MLRO who typically sits in the 2nd line of defence. It would not be practical for the MLRO to review/submit each STR and it should be the responsibility of the Firm overall to ensure that suitable structures are in place for such activities, including appropriate oversight comensurate with those structures.	Amendment

Responding Party	Document Reference	Requested Change	Rationale for change	Other Comment
Association of Compliance Officers In Ireland	Para 8.8	**Suggested amended wording:-** "Firms should ensure that *where appropriate* the AML/CFT training provided includes an assessment or examination at the end of the training session, which should be passed by all participants in order for the AML/CFT training to be recorded as completed".	Firms use-different channels for the delivery of financial crime training. Each channel allows participants to confirm their understanding of the material in different ways. Online or e-learning delivery media should include an assessment or examination embedded into the training as the trainer has no other way to assess assimilation / comprehension of the material. The inclusion of an assessment or examination at the end of the training session where the training is conducted by classroom and/or lecture style training events is unnecessary, as this type of training allows the trainer to ascertain understanding of the material being presented in other more effective ways, these include face to face questions and answers sessions, role playing scenarios, case studies, etc. It is the experience of members that the MLRO / firm is best placed to determine the appropriate delivery medium and assessment mechanism fo the different cohorts of management and staff and dependant on their role.	Request for amendment
Association of Compliance Officers In Ireland	General	**Request for Added Wording** Firms should apply a risk based approach to certification of documentation and in relation to language requirements where customer located outside of Ireland. This approach must be documented by the firm.	It is common practice for some firms to require a higher standard to evidence ID&V for higher risk customers. Principles and practices can vary substantially between firms. We recommend the proposed Guidance Notes clarify that firms can apply a risk based approach in meeting requirements by e.g. accepting uncertified documents for standard risk customers or where face-to-face. Additionally language requirements for certification and/or notarisation should be provided given stakeholder engagement outside of Ireland.	Request for amendment

Responding Party	Document Reference	Requested Change	Rationale for change	Other Comment
Association of Compliance Officers In Ireland	General	**Request for additional guidance** CJA2010: s33(2A): The proposed Guidelines would benefit from including guidance around the interpretation or verification of "any person purporting to act on behalf of the customer" **Request for amendment** In relation to s33(2A), *Knows its customers, persons ~~purporting to~~ acting on behalf of customers and their beneficial owners, where applicable;* *Footnote – Persons acting on behalf of the customer may include Power of Attorney cases, Executor/Administrator, Ward of court, Vulnerable Customer who has a third party acting on their behalf via formal authorisation*	It would be particularly helpful for members if the definition is expanded to clarify if it applies to Powers of Attorney; authorised Agents (such as Legal Counsel); third party instructing / acting on behalf of customer; Directors (including Independent Non-Executive Directors) on Board of customer, Trustees, Authorised Signatories. It is our recommendation and request that the proposed Guidance Notes clarify whether the intention of this requirement was to ensure that third parties, not direct employees charged with certain functions, role or engagement with Designated Persons, are identified and verified where they are acting on behalf of our customer.	Request for amendment
Association of Compliance Officers In Ireland	General	**Request for additional guidance** Section VII of the 2012 Core AML Guidelines includes useful instruction on navigating processes specific to the MLRO role, such as dealing with directions and orders. Section VII (D) also provides additional detail with reference to case law regarding what is meant by 'knowledge', 'suspicion' and 'reasonable grounds for suspicion.' Section VII (E) also outlines that information subject to legal privilege does not have to be disclosed. Instructive guidance from Section VII of the 2012 Core AML Guidelines such as the above should be considered for inclusion in Section 7 of the Guidelines.	Providing additional guidance on MLRO processes would be very beneficial for our members and in particular for those performing the role in smaller firms or firms newly subject to the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended) ('the Act'). Many MLROs have other responsibilities and may only deal with reported suspicious activity infrequently given the risk profile of the firm. Including such guidance in the draft Guidelines would also drive consistency in the interpretation of the Act and would preclude industry bodies and professional associations from issuing their own guidance in this area.	Request for additional guidance