

Responding Party	Document Reference	Requested Change	Rationale for Change	Other Comment	
BPFI	Section 4. Business-wide Risk Assessment (CB Guidelines 4.2.1 v.1, ESR Risk Factor Guidelines paragraphs 15 and 16)	Paragraph 16 of the ESR guidance is a list of sources that firms "may consider". These may not be available or appropriate to every firm and in every circumstance. CB has included these in a list that "should" be used in every circumstance. The "should" list in the CB Guidelines needs to align with ESR paragraph 15.	Paragraph 16 of the ESR guidance is a list of sources that firms "may consider". These may not be available or appropriate to every firm and in every circumstance. CB has included these in a list that "should" be used in every circumstance. The "should" list in the CB Guidelines needs to align with ESR paragraph 15.	non-compliant - significant issue	
BPFI	Section 4.4.1 (reg 14) Customer's Role in or Professional Activities (CB Guidelines 4.4.1 v.1, ESR Risk Factor Guidelines paragraph 13)	The Risk Management section in the CB Guidelines has a good deal of overlap with the risk section in the ESR Guidelines. It is recommended that the CB reduces the detail in its Risk Management section to only highlight instances where it wishes additional factors to be considered compared to the ESR Guidelines or wishes to provide significant further interpretation to the ESR Guidelines. Further, in sections the Guidelines goes beyond legislation.	It would be our understanding that the <i>senior</i> refers to "senior natural members of high profile executive bodies" (likely to refer to international executive bodies). This factor goes beyond the legislation of a PEP. Unless these individuals can be identified through PEP/other screening, firms will find it challenging to identify such customers. Members seek clarification regarding the scope of application and the extent of the definition of a Publicly Exposed Person (PEP) (Other director of a customer is a PEP as therefore the customer is to be considered by default a PEP Entity i.e. incorporated entity is subject to Enhanced Due Diligence (EDD); Senior Management approval; more frequent ongoing monitoring, etc.)	Unintended Consequence - Significant issue	
BPFI	Section 4.4.1 (cont'd) (reg 15)	The Risk Management section in the CB Guidelines has a good deal of overlap with the risk section in the ESR Guidelines. It is recommended that the CB reduces the detail in its Risk Management section to only highlight instances where it wishes additional factors to be considered compared to the ESR Guidelines or wishes to provide significant further interpretation to the ESR Guidelines. Further, in sections the Guidelines goes beyond legislation.	It would be our understanding that the <i>senior</i> refers to "senior natural members of high profile executive bodies" (likely to refer to international executive bodies). This factor goes beyond the legislation of a PEP. Unless these individuals can be identified through PEP/other screening, firms will find it challenging to identify such customers. Members seek clarification regarding the scope of application and the extent of the definition of a Publicly Exposed Person (PEP) (Other director of a customer is a PEP as therefore the customer is to be considered by default a PEP Entity i.e. incorporated entity is subject to Enhanced Due Diligence (EDD); Senior Management approval; more frequent ongoing monitoring, etc.)	Unintended Consequence - Significant issue	
BPFI	Section 4.4.3 (reg 17) Customer's Nature & Behaviour	Legal structure: i.e. tax risk factor, practical approach to jurisdiction	ESR provides the list of factors as "for example" however in CB Guidelines the same items become "risk factors firms should consider, include for example". The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	practical issue	
BPFI	Section 4.5 Country or Geographic Risk	Customer and beneficial owner links to other jurisdictions, practicability in corporate customer context	ESR provides the list of factors as "for example" however in CB Guidelines the same items become "risk factors firms should consider, include for example". The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	practical issue	
BPFI	Customer's Reputation (CB Guidelines 4.4.2 v.1, ESR Risk Factor Guidelines paragraph 20)	Paragraph 20 of the ESR guidance has "risk factors may be relevant when considering the risk" recognizing that each of these factors will not be relevant to every customer. In 4.4.2 CB says "Risk factors that firms should consider when assessing the risks ... include, for example" which suggests the full list should be considered for each customer. The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	Paragraph 20 of the ESR guidance has "risk factors may be relevant when considering the risk" recognizing that each of these factors will not be relevant to every customer. In 4.4.2 CB says "Risk factors that firms should consider when assessing the risks ... include, for example" which suggests the full list should be considered for each customer. The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	non-compliant	
BPFI	Customer's Nature and Behaviour (CB Guidelines 4.4.3 v.1, ESR Risk Factor Guidelines paragraph 21)	Paragraph 21 of the ESR guidance has "risk factors may be relevant when considering the risk" recognizing that each of these factors will not be relevant to every customer. In 4.4.3 CB says "Risk factors that firms should consider when assessing the risks ... include, for example" which suggests the full list should be considered for each customer. The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	Paragraph 21 of the ESR guidance has "risk factors may be relevant when considering the risk" recognizing that each of these factors will not be relevant to every customer. In 4.4.3 CB says "Risk factors that firms should consider when assessing the risks ... include, for example" which suggests the full list should be considered for each customer. The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	non-compliant	
BPFI	Customer's Nature and Behaviour (CB Guidelines 4.4.3 v.1, ESR Risk Factor Guidelines paragraph 21)	The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	non-compliant	
BPFI	Country or Geographic Risk (CB Guidelines 4.5 v.1, ESR Risk Factor Guidelines paragraph 22)	In ESR "When identifying the risk associated with countries and geographical areas, firms should consider the risk related to: a) the jurisdictions that are the customer's and beneficial owner's main places of business"; b) jurisdictions which are the customer's and beneficial owner's places of business".	In ESR "When identifying the risk associated with countries and geographical areas, firms should consider the risk related to: a) the jurisdictions that are the customer's and beneficial owner's main places of business"; b) jurisdictions which are the customer's and beneficial owner's places of business".	non-compliant	
BPFI	Nature and Purpose of the Business Relationship within the Jurisdiction (CB Guidelines 4.5.1 v.1, ESR Risk Factor Guidelines paragraph 23)	ESR provides the list of factors as "for example" however in CB Guidelines the same items become "risk factors firms should consider, include for example". The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	ESR provides the list of factors as "for example" however in CB Guidelines the same items become "risk factors firms should consider, include for example". The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	non-compliant	
BPFI	Products, Services and Transactions (CB Guidelines 4.6 v.1, ESR Risk Factor Guidelines paragraph 24)	At second bullet in the list CB has added a risk factor about from the ESR guidance "The ability to transfer ownership of assets". Unlike the other items in this section this item receives no explanatory sub-paragraph to help clarify CB's intention on how this may be applied. The CB Guidelines should remove this added item as align with the ESR requirement unless a specific risk factor from the National Risk Assessment or similar requires its addition. If the firm is to remain then it should be supported by an explanatory sub-section in line with the other risk factors in section 4.6.1.	At second bullet in the list CB has added a risk factor about from the ESR guidance "The ability to transfer ownership of assets". Unlike the other items in this section this item receives no explanatory sub-paragraph to help clarify CB's intention on how this may be applied. The CB Guidelines should remove this added item as align with the ESR requirement unless a specific risk factor from the National Risk Assessment or similar requires its addition. If the firm is to remain then it should be supported by an explanatory sub-section in line with the other risk factors in section 4.6.1.	non-compliant	
BPFI	Transparency of Products, Services or Transactions Risk (CB Guidelines 4.6.1 v.1, ESR Risk Factor Guidelines paragraph 25)	Paragraph 25 of the ESR guidance covers "Risk factors that may be relevant when considering the risk" recognizing that each of these factors will not be relevant to every customer. In 4.6.1 CB says "Risk factors that firms should consider when assessing the risk ... include, for example" which suggests the full list should be considered for each customer. The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	Paragraph 25 of the ESR guidance covers "Risk factors that may be relevant when considering the risk" recognizing that each of these factors will not be relevant to every customer. In 4.6.1 CB says "Risk factors that firms should consider when assessing the risk ... include, for example" which suggests the full list should be considered for each customer. The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	non-compliant	
BPFI	Complexity of Products, Services or Transactions (CB Guidelines 4.6.2 v.1, ESR Risk Factor Guidelines paragraph 26)	Paragraph 26 of the ESR guidance covers "Risk factors that may be relevant when considering the risk" recognizing that each of these factors will not be relevant to every customer. In 4.6.2 CB says "Risk factors that firms should consider when assessing the risk ... include, for example" which suggests the full list should be considered for each customer. The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	Paragraph 26 of the ESR guidance covers "Risk factors that may be relevant when considering the risk" recognizing that each of these factors will not be relevant to every customer. In 4.6.2 CB says "Risk factors that firms should consider when assessing the risk ... include, for example" which suggests the full list should be considered for each customer. The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	non-compliant	
BPFI	Value and Size of Products, Services or Transactions (CB Guidelines 4.6.3 v.1, ESR Risk Factor Guidelines paragraph 27)	Paragraph 27 of the ESR guidance covers "Risk factors that may be relevant when considering the risk" recognizing that each of these factors will not be relevant to every customer. In 4.6.3 CB says "Risk factors that firms should consider when assessing the risk ... include, for example" which suggests the full list should be considered for each customer. The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	Paragraph 27 of the ESR guidance covers "Risk factors that may be relevant when considering the risk" recognizing that each of these factors will not be relevant to every customer. In 4.6.3 CB says "Risk factors that firms should consider when assessing the risk ... include, for example" which suggests the full list should be considered for each customer. The CB Guidelines should align with the ESR requirement to avoid a perception that non-applicable risk factors need to be ruled out in each case.	non-compliant	
BPFI	Section 4.8.1.1 - Weighting Risk Factors (reg 24)	This list of guidelines is ambiguous and could cause inconsistencies due to different interpretations. We assume that the intention is not for all CB relationships outside the EU to be high risk. 5.4.8.1 also appears to be a contradiction of 5.1.7. The conclusion of the risk assessment should determine the appropriate risk rating attaching to a particular respondent institution and the level of EDD applied to the frequency of relationship review. The quote suggests that such relationships must always be rated as High Risk for the duration of the relationship with the respondent institution. This would appear to go further than what is required per Section 38 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2018 ("the Act") which does not permit a designated person to "enter into a correspondent relationship with another credit or financial institution (the respondent institution)" situated in a place other than a Member State, "until it has completed a series of specified enhanced due diligence steps. However, the Act does not specify the due diligence requirements that must be undertaken and the establishment of the business relationship with the respondent institution and consequently, there is a obligation contained in the Act determining that such relationship always present a high money laundering risk.	Should the enhanced due diligence that is completed during the onboarding process confirm that the relationship does not present an ongoing high money laundering and/or terrorist risk, then the respondent institution may consider that there is nothing in the Act preventing the designated person from classifying the business relationship as something other than high risk - unless the specified enhanced due diligence steps have been completed by the designated prior to it entering into a correspondent relationship with the respondent institution and is reflective of a risk based approach to the management of money laundering and terrorist financing.	Ambiguous and likely to cause inconsistencies - Guidance and clarity sought - Significant issue	
BPFI	Section 4.4.8.1.1 - Weighting Risk Factors cont'd	The guidance does not deal with correspondent relationships among credit institutions or financial institutions where there is no underlying third-party customer i.e. what JMLG refer to as 'correspondent trading relationships' where the definition of correspondent relationship now appears to include non-account relationships such as RMA/DPF's. Guidance is requested on the CDD requirements for these relationships particularly where such relationships may be restricted to a particular message type. The definition of a "financial institution" is quite wide and, it is not clear what type of accounts or for customers such as, for example, an investment business firm or an insurance company might be brought within definition of a 'correspondent relationship'	The guidance does not deal with correspondent relationships among credit institutions or financial institutions where there is no underlying third-party customer i.e. what JMLG refer to as 'correspondent trading relationships' where the definition of correspondent relationship now appears to include non-account relationships such as RMA/DPF's. Guidance is requested on the CDD requirements for these relationships particularly where such relationships may be restricted to a particular message type. The definition of a "financial institution" is quite wide and, it is not clear what type of accounts or for customers such as, for example, an investment business firm or an insurance company might be brought within definition of a 'correspondent relationship'	Significant issue - Consistency	
BPFI	Section 4 (reg 25) Updating of ML/TF Risk Assessment	Requirement to update risk assessment "as soon as possible". Business Wide Risk Assessment may not be a working doc, but rather a static one. Clarity that monthly ML, assessments, etc. is sufficient to evidence this.	Requirement to update risk assessment "as soon as possible". Business Wide Risk Assessment may not be a working doc, but rather a static one. Clarity that monthly ML, assessments, etc. is sufficient to evidence this.	Significant issue - Consistency	
BPFI	Section 5.2 (reg 28) Act on behalf of	Clarification is required to "persons purporting to act on behalf of the customer" to avoid unintended consequences of the application of CDD measures to parties who ordinarily act on behalf of the customer, for example employees of regulated financial institutions or public limited companies acting as signatories. I.e. we would consider these persons to those who ordinarily act on behalf of the customer as opposed to someone who is not an authorised signatory of a power of attorney that does not ordinarily act on behalf of the customer.	Clarification is required to "persons purporting to act on behalf of the customer" to avoid unintended consequences of the application of CDD measures to parties who ordinarily act on behalf of the customer, for example employees of regulated financial institutions or public limited companies acting as signatories. I.e. we would consider these persons to those who ordinarily act on behalf of the customer as opposed to someone who is not an authorised signatory of a power of attorney that does not ordinarily act on behalf of the customer.	Clarity and Guidance sought	
BPFI	Section 5.2 (reg 28) Act on behalf of	Clarification is required to "persons purporting to act on behalf of the customer" to avoid unintended consequences of the application of CDD measures to parties who ordinarily act on behalf of the customer, for example employees of regulated financial institutions or public limited companies acting as signatories. I.e. we would consider these persons to those who ordinarily act on behalf of the customer as opposed to someone who is not an authorised signatory of a power of attorney that does not ordinarily act on behalf of the customer.	Clarification is required to "persons purporting to act on behalf of the customer" to avoid unintended consequences of the application of CDD measures to parties who ordinarily act on behalf of the customer, for example employees of regulated financial institutions or public limited companies acting as signatories. I.e. we would consider these persons to those who ordinarily act on behalf of the customer as opposed to someone who is not an authorised signatory of a power of attorney that does not ordinarily act on behalf of the customer.	Clarity sought - definition to be expanded - suggestion to reduce any ambiguity, we would suggest the following wording is included in the guidance. Persons purporting to act on this a general would cover scope of attorney cases, Executor/Administrators, Ward of court etc	Unintended Consequence
BPFI	Section 5.2 Customer Due Diligence (CDD) - (reg 29) "CDD involves more than just verifying the identity of a customer. Firms should collect and assess all relevant information".	A "one-size fits all" approach across all products/services such as suggested may be problematic in some scenarios and may also result in missing with laying transactions.	A "one-size fits all" approach across all products/services such as suggested may be problematic in some scenarios and may also result in missing with laying transactions.	Significant issue - Clarification & Guidance needed	
BPFI	Section 5.2 Customer Due Diligence (CDD) - (reg 29) Customer Due Diligence states that firm should put in place processes to "return funds directly to the source from which they came".	Prescribe wording to be included in FAQs or customer context, see below, of factors that will result in discontinuance of business relationships to see relationship obligations associated under CAS200	Prescribe wording to be included in FAQs or customer context, see below, of factors that will result in discontinuance of business relationships to see relationship obligations associated under CAS200	Significant issue - Clarification	
BPFI	Section 5.2.9 (reg 34-35) Reference to Other Parties	This appears to go against the spirit of the legislation, ESR guidance (4.50) and the guidance (4.4) Risk Based Approach of applying risk based measures to customers to combat ML/TF, therefore following a firm AML resources and controls of the areas that pose the higher risk. To review all customers and periodic basis would have a significant impact on firms, which we believe will have unintended consequences.	This appears to go against the spirit of the legislation, ESR guidance (4.50) and the guidance (4.4) Risk Based Approach of applying risk based measures to customers to combat ML/TF, therefore following a firm AML resources and controls of the areas that pose the higher risk. To review all customers and periodic basis would have a significant impact on firms, which we believe will have unintended consequences.	Significant issue - Consistency	
BPFI	Section 5.3 (reg 35) Customer Due Diligence - Ongoing Monitoring	It would be our members' expectation that for Low Risk customer firms are able to rely on trigger events, in addition to trigger events, these low risk customers are subject to ongoing transactions monitoring and covering which would identify any potential change to their low risk profile. For firms with a high number of low risk customers, the time spent on conducting periodic reviews for low risk customer would be counterproductive if it would take valuable resources away from reviewing those customers which pose a higher risk. In addition, the approach to focus on prescriptive requirements rather than a risk based approach which may be detrimental to the effectiveness of the light against financial crime, money laundering and the financing of terrorism, as resources would be focused on this task rather than targeted areas that pose a higher risk.	It would be our members' expectation that for Low Risk customer firms are able to rely on trigger events, in addition to trigger events, these low risk customers are subject to ongoing transactions monitoring and covering which would identify any potential change to their low risk profile. For firms with a high number of low risk customers, the time spent on conducting periodic reviews for low risk customer would be counterproductive if it would take valuable resources away from reviewing those customers which pose a higher risk. In addition, the approach to focus on prescriptive requirements rather than a risk based approach which may be detrimental to the effectiveness of the light against financial crime, money laundering and the financing of terrorism, as resources would be focused on this task rather than targeted areas that pose a higher risk.	Significant issue - Clarification & Guidance needed	
BPFI	ESR paragraph 23 "Monitoring and review: Firms must ... also keep the documents, data or information they hold up to date with a view to understanding whether the risk associated with the business relationship has changed."	Supplementary CB requirement "Periodic reviews of all customers, the frequency of which is commensurate with the level of ML/TF risk posed by the customer". The CB Guidelines should remove this added item and align with the ESR requirement unless a specific risk factor from the National Risk Assessment is highlighted or similar requires its addition.	Supplementary CB requirement "Periodic reviews of all customers, the frequency of which is commensurate with the level of ML/TF risk posed by the customer". The CB Guidelines should remove this added item and align with the ESR requirement unless a specific risk factor from the National Risk Assessment is highlighted or similar requires its addition.	non-compliance	
BPFI	Section 5.2 (reg 29) Beneficial Ownership	Section 5.2.2 (Beneficial Ownership) states that "where the product or service of a type where it is obvious that it is being provided for the customer only and there is no beneficial owner involved". This implies that there can effectively be a beneficial owner exemption in relation to "unclassified products".	Section 5.2.2 (Beneficial Ownership) states that "where the product or service of a type where it is obvious that it is being provided for the customer only and there is no beneficial owner involved". This implies that there can effectively be a beneficial owner exemption in relation to "unclassified products".	Significant issue - Inconsistent	
BPFI	Section 5.2 (reg 29) Nature and Purpose of the Business Relationship	Beneficial Ownership - situations where it is required to identify and verify is ambiguous. 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.	Beneficial Ownership - situations where it is required to identify and verify is ambiguous. 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.	Ambiguous and likely to cause inconsistencies - Guidance and clarity sought	
BPFI	Section 5.4.1 (reg 37) Simplified Due Diligence	The Guidelines should remove this added item and align with the ESR requirement unless a specific risk factor from the National Risk Assessment is highlighted or similar requires its addition.	The Guidelines should remove this added item and align with the ESR requirement unless a specific risk factor from the National Risk Assessment is highlighted or similar requires its addition.	Practical issue	
BPFI	Section 5.4.1 (reg 37) Simplified Due Diligence	The Guidelines state that accepting information from the customer rather than an independent source is not permitted in relation to the verification of the customer's identity. It is commensurate across the industry, both domestically and internationally, to rely upon information provided by independent persons within a low to medium risk category (for example a company secretary, a compliance officer or a legal representative) when verifying a customer's identity, for example, company structure and the identity of company directors and beneficial owners. Furthermore this was permissible under the previous Guidelines.	The Guidelines state that accepting information from the customer rather than an independent source is not permitted in relation to the verification of the customer's identity. It is commensurate across the industry, both domestically and internationally, to rely upon information provided by independent persons within a low to medium risk category (for example a company secretary, a compliance officer or a legal representative) when verifying a customer's identity, for example, company structure and the identity of company directors and beneficial owners. Furthermore this was permissible under the previous Guidelines.	Ambiguous and likely to cause inconsistencies - Guidance and clarity sought	
BPFI	Section 5.4.1 (reg 38) Simplified Due Diligence	The individuals providing the identity information all perform independent control function roles within the company and are bound by various rules and laws in the operation of these roles. There would be a materially adverse impact if this was deemed to constitute accepting information from the customer rather than an independent source. The guidelines should be updated to clarify that the satisfactory delivery of information is not permitted, reliance on information from an independent source within a customer is acceptable.	The individuals providing the identity information all perform independent control function roles within the company and are bound by various rules and laws in the operation of these roles. There would be a materially adverse impact if this was deemed to constitute accepting information from the customer rather than an independent source. The guidelines should be updated to clarify that the satisfactory delivery of information is not permitted, reliance on information from an independent source within a customer is acceptable.	Guidance and clarity sought	
BPFI	Section 5.6.3 (reg 43) Scope of Details/Source of Funds of PEPs	Enhanced On-going monitoring of PEPs Firms should regularly review the information they hold on PEP customers and their beneficial owners (where relevant) to ensure that any new or emerging information that could affect the risk assessment is identified in a timely fashion. The frequency of ongoing monitoring should be determined by the firm commensurate with the higher risk associated with the PEP relationship. All PEPs do not pose the same risk. Some PEPs pose a lower risk e.g. some domestic PEPs and some international PEPs. The wording it is in the guidance may cause confusion. The FCA FG 176 The treatment of politically exposed persons for anti-money laundering purposes document in Section 2.10 states: "The regulations contained in determining whether these systems and procedures are appropriate, a firm should refer to: A. An assessment of the extent to which the risk would be increased by a business relationship with a PEP, family member or close associate. The FCA would expect that this is a case-by-case assessment and not an automatic assessment that a relationship creates a high risk of money laundering." Ambiguous and likely to cause inconsistencies - Guidance and clarity sought	Enhanced On-going monitoring of PEPs Firms should regularly review the information they hold on PEP customers and their beneficial owners (where relevant) to ensure that any new or emerging information that could affect the risk assessment is identified in a timely fashion. The frequency of ongoing monitoring should be determined by the firm commensurate with the higher risk associated with the PEP relationship. All PEPs do not pose the same risk. Some PEPs pose a lower risk e.g. some domestic PEPs and some international PEPs. The wording it is in the guidance may cause confusion. The FCA FG 176 The treatment of politically exposed persons for anti-money laundering purposes document in Section 2.10 states: "The regulations contained in determining whether these systems and procedures are appropriate, a firm should refer to: A. An assessment of the extent to which the risk would be increased by a business relationship with a PEP, family member or close associate. The FCA would expect that this is a case-by-case assessment and not an automatic assessment that a relationship creates a high risk of money laundering." Ambiguous and likely to cause inconsistencies - Guidance and clarity sought	It would be extremely helpful to get clarification on how the CB view the standards on the varying levels of PEPs that we would come across in business. For example, a PEP who is prominent in a Government Cabinet is a PEP who is an executive member of a small SGE and the varying treatment they would expect to be applied to such case.	
BPFI	Section 5.6.4 (reg 43) Enhanced Due Diligence in relation to PEPs	For the purposes of this section, correspondent relationships are the provision of a current or other liability account and related services to an Irish based credit or financial institution (the "correspondent institution") to another institution situated in a place other than a Member State (the "respondent institution") to meet its cash, clearing, liquidity management and short-term borrowing or investment needs.	For the purposes of this section, correspondent relationships are the provision of a current or other liability account and related services to an Irish based credit or financial institution (the "correspondent institution") to another institution situated in a place other than a Member State (the "respondent institution") to meet its cash, clearing, liquidity management and short-term borrowing or investment needs.	Contrary to other regulation on PEP's - Guidance and clarity sought	
BPFI	Section 5.7 (reg 49-48) Enhanced Due Diligence to Correspondent Relationships	The Guidance excludes RMAs therefore there may be an expectation that firms apply the same level of EDD to RMAs as to Correspondent Banker relationships.	The Guidance excludes RMAs therefore there may be an expectation that firms apply the same level of EDD to RMAs as to Correspondent Banker relationships.	Guidance and clarity sought	
BPFI	Section 5.7.5 (reg 46) Liaison with Respondent Institutions	The Guidelines require correspondent institutions to appoint a member of Senior Management, the Compliance Officer, or the MRLO to Liaise with and discuss any potential AML/TF issues with the respondent institution; Obtain the necessary CDD information; and If necessary, conduct an on-site visit to the respondent institution's offices as part of the correspondent institution's CDD measures.	The Guidelines require correspondent institutions to appoint a member of Senior Management, the Compliance Officer, or the MRLO to Liaise with and discuss any potential AML/TF issues with the respondent institution; Obtain the necessary CDD information; and If necessary, conduct an on-site visit to the respondent institution's offices as part of the correspondent institution's CDD measures.	Guidance and clarity sought	
BPFI	Section 5.7.3 (reg 46) Liaison with Respondent Institutions	The requirement to appoint a member of Senior Management, the Compliance Officer, or the MRLO to perform the stated tasks is very prescriptive and goes beyond what is required per Section 38 of the Act. It is commensurate for the named parties to oversee the relevant processes and to ensure they are operating effectively, however, requiring these parties to undertake these tasks is excessive and not commensurate with the underlying risk of the relationship. It is suggested that the requirement to appoint a member of Senior Management, the Compliance Officer, or the MRLO to perform the stated tasks is very prescriptive and goes beyond what is required per Section 38 of the Act. It is commensurate for the named parties to oversee the relevant processes and to ensure they are operating effectively, however, requiring these parties to undertake these tasks is excessive and not commensurate with the underlying risk of the relationship. It is suggested that the requirement to appoint a member of Senior Management, the Compliance Officer, or the MRLO to perform the stated tasks is very prescriptive and goes beyond what is required per Section 38 of the Act. It is commensurate for the named parties to oversee the relevant processes and to ensure they are operating effectively, however, requiring these parties to undertake these tasks is excessive and not commensurate with the underlying risk of the relationship. It is suggested that the requirement to appoint a member of Senior Management, the Compliance Officer, or the MRLO to perform the stated tasks is very prescriptive and goes beyond what is required per Section 38 of the Act. 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Responding Party	Document Reference	Requested Change	Rationale for change	Other Comments	
		<p>In CB Guidelines 6.3.1 proposal regarding to remove reference to MLRO by revising the sentence to read "Firms should ensure that there is effective reporting and escalation on AMU/CT matters to Senior Management."</p> <p>Where the MLRO is in the second line the provision of AMU/CT M is unlikely to be part of that role. Instead the provision of M is likely to be a first line role (N &amp; the production of the MLRO report would continue in second line.)</p> <p>In CB Guideline 7.4 propose making explicit that the clarification made in the first sub-bullet applies in the following two sub-bullets. Revising the bullets to read:</p> <p>"For example the internal reporting procedures should include at least:</p> <ul style="list-style-type: none"> <li>(i) 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 suspicions, and from that person (s) to the authority;</li> <li>(ii) The timeframe for escalation of suspicious transactions from when a staff member first identifies a suspicious transaction to when it is raised to the MLRO, or any other person(s) charged under the firm's internal reporting process with investigating suspicions;</li> <li>(iii) Formal acknowledgement by the firm's MLRO, or any other person(s) charged under the firm's internal reporting process with investigating suspicions, of suspicions raised internally by staff."</li> </ul>			
BPFI	References to MLRO in Section 6 - Governance 6.3.1 (pg. 51) and Section 7 - Internal Reporting of Suspicious Transactions 7.4 (pg. 58) Reporting of Suspicious Transactions. should be made less specific to ensure that there is no conflict between the role as described in the CB Guidelines and its position as an oversight role/part of the second line of defence in Large Credit Institutions.			Minor pre-existing text wording	
BPFI	Section 6 - 6.6.1 Group wide policies and procedures (pg. 56)	<p>Clarification is sought regarding the scope of application and extent of the definition of a Politically Exposed Person (PEP) (i) One director of a customer is a PEP so therefore the customer is to be considered by default as a PEP Entity (ii) incorporated entity is subject to Enhanced Due Diligence (EDD) Senior Management approval, more frequent controls monitoring, etc. (iii) The extent of control applied by one or more PEPs will determine if the entity is in line with Ultimate Beneficial Owners (UBO) requirements per previous industry standards &amp; guidelines i.e. 25% or 30% dependent on AMU/CT Risk Rating.</p> <p>The Guidelines require correspondent institutions to appoint a member of Senior Management, the Compliance Officer, or the MLRO to:</p> <ul style="list-style-type: none"> <li>• liaise with domestic and potential AMU/CT issues with the respondent institution;</li> <li>• Obtain the necessary CDD information, and</li> <li>• If necessary, conduct an onsite visit to the respondent institution's offices as part of the correspondent institution's CDD measures.</li> </ul> <p>The requirement to appoint a member of Senior Management, the Compliance Officer, or the MLRO to perform the stated tasks is very prescriptive and goes beyond what is required per Section 38 of the Act. It is commonplace for the named parties to oversee the relevant processes and to ensure they are operating effectively, however, requiring these parties to undertake these tasks is excessive and may have the unintended consequence of diluting risk ownership and accountability in the relevant business areas.</p> <p>Large financial institutions can have many role types across multiple functions. Some of these roles may have negligible or no AMU/CT risks.</p> <p>The following statement should be amended as proposed to recognise such situations:</p> <p>Staff in customer facing roles with responsibilities for AML, procedure or controls should receive AMU/CT training prior to interacting with customers.</p>	<p>Clarification is required to "persons purporting to act on behalf of the customer" to avoid unintended consequences of the application of CDD measures to parties who ordinarily act on behalf of the customer, for example employees of regulated financial institutions.</p> <p>Depending on the size of the firm, there may be varying operating models in place to execute these responsibilities. We would suggest changing the wording to reflect such operations e.g. larger firms may have financial intelligent units undertaking these responsibilities in the 2d line with oversight from the MLRO. It is not practical for the MLRO to review and submit all STR and we believe that this is not the intended expectation in the guidance.</p>	Clarity and Guidance required	
BPFI	Section 7.4 (pg.57) "Internal reporting of Suspicious Transactions" - the guidelines document the responsibilities of the MLRO to report the suspicion to the authorities.				Clarity and Guidance required
BPFI	Section 8 Training - Frequency of training 8.3 (pg. 62)	<p>Consistent with a Firm's accountability for activity it has outsourced the obligation is for the outsourcing to contractually define the service to be provided by the Outsourcing Service Provider.</p> <p>The outsourcing firm must ensure its obligations under applicable Irish legislation are met through its management and oversight of the relationship with the Outsourcing Service Provider.</p> <p>In this situation it is unclear why any of "the staff at the Outsourcing Service Provider" would need to be trained on the "applicable AMU/CT legislation" for which the outsourcing remains accountable (and which likely does not apply directly if the Outsourcing Service Provider is in another jurisdiction.)</p>		Inconsistent	
BPFI	Section 8 Training - Training of Outsourcing Service Providers 8.8 (pg. 63)	<p>Effective assessment of training need not be at the end of a training module, it can be designed to test knowledge throughout the training material.</p> <p>The sentence should be amended to read:</p> <p>Firms should ensure that the AMU/CT training accredited includes an assessment or examination, which should be passed by all participants in order for the AMU/CT training to be recorded as completed.</p> <p>It would be helpful for the CB Guidelines to clarify the retention/delation time periods for each record category.</p>			Consistency
BPFI	Section 9 Record Keeping 9.1 (pg. 65) Adequate Records				Significant issue
BPFI	Absence of Specific Guidance (Various/Specified customer, product, service, transaction or delivery channel risk factors that firms may take into account when considering the application of simplified customer due diligence Pooled Accounts Guidance	<p>Consistent with EBA Risk Factor Guidelines/AMLD (EU 2015/849) national authorities could provide guidance to supplement the provisions of the directive and support firms in the application of SDD.</p> <p>For example CB should consider following the example of the UK Regulations (regulation 37) where firms are specifically allowed to consider application of SDD (in the context of the overall customer and business-wide risk assessment) for categories including:</p> <ul style="list-style-type: none"> <li>•Credit and Financial Institutions subject to requirements of AMLD</li> <li>•A "pooled account" product provided to entities within the scope of CA 2010 as amended (or equivalent provisions in another member state)</li> </ul>	<p>"All documentation and information obtained for the purposes of identifying and verifying a customer, person(s) authorized to act on behalf of the customer and any beneficial owners," - identify (i.e. an applicable (i) authorized structure(s) covered or defined as to bulk.</p> <p>Consistent with EBA Risk Factor Guidelines/AMLD (EU 2015/849) national authorities could provide guidance to supplement the provisions of the directive and support firms in the application of SDD.</p> <p>For example, CB should consider following the example of the UK Regulations (regulation 37) where firms are specifically allowed to consider application of SDD (in the context of the overall customer and business-wide risk assessment) for categories including:</p> <ul style="list-style-type: none"> <li>•Credit and Financial Institutions subject to requirements of AMLD</li> <li>•A "pooled account" product provided to entities within the scope of CA 2010 as amended (or equivalent provisions in another member state)</li> </ul> <p>The guidance is silent on the AML Measures that should be applied to Pooled Accounts and we would request that these factors should be included in the content of the guidelines. EBA guidance (i.e. 2019-117) provides a high-level guidance.</p> <p>The guidance is silent on the AML Measures that should be applied to Pooled Accounts and we would request that these factors should be included in the content of the guidelines. EBA guidance (i.e. 2019-117) provides a high-level guidance.</p>	Clarity and Guidance required and should be proposed	
BPFI	Absence of Specific Guidance - Section 33 (2A)	<p>Members would welcome guidance on 5.33(2A) which is not addressed in the guidance notes.</p> <p>Members concern is in relation to requesting ID&amp;V documentation from people who might fall into this category, perhaps as a Letter of Authority (e.g. family member) or Power of Attorney, but the financial institution concerned may not have a business relationship with that person; in cases such as these would there not be a privacy consideration or concern?</p> <p>Also, would solicitors, MABS and PAs, for example, fall under this requirement, as such organisations often operate as LOA/POA, and if so, how would financial institutions stand in relation to requesting documentation from them?</p>	<p>Members would welcome guidance on 5.33(2A) which is not addressed in the guidance notes.</p> <p>Members concern is in relation to requesting ID&amp;V documentation from people who might fall into this category, perhaps as a Letter of Authority (e.g. family member) or Power of Attorney, but the financial institution concerned may not have a business relationship with that person; in cases such as these would there not be a privacy consideration or concern?</p> <p>Also, would solicitors, MABS and PAs, for example, fall under this requirement, as such organisations often operate as LOA/POA, and if so, how would financial institutions stand in relation to requesting documentation from them?</p>	Clarity and Guidance required	
BPFI	Absence of Specific Guidance - Examples of documentation that would provide examples of alternative documentation supporting financial inclusion	<p>A non-prescriptive list of acceptable documents (as has previously been provided in February 2012 as Appendix 2 to Criminal Justice (ML &amp; TF) Act 2010 Guidelines) would continue to provide a valuable reference.</p> <p>Non-prescriptive guidance presented as examples would not unduly inhibit firms from using new technologies and/or other innovative solutions.</p>			Significant issue
BPFI	Certification of documents				Significant issue
BPFI	Removal of Section 34 from the Legislation	<p>Section 34A does not address the CDD requirements for pooled accounts for regulated entities and there is insufficient detail in the guidance on the due diligence to be applied.</p> <p>The UK legislation, Regulation 37(5)(b) and guidance, (ML/SG Prevention of money laundering / combating terrorist financing - Section 5.3.14.4 are clear in the CDD requirements for pooled accounts and we would request similar guidance.</p>	<p>It is common practice for banks to require a higher standard to evidence ID&amp;V for higher risk customers. Principles and practices can vary substantially between firms. We recommend the proposed Guidelines clarify that firms can meet requirements by accepting unverified documents for standard risk customers or where face to face. Additionally, language requirements for certification and/or restrictions similar to that within the 2012 Guidance notes should be provided from stakeholder engagement outside of Ireland.</p> <p>CDD requirements for pooled accounts - members' would request similar guidance as to UK.</p>	Clarity and Guidance required	
BPFI	General Observation in Relation to Identification and Verification Requirements:	<p>Members note the lack of guidance provided in relation to identification and verification requirements and procedures, which were previously contained in Appendix 1 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 Guidelines. We believe that it would be very beneficial to have similar information pertaining to identification and verification requirements and procedures contained within the new Guidelines. It is becoming a norm for global customers to seek evidence of specific, legal obligations to substantiate the requirement to provide identification and verification materials.</p> <p>STR Disclosure - The terminology appears to be interchanged in the document and has resulted in some confusion. We would request these instances are reviewed and clarified.</p> <p>CTF CTR - Members would welcome and suggest that the same terminology is used throughout the document for consistency.</p> <p>Numbering - The numbering at the end of Section 8 is incorrect</p>	<p>In addition, the lack of guidance in relation to requirements pertaining to director identification and verification procedures contained within the new Guidelines and believe that the provision of guidance in relation to the CB's expectations as to the implementation of CDD procedures is an absolute requirement. Other jurisdictions have provided clarity on the level of identifying information required for directors and in some specific instance exemptions have been noted for (e.g. director of a listed entity).</p>	Clarity & Guidance required Language - Editorial	
BPFI	Additional Comments				
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