

Responding Party	Document Reference	Requested Change	Rationale for change	Other Comment
Brokers Ireland	4.7.3 Use of Intermediaries Page 23	Replace "third party" with "intermediary (first line 4th bullet point)	This section is about using intermediaries. Definition of "intermediary" is different to that of "third party" and "third party" does not include "intermediary" in its definition. The use of the words "third party" here does not make sense.	
Brokers Ireland	5.2 Customer Due Diligence Page 29, 2nd bullet pt	Re-word from "In relation to..." to end of the paragraph.	We do not understand what consent should be obtained by the firm in advance as part of the on-boarding process. This sentence should be made clearer. In the absence of clarity we cannot suggest an alternative wording.	
Brokers Ireland	5.3 Ongoing Training and Monitoring Page 36, 2nd bullet point	Insert "or in the case of Sole Traders, their evidence of consideration, review and approval" after "Senior Management approval".	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders should obtain "Senior Management Approval" for each of the stages that approval is required.	
Brokers Ireland	5.6.1 B Management of PEPS Page 41, 2nd bullet pt	Amend to "Obtaining Senior Management Approval, or in the case of Sole Traders, evidencing consideration and decisions of the Sole Trader; and"	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders should obtain "Senior Management Approval" for each of the stages that approval is required.	
Brokers Ireland	5.6.2 Senior Management Approval of PEPs Page 42, 1st bullet pt under "Firms should put appropriate policies..."	Amend to "The reporting and escalation of PEP relationships to Senior Management, or in the case of Sole Traders, the Sole Trader's evidence of consideration, review and approval of PEP relationships;"	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders can satisfy the requirement to have "reporting lines" in place.	
Brokers Ireland	5.6.2 Senior Management Approval of PEPs Page 42, 2nd bullet pt under "Firms should put appropriate policies..."	Amend to "The timelines for obtaining Senior Management signoff, or in the case of Sole Traders, evidence of consideration of sign-off timelines."	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders can satisfy the requirement to have "Senior Management sign-off".	
Brokers Ireland	5.9 EDD in relation to High Risk third Countries and other High-Risk Situations Page 50, 2nd bullet pt	Insert "or in the case of the Sole Trader, evidencing consideration and decision by the Sole Trader" before "to commence..."	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders should obtain "Senior Management Approval" for each of the stages that approval is required.	
Brokers Ireland	6.2.1 Governance and Oversight Page 51 Business Wide Risk Assessment 1st bullet pt	Amend to "Senior Management has reviewed and approved the methodology used, or in the case of Sole Traders, the Sole Trader has evidenced consideration and decisions made regarding the methodology used, for undertaking the firm's Business Wide Risk Assessment".	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders should evidence the governance and oversight of the Business Wide Risk Assessments.	
Brokers Ireland	6.2.1 Governance and Oversight Page 51 Business Wide Risk Assessment 2nd bullet pt	Amend to "Senior Management has reviewed and approved the firm's Business Wide Risk Assessment, or in the case of Sole Traders, the Sole Trader has evidenced consideration and decisions made regarding the firm's Business Wide Risk Assessment, at least on an annual basis to ensure that it is aware of the ML/TF risks facing the firm and that the corresponding AML/CFT measures which the firm has in place are appropriate for the level of ML/TF risk identified".	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders should evidence the governance and oversight of the Business Wide Risk Assessments.	

Brokers Ireland	6.2.1 Governance and Oversight Page 52, Policies and Procedures	Amend to "Senior Management has reviewed and approved all policies and procedures, and material updates to same. In the case of Sole Traders, the Sole Trader has evidenced that the policies and procedures are reviewed and approved and any material updates to same are documented."	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders should evidence the governance and oversight of the Policies and Procedures.
Brokers Ireland	6.2.1 Governance and Oversight Page 52 Reporting Lines	Amend to "Appropriate reporting lines are in place to facilitate the escalation of AML/CFT issues from the MLRO for discussion at Senior Management level, or in the case of Sole Traders, for consideration and decision by the Sole Trader."	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders can satisfy the requirement to have "reporting lines" in place.
Brokers Ireland	6.2.1 Governance and Oversight Page 52 Senior Management Meetings	Amend title to "Senior Management Meetings or in the case of Sole Traders, Evidence of Consideration and Decisions Made."	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders can satisfy the requirement to have Senior Management meetings.
Brokers Ireland	6.2.1 Governance and Oversight Page 52 Senior Management Meetings, 1st bullet pt	Amend to "AML/CFT issues appear as an agenda item at regular intervals at Senior management meeting(s), or for consideration by the Sole Trader, and that the corresponding minutes/decisions reflect the level of discussion/consideration and outcomes, which took place concerning Management Information (MI) provided by the MLRO or considered by the Sole Trader as MLRO, or any particular AML/CFT/FS issues requiring discussion by the Senior Management, or consideration by the Sole Trader. "	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders can satisfy the requirement to have Senior Management meetings.
Brokers Ireland	6.2.1 Governance and Oversight Page 52 Senior Management Meetings, 2nd bullet pt	Amend to "The MLRO delivers a report to Senior Management, or in the case of Sole Traders, evidence of consideration and decisions made in respect of Money Laundering Reporting, at least on an annual basis and that a detailed discussion/evidence on its content takes place with a corresponding minute to reflect the level of discussion/consideration."	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders can satisfy the requirement to have Senior Management meetings.
Brokers Ireland	6.3.1 MLRO Reporting to Senior Management Page 53	Include in this section how Sole Traders can satisfy the requirement to have reporting structure in place between the MLRO and Senior Management as the Sole Trader will hold both positions.	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders can satisfy the requirement to have "reporting lines" in place.
Brokers Ireland	6.6 Policies and Procedures Page 54, 1st bullet pt	Amend to "Document and maintain AML/CFT procedures which are reflective of operational practices and fully demonstrate consideration of and compliance with all legal and regulatory requirements."	We suggest that it is onerous for a firm, particularly a small firm or a Sole Trader to have "a detailed documented suite of AML/CFT policies". A policy is a guiding principle used to set direction in an organisation. A procedure is more relevant, as it sets out the series of steps to be followed to accomplish compliance, and we expect firms to have relevant procedures in place for all aspects of the AML/CFT obligations. We suggest the Central Bank amend this section as appropriate.
Brokers Ireland	6.6 Policies and Procedures Page 55, 4th bullet pt	Amend to "Ensure that Senior Management have reviewed and approved all policies and any material changes to same. In the case of Sole Traders, the Sole Trader should ensure that there is evidence that the policies and procedures are reviewed and approved and any material updates to same are documented."	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders should evidence the review and approval of their policies and procedures, and any material updates to same.

Brokers Ireland	8.8 Training Assessment Page 63 "includes an assessment or examination"	Replace this paragraph with "Firms should ensure that staff receive relevant AML/CFT training."	This Section is too onerous and is not feasible. We question how training conducted in "classroom" style can include an <u>assessment or examination</u> ? It would be difficult to achieve this requirement where training is provided via a seminar with any number of people in attendance. How would the provider of the training assess the attendees or examine them? This requirement in the Guidelines is not achievable.
Brokers Ireland	8.8 Training Assessment Page 63 "should be passed by all participants in order for the AML/CFT training to be recorded as completed."	Replace this paragraph as above.	Should an assessment or examination take place, we question why all participants should pass in order for the AML/CFT training to be recorded as completed? Is the Central Bank suggesting that where there is a training seminar with a large number of attendees, from a number of firms, that all participants are assessed or examined and that each should pass the training in order for the training to be recorded as completed? This is not a reasonable ask. If each participant is to be assessed or examined, they should be merited separately. Where somebody fails to complete their AML/CFT training this should be noted separately, but this should not affect the completion of training by other participants.
Brokers Ireland	9.2 Records and firm should retain Page 64, 4th bullet pt	Amend to " Minutes of Senior Management Meetings or in the case of Sole Traders, evidence of consideration and decisions made."	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should specify how Sole Traders are expected to comply with the requirement to hold Senior Management meetings which are to include "detailed discussions" with "Senior Management".
Brokers Ireland	9.2.6 Minutes of Senior Management Meetings, Page 66	Amend to "Firms should retain all records of consideration, discussions (where applicable) and decisions made at senior management level in relation to:"	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how Sole Traders can satisfy the requirement to have Senior Management meetings.
Brokers Ireland	Pages 36, 41, 42, 50-55, 64, 66	Alternatively, there should be a section which documents how the Central Bank expects Sole Traders to satisfy Senior Management approval processes including review and approval of policies and procedures, reporting lines, meetings, delivering of reports, and evidence of "detailed discussion" etc. This should include how the Sole Trader is expected to meet the MLRO reporting obligations. These should be clearly set out.	There is no consideration for the Sole Trader environment. There will be an expectation on them to meet these requirements and they should be provided with the guidance to do so. The Guidelines should reflect their limitations and abilities.

Brokers Ireland Response to the Consultation Paper for Anti-Money Laundering and Countering the Financing of Terrorism Guidelines for the Financial Services Sector

Brokers Ireland
87 Merrion Square, Dublin 2, D02 DR40.
t: 01 661 3067
e: info@brokersireland.ie
www.brokersireland.ie



BROKERS
I R E L A N D

Brokers Ireland welcomes the opportunity to contribute to the consultation process on Consultation Paper for Anti-Money Laundering and Countering the Financing of Terrorism Guidelines for the Financial Services Sector. The feedback template has been separately completed.

Introduction

Brokers Ireland (BI) is the sole representative body for insurance, investment, mortgage and financial intermediaries in Ireland. With more than 1250 members spread throughout the length and breadth of Ireland, BI members are by far the largest distributors of insurance, investment and financial products and services in Ireland. Members of Brokers Ireland range in size, from subsidiaries or branches of multi-national firms to national firms, micro enterprises such as local and specialist broker firms to sole traders.

Below are responses to questions as set out on page 5 of the Consultation Paper.

Q1	Are there any significant ambiguities in the text of the Guidelines?
A1	As the Guidelines are cross sectoral, it should represent all sectors equally. The Guidelines are aimed at the bigger firm, bank, insurance undertaking etc. There is no consideration for the sole trader environment. There will be an expectation on sole traders to meet these requirements and they should be provided with the guidance to do so. The Guidelines should include how the Central Bank expects the sole trader to satisfy Senior Management approval processes including review and approval of policies and procedures, reporting lines, meetings, delivering of reports, and evidence of “detailed discussion” etc. It should also include how the sole trader is expected to meet the MLRO reporting obligations. These should be clearly set out. See Brokers Ireland completed Feedback Template for suggested wording.
Q3	With reference to specific sections, what other significant factors or examples could be included in the Guidelines?
A3	Brokers Ireland suggests a specific section could be included advising how sole traders are expected to comply with the Guidelines particularly in respect of satisfying Senior Management approval processes including, as stated above, review and approval of policies and procedures, reporting lines, meetings, delivering of reports (from MLRO to Senior Management), and evidence of “detailed discussion” etc. It should also include

	<p>how the sole trader is expected to meet the MLRO reporting obligations. These should be clearly set out.</p> <p>Alternatively, how the sole trader could meet the respective requirements could be set out under each relevant point.</p> <p>An example would be, on page 55, 4th bullet point "Ensure that Senior Management have reviewed and approved all policies and any material updates to same" could be replaced with "Ensure that Senior Management have reviewed and approved all policies and any material changes to same. In the case of Sole Traders, the Sole Trader should ensure that there is evidence that the policies and procedures are reviewed and approved and any material updates to same are documented."</p>
Q4	What are the significant issues / or concerns or unintended consequences that might arise due to the content of the Guidelines?
A4	<p>Chapter 8.6 (Training Channels) states that firms may use different channels such as online or e-learning modules, classroom training or video presentations in order to fulfil their obligations under the CJA 2010. However, 8.8 (Training Assessment) states that "firms should ensure that the AML/CFT training provided includes an assessment or examination at the end of the training session".</p> <p>Brokers Ireland is concerned with this requirement. We believe there will be unintended consequences arising from this as it is not feasible. It would be difficult to achieve this requirement where training is provided via a seminar with any number of people in attendance. How would the provider of the training assess the attendees or examine them? Likewise, training completed via video presentation, how can participants be assessed or examined? Realistically, is not a practical proposal.</p> <p>Regarding the second half of the sentence "which should be passed by all participants in order for the AML/CFT training to be recorded as completed", is the Central Bank suggesting that where there is a training seminar, whether arranged by the firm for its staff, or arranged elsewhere to which the firm encourages staff to attend to complete their training, that all participants should pass the training in order for the training to be recorded as completed? Brokers Ireland questions the validity of this requirement. If each participant is to be assessed or examined, they should be merited separately. Where somebody fails to complete their AML/CFT training this should be noted separately, but this should not affect the completion of training by other participants.</p>

Conclusion

The Anti-Money Laundering and Countering the Financing of Terrorism Guidelines for the Financial Services Sector as they stand now, do not recognise the diversity within the sector. The smaller firm, and more importantly the sole trader platform has not been taken into account. We would urge the Central Bank to include their expectations of the sole trader in the Guidelines. The sole trader plays a crucial role, at local level, in the financial services industry.

