

Responding Party	Document Reference	Requested Change	Rationale for change	Other Comment
Fexco Unlimited Company	5.3	This section is entitled "Ongoing Monitoring" and we would request that it is amended to include additional information around periodic reviews.	Section 5.3 of the draft Guidelines indicates that firms should have procedures for periodic reviews of all customers as part of ongoing monitoring. The draft Guidelines indicate that the frequency of the periodic review is to be commensurate with the level of money laundering/terrorist financing ("ML/TF") risk. We would welcome further guidance from the Central Bank as to whether, on the basis of its business risk assessment, a firm may conclude that given the lesser duration of a particular product or service, a periodic review may not be required for some customers or whether it is a requirement to conduct such a review in all cases, albeit with lesser frequency where the ML/TF risk warrants this approach.	N/a
Fexco Unlimited Company	7.3	This section is entitled "Timing of Suspicious Transaction Reports ('STRs')". We would request the Central Bank to consider amending the draft Guidelines to reflect that in some instances, a suspicion may arise after a transaction has been completed (e.g. during on-going monitoring) and that post-transaction reporting of a suspicious transaction is acceptable in such circumstances provided the STR is submitted immediately once the suspicion is formed or the reasonable grounds for suspicion arise.	The wording used at present in section 7.3 of the draft Guidelines refers to STRs being submitted "... 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..." (emphasis added). In some instances, a firm may not form a suspicion or consider that there are grounds for suspicion in respect of a particular customer or transaction in terms of money laundering or terrorist financing risk. However, after the transaction has taken place, a suspicion or grounds on which to be suspicious of a customer or transaction may arise. We would submit that it would be helpful to refer to such scenarios in the draft Guidelines so that where the suspicion or suspicious grounds arise post-transaction, firms are clear on their duty to submit the STR immediately notwithstanding the transaction in question has already been performed. In this regard, we refer to the Financial Services Industry Guidelines published by the Department of Finance in 2012 (the "2012 Guidelines") which states as follows regarding post-transaction filing of STRs: "Due to the nature of retail financial services, suspicious transactions are often identified post-occurrence by means of account/transaction monitoring. In such scenarios, the suspicious transaction should be reported as soon as practicable after its identification." We would welcome similar wording in the new draft Guidelines.	In addition to greater clarity on the filing of STRs where suspicion comes to light post-transaction, guidance on the practice of "defensive" filing of STRs would be welcome. We note that the 2012 Guidelines state: "If in doubt, personnel should err on the side of caution and make a report to the MLRO or through the designated person's internal reporting process." While internally employees should err on the side of caution and report matters to their MLRO, in practice designated persons may also decide to err on the side of caution in the filing of the STR. A practice of defensive filing of STRs may result in over-reporting. We submit that it would be helpful for the Central Bank to consider reiterating the 2012 guidance around erring on the side of caution in its Guidelines while also addressing the issue of defensive filing of STRs.
Fexco Unlimited Company	7.6	This section is entitled "Tipping Off". We would request the Central Bank to consider amending this section by including a reference to s. 42(7) of the Act and circumstances where a firm may be of the reasonable opinion that failure to proceed with a transaction or service may result in tipping off.	Failure to perform a transaction for a customer could result in the customer becoming concerned that a STR has been made or that an investigation may be commenced. Where this is the case, and in accordance with s. 47(2) of the Act, a firm can proceed with the transaction so as to avoid tipping off the customer. We submit that additional guidance in section 7.6 of the draft Guidelines around when it is and is not acceptable to perform a transaction where a STR is being or has been filed would be welcome.	N/a
Fexco Unlimited Company	10.3	We would request the Central Bank to consider including examples of what is regarded as making "economic resources" available in the context of financial sanctions.	The legal obligation not to transfer funds to a person or entity that has been sanctioned under EU Financial Sanctions is clear. However, the duty not to make economic resources available to such persons gives rise to an interpretation as to what is "economic resources" in that context or what is meant by that phrase. There is a risk that the phrase may be misconstrued or misinterpreted and for this reason, including a non-exhaustive list of examples of what is meant by "economic resources" would be useful to addressees of the Guidelines.	N/a

Fexco Unlimited Company	10.3.3	<p>We would request the Central Bank to consider adding a paragraph to section 10.3.3 to give guidance to addressees of the Guidelines on the steps to take in order to comply with their obligation to screen customers against Sanctions Lists where no ongoing business relationship is entered into with the customer.</p>	<p>Section 10.3.3 provides that firms should have effective screening systems appropriate to the nature, size and risk of their business. This is particularly helpful guidance from the Central Bank which will give clarity to firms in terms of ensuring compliance with their FS screening obligations. However, section 10.3.3 goes on to provide that customer screening should take place at the time of customer take-on and at regular intervals thereafter. We are concerned that this could be misconstrued and lead to confusion in terms of what firms are required to do to ensure compliance with the screening obligation. While section 10.3.3 begins with a statement that screening systems should be appropriate to the nature, size and risk of a firm's business, that section ends with an example which will only apply to financial services firms who enter into business relationships with their customers.</p> <p>The draft Guidelines do not state that sanction screening must be conducted on every transaction. We would request that the Central Bank provide additional guidance on situations where transactions can be sanctioned screened post transaction, given that the nature, size and risk of certain industries means live sanction screening cannot be intelligently integrated into their business models.</p> <p>While many financial services firms' business models do involve on-going business relationships with their customers, many addressees of these Guidelines will not operate such a model. Where no business relationship is entered into between a firm and a customer (e.g. where services are provided to walk-in customers), the screening of such customers cannot take place at the time of customer take-on and at regular intervals thereafter because such customers are not on-boarded in the way that, for example, customers of banks are. As the Guidelines are addressed to the Financial Sector and are not sector-specific, firms whose business models do not involve business relationships with clients are not taken into account in the Guidelines on Screening against Sanctions Lists as currently framed. Screening a walk-in customer in a foreign exchange transaction, for example, prior to performing the transaction, where the value of the transaction is low and the customer's profile indicates they are low-risk from an AML/CTF and FS perspective, would have negative consequences for such customers in terms of the time and cost of the service and may not be proportionate to the nature, size and risk of many providers of this service. In this regard, we would respectfully submit that the approach adopted by the Joint Money Laundering Steering Group (the "JMLSG") in the UK is instructive, whereby on the basis of the risks involved, a firm's Financial Sanctions screening procedures may involve less immediate or less frequent screening and/or a more selective approach with regard to those who are screened.</p>	<p>We would request that section 10.3.3 is amended to include an extra paragraph setting out that timely post-transaction screening may be appropriate in some instances, having regard to the firm's business-wide AML/CTF and FS risk assessment and / or the nature, size and risk of the firm's business.</p>
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