



香港海關

Customs and Excise Department

Compliance Functions & Statutory Obligations of Money Service Operators

22 May 2023

Money Service Supervision Bureau
Trade Controls Branch

AML/CFT/CPF Regulatory Regime

Cap. 615 Anti-Money Laundering
and Counter-Terrorist Financing
Ordinance
(AMLO)



AMLO
Cap. 615

Guideline
for MSOs

Guideline on Anti-Money
Laundering & Counter-
Financing of Terrorism
(For MSOs)



Cap. 405

Drug Trafficking
(Recovery of Proceeds)
Ordinance

Cap. 455

Organized
and
Serious Crimes
Ordinance

Cap. 575

United Nations
(Anti-Terrorism Measures)
Ordinance

Cap. 537

United
Nations
Sanctions
Ordinance

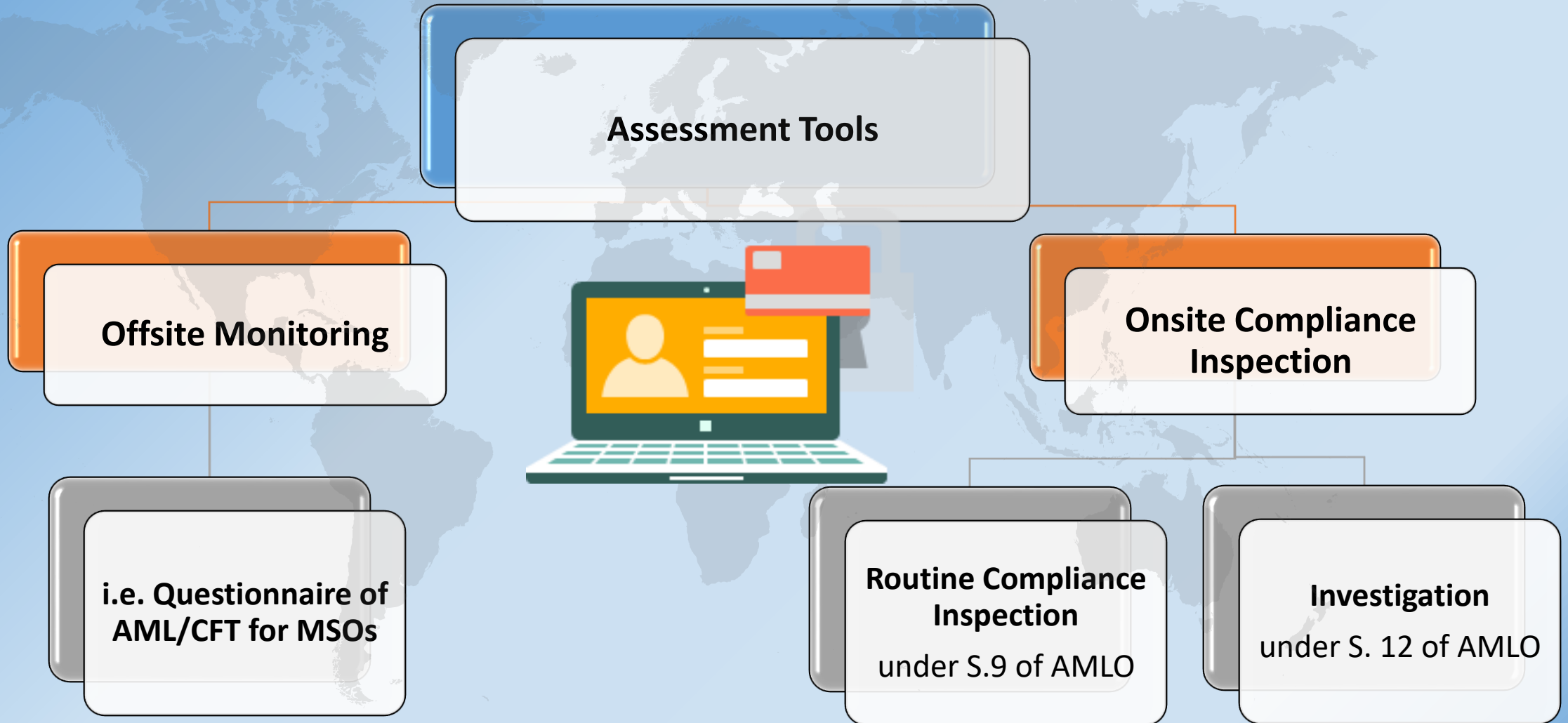
Cap. 526

Weapons of Mass Destruction
(Control of Provision of Services)
Ordinance




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Overview of MSSB Risk-based Supervisory Approach



Routine Compliance Inspection

香港海關
金錢服務監理科
九龍九龍灣常悅道11號
新明大廈 4 樓 402-403 室



CUSTOMS AND EXCISE DEPARTMENT
HONG KONG
Money Service Supervision Bureau
Units 402-403, 4/F, Centre Parc,
11 Sheung Yuet Road, Kowloon Bay, Kowloon

Our Ref: P-CC-23-00XXX
To : Subject Money Service Operator

Letter of Requirement

Dear Sir/Madam,

**Routine Inspection pursuant to section 9 of the
Anti-Money Laundering & Counter-Terrorist Financing Ordinance ("AMLO")
Chapter 615, Laws of Hong Kong**

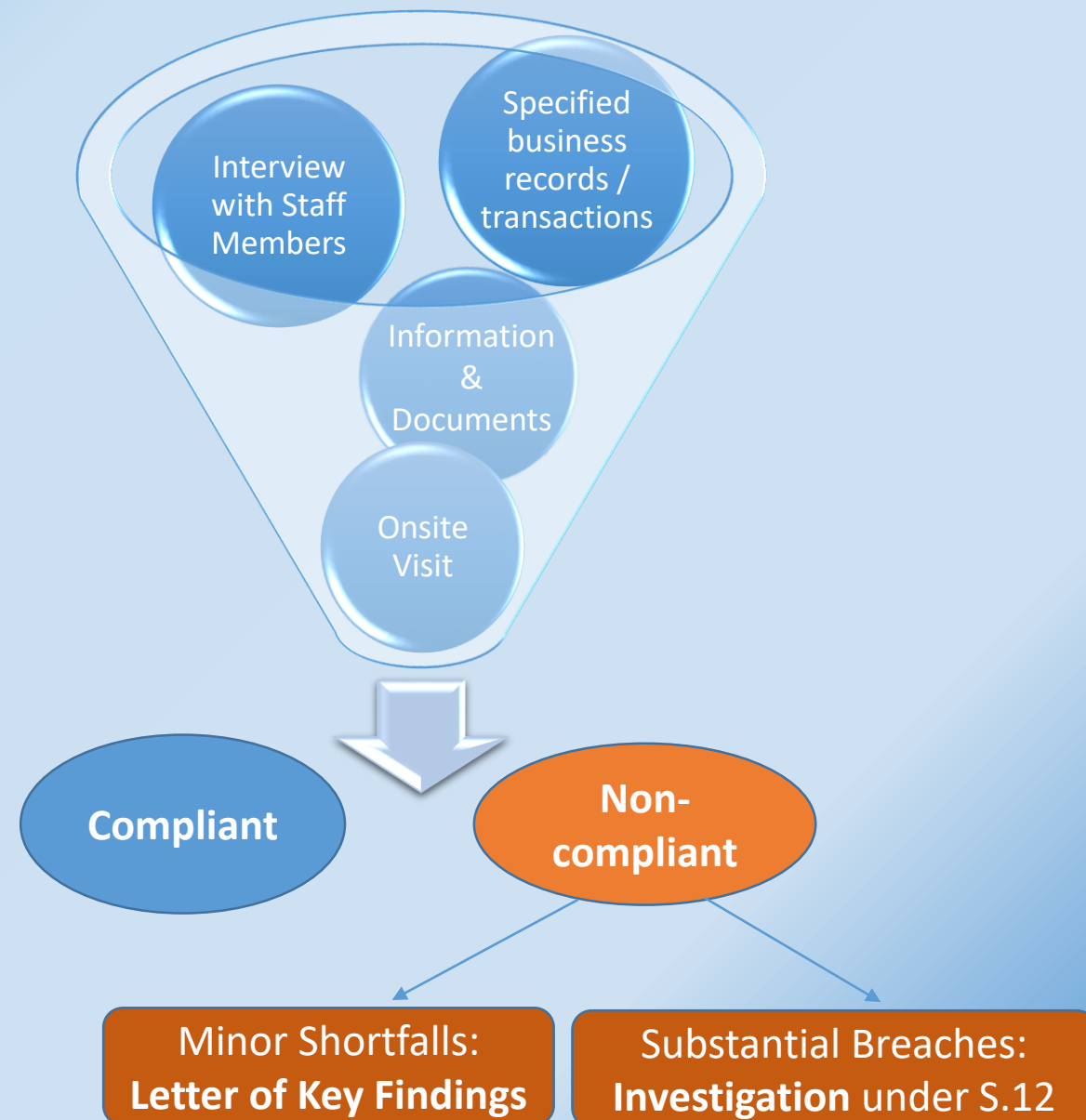
Pursuant to section 9 of the AMLO, I am writing to inform you that the following authorized person will conduct a routine inspection in relation to the compliance requirements of a licensed Money Service Operator ("MSO") namely **Subject Money Service Operator** with details as follows:

Date	:	XX XX 2023
Time	:	10:00 AM
Address	:	Units 402-403, 4/F, Centre Parc, 11 Sheung Yuet Road, Kowloon Bay, Kowloon
Authorized Person	:	Mr. Chan Tai Man, Assistant Trade Controls Officer

Section 9, AMLO

"Powers to enter, inspect, make copies / record details of any specified business record, and make inquiries of the MSO concerning any specified business record / transaction."

➡ **Utilize a Central Database for Master Client List**



Conduct of Investigation

Appointment of Investigators---S. 11, AMLO

- has reasonable cause to believe that an offence under the AMLO may have been committed
- for the purpose of considering whether to exercise any power under section 21 or 43 of the AMLO

Powers of Investigators – S.12, AMLO

In writing require a covered person to-

1. Produce of any record or document
2. Attend before the investigator at the specified time and place
3. Answer any question
4. Give explanation or further particulars



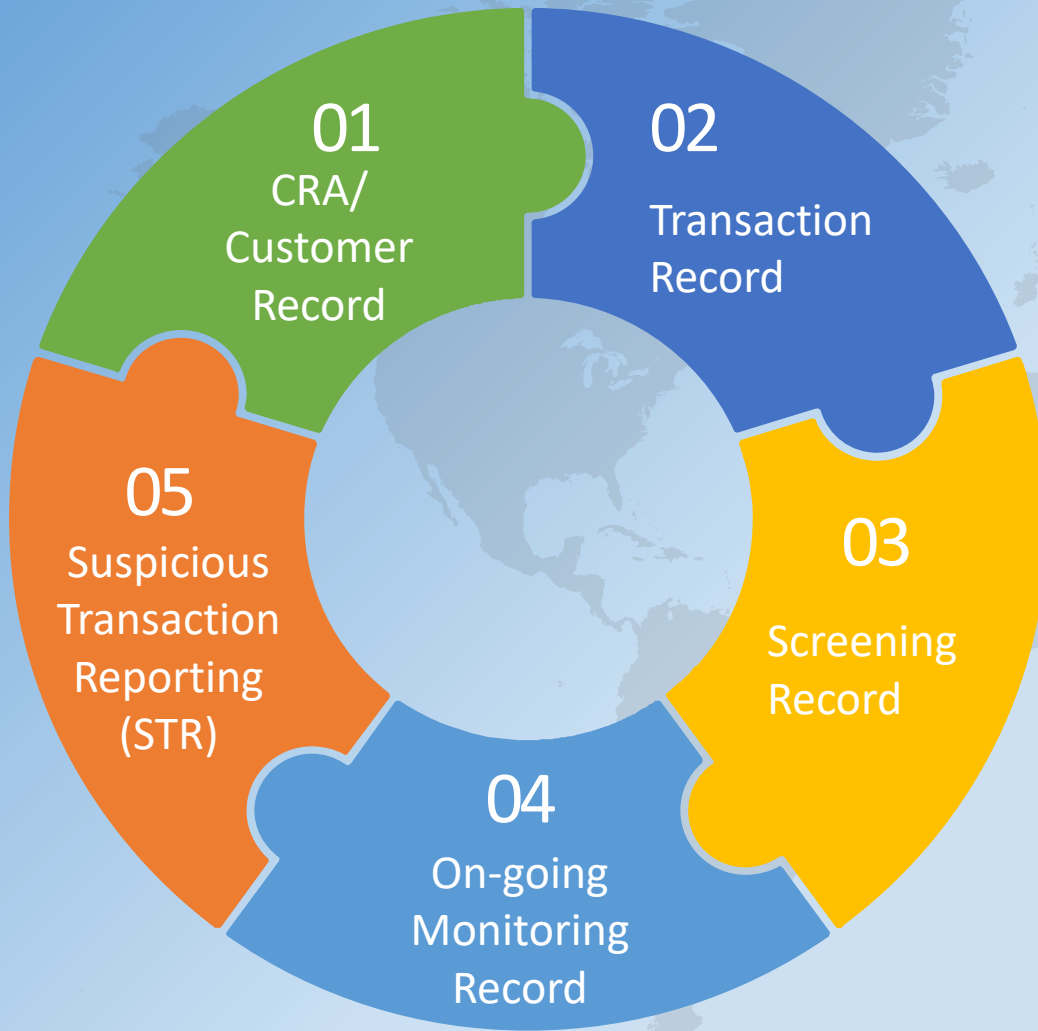
Failure to comply with a requirement imposed under section 9 or 12 commits an offence.



Common Shortfalls Spotted from Compliance Inspection

Customer Record	<ul style="list-style-type: none"> ❌ Verify customer's identity (i.e. as a legal person) ❌ Obtain written authorization on behalf of another person
Transaction Record	<ul style="list-style-type: none"> ❌ Record addresses (originator & recipient) ❌ Record permit reconstruct a complete transaction (i.e. record of WhatsApp order)
Screening Record	<ul style="list-style-type: none"> ❌ Record the date when screening was conducted ❌ Screening conducted towards recipients & agents ❌ Alert review
Customer Risk Assessment ("CRA") Record	<ul style="list-style-type: none"> ❌ Use of CRA template/ scoring matrix with application of RBA ❌ Claimed all customers retained were low/med risks
Enhanced Due Diligence ("EDD")	<ul style="list-style-type: none"> ❌ Documentary proof to verify transaction purpose/ SoF/ SoW ❌ Transaction monitoring with meaningful parameters/ threshold set ❌ Counterparties' risks taken into account
Suspicious Transaction Reporting ("STR")	<ul style="list-style-type: none"> ❌ Sufficient management awareness and training on STR reporting ❌ Quantified risk assessment methodology and STR reporting chain





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MSSB/MIS_04/2022

16 June 2022

Circular

**Circular to Money Service Operators
Anti-Money Laundering / Counter-Terrorist Financing
Record-keeping Requirements**

The Customs and Excise Department ("C&ED") would like to remind Money Service Operators ("MSOs") of the importance of keeping accurate and up-to-date records and documents in relation to money service business, in compliance with the requirements set out in the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) ("AMLO") and the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Money Service Operators) ("the Guideline").

Circular to MSO on Record Keeping Requirements



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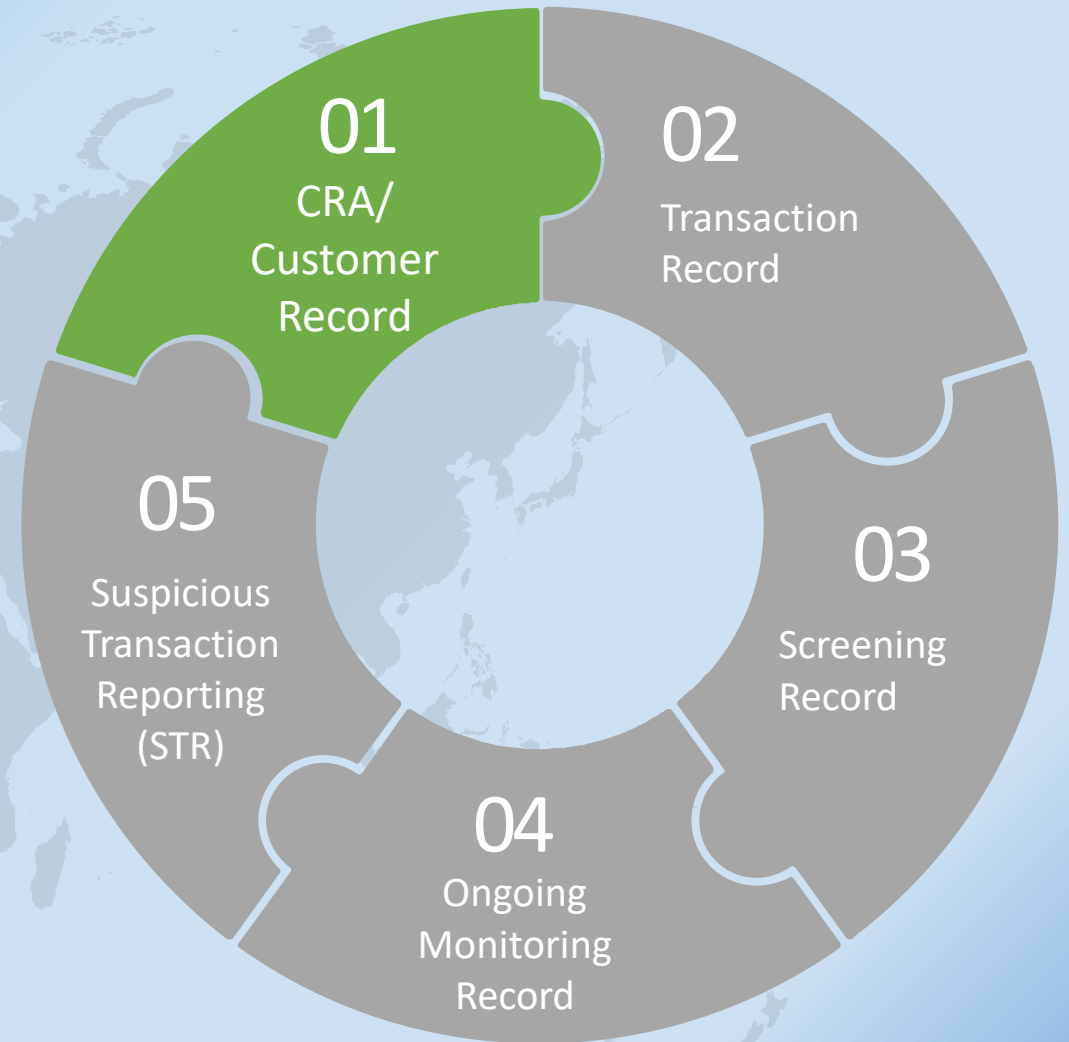
Customs and Excise Department

Customer Record

At the outset of a business relationship/ before performing any occasional transaction

- ◆ Obtain the original or a copy of the document, record of the data/ information obtained in the course of *identifying and verifying* the identity of:
 - a. the customer
 - b. the beneficial owner of the customer
 - c. person purport to act on behalf of the customer
 - d. other connected parties to the customer

***MSO should make appropriate enquiries where there are indications that the customer is **not** acting on his own behalf
(Chapter 4.4.4 of Guideline of AML/CFT for MSOs)



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Identification and Verification [ID & V]



Natural Person

- Full Name
- DoB
- Nationality
- ID no. & Document Type



Legal Person

- Full Name
- Date & place of incorporation/
establishment or registration
- ID No. (BR/CI) and document type
- ID & V of Beneficial Owner of the
customer (same procedures of ID
& V for natural person)
- ID & V of PPTA (where necessary)

CRA/
Customer
Record

Non-Face to Face [NF2F]

At least one of the additional measures should be carried out, which included:



1



Further verify the customer's identity

2



Taking supplementary measures to verify information; or

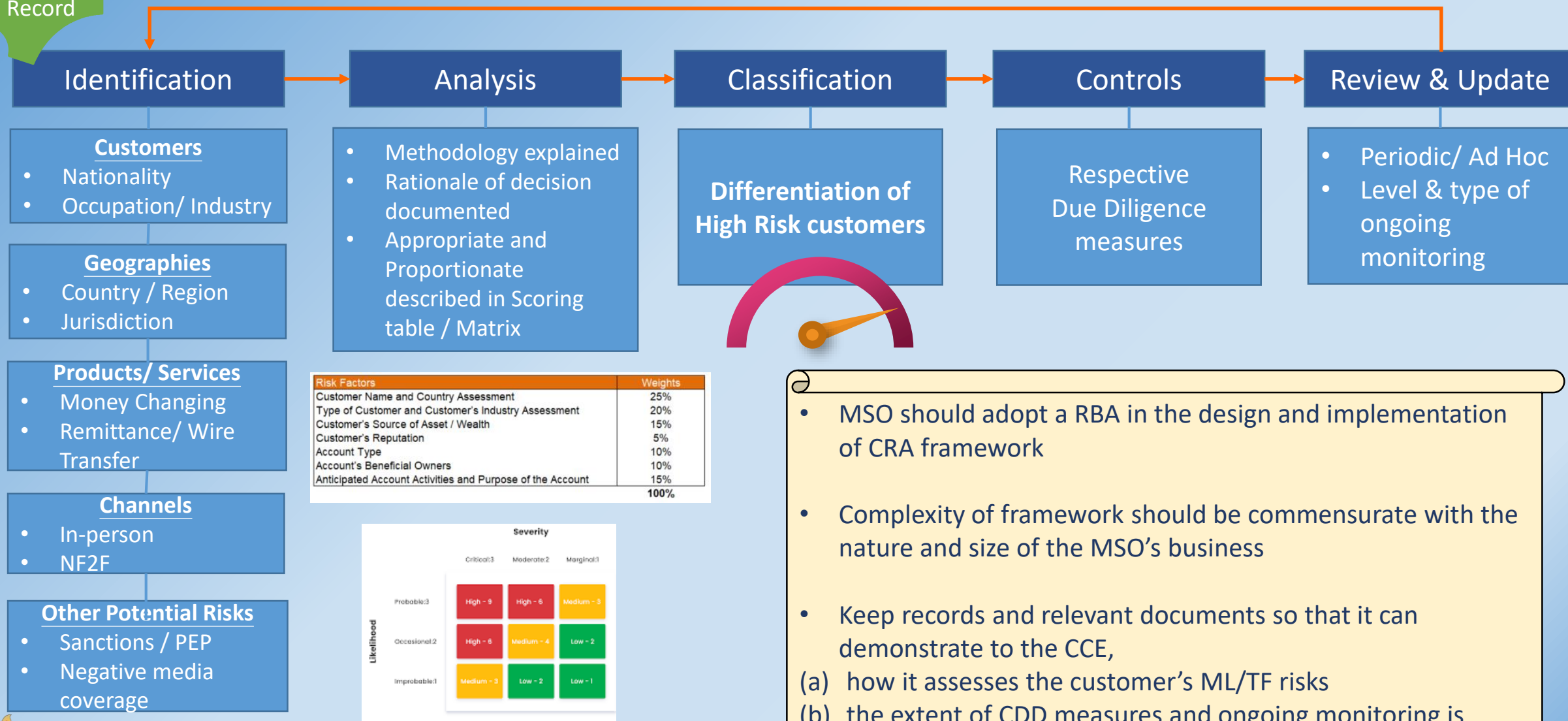
3



Ensuring first payment made into the customer's account is received from an account in the customer's name



Customer Risk Assessment [CRA]



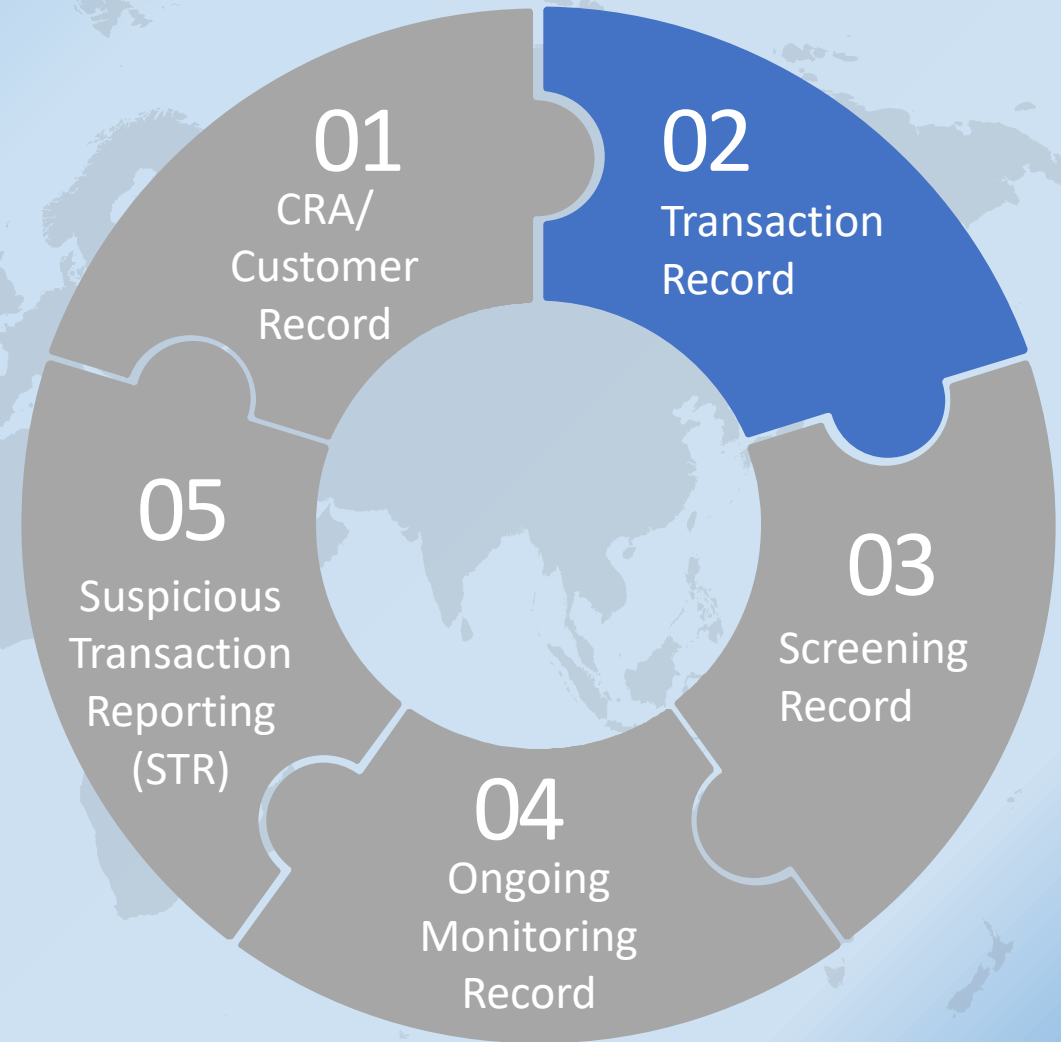
- MSO should adopt a RBA in the design and implementation of CRA framework
- Complexity of framework should be commensurate with the nature and size of the MSO's business
- Keep records and relevant documents so that it can demonstrate to the CCE,
 - (a) how it assesses the customer's ML/TF risks
 - (b) the extent of CDD measures and ongoing monitoring is appropriate based on that customer's ML/TF risks



Transaction Record

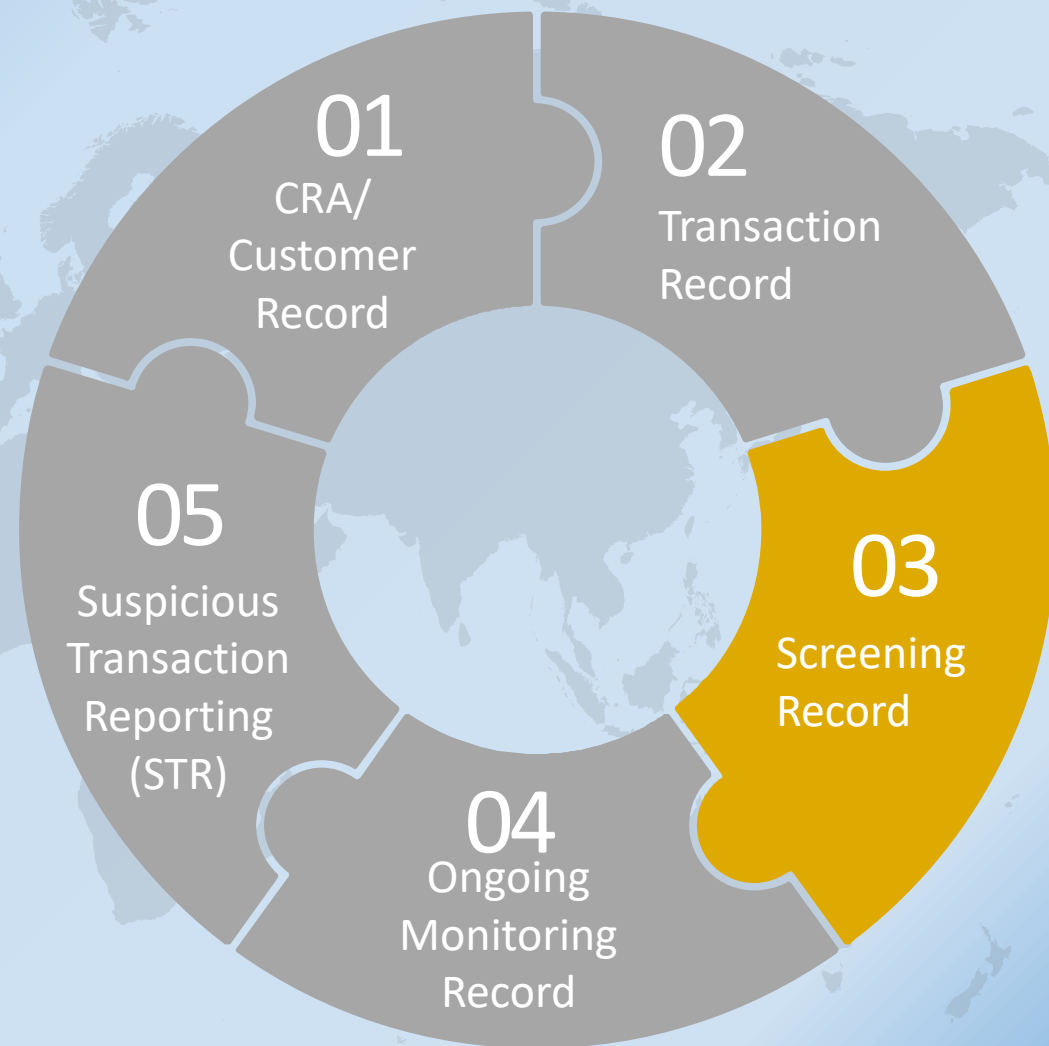
Including but not limited to :

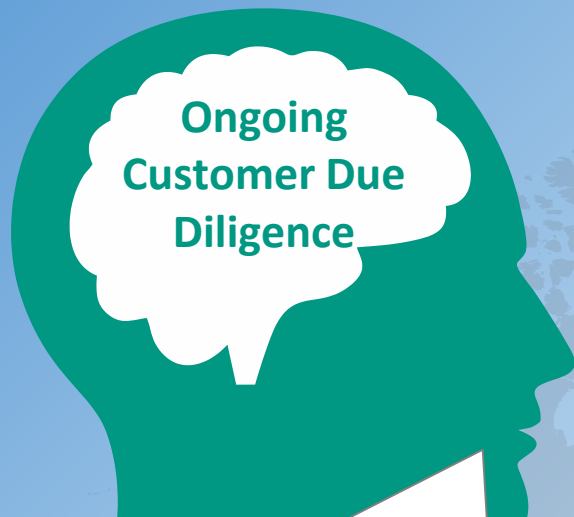
- ◆ Records on sending/ receipt of instruction using any instant messaging software/ mobile application
- ◆ Sufficient to permit reconstruction of individual transaction



Screening Record

- ◆ PEP list and Sanction Lists
- ◆ Screening conduct against the customer, any beneficial owner of the customer and all relevant parties in a transaction (including the recipient and intermediary)
- ◆ Enhanced checking result





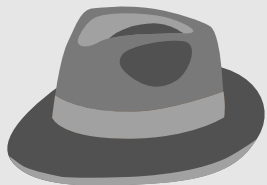
Ongoing Customer Due Diligence

- review of customer records periodically or upon trigger events



Transaction Monitoring

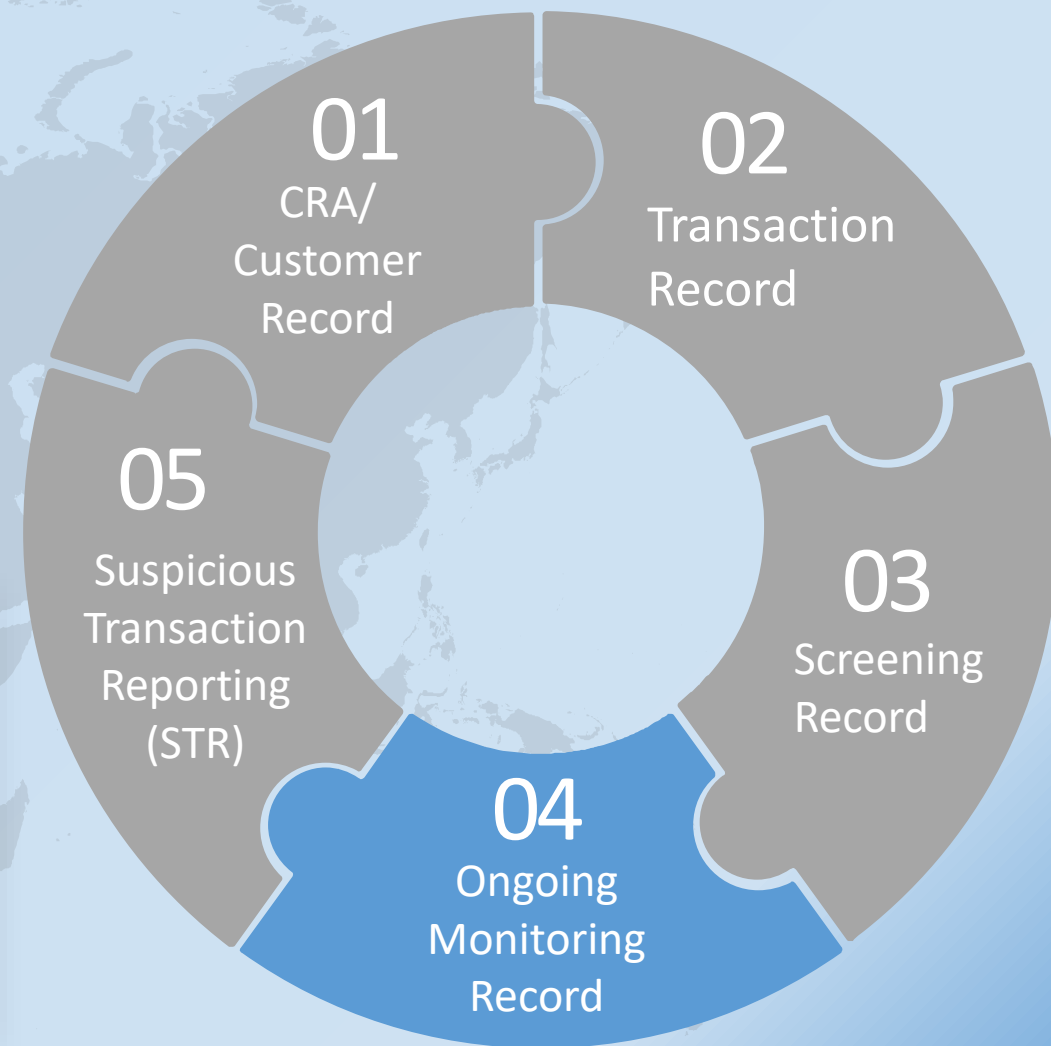
- complex, usually large in amount
- no apparent economic or lawful purpose



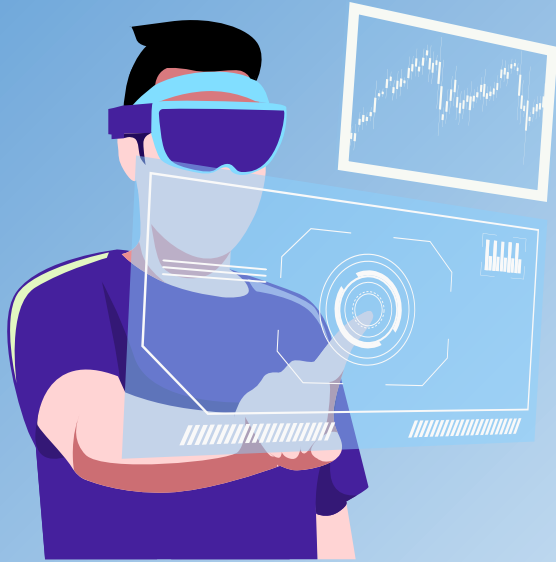
Examine Background & purpose of transaction, findings and steps taken by MSO



Rationale of any decision should be documented in writing



Transaction Monitoring System



- Accurate CDD Records
- Effective Risk Assessment

Data Inputs

Flagging of Unusual Transactions/
Activities

- Rule-based Parameters (e.g.: automated system)
- Identify Key Patterns
- Profiling
- Data Capturing
- Watchlists

- Evaluation
- Investigation
- Escalation

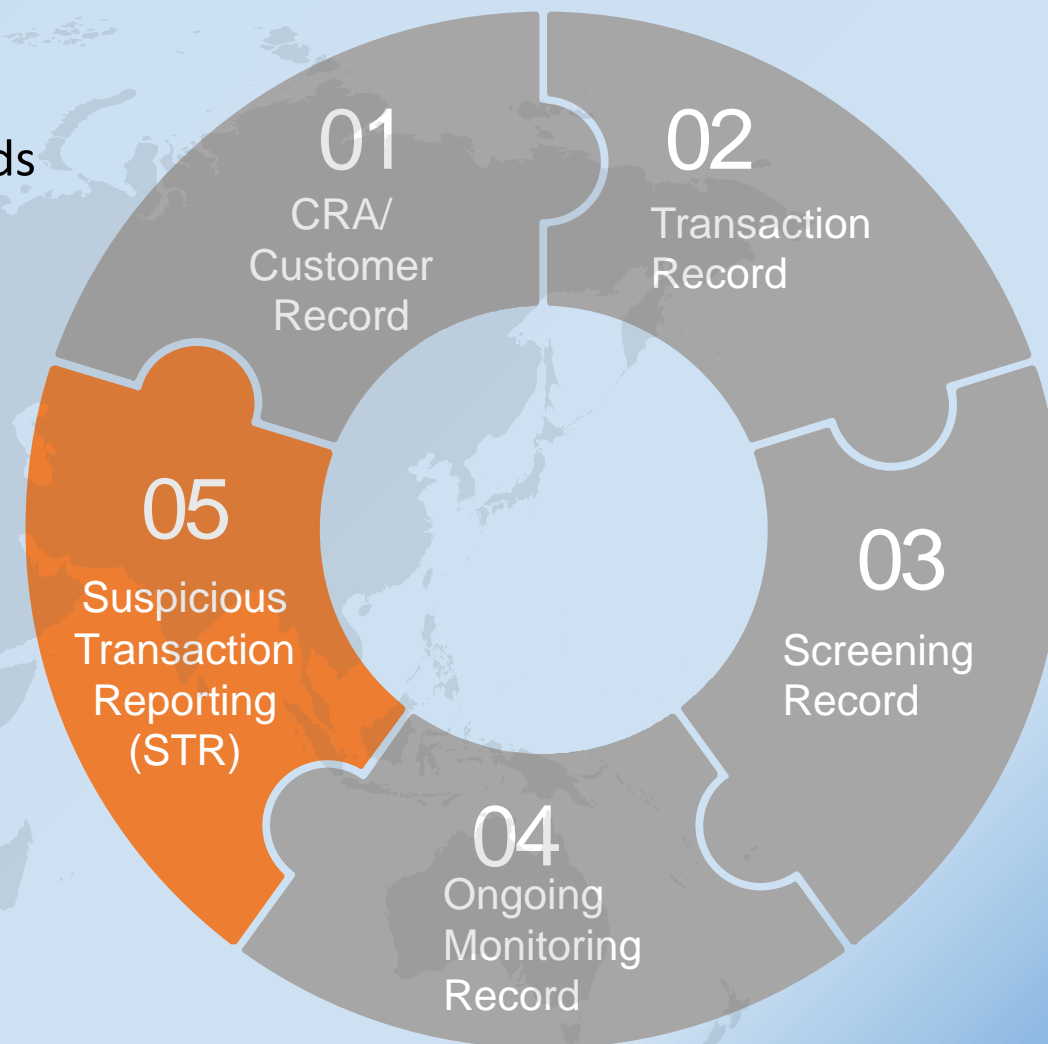
Results

Ongoing
Monitoring
Record

- * Documented Rules' Definitions and Escalation Processes
- * Defined Transaction Monitoring Responsibilities within the MSO

Further Actions





Institutional Risk Assessment

Inherent Risk

(Non-exhaustive lists)

- Customers
- Countries/Jurisdictions
- Products & Services
- Delivery channels
- New/ developing technologies
- Others



Operation Mode

Risk Identification

Risk Analysis

Analyze the likelihood of the consequence occurring (Probability)

Evaluate the seriousness of the consequence (Severity)

Risk Assessment

Risk Classification / Scoring

No

Yes

Acceptable Risk

Derive Residual Risk

- Evaluate effectiveness of controls
- Audit function

Risk Mitigation

Control measures

(Non-exhaustive lists)

- AML policy, framework & procedure
- Supervision & management structure
- Customer & Transaction monitoring
- Screening
- Training



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Circular to MSOs on Delivery Channels



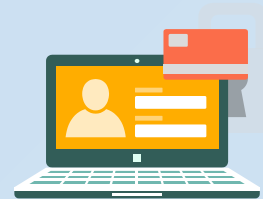
MSSB/MIS_05/2021

13 December 2021

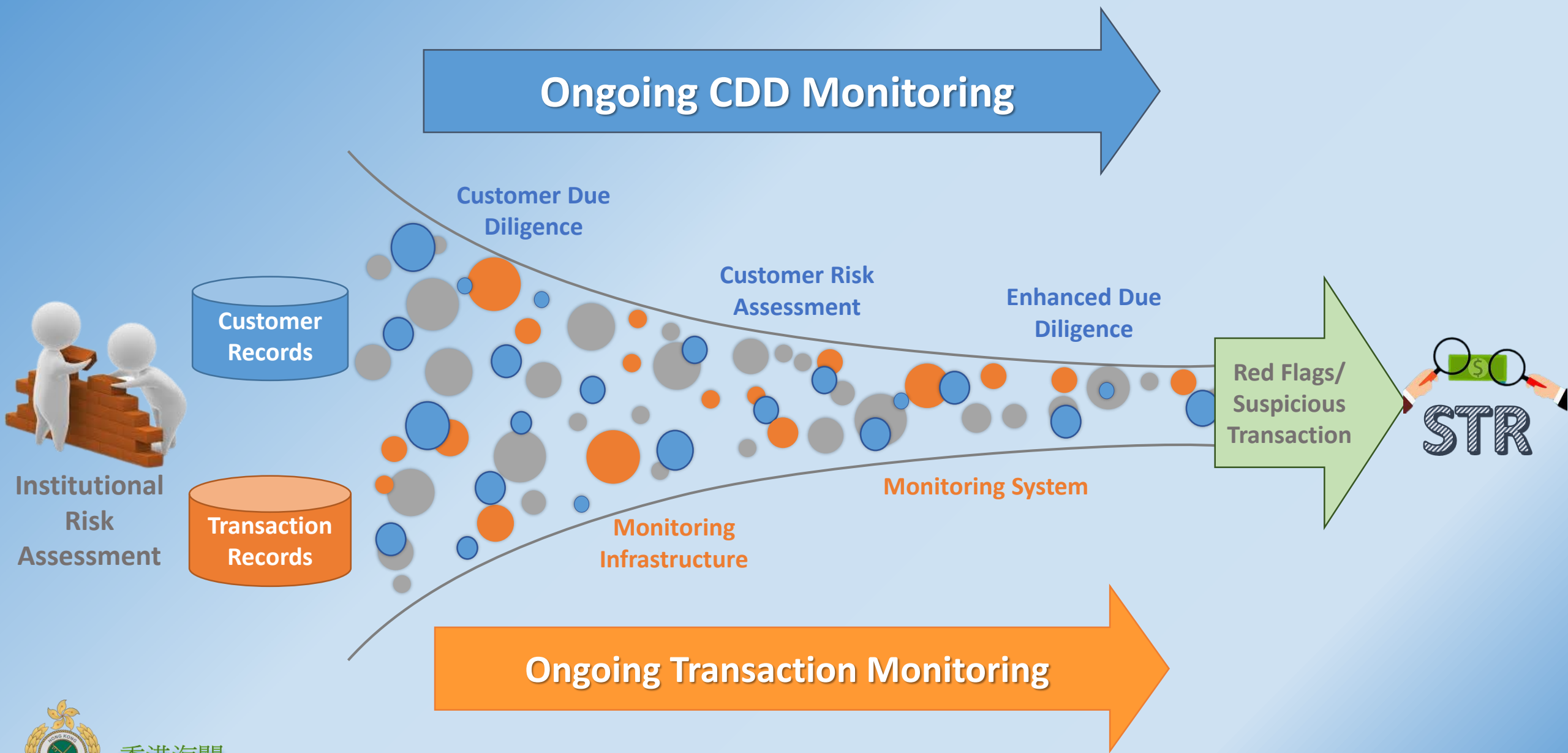
Circular

Circular to Money Service Operators
Anti-Money Laundering / Counter-Terrorist Financing
Money Laundering and Terrorist Financing Risks
Associated with Delivery Channels

In view of recent incidents involving unfulfilled cross-border / cross boundary remittance by Money Service Operators (“MSOs”) in which customers’ funds were frozen by the regulatory bodies or law enforcement agencies in other jurisdictions, the Customs and Excise Department (“C&ED”) would like to remind MSOs to exercise increased vigilance on possible activities or transactions that are suspected to be related to the money laundering and terrorist financing (“ML/TF”), and to reiterate the importance of institutional risk assessment (“IRA”) conducted by MSOs, particularly on their delivery channel risks outside Hong Kong.^{Note 1}



Ongoing CDD Monitoring



Keep Records for Inspection



- Demonstrate to the Commissioner by ***providing documents / records*** which the MSO's AML/CFT/CPF policy, procedures and system were compliant with the statutory and regulatory requirements

Customer Record

- Throughout the continuance of the business relationship
- At least 5 years after relationship ended

Transaction Record

At least 5 years beginning on the date when the transaction is completed



Building a Culture of Compliance

Effective Internal Communications

Adequacy and Availability of Compliance Resources

Employee Training **Three Lines of Defence**

Tone from the Top

Agent Risk Management

Investment in Bespoke System

Balancing Business and Compliance

Due Diligence

Sanction Compliance Programme

Knowledge and Awareness

Embedding Accountability

Evidencing Good Culture and Conducts

Communication on Approved Channel

Consumer Protection

Senior Management Engagement



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“Financial crime is not victimless. It hits the vulnerable and the poor the hardest, and it can undermine the very foundations of our society.” - David Green, Director of the UK Serious Fraud Office



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Questions & Answers

THANK YOU!



3742 7742



msoenquiry@customs.gov.hk



<https://eservices.customs.gov.hk/MSOS/>



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