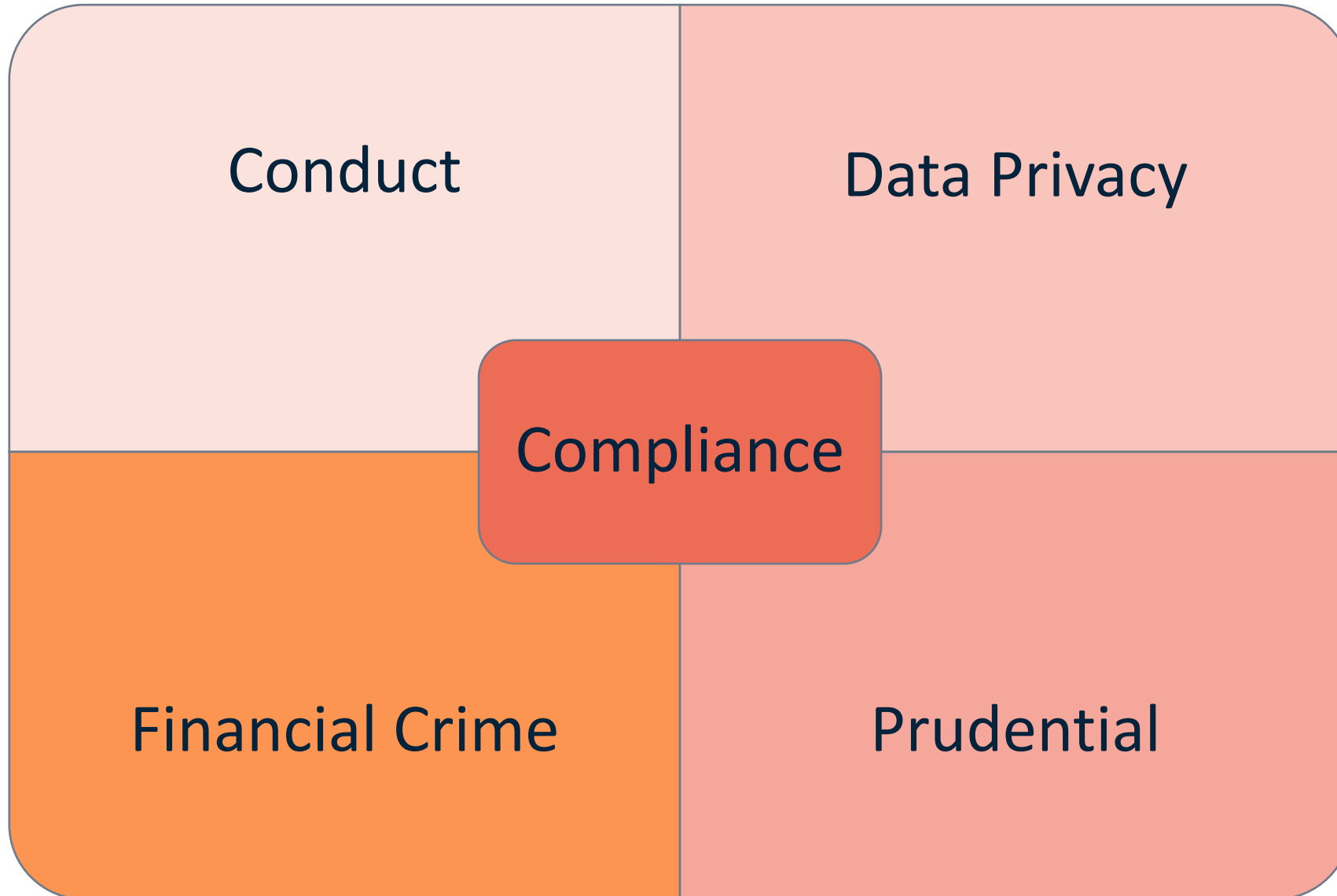# Focus on Financial Crime Prevention
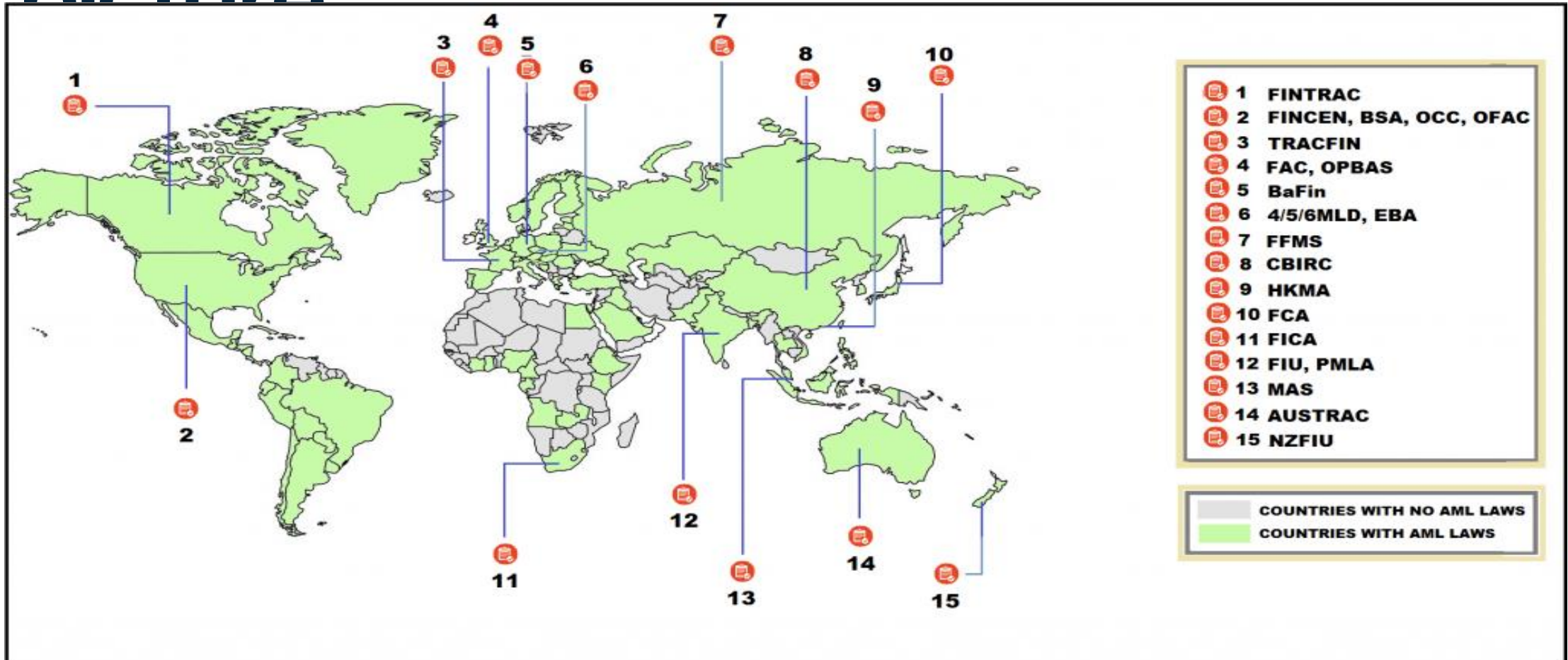
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Setting the scene – The Global picture

Setting the scene – Some facts

- Criminals will look for any "weak link" within the world-wide finance system to launder money or raise finance for terrorist activities;

- Over $1.5 trillion of illegal funds are laundered each year (2 to 5% of global GDP) with less than 1% of global illicit financial flows are seized by authorities;

- Increased scope of regulations drives increase in enforcement actions, leading to increased costs for compliance and non-compliance;

- Global penalties for 2019 totaled $36 billion for non-compliance with Anti-Money Laundering (AML), Know your Customer (KYC) and sanctions regulations. 12 of the world's top 50 banks were fined for non-compliance with AML, KYC and sanctions violations in 2019. **Source: Fenergo Report of 2019**

- Risks significant damage to firm's reputation, fines and imprisonment for directors.

Regulatory Expectations

Firms must:

- Adopt policies and procedures, in relation to firm's business, to prevent and detect the commission of money laundering and terrorist financing (ML/TF);

- Undertake business-wide risk assessment, document a risk based approach to customer due diligence (CDD), to establish exposure to ML/TF. To identify and assess the risk associated with its products, services, the jurisdictions it operates in, the customers it attracts and the transaction or delivery channels used to service customers;

- Conduct robust CDD at appropriate times:

  - Obtain information on the nature and purpose of relationship and maintain the records;

  - Identify / verify customers and beneficial owners;

  - Screen for Politically Exposed Persons, sanctions and terrorists;

  - Conduct ongoing monitoring of new and existing customers.

- Identify, investigate and where substantiated, report all suspicious activities to relevant authorities (Financial Intelligence Unit (the Garda Síochána and the Irish Revenue Commissioners));

- Provide education and training.

Senior Management responsibilities

- The Board is ultimately responsible for compliance for the firm's implementation and oversight of the internal ML/TF controls / processes to mitigate ML/TF risk.

- Creating a culture of compliance and being fully engaged in decision making processes and the design and implementation of the firm's risk-based approach to ensure that the risk-based processes are embedded within the firm's internal controls;

- Ownership of the risk-based measures adopted by the firm, ensuring that the firm's ML/TF policies, procedures and processes are appropriately designed and implemented,

- Ensuring that all members of staff adhere to these policies and procedures to reduce the risk of the firm being used in connection with money laundering or terrorist financing;

- Obtaining appropriate independent assurance that the adopted risk-based methodology reflects the firm's risk profile and that its policies, procedures and processes are designed to limit and control risks of money laundering and terrorist financing and are fully consistent with the law.

Role of the MLRO

Super Hero?

The MLRO is there to help stop things going wrong from a financial crime perspective, and to help deal with them if they do.

Role of the MLRO

Policeman

Counsellor

Relationship Manager

Role of the MLRO

EMPOWER — ENABLE — EDUCATE

Policeman

- Ongoing development/review of the firm's risk-based approach to the prevention of money laundering/terrorist financing;
- Monitoring compliance with ML/TF policies and procedures;
- Follow up and taking corrective measures;
- Management reporting;
- Management of records in relation to money laundering and terrorist financing, including documents detailing the investigation / review of the internal reports received in relation to money laundering and documentation of external reports.

Counsellor

- To ensure the firm is aware of the various legal and regulatory ML/TF obligations to it and its business;
- Promoting the adoption of a compliance culture within the organization;
- Providing advice and guidance;
- Assessment of the ML/TF risk as part of new product/market approval process;
- Training and education of employees in their regulatory obligations and responsibilities under ML/TF policies and for the maintenance of training records.

Relationship Manager

- Monitoring and managing stakeholder expectations;
- Respond to any reasonable requests for information made by the Central Bank, the Garda or any other law enforcement agency;
- Interface with regulators;
- Taking preventative measures;
- Ensuring communication of reports of suspicious transactions to the Garda and the Revenue Commissioners and acts as a liaison between the firm and these bodies.

Attributes of a MLRO

- Think of them as Mr or Ms C. K. Made

- **C**
- **K**
- **M**
- **A**
- **D**
- **E**

Attributes of a MLRO

- **C** - Confident, Considered, able to Communicate, with the access and authority to act independently and autonomously in carrying out their responsibilities.

- **K** – Knowledge sufficient knowledge of the regulations, governance documents firms products, services and systems.

- **M** – Manner have a pragmatic approach to problem solving;

- **A** – Analytical, Attitude – understanding of both the customer and business needs and concerns;

- **D** – Diligence – attention to detail, Diplomatic;

- **E** – Ethical, moral compass

 (Thick Skinned)

Planning Cycle

Financial Crime Risk topic considerations

Theme	Key Regulatory Risk Topics	Examples of issues/Scenarios considered
Financial Crime Risk	Customer Due Diligence	Failure to have in place adequate means of identifying customer/director (Customer)/ultimate beneficial owners (UBOs); Failing to carry out adequate Customer Due Diligence (CDD); Failure to carry out a risk assessment of new customers; Poor or inadequate record keeping.
		Nature and /or non-transparent structure aims to hide AML/CTF activities; Poor or inadequate record keeping.
		Failure to have in place adequate means of identifying customer/UBOs who pose a higher risk (higher risk jurisdiction/PEPs, etc.); Failing to carry out adequate CDD.
		Failure to maintain up to date customer due diligence/carry out ongoing CDD monitoring; Poor or inadequate record keeping.
		Failure to carry out on-going PEP monitoring, identify if existing customer/UBO becomes a PEP
	Transaction Monitoring	Insufficient customer servicing monitoring; Failure to monitor customer transactions.
		Insufficient oversight / analysis of transaction monitoring activities.
		Transaction documentation is not transparent; Failure to retain customer and transaction details in accordance with AML requirements.
	AML Governance/ Reporting	Failure to identify/report suspicious transactions/ activity; Inadequate systems and controls for reporting suspicious transactions; Tipping off customer regarding suspicions of ML/TF Inadequate staff training.
		Failure to report a STR to the relevant authorities; Inadequate systems and controls for reporting suspicious transactions; Inadequate staff training.
		Inadequate Systems and Controls; Poor management attitude to compliance; Failure to review and update AML/CTF Polices / Risk assessment etc; Failure to identify and implement new AML/CTF requirements; Inadequate compliance staff training/poor tracking and consideration of upstream regulation.
		Failure to have adequate arrangements in place with relevant parties covering outsourcing agreements; Outsourced arrangements not being managed adequately.
		Failure to maintain adequate records; Poor or inadequate record keeping.
		Data destruction, failure delete historic records; Poor record retention policy, records not delete five years after the relationship has terminated.
	Sanctions	Inadequate AML/CTF, sanctions controls; Inadequate systems and controls; Failure or deficiencies of AML systems e.g. client and payment screening; Ineffective screening at on boarding/ongoing screening; Ineffective systems and controls to implement sanctions controls, checks and reporting
	Training	Failure to provide adequate training to staff; Failure to train staff in their AML responsibilities; Failure to attain / maintain competence; Inadequate employee training.
		Failure to provide adequate training to the Board/senior management; Inadequate record keeping re training statistics, issues raised at training etc.
	Fraud	Failure to have adequate controls in place to detect identity fraud; Failure to detect or prevent fraud.
		Failure to have adequate controls in place to detect customer/related party fraud; Failure to detect or prevent fraud.

Compliance team tasks

- Upstream monitoring to carry out gap analysis and prepare reports re changes to/new legal and regulatory AML/CTF obligations to the firm;

- Ongoing development and monitoring of the effectiveness of firm's AML/CTF Policy, procedures, controls and the day-to-day operation of AML/CTF governance;

- Ongoing development and review of the firms risk-based approach to the prevention of money laundering/terrorist financing and carry out on an ongoing basis an assessment of firm's inherent AML risk and controls deployed directly within firm or an outsourcing partner;

- Prepare and deliver staff training in their regulatory/operational responsibilities;

- Ongoing monitoring of business/employee adherence to ML/TF processes/controls. Taking follow up actions as required.

Compliance team tasks

- Providing regular reporting on AML matters (including the annual MLRO report) to Governance bodies and suspicious transaction reporting to the relevant authorities;

- Management of firms ML/TF records, including documents detailing the investigation / review of the internal reports received in relation to money laundering and documentation of external reports;

- The response to any reasonable requests for information made by the Central Bank, the Garda or any other law enforcement agency.

Challenges facing the MLRO

- Changing AML Landscape - Keeping abreast of and interpretation of impact of regulatory changes / requirements:
  - Advice from external advisors;
  - Industry body updates inc. ACOI (MLRO Forum and AML Working group) and IOB etc.;
  - Regulatory updates /guidance notes - Central Bank, EBA, FATF etc.;
  - Updates from Legal / Professional firms;
  - Fin/ Reg Tech solutions.

- Getting the culture right / stakeholder buy in:
  - Ensure everyone is doing the right thing, when no one else is looking. Remember poor culture is often seen by regulators as a "red flag" of poor conduct, governance problems;
  - Management buy in, flag potential change as early as possible work with management to identify pragmatic solutions;
  - Ongoing training/workshops for customer facing teams / sharing good practice.

Challenges facing the MLRO

- System constraints:
  o Lack of access to advanced IT systems;
  o Manual processes, poor systems and controls;
  o Access to customer records;
  o Customer screening.
- Customer expectations/concerns:
  o Meeting customer expectations for speed/quality of services v regulatory requirements;
  o Privacy concerns with providing copies of ID's in today's remote working environment.
- Covid-19 home working:
  o Uncertainty, financial pressures, remoteness / isolation;
  o Managing multiply priorities – Child care, home schooling, carer etc.;
  o Criminals keep on changing the goal posts (Fraud, Phishing).

Thank You

- Any questions?

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