

HYPERLEAP

39th National Conference of
Chartered Accountants



Role of the Accountants, Trust and Company Service Providers and Auditors in Fighting Against Money Laundering and Terrorist Financing

By

D M Rupasinghe

Director /Financial Intelligence Unit of Sri Lanka

Central Bank of Sri Lanka

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What is Money Laundering & Terrorist Financing?

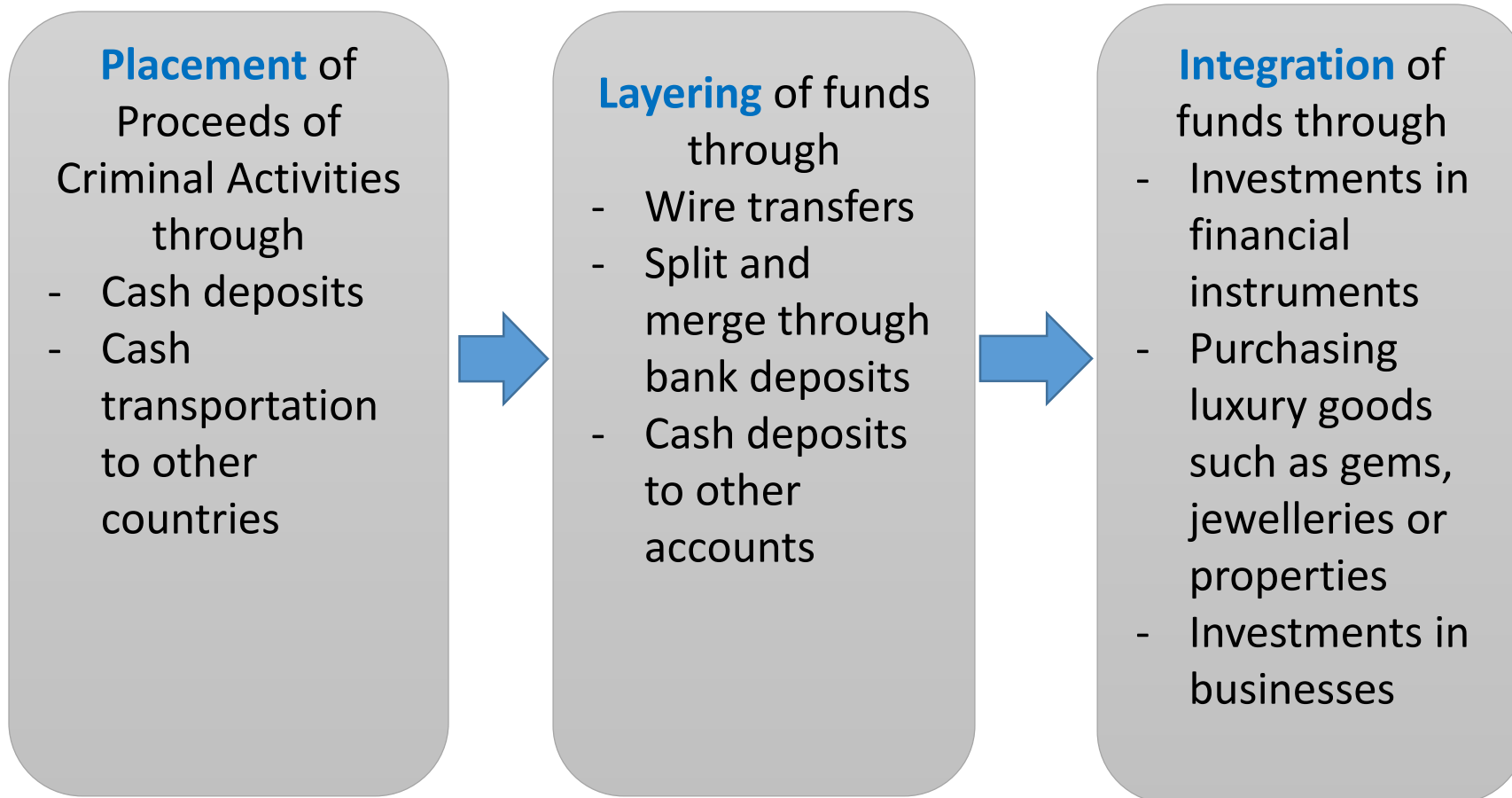
What is Money Laundering?

The processing of criminal proceeds from illegal activities (profits or other benefits) in order to disguise their illegal origin

(The Financial Action Task Force - FATF).



Three Stages of Money Laundering

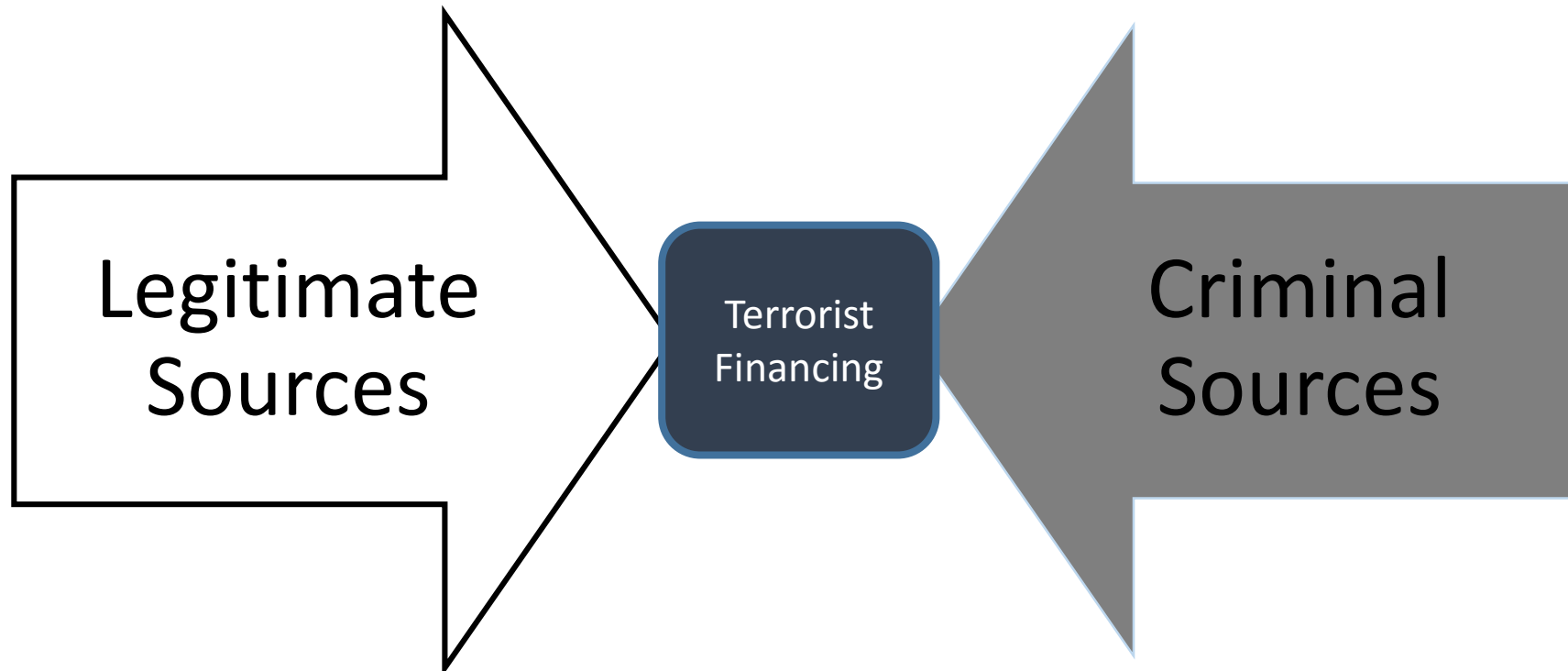




What is Terrorist Financing?



- Providing funds for terrorism activities, terrorists and terrorist organisations
- Funds can be earned through;

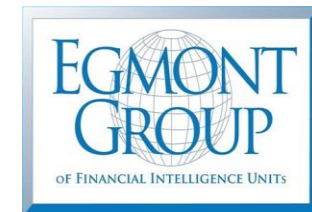


Global Actions Against Money Laundering and Terrorist Financing

Main Global Institutions in Combating ML & TF



- Financial Action Task Force (FATF)
- Asia Pacific Group on Money Laundering (APG)
- Egmont Group of Financial intelligence Units (Egmont Group)
- Other International Institutions Mainly:
 - World Bank (WB)
 - International Monetary Fund (IMF)
 - United Nations Office on Drugs and Crime (UNODC)
 - United Nations Security Council (UNSC)



FATF Recommendations on AML/CFT



FATF Recommendations



Initially (in 1989), 40 Recommendations on ML including...

1. The legal system
2. Measures to be taken by Reporting Institutions(RIs)
3. Institutional framework
4. International cooperation

9 Recommendation on TF in 2001 → (40 + 9 Recommendations)

Currently (since Feb' 2012), 40 Recommendations on

1. Money Laundering (ML)
2. Terrorist Financing (TF)
3. Proliferation of Weapons of Mass Destruction (CBRN)

Formation of FIUs



The Financial Intelligence Unit



- FATF's **Recommendation 29** requires that countries should establish a **Financial Intelligence Unit** that serves as a national centre for the receipt and analysis of
 - Suspicious Transactions Reports (STRs)
 - Other information relevant to ML & TF
- **FIU-Sri Lanka** was established in March 2006 under the Ministry of Finance and Planning.
- Currently, the FIU-Sri Lanka functions as an independent institution within the administrative framework of the Central Bank of Sri Lanka.

The Powers and Functions of the FIU –Sri Lanka

- Collecting, receiving and analyzing information, data and other reports
- Disseminating information to law enforcement authorities
- Carrying out AML/CFT Risk Based examinations
- Issuing Rules/ Guidelines/ Directives as preventative measures.
- Imposition of Sanctions to enforce compliance
- Exchanging of information with counterpart FIUs.

Legal Framework on AML/CFT in Sri Lanka

The Legal Framework on AML/CFT activities in Sri Lanka

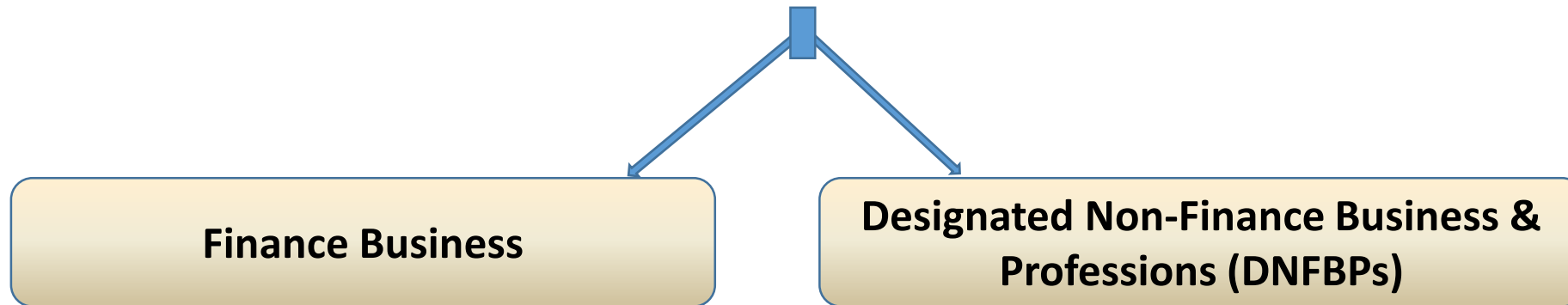
Framed by three legislations;

- The Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005 (CSTFA)
- The Prevention of Money Laundering Act, No. 5 of 2006 (PMLA)
- **The Financial Transactions Reporting Act, No. 6 of 2006 (FTRA)**

Reporting Institutions under the FTRA



“Institution” defined under Sec. 33 of the FTRA



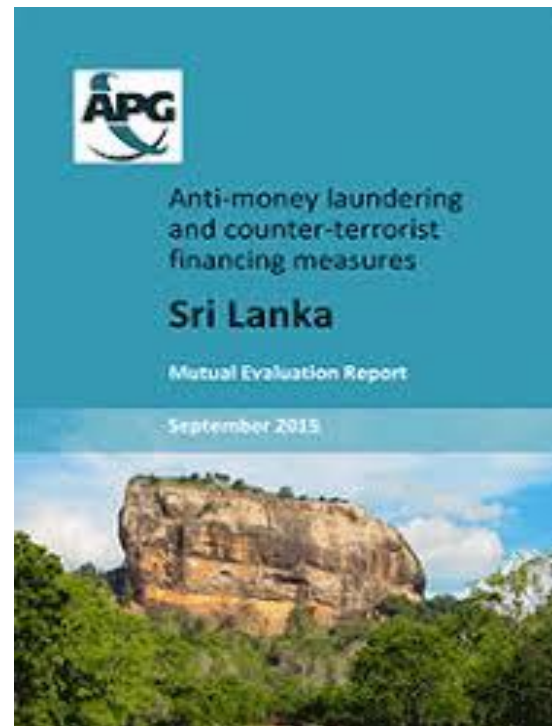
- Licensed Banks
- Licensed Finance Companies
- Insurance Companies
- Stock Brokering Firms
- Authorized Money Changers
- Money Value Service Providers

- Casinos & Gambling Houses
- Real Estate Agents
- Dealers in Precious Metals & Stones
- Lawyers & Notaries
- **Accountants**
- **Trusts & Company Service Providers**

AML/CFT Assessments for Member Countries

Mutual Evaluation Process (ME)

- In line with the FATF Recommendations, the 2nd ME on Sri Lanka was conducted during 2014/15 and adopted in July 2015.



Level of Compliance in terms of FATF Recommendations for DNFBPs in 2015

Recommendations	Rating in 2015
22: Customer due diligence and record keeping requirements are applied to DNFBPs	NC
23: DNFBPs should required to report suspicious transactions (STRs) and other measures	PC
28: DNFBPs should be subject to regulatory and supervisory measures by the AML/CFT authority	NC



Role of Accountants, Trusts & Company Service Providers under the AML/CFT Regime in Sri Lanka



Role of Accountants under the FTRA



- Under Sec. 33 of the FTRA,
- **Accountants** when they prepare for or carry out transactions for their clients in relation to any of the following activities:
 - (i) buying and selling of real estate;
 - (ii) managing of client money, securities or other assets;
 - (iii) management of bank, savings or securities accounts;
 - (iv) organization of contributions for the creation, operation or management of companies and;
 - (v) creation, operation or management of legal person or arrangements and the buying and selling of business entities.
- are required to comply with AML/CFT obligations



Role of Company Service Providers under the FTRA

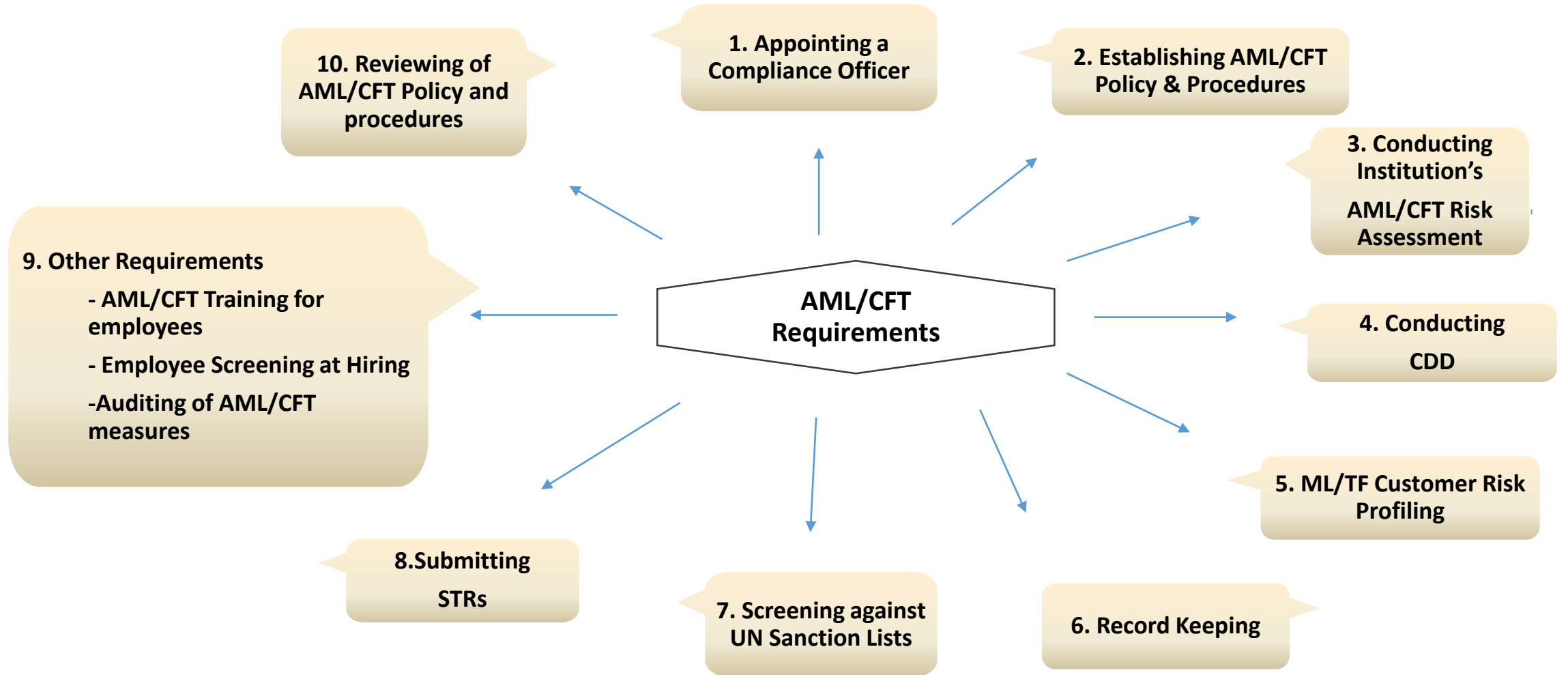


- Under Sec. 33 of the FTRA,
- a trust or company service provider not otherwise covered by the definition, which as a business provides one or more of the following services to third parties :
 - (i) formation or management of legal persons;
 - (ii) acting as or arranging for another person to act as, a director or secretary of a company, a partner or a partnership or a similar position in relation to other legal persons;
 - (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or for any other legal person or arrangement;
 - (iv) acting as or arranging for another person to act as, a trustee of an express trust;
 - (v) acting as or arranging for another person to act as, a nominee shareholder for another person.
- are required to comply with the AML/CFT obligations.

Key AML/CFT Compliance Requirements for Accountants & Company Service Providers



Key AML/CFT Requirements for DNFBPs





Regulations and Guidelines Issued by the FIU



- **Regulations:**
 - Suspicious Transactions (Format) Regulations of 2017
- **Rules:**
 - Designated Non-Finance Business (Customer Due Diligence) Rules No. 1 of 2018.
- **Guidelines:**
 - Guidelines on AML & CFT Compliance Obligations for Casinos and Gambling Houses, No. 02 of 2018
 - Guidelines on AML & CTF Compliance Obligations for Dealers in Real Estate and Precious Metals, Precious and Semi-Precious Stones, No. 03 of 2018
 - **Guidelines on AML & CTF Compliance Obligations for Accountants and Company Service Providers is planned to be issued soon with the assistance of ICASL.**

(The above regulations, rules and guidelines are available in the FIU website: www.fiusrilanka.gov.lk)

Role of Auditors Under the FTRA



Obligations of Auditors under FTRA



- Under **Sec. 22 (1)** of the **FTRA**, as an **Auditor** of an Institution
To report suspicious transactions/attempted transactions to the FIU.
- Under **Sec. 5** of the Prevention of Money Laundering Act No. 5 of 2005 (**PMLA**),
Duty of certain persons to disclose knowledge or belief of acts constituting the offence of Money Laundering.

Challenges & Requirements

Challenges

- FIU Sri Lanka is working hard to get the highest level of “**Compliance**” for the Recommendations 22 and 28 at a next possible evaluation.
- Further, Sri Lanka needs to achieve the highest level of “**Effectiveness**” in applying monitoring measures for DNFBPs.



Obligations - Summary



1. Accountants and Company Service Providers are required to;

- **apply AML/CFT measures** as required by relevant laws.
- **implement customer identification procedures** at the earliest possible.
- **introduce mechanisms to report Suspicious Transactions (STRs) to the FIU**
 - One of the most important (reporting) requirements for DNFBPs.

2. Auditors are required to;

- **report STRs** in case of any suspicion on ML/TF
- **conduct audit tests** on the compliance of Reporting Institutions of the FIU on AML/CFT measures.

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Thank you