

# ***Good, but could do better - Key learnings from the FAFT AML&CFT Mutual Evaluation Report of Switzerland***

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***On 7 December 2016, the Financial Action Task Force (FATF) published the results of the Mutual Evaluation Report on Switzerland, concluding their assessment performed from 25 February to 11 March 2016. The results, extending to 245 pages, make interesting reading for AML practitioners and compliance officers.***

FAFT concluded, “Overall, Switzerland’s Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) regime is technically robust and has achieved good results. It would still benefit from some improvements in order to be fully effective.”

We analysed the key findings and identified learnings for regulated firms together with options for regulatory development:

The key learnings on the following page concern:

1. Suspicious Transaction Reporting (“STR”)
2. Due diligence on longstanding customers
3. AML&CFT customer risk classification
4. AML&CFT Risk Assessment
5. Penalty Sanctions

FAFT Observation	Key Learning / Options for regulatory development
<p>1. <b>Suspicious Transaction Reporting (“STR”)</b>: The number of reports is insufficient. FINMA was encouraged to increase its supervision and sanctions in respect of STRs</p>	<p>Swiss authorities have made clear public statements to encourage an increase in STR. FATF view the number, as well as the quality of suspicious transaction reports, as key indicators of the effectiveness of a country’s systems for preventing criminal abuse of the financial system.</p> <p>Regulated firms can expect the increased regulatory scrutiny in respect of their STR processes to continue.</p> <p>Regulated firms, where they have not done so already, will need to develop proactive STR processes; including embedding effective systems, communication, training and guidance. Effective STR combines staff intervention, compliance data analytics and on-going Transaction Monitoring and News/Information Screening</p>
<p>2. <b>Due diligence on longstanding customers</b>: For longstanding customers classified low risk at the beginning of relationships, the source of funds is not always identified in line with current requirements</p>	<p>Longstanding customers have historically caused challenges for regulated firms – the inherent difficulty in maintaining accurate records and obtaining source of funds information for longstanding customers with few touch points can compound matters.</p> <p>Regulated firms’ processes should ensure that source of funds information is obtained at available opportunities; additionally; proportionate and risk-based regular AML reviews ensure that Know Your Customer (including indicia of Politically Exposed Persons) and AML information is kept up to date. Globally, regulatory attitudes are trending to a desire for firms to take a more proactive approach to legacy clients</p>
<p>3. <b>Customer Risk Classification</b>: Any failure to correctly classify customers into risk categories will undermine the application of the Risk-Based Approach</p>	<p>An effective customer risk classification is a key enabler of the Risk-Based Approach. With AML risk in Switzerland changing - and in some cases increasing – regulated firms should ensure that their customer risk classification processes remain effective and incorporate the FINMA specifically developed criteria (including offshore and complex structures, business activities and countries involving special risks).</p> <p>Larger organisations can leverage data, technology solutions and digital services to enhance their approaches to customer risk classification</p>
<p>4. <b>Risk Assessment</b>: The risks of ML/TF are well understood by Swiss authorities, however the assessment of the ML/TF risks regarding the use of cash or legal persons (including domiciliary companies) is underweight</p>	<p>Swiss authorities are likely to increase their focus on assessing the ML/TF risks associated with the use of cash in Switzerland, activity with a nexus to FATF specified higher risk countries and the activity of Swiss domiciled legal persons. Regulated firms should ensure that their own risk assessments include these factors</p>
<p>5. <b>Penalty Sanctions</b>: progress is necessary in imposing sanctions that are proportionate and sufficiently dissuasive. The Sanction policy for serious violations of AML/CTF obligations was assessed as inadequate</p>	<p>In recent years, FINMA has expanded its sanctions catalogue and publically stated that non-financial sanctions have the <u>potential to be more effective than monetary penalties</u>. Other global financial regulators do not share this perspective.</p> <p>While a change in approach in Switzerland is not expected; recent overseas political developments may affect how EU member states and the US use targeted non-financial sanctions</p>