Applying the National Risk Assessment to Regulated Firms - September 2020 Workshops Amalgamated Slides

Financial Crime Division

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What would we like you to achieve from today's workshop?

- An understanding of the key inherent money laundering risks to your sector

- An understanding of the key inherent terrorist financing risks to your sector

- An understanding of how to apply the NRA to your firm's Business Risk Assessment

- An understanding of how to apply the NRA your firm's Customer Risk Assessment

- Regulatory Self-Assurance Help sheet

WARNING! B.R.A GFSC Thematic

Question 1

"Which of the following two sectors are considered as having the highest risk of money laundering?"

Options:
Legal & Collective Investment Schemes
Life Insurance & Pensions
Private Banking & Trust and Corporate Services ✓
Retail Banking & Investment Management

Question 2

Is the terrorist financing risk considered as higher, medium or lower risk?

Options:
Higher
Medium
Lower ✓

Question 3

What is secondary terrorist financing?

Options:
Providing funds via online fundraising platforms to terrorists
Criminal proceeds are used to finance terrorism✓
Financing terrorism through international trade
Using companies and trusts to disguise terrorist financing

Money Laundering Residual Risks (mitigated by internal systems and controls and supervisory regime). 9 ratings, no sectors rated as Very Much Higher or Much Higher

Risk Rating	Industry Sector
Higher	Private Banking & Trust and Corporate Services
Medium Higher	Retail Banking & Investment Management/Advisory/Execution Only
Medium	Legal & Collective Investment Schemes
Medium Lower	Life Insurance & Pensions; Accountancy E-casinos & Non-Bank Lending and Money Services
Lower	Captive Insurance; Reinsurance & Insurance Linked Securities Real Estate Agents; Dealers in Precious Metals & Registered NPOs
Much Lower	General Insurance

These are relative between sectors in the jurisdiction rather than absolute.

Terrorist Financing Residual Risks (internal systems and controls and supervisory regime taken into account). 9 ratings, all sectors considered lower risk than ML

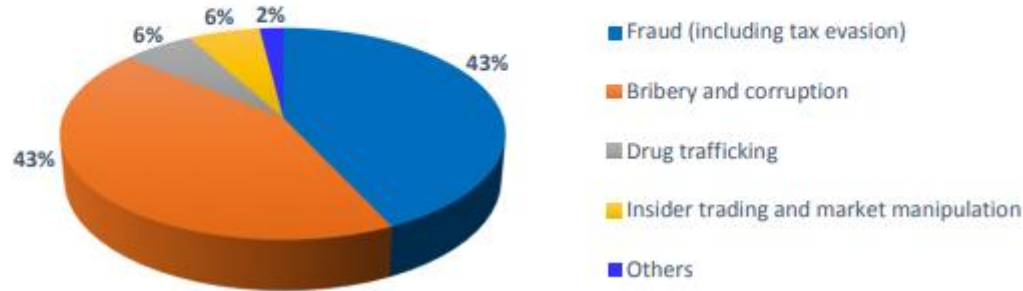| Risk Rating	Industry Sector
Lower (financing foreign terrorist activity)	Private & Retail Banking Insurance (General and Life) Investments (General Securities etc. and Collective Investment Schemes) Trust and Corporate Services Legal & Accountancy Dealers in Precious Metals
Much Lower (financing foreign terrorist activity)	E-casinos Estate Agents Registered NPOs
Very Much Lower	All sectors in respect of domestic terrorism activity

Exercise 1

In your groups discuss:

1. Are foreign or domestic funds the main money laundering and terrorist financing threats to the Bailiwick of Guernsey?

2. What does the NRA state are the key inherent money laundering and terrorist financing risk indicators to your sector?
   e.g. number of high risk customers / type of product

3. Which of the following predicate crimes are considered the main threats to your sector?
   Bribery & Corruption, Market Abuse, Drug Trafficking, Fraud & Tax Evasion, Human Trafficking , Organised Criminal Gangs or Environmental Crime

4. Question for Slido. Were you surprised by the conclusions of the NRA in respect of your sector? If so, why?

Exposure to Foreign Criminality

Figure 1: Distribution of foreign proceeds of crime

6% 6% 2%

43%

43%

- Fraud (including tax evasion)
- Bribery and corruption
- Drug trafficking
- Insider trading and market manipulation
- Others

Highest Risk Sectors:
TCSP
Private Banking

Highest risk products for money laundering in the Bailiwick are legal arrangements and legal persons administered in the Bailiwick. Primary threats arise from foreign criminality.

Exposure to Domestic Criminality

Figure 2: Distribution of domestic proceeds of crime

■	Drug trafficking
■	Fraud
■	Tax evasion
■	Bribery and corruption
■	Insider trading and market manipulation
■	Other
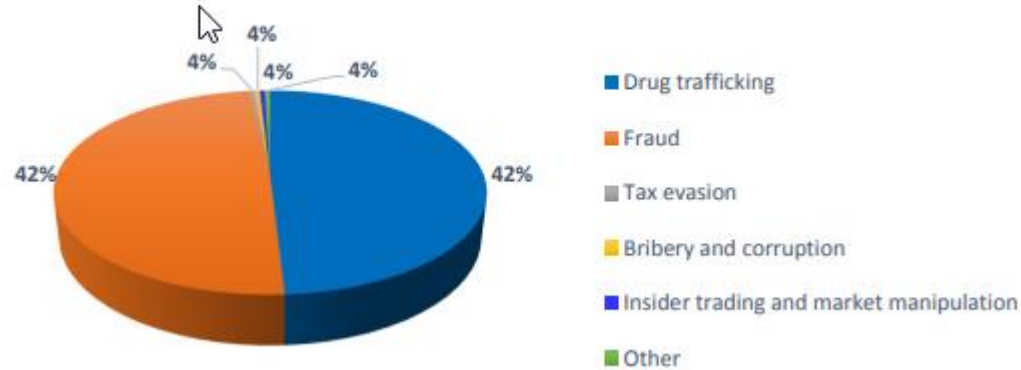
The money laundering threats from domestic criminality principally relate to drug trafficking and fraud (including tax evasion).

TCSPs (excluding pensions) - Higher Residual Risk of Money Laundering

Inherent Money Laundering Risk Indicators
Significant volume of high risk customers (27%) from a broad geographic area
7% of customers are international PEPs
Legal Persons/Arrangements could be used to conceal the source of assets & beneficial ownership
Non-face-to-face transactions & use of professional advisers or referrers
Extremely high value of some structures
Structures may involve multiple corporate layers

Main Threats
Receiving the proceeds of crime from tax evasion, fraud and bribery & corruption from international customers

Private Banking – Higher Residual Risk of Money Laundering

Inherent Money Laundering Risk Indicators
High number of high risk customers (18%) from a broad geographic area
4% of customers are international PEPs
High number of non-face-to-face transactions
Advisory & execution only, increases risks of ML (market abuse)
Speed of transactions across a multitude of markets

Main Threats
Receiving the proceeds of crime from tax evasion, fraud and bribery & corruption from international customers

Retail Banking & Non-Bank Lending and Money Services – Medium Higher Residual Risk of Money Laundering

Inherent Money Laundering Risk Indicators
Much lower proportion of high risk customers & PEPs compared to private banking
Predominantly focussed on local residents and businesses
Speed of transactions across a multitude of markets
Money services transactions are most low-value transmissions by foreign workers

Main Threats
Receiving the proceeds of crime from domestic drug dealing

Investment Management, Advisory and Execution Only – Medium Higher Residual Risk of Money Laundering

Inherent Money Laundering Risk Indicators
High number of non-face-to-face transactions
Speed of transactions across a multitude of markets
Advisory & execution only, increases risks of ML (e.g. market abuse)
Linkages to private banking which is rated as higher risk
Broad geographic reach of customers

Main Threats
Through advisory and execution only trades on behalf of international customers and to a lessor extent domestic customers the potential to facilitate market abuse

Fund Sector– Medium Residual Risk of Money Laundering

Inherent Money Laundering Risk Indicators
Very large AUM & a broad geographic reach of its customers
Scheme exposure – risk of being controlled by parties with criminal intent or invested in high risk industries and countries which can create bribery & corruption risks e.g. mining
Investor exposure – investing the proceeds of crime. Open-ended schemes are more vulnerable than closed-ended schemes (investors locked-in) in this respect. Greater proportion of institutional investors (pensions etc.) in closed-ended schemes.

Main Threats
Facilitating the predicate crimes of fraud, tax evasion, market abuse and bribery and corruption within the scheme itself or receiving the proceeds of crime from international customers for investment purposes

Legal Sector – Medium Residual Risk of Money Laundering

Inherent Money Laundering Risk Indicators
Low volume of high risk customers (6%) & 3% are international PEPs
Internationally considered attractive to criminals because of the credibility and respectability it can provide
Key introducer of business to the Bailiwick
Generally does not hold client money other than for conveyancing and probate
TCSP activity separately assessed and does not form part of this risk assessment

Main Threats
It is key in introducing foreign business to the Bailiwick and therefore exposed to similar criminality to that in the finance sector

Accountancy Sector – Medium Lower Residual Risk of Money Laundering

Inherent Money Laundering Risk Indicators
Low volume of high risk customers (6.4%) & 4.5% are international PEPs
Typically only hold or manage client funds when appointed for insolvencies/liquidations
Internationally considered attractive to criminals because of the credibility and respectability it can provide.
Generally not an introducer of business to the Bailiwick

Main Threats

- Provides accountancy, audit, tax advice and insolvency services to other sectors and is therefore also exposed to the predicate crime threats in those sectors.
- Accounts falsified by criminals to disguise predicate crime such as tax evasion and fraud and those accounts are unwittingly approved by auditors.

Pensions & Life – Medium Lower Residual Risk of Money Laundering

Inherent Money Laundering Risk Indicators
Long term nature of products and significant financial disadvantages for early cancellation make these products unattractive for money laundering purposes
Very low number of international PEPs

Main Threats
Receiving the proceeds of crime from international customers for savings purposes

How does General Insurance compare?
General is internationally recognised as less vulnerable to ML – not covered by FATF Principal threat – fraudulent claims

Estate Agents – Lower Residual Risk of Money Laundering

Inherent Money Laundering Risk Indicators
Very low volume of high risk customers (2.3%) & 0.5% are PEPs
95% of business undertaken involves purchase of residential property on a face-to-face basis
All property transfers in Guernsey must be approved by the court (Recognise different approach in Alderney)
Availability of property is limited due to the physical size of Guernsey and the controls on the occupation of local market properties

Main Threat
Purchase of commercial or residential property by foreign customers using criminal proceeds

All Sectors – Financing of Terrorism

Inherent Financing of Terrorism Risk Indicators

Very Much Lower Risk: Domestic terrorist activity is very unlikely due to the Bailiwick's demographic, political, geographical and cultural profile

Lower Risk: International Finance Centre ("IFC") – large flows of monies and assets under management does expose the Bailiwick to TF risk in respect of foreign terrorism

Main Threats

1) Secondary terrorist financing from criminal proceeds – ML threats are relevant to TF
2) Exposure to countries with active terrorism or TF threat (payments & customers)
3) Exposure to countries with strong links to those countries with active terrorism or countries with a secondary terrorism or TF threat (payments & customers)

Terrorist Financing – Movement Stage

TIP: Consider your firm's role in cross border movement of funds

Movement

Collection

Use
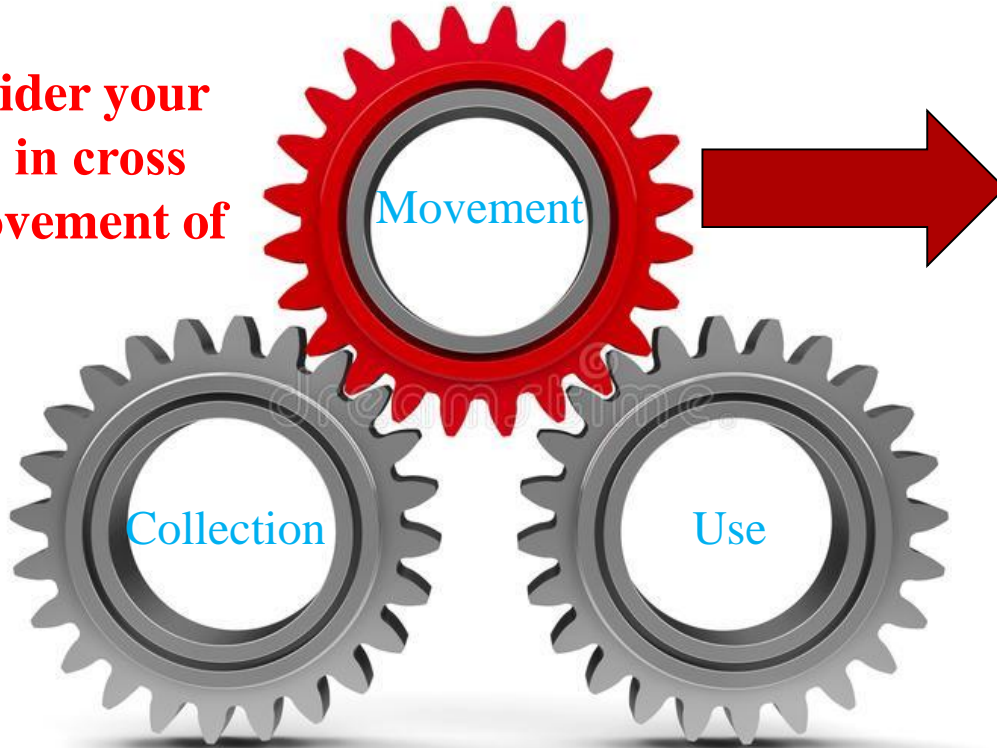
Controls:
- Identify Beneficial Owner(s) – any indirect?
- CDD (especially purpose & rationale)
- ECDD
- Real time monitoring especially transactions
- Sanctions screening
- Timely SARs
- Good quality & accessible records

Focus Countries?

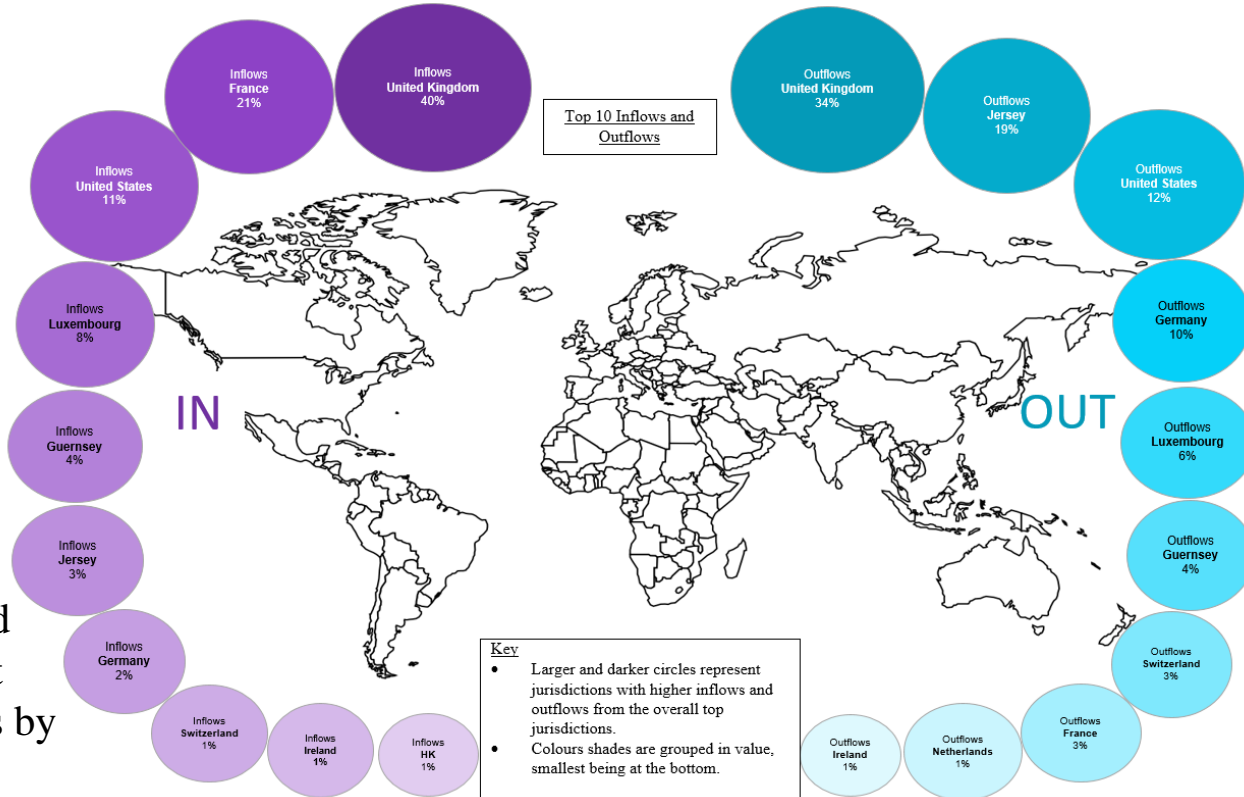Consider information sources in Appendix H & I

- Countries with active terrorism or terrorist financing; or
- Countries with strong geographic or other links (e.g. economic) to countries with active terrorism or terrorist financing; or
- Countries with a secondary terrorism or terrorist financing threat from predicate crimes such as kidnapping, human trafficking or corruption

Top 10 Inflows and Outflows – Q1 2020

Data Informs NRA

What data do you use to assess country risk?

Top 10 Inflows and Outflows

Inflows France 21%

Inflows United Kingdom 40%

Outflows United Kingdom 34%

Outflows Jersey 19%

Inflows United States 11%

Outflows United States 12%

Inflows Luxembourg 8%

Outflows Germany 10%

IN

OUT

Inflows Guernsey 4%

Outflows Luxembourg 6%

Inflows Jersey 3%

Outflows Guernsey 4%

Inflows Germany 2%

Outflows Switzerland 3%

These inflows and outflows represent 93% of total flows by value

Inflows Switzerland 1%

Inflows Ireland 1%

Inflows HK 1%

Outflows Ireland 1%

Outflows Netherlands 1%

Outflows France 3%

Key
- Larger and darker circles represent jurisdictions with higher inflows and outflows from the overall top jurisdictions.
- Colours shades are grouped in value, smallest being at the bottom.

Top 10 Inflows and Outflows – Q1 2020

Appendix I
Higher Risk
Countries

Top 10 Higher Risk Jurisdictions
Inflows and Outflows

IN

OUT

Inflows Russia 19%
Inflows Mauritius 42%
Inflows Kuwait 12%
Inflows China 9%
Inflows Bosnia and Herzegovina 5%
Inflows India 2%
Inflows Nigeria 1%
Inflows Ghana 1%
Inflows Congo DR 1%
Inflows Uganda 1%

Outflows Mauritius 31%
Outflows Russia 15%
Outflows China 10%
Outflows Barbados 10%
Outflows Swaziland 5%
Outflows India 4%
Outflows Burundi 3%
Outflows Kuwait 2%
Outflows Moldova 2%
Outflows Thailand 2%

Key
- Larger and darker circles represent jurisdictions with higher inflows and outflows from top H & I jurisdictions.
- Colours shades are grouped in value, smallest being at the bottom.

These inflows represent 1.42% of total flows by value

These outflows represent 0.6% of total flows by value

Exercise 2

In your groups discuss:

1. What is and why is a Business Risk Assessment ("BRA") important?

2. What data do you use to inform the risks of ML and TF at your firm?

3. What changed in the 2019 Handbook in respect of BRAs?

4. How should you apply the NRA to your BRA?

Exercise 2 – Answers

Q: What is and why is a BRA important?
A: A key document. Assists a firm in identifying where its products and services are exposed to ML and TF and record how those risks are managed and mitigated? It's quality not quantity

Q: What information/data do you use to inform the risks of ML and TF at your firm?
A: Information/data on no. of PEPs; no. of high risk clients; geographic business patterns e.g. money flows (in & out); delivery channels (use of intermediaries/technology) & product/service offering

Q: What changed in the 2019 Handbook in respect of BRAs?
A: Assessment of ML and TF must be distinct from one another; determine its risk appetite and the findings must take into account the NRA

Q: How should you apply the NRA to your BRA?
A: Take into account the inherent ML and TF risk indicators and predicate crime and TF threats your sector is most exposed to. Read the sections on ML and TF Modalities and the case studies in the NRA as they provide practical examples of how firms can be abused.

Money Laundering and Terrorist Financing Risk Appetite

Exercise 3

In your groups review the Business Risk Assessment provided to you which is based on the pre-2019 Handbook requirements and discuss:

1. What looks good?

2. How could it be improved?

3. What needs to be changed to make it compliant with the 2019 Handbook?

Note: Identify 4/5 key points only

Exercise 3 – Fiona and Nick's Perspective on the BRA

Good Points	Requires Improvement
Acknowledges that its business involves risk taking. Highlights that Guernsey is a significant IFC and is inherently attractive to criminals.	Unclear why Guernsey or the business is attractive for TF. There is little assessment of the risk of TF. This now must be assessed separately.
Highlights additional risks with Middle Eastern business, particularly on bribery and corruption. Provides geographic split of clients.	Unclear how much ML and TF risk they are willing to take. Risk appetite must now be clearly articulated
Recognises risk of non-face-to-face business & enhanced measures will be applied	No reference to tax evasion risks which you would expect in such a business as detailed in the NRA. Unclear how fraud could be committed.
Details controls to mitigate ML risks. ECDD for high risk customers.	Excepting the reference to sanctions screening there is no information on controls to mitigate TF.

GENERIC

Customer Risk Assessments – What should you take into account?

- ➤ Firm's risk appetite
- ➤ Type or types of customer (including the beneficial owners)
- ➤ Country or geographical area
- ➤ Product
- ➤ Service
- ➤ Transaction
- ➤ Delivery channel

Appendix I Countries and territories that are identified by external sources as presenting higher risk of ML/TF

Risk based decision

Country/territory	Intergovernmental and Supranational Organisations, UK and US Government Sources							Non-Governmental Organisations and Think Tanks			
	FATF – jurisdictions under increased monitoring	OECD – jurisdictions that have yet to implement agreed tax standards	INCSR (US Department of State) – Major drug producing and transit countries	Worldwide Governance Indicators project (World Bank)	Human Trafficking – US Department of State	State sponsors of terrorism - US Treasury Country Reports on Terrorism – US	UK HM Treasury Sanctions	TRACE Bribery Risk Matrix 2019	Transparency International – Corruptions Perception Index	Fund for Peace/ Foreign Policy magazine – Fragile States Index (Alert level)	Global Terrorism Index 2019

Exercise 4

In your groups review the customer due diligence summary:

1. What is the key money laundering threat (i.e. predicate crime)?

2. What do you consider are the relevant risk factors?

3. How would you mitigate the threat and risks?

4. What risk rating would you allocate to this relationship and what are the triggers for this rating?

Exercise 4 – Fiona and Nick's Perspective

In your groups review the customer due diligence summary:

1. What is the key money laundering threat (i.e. predicate crime)? Potential Bribery & Corruption

2. What do you consider are the relevant risk factors? Customer (including its beneficial owner): HNWI and SOW from a sensitive industry; Product/Service: High value transaction; Country: Congo; Delivery Channel: Introduced by a law firm (non face-to-face relationship)

3. How would you mitigate this threat? Firstly, does this business fit within your firm's risk appetite? If so, apply ECDD, detailed checks on the beneficial owner's SOW/SOF

4. What risk rating would you allocate to this relationship and what are the triggers for this rating? High – Sensitive industry and countries

Exercise 5

In your groups review the customer due diligence summary:

1. What is the key money laundering or terrorist financing threat?

2. What do you consider are the relevant risk factors?

3. How would you mitigate the threat and risks?

4. What risk rating would you allocate to this relationship and what are the triggers for this rating?

Exercise 5 – Fiona and Nick's Perspective

In your groups review the customer due diligence summary:

1. What is the key threat? Financing of terrorism and/or weapons proliferation. Sanctions?

2. How would you mitigate this threat? Firstly, does this business fit within your firm's risk appetite? If so, apply ECDD, detailed checks on the beneficial owner's SOW/SOF

3. What do you consider are the relevant risk factors? Customer (including its beneficial owner): HNWI and SOW from a sensitive industry; Product/Service: High value, potentially a complex structure ; Country: Iran; Delivery Channel: Introduced by a law firm (non-face-to face)

4. What risk rating would you allocate to this relationship and what are the triggers for this rating? High – Sensitive industry and countries

NRA Case Study 18 – Corruption

Person C was a former senior Israeli army officer. Person C and Person A had set up company B which provides military equipment and training
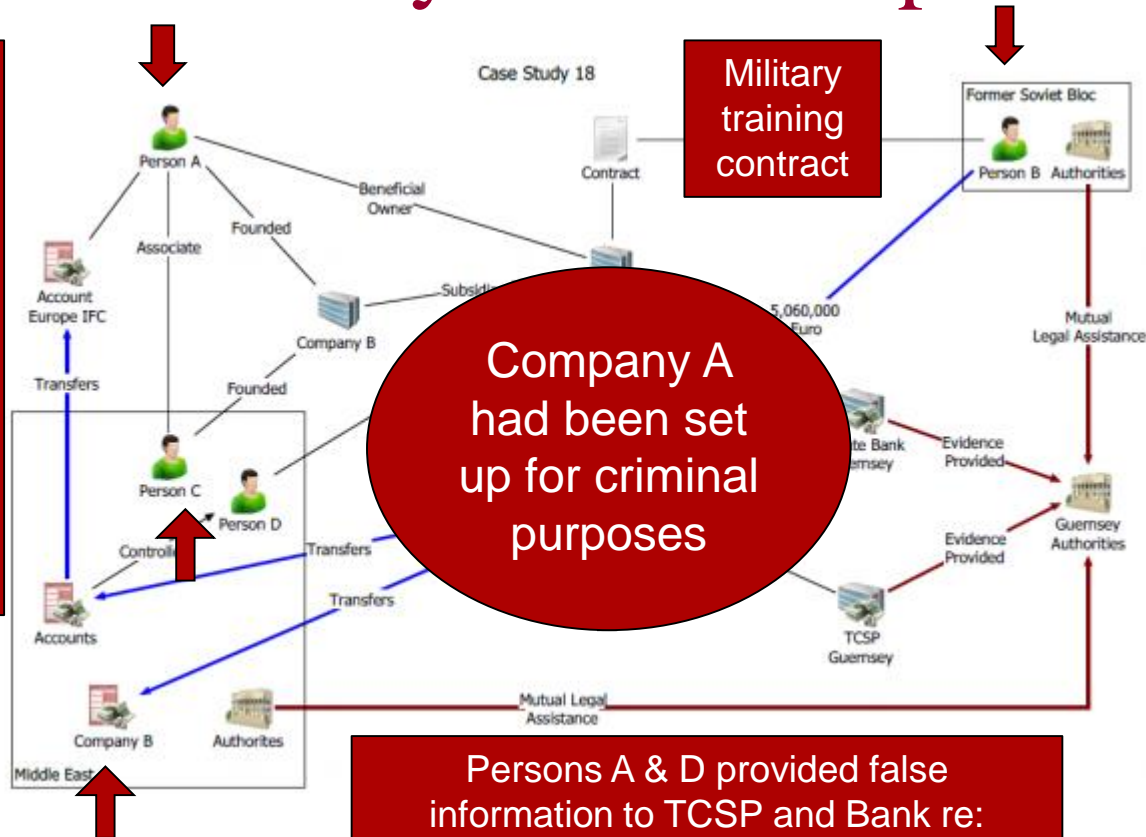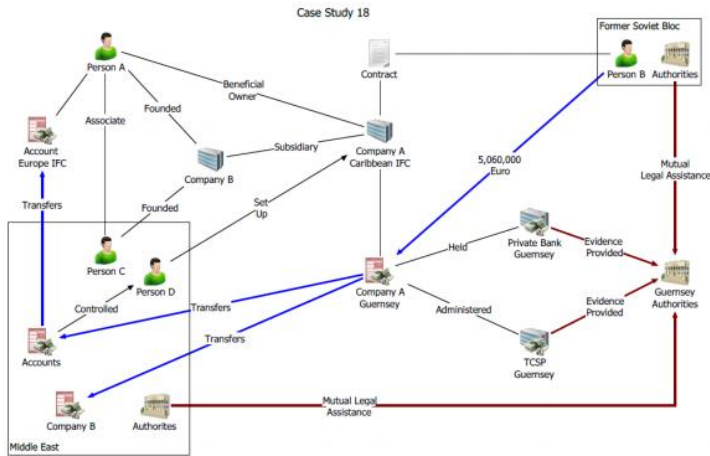
Military training contract

(Person B) Minister of Defence of former Soviet Bloc country made the payment despite no training given – charged with embezzlement

Company A had been set up for criminal purposes

Both the bank and TCSP provided info that 4 payments were made to Company B bank account in the Middle East

Persons A & D provided false information to TCSP and Bank re: transfers

Case Study 18

Contract

Former Soviet Bloc
Person B   Authorites

Person A

Beneficial Owner

Founded

Associate

Account Europe IFC

Subsid

Company B

5,060,000 Euro

Mutual Legal Assistance

Transfers

Founded

Person C   Person D

Controll

Transfers

Transfers

Accounts

Company B   Authorites

Middle East

Mutual Legal Assistance

te Bank ernsey

Evidence Provided

Guernsey Authorities

Evidence Provided

TCSP Guernsey

Case Study 18 – Impact on BRA and CRA

Was this business in line with the risk appetite in the B.R.A.?

Higher Risk Factors:
Type of Customer – Former Military (Company A set up to provide military contracts) – Bribery & Corruption risks well known.
Country Risk – Former Soviet Union and Middle East
Product Risk – Company with 2 layers of ownership – why?
Transaction Risk – what was the purpose of Company A and what information was collected on the rationale for the payments
Delivery Channel – Person D (the facilitator) – non face to face business. What due diligence was undertaken?

The End!

Questions?