



Guernsey Financial
Services Commission

The Handbook on Countering Financial Crime & Terrorist Financing

Financial Crime Division

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28 November 2018

Format

Schedule 3 Requirements - Blue Boxes

Commission Rules - Red Boxes

Guidance - Not Coloured/Boxed

- *Italicised Terms* Defined in Appendix A

Risk

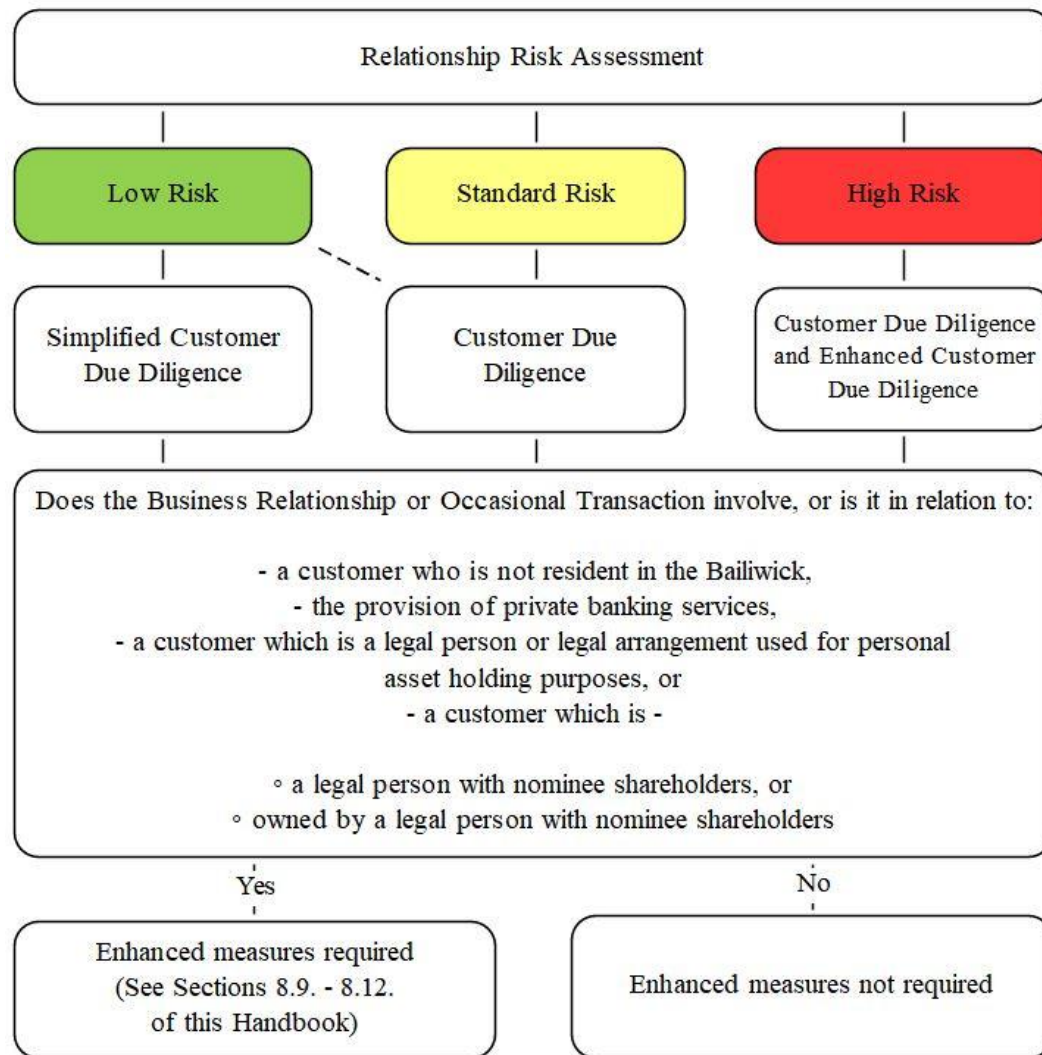
- General Duty to Understand, Assess and Mitigate ML and FT Risk
- Separate ML and FT Business Risk Assessments
(Can Both be Contained in One Over-Arching Document)
- Relationship Risk Assessment
- Risk Appetite



Enhanced Measures

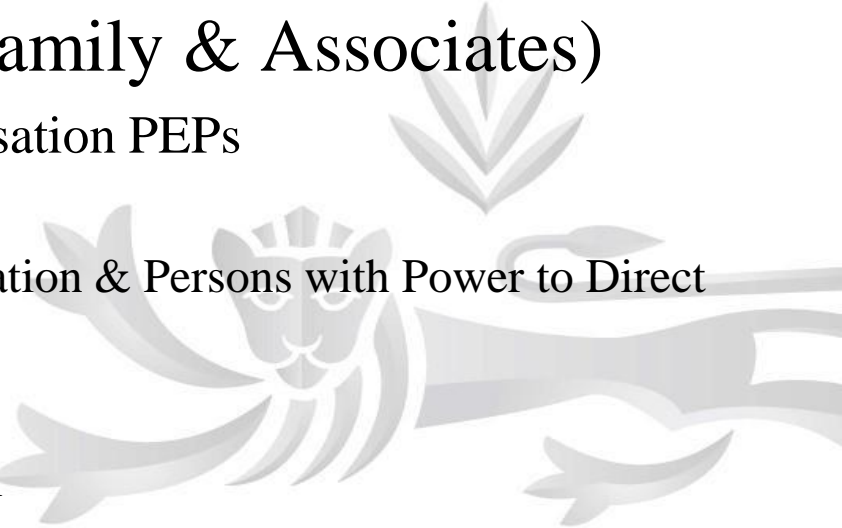
- ~~Additional Customer Due Diligence~~
- Enhanced Measures to Mitigate and Manage Risk
 - Customer Not Resident in the Bailiwick
 - Customer Provided with Private Banking Services
 - Customer is Used for Personal Asset Holding Purposes
 - Customer has Nominee Shareholders, or is Owned by a Legal Person with Nominee Shareholders
- No Prescriptive List of Measures
- Bearer Shares – Now High Risk



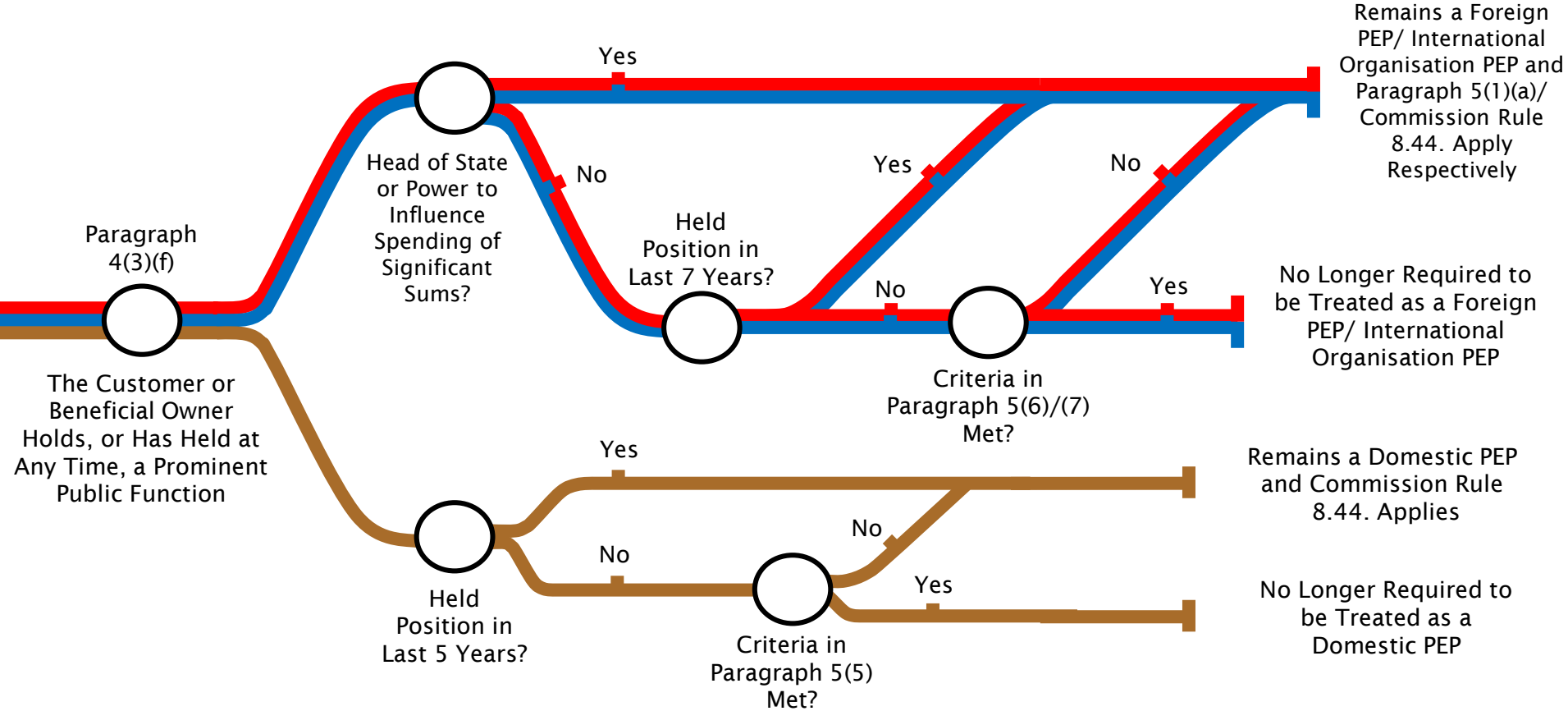


Politically Exposed Persons

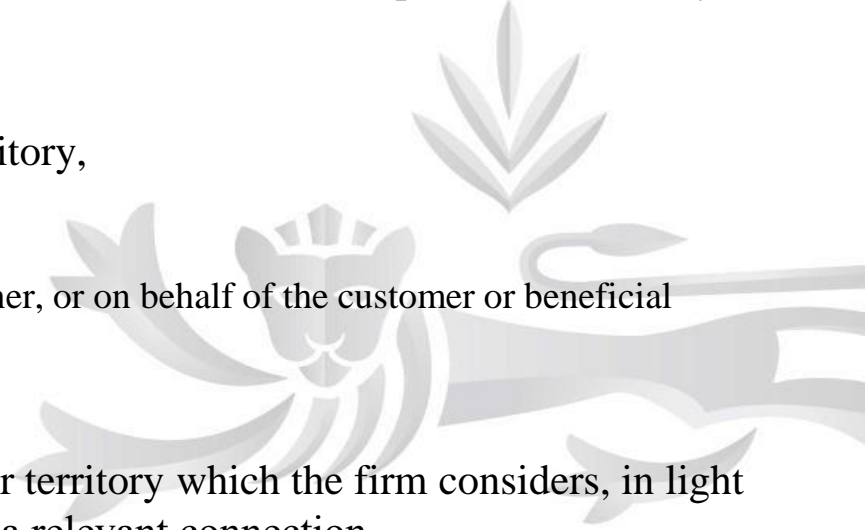
- Domestic PEPs
 - Appendix E
 - Applies to Existing Relationships
- Declassification of PEPs (+ Family & Associates)
 - Foreign PEPs & International Organisation PEPs
 - Declassification After 7 Years
 - Exceptions – Heads of State/Organisation & Persons with Power to Direct the Spending of Significant Sums
 - Domestic PEPs
 - Declassification After 5 Years for All



- █ Foreign PEP
- █ International Organisation PEP
- █ Domestic PEP



Relevant Connection

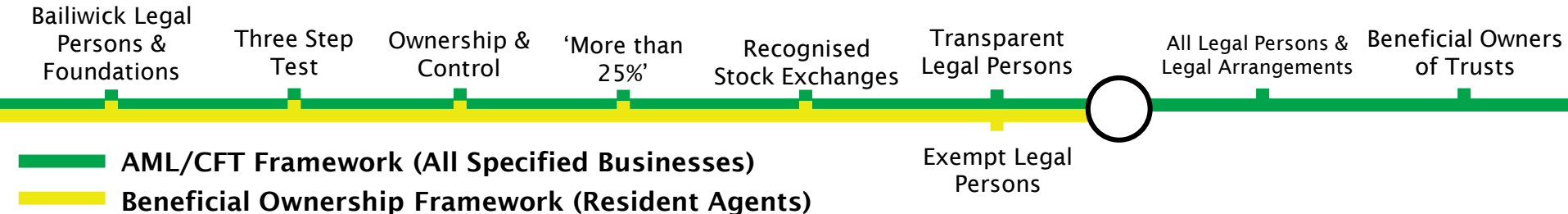
- A customer or beneficial owner has a relevant connection with a country or territory if the customer or beneficial owner –
 - a) is the government, or a public authority, of the country or territory,
 - b) is a PEP within the meaning of Paragraph 5(4) of Schedule 3 in respect of the country or territory,
 - c) is resident in the country or territory,
 - d) has a business address in the country or territory,
 - e) derives funds from –
 - i. assets held by the customer or beneficial owner, or on behalf of the customer or beneficial owner, in the country or territory, or
 - ii. income arising in the country or territory, or
 - f) has any other connection with the country or territory which the firm considers, in light of the firm's duties under Schedule 3, to be a relevant connection.
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Source of Funds and Wealth

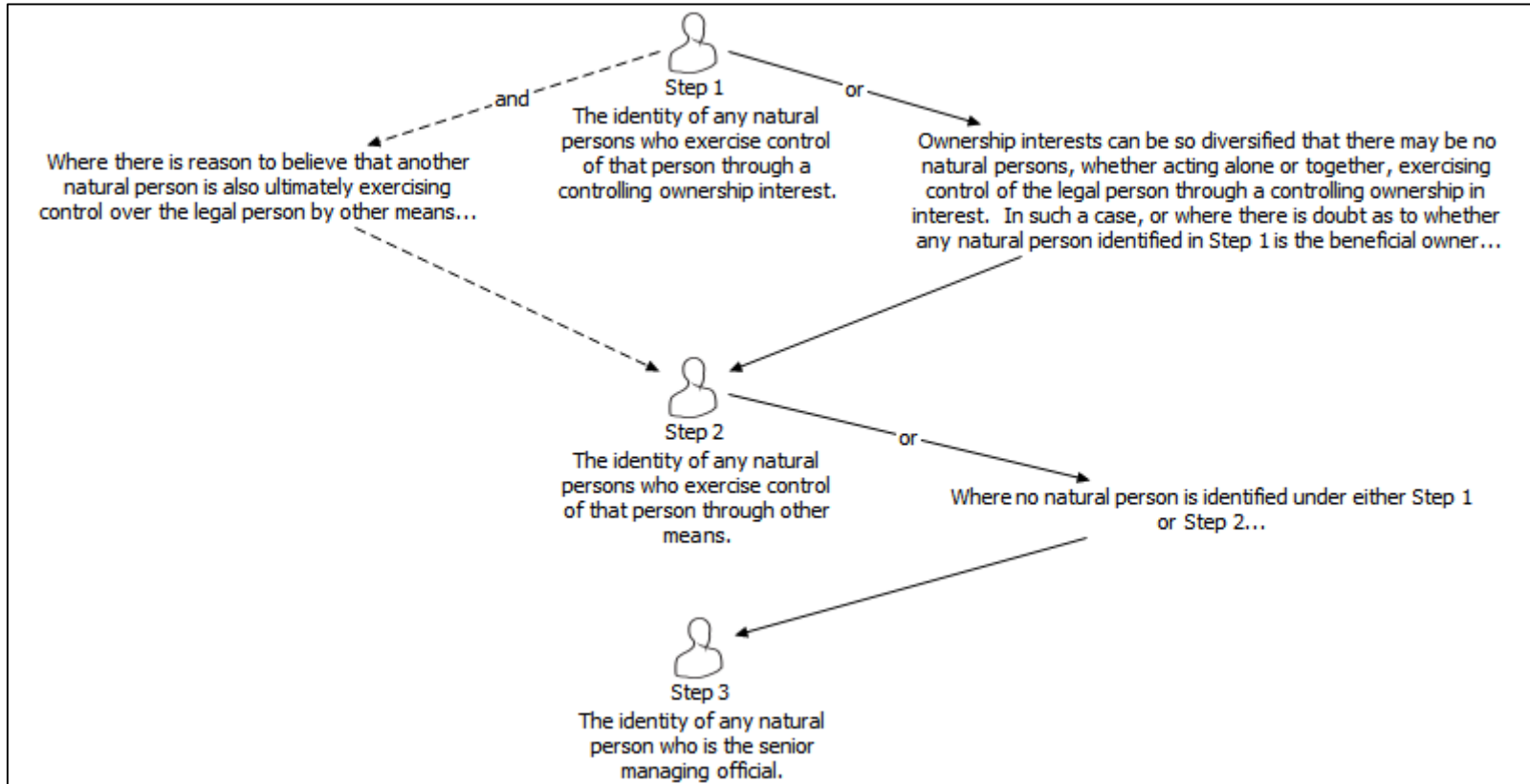
- ‘Establish and Understand’
- ‘Reasonable Measures’
- Source of Wealth:
 - ‘The Customer; and
 - The Beneficial Owner, Where the Beneficial Owner is a PEP’

Beneficial Ownership

- Beneficial Ownership (Definition) Regulations
 - ‘Beneficial Owner’ – Covers Ownership & Control
- Beneficiaries of Trusts and Legal Arrangements
- Transparent Legal Persons



Three Step Test of Beneficial Ownership



Refining CDD Measures

- Powers that Regulate and Bind
- Online Bank Statements and Utility Bills
- Certification
 - Process > Wording
 - Digital Certification
 - Electronic Copies of Certified Documents
- Use of Technology for CDD
 - Handbook Technology Neutral
 - CDD Utilities = Independent Data Source

Collective Investment Schemes

- Nominated Firm for Investor CDD
- Intermediaries Restored to Simplified Customer Due Diligence Chapter
 - Focus on the Risk of CISs Being Used as Personal Asset Holding Vehicles
 - Measures to Limit Use of Intermediary Provisions for CISs with a Very Limited Number of Investors
 - Intermediary Return (December 2019)

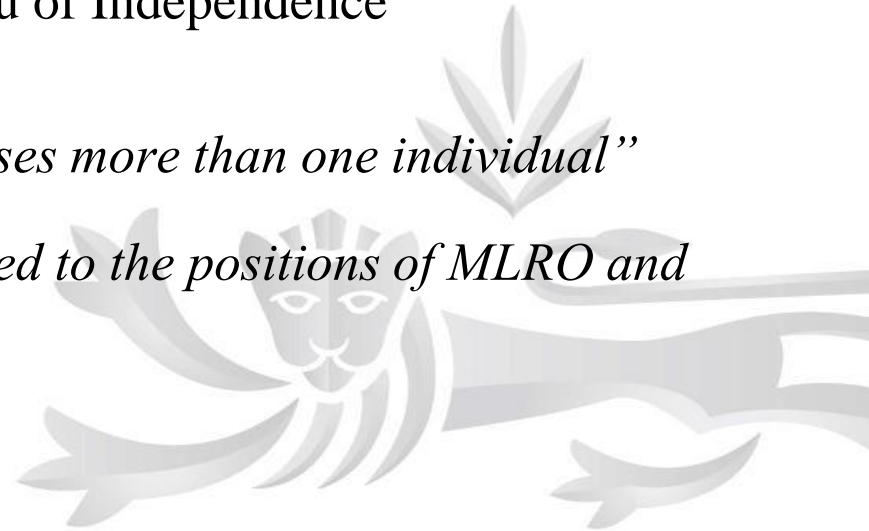


Key Personnel

- Money Laundering Reporting Officer
- Money Laundering Compliance Officer
 - Focus on Managing Conflicts in Lieu of Independence
 - Resident in the British Islands
 - Sole Traders – *“if [the firm] comprises more than one individual”*

“2.63....the same individual can be appointed to the positions of MLRO and MLCO...”

- Nominated Officer



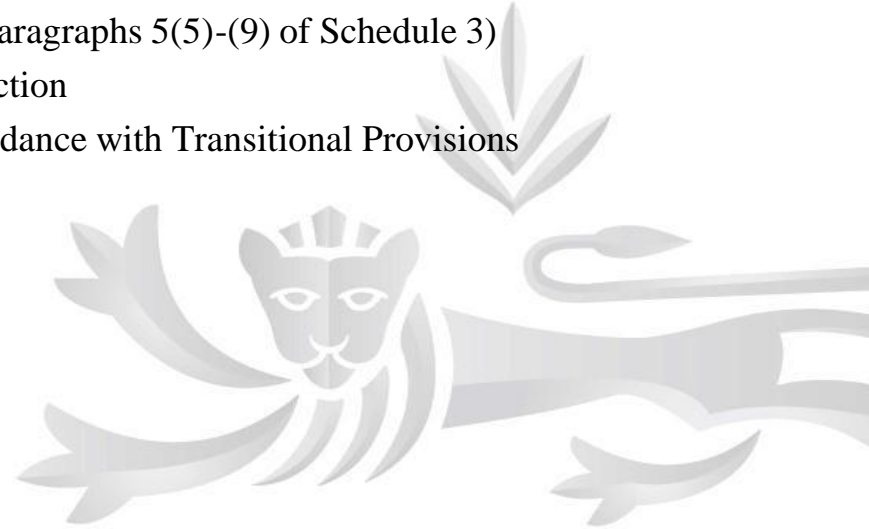
Timing

- Proceeds of Crime Law (Amendment) (Ordinance) 2018
 - Before States of Guernsey on 12 December 2018
- Amendment Ordinance and Handbook Effective
 - 31 March 2019 (Subject to States of Guernsey Approval)
- Transitional Provisions
 - MLCO Appointed by **31 March 2019** & Commission Advised by **14 April 2019**
 - Business Risk Assessment Reviewed & Approved by Board by **31 July 2019***
 - Policies, Procedures and Controls Reviewed & Approved by **31 October 2019***
 - Nominated Firm for Collective Investment Scheme Investor CDD by **31 May 2019**
 - All High Risk Existing Customers Reviewed by **31 December 2020**
 - All Other Customers Reviewed by **31 December 2021**

* or 4 and 7 months respectively from the date of the NRA's publication if later than 31 March 2019

Supervisory Data

- Financial Crime Risk Return to be Revised for 2020 Return (Data Period Commencing 1 July 2019)
- Additional Data Likely to be Requested Includes:
 - Breakdown of Foreign, Domestic and International Organisation PEPs
 - Numbers of Foreign PEPs Declassified (Based on Paragraphs 5(5)-(9) of Schedule 3)
 - Geographic Breakdown – BFSSN Figure by Jurisdiction
 - Existing Business Relationships Reviewed in Accordance with Transitional Provisions



Handbook Workshops

January & February 2019

Invites to Follow



Questions?

