



Trust Service Provider (TSP) Sector

Money Laundering (ML)/Terrorist Financing (TF) Risks, Vulnerabilities and Preventive Measures

Presented by: Anti-Money Laundering /Anti-Terrorist Financing
(AML/ATF) Department

9 May 2024

Agenda

- | | | | |
|-----------|-------------------------------|-----------|-----------------------------|
| 01 | Introduction of speakers | 05 | ML/TF Trends and Typologies |
| 02 | Sector overview | 06 | Resources |
| 03 | Understanding the ML/TF risks | 07 | Questions and answers |
| 04 | Preventive measures | | |

TSP Sector Overview

- Trust (Regulation of Trust Business) Act 2001
- Number of unlimited licensees: 19
- Discretionary Trusts (~33% or \$39B AUA)
- PTCs (~33% or \$39B AUA)
- Purpose Trusts (~20% or \$23B AUA)*
- Other Trusts: Charitable Trusts, Fixed Interest Trusts etc. (14%)

*REF: REPORT ON 2020 MONEY LAUNDERING AND TERRORIST FINANCING RISK ASSESSMENTS

TSP Sector Overview - Legislation and Regulations

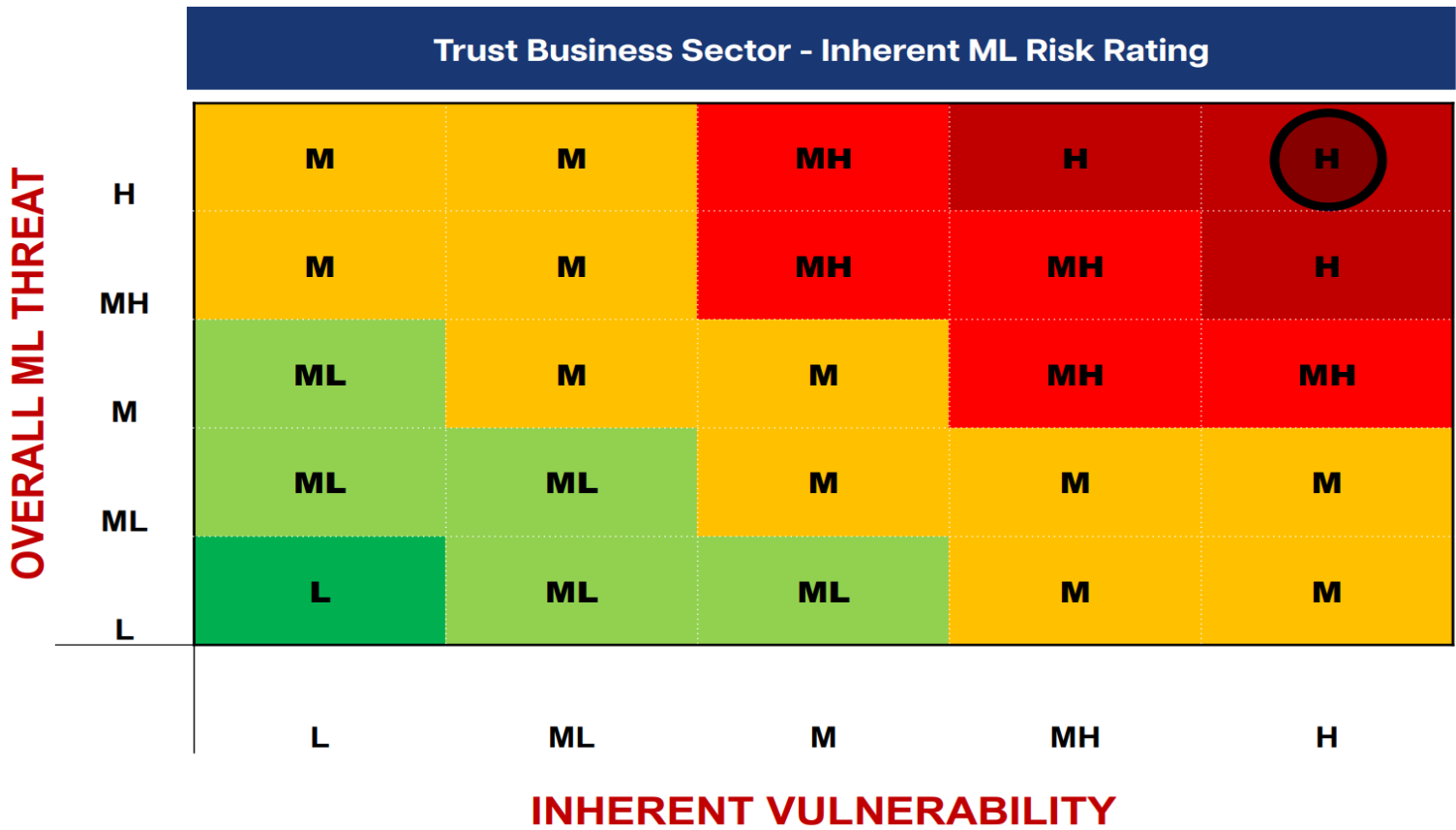
- 1997 Proceeds of Crime Act
- 2004 Anti-Terrorism Financial and Other Measures Act
- 2008 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act
- 2008 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations
- 2003 International Sanctions Act*

**this is separate to AML requirements*



National Risk Assessment (NRA)

Overall, Threat & Vulnerability Scores – TSP



TSP's Sectoral Analysis of ML/TF Risks and Vulnerabilities

- The TSP Sector is rated high for ML vulnerability:
 - High-risk client base
 - Trust vehicles' potential for ML
 - Overall risk for PTC tax evasion
 - TSPs are targets for criminals



Understanding the Institutional ML/TF risks

Business Risk Assessment process



Institutional Analysis of ML/TF Risks and Vulnerabilities of your business

Review and Revise your Business Risk Assessment (BRA)

- Customer Risk Factors
- Geographic Risk Factors
- Products/Services Risk Factors
- Delivery Channel Risks
- Other risk factors

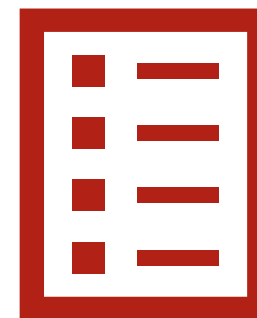
TSP Sector Overview - Understanding the ML/TF Risks

Red Flag indicators


- Complex structures and transactions
- Use of opaque legal entities and arrangements
- Difficulty identifying the natural person beneficiaries of a trust because the beneficiary of a trust is a legal person or another trust
- A client who is unwilling or unable to provide satisfactory information to verify the source of wealth or source of funds
- A non-face-to-face trust business transaction initiated from a high-risk jurisdiction

TSP Onsite/Offsite Non-compliance Trends

- Outdated Policies and Procedures
- Lack of Ongoing Monitoring
- Inadequate Business Risk Assessment and Customer Risk Assessment
- Use of AML/ATF consultants
- Inadequate Bermuda Specific Training
- Lack of quality Independent ML/TF Audits
- Lack of Remedial action regarding ML/TF Independent Audit findings
- Balancing Fiduciary responsibilities with AML/ATF Regulatory Compliance



AML/ATF Onsite Examination Process

- Assess compliance with the relevant regulations
 - Review of systems and controls
 - Review of company submissions
 - Interviews with senior management and staff
 - File testing of selected samples
- 

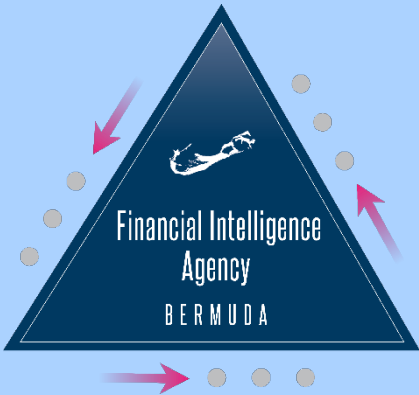
TSP Preventive ML/TF Measures/Controls

Examples

- Assess and document the robustness of your AML/ATF framework
- Ensure there is adequate AML/ATF training
- Document all AML/ATF processes
- QA your AML/ATF controls
- Perform and action Independent AML/ATF Audit



Trust Service Providers (TSPs): Overview of SAR Filings (2023)



Number of SAR Filings per Quarter (2023)

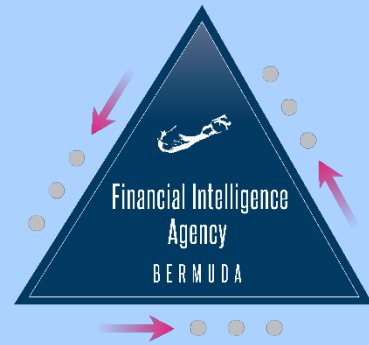
Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total Filings
0	2	0	0	2

TSP Trends



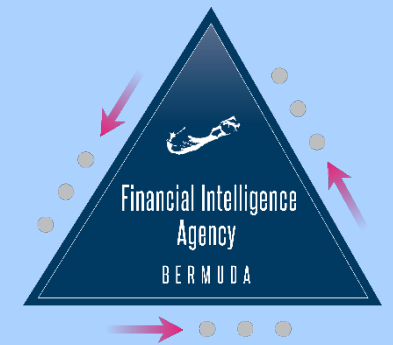
- Tax offences
- Declined/Refused Business due to suspect activity
- Refusal to comply with CDD requirements

TSP Typology



An office walk-in US visitor to Bermuda enquired about how he could best avoid paying US taxes. It appeared that the visitor completed research into the potential structuring of his assets that would allow him to remain anonymous but still benefit from the funds.

TSPs: Quality of SAR Filings



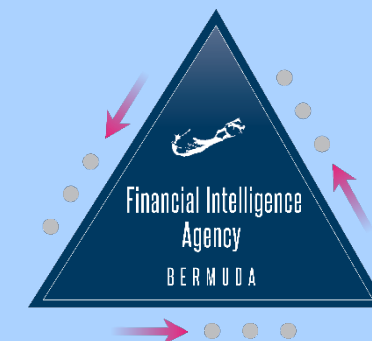
Overall Quality: Good

(*NB.* Always provide supporting documentation e.g. copies of IDs, account opening documents, adverse media links,)

Upcoming Actions for the FIA:

- To provide guidance to TSPs about the Bermuda consent regime as it pertains to the termination of clients due to suspect activity

REMINDERS - SAR Filings



Declined Business:

- Report declined business to the FIA when adverse media or suspicious activity is identified.

Remember:

- Keep a Declined Business Log. This log may provide value for future analysis/investigations by the FIA or the Bermuda Police Service.

*The FIA discourages filings based solely on a client's or potential client's refusal to provide CDD when no suspect activity can be identified.

TSP Sector-specific Resources

- Bermuda Monetary Authority (BMA) – www.BMA.bm
 - Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008
 - General Guidance Notes for AML/ATF Regulated Entities (Revised – June 2013)
 - Sanctions Guidance Note (November 2021)
 - Annex VI - Sector-Specific Guidance Notes (SSGN) for Trust Service Provider (TSP) Business (February 2023)



Other AML/ATF Resources

- FIA – www.FIA.bm
 - Financial Intelligence Agency Act 2007
 - Money Laundering Typologies Report (January 1st, 2013 – December 31st, 2015)
- FATF - <https://www.fatf-gafi.org/en/home.html>
 - The Misuse of Corporate Vehicles, including Trust and Company Services Providers. (October 2006)
 - Money Laundering Using Trust and Company Service Providers (October 2010)
 - FATF and EGMONT Group Report on Concealment of Beneficial Ownership (2018)
- CFATF - <https://www.cfatf-gafic.org/>
 - Understanding the Role of Shell Companies in Money Laundering (17 November 2022)





Questions & Answers

Email: AML@bma.bm (BMA) or info@fia.bm (FIA)

