CIIPA Cayman Islands Institute of Professional Accountants

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Guidance on the 2021 National Risk Assessment: Inherent Money Laundering, Terrorist Financing, Proliferation Financing and Targeted Financial Sanctions Compliance Risk Relating to Accounting Services in the Cayman Islands

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Objective

The Cayman Islands Government periodically undertakes a National Risk Assessment pulling together risk-based information from all sectors in scope of the AML requirements, law enforcement and other sources. The latest can be viewed here. There is a specific section on Accountants.

Drawing on this, CIIPA produces a risk assessment of its supervised sector. This assessment brings together the National Risk Assessment and supervision and market surveillance, in order to help firms to better estimate the risks they are exposed to and how to manage those.

Risk Assessment Requirements

The AMLRs stipulate that supervisors and firms must conduct their own risk assessments which must consider the National Risk Assessment. This guidance to the risk assessment is to be used by firms to inform its own Risk Assessment and risk-based approach to managing and mitigating the risks, including being considered as a part of each firm's Business Risk Assessment[1] and its methodology for client risk assessments. One outcome of the Business Risk Assessment is a determination as how to allocate resources.

You need to understand the key risks and threats highlighted within the National Risk Assessment. When you prepare your Business Risk Assessment you should consider how these risks prevail in the environment in which you operate. In particular, you should consider whether you offer services that the National Risk Assessment has identified as high risk, or if you engage with clients in sectors or locations that are identified as high risk.

Your Business Risk Assessment should note at a high level how you plan to mitigate any changing risks (e.g. the relevant controls or withdrawal of business).

CIIPA asks to see firms' written Business Risk Assessments and policies, procedures and controls as part of its proactive supervision or in response to specific information received. Your firm's Business Risk Assessment should not be disclosed to clients, or third parties, because it may be useful to those who are seeking to launder money or finance illicit activity.

[1] Previously termed "Firm Wide Risk Assessment"

CIIPA Registration

The scope of registration with CIIPA according to the *Anti Money Laundering Regulations* is those firms providing accountancy services and specifically includes audit, assurance, payroll services, and tax advice and compliance which is broader than "relevant financial business". However, only Firms engaged in *relevant financial business* are subject to supervision.

The reason for the wider scope for registration is to:

- capture services that may entail relevant financial business incidentally,
- monitor the market in readiness for changes in international standards,
- inform the risk-based regime and supervisory approach; and
- ensure that the reporting of suspicious activity by all businesses is effective.

All firms, in scope of the *Anti-Money Laundering Regulations* are required to utilize this assessment with a view to reducing the likelihood of being used by criminals to facilitate money laundering and potentially committing an offence themselves under the Proceeds of Crime Act, Terrorism Act, Proliferation Financing (Prohibition) Act or the various targeted financial sanctions Orders. Registered firms that are not in scope of supervision are urged to use the assessment for the same reason.

This Guidance will also inform and should be read with the Guidance for the Accountancy Profession.

Conclusion regarding Risk in Accountancy Sector per the NRA

The National Risk Assessment concludes that the risk that accountancy service providers could be used to facilitate money laundering or terrorist financing is **medium-low**.

The risks exists because criminals may use accountants to help their illicit funds gain legitimacy and respectability by using the accountants' products and professionally qualified status.

Below is a list of services that are included in the National Risk Assessment which identified the service risk for each. This is taken from the National Risk Assessment with a note added to some.

Services Provided

Service Description	Vulnerability
Accounting including accounts compilation	**Medium-Low:** Usually low risk since entails the recording of historical transactions however the possibility of false accounting, a common method by which the source or ownership of funds may be obscured, raises the risk. The risk of false accounting can arise in relation to both financial services and cash-based transactions, with accountants involved in the account preparation or review processes for both small and large businesses.
Assurance including audit, reviews, related services and agreed upon procedures.	**Low:** Whilst providing assurances to third parties about the fair presentation of accounts entails work in relation to historical transactions, the reports provided can be used to give credibility and thereby less scrutiny or monitoring by law enforcement of regulators, generally. A strict set of statutory obligations and the small group of practitioners who offer the service who must be licensed and are subject to periodic monitoring by CIIPA and by other audit supervisory bodies as applicable reduces the vulnerability.

Liquidations	**Medium-High:** Liquidation services providers are exposed to risk where a person is not qualified, competent or has conflicts. In the case of court appointments (official liquidations and provisional liquidations) there are mitigating factors namely the supervision of the court and the fact that only qualified insolvency practitioners[2] may provide the service. In addition, the assets are frozen on liquidation and generally no new client relationships are formed. This may be outweighed by the higher risks presented such as increased potential for fraud to have occurred prior to liquidation and difficulties in obtaining information in a timely manner from potential wrong-doers (noting that in such scenarios the appointment of court-supervised liquidators may likely be for the primary purpose of investigating possible fraud).
Handling client transactions from client bank accounts and acting as a payment intermediary.	**Medium-High:** A service commonly offered by accountants is to initiate transactions for local clients either by acting as signatory on cheques or as initiator or approver of online transactions. Payroll is a specific type of transaction entailing the transfers or handling of funds and accounts. Where offered there is a risk of misuse of accountants' client accounts for ML, TF, PF, and TFS-contravention purposes especially where high value transactions involving transfer of funds through bank accounts with little scrutiny or explanation. It is thought to be uncommon for accountancy firms to hold client money but there are currently no rules regarding the use of accountants' client money accounts in Cayman and

[2] i.e., liquidators

	there are many reports of criminals misusing clients' monies accounts to avoid detection. Whilst most accountants are alert to the need to avoid complete control of client funds or accounts in order to manage its legal liability and own fraud risk, there remains a TF, PF and TFS-contravention risk for accountants even where it only has partial control. This risk is high where the payee generally resides or works overseas, particularly higher risk countries; or where little information is available on the payee or transaction. TF, PF and TFS-contravention risk primarily arises specifically for accountants where they handle client funds or transactions with the risk varying according the degree of control over the funds or transactions. The TF risk increases where payees or beneficiaries of transactions are outside of the Cayman Islands or otherwise new or temporarily in the Cayman Islands with no permanent address or employment. Payroll is a specific type of transaction entailing the transfers or handling of funds and accounts. Companies in the Cayman Islands may outsource this service to an accountant and attention must be paid to the increased risks especially where the wages are paid in cash by a higher risk or cash intensive business. Lower risk occurs where the employees are local and fully resident not sending salaries overseas.
Controllerships:	**Medium-Low:** Persons may be appointed as a controller of a regulated entity by CIMA. The terms of the controllership are determined by CIMA but typically entail taking over the operations of the firm which would constitute relevant financial business. The supervision by CIMA mitigate

	the risks. Just 2 controllerships were reported by the CIIPA registered firms in 2020.
Transaction Diligence Advice and Valuations, Business Advisory in relation to mergers and acquisitions or the issue of securities.	**Low:** The risk increases if there is a closer nexus of the advice to a transaction or if assets are handled. Transaction advisory services, relating to the merger, purchase or sale of a business or asset, or raising debt or equity capital, present a risk in that such services may contribute to or facilitate money laundering, terrorist or proliferation financing or involve the provision of economic resources to sanctioned persons.[3]
Tax Compliance	**Low:** Entails assistance with filings and this amounts to 58-87% of all taxation services. Accountants that are not sceptical and scrupulous in understanding the affairs of their client, are however more vulnerable.

[3] The closer the nexus of the advice to a transaction, the higher the risk, although the fact that assets are not handled result in this service being low risk. Examples of services are:

- Advice relating to appropriate acquisition, divestment or capital raising strategy;
- Identify and liaison with interested counterparties;
- Advice relating to the pricing, form and structure of a transaction;
- Advice relating to the negotiation of a definitive agreement for the transaction;
- Advice relating to the key commercial parameters for closing of the transaction.
- Valuation of a business or asset, either in support of an acquisition, divestment or capital raising initiative, or as a separate and discrete engagement but only where provided for use by a third party.

Tax Advisory	**Medium-High:** Could be used to facilitate tax evasion and increased focus on tax compliance (e.g., Common Reporting Standards and US FATCA) may result in attempts to use new methods for evasion.

Inherent Service Risk and Controls

The above assessment of the inherent risk for certain services must only be taken as one element to be considered alongside the client, geography and delivery channel risk and the controls adopted.
You should consider the specified services and where you provide those adopt the assessment as your inherent service risk. This service risk is then considered alongside the client, delivery channel and geographical risks of any engagement, relationship or transaction.

The National Risk Assessment also assesses the risk of other regulated sectors in the Cayman Islands. You should consider whether the National Risk Assessment presents additional risk factors that you should consider as relevant to the client component of your client risk assessments. For example, firms may provide bookkeeping and accounting services to real estate agents and stratas and the National Risk Assessment has a specifically assessed this sector which should be taken into account.

Further, where service risk is higher because it entails transactions, the risk may increase further where the client type is for payees or clients that are not for profit entities that are not supervised or otherwise well-known and accountable.

Delivery channel risk includes considering the combining of services. Where accounting services listed are provided as a back-office function or combined with administration or company management functions, such as mutual fund administration or insurance management, the risk increases since the risks pertaining to both corporate formation and liquidation are introduced. In these cases, the firm or inhouse accountant has to manage the functions which may at times conflict with the accounting function.

Further information on using this risk assessment to conduct your Firm's Business Risk Assessment can be found in the Supervisory Guidance for the Accounting Profession.