



# Funds and Investments Regulatory Update

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# The Commission's Statutory Objectives

- to secure an appropriate degree of protection for the customers of persons carrying on regulated activity
- the reduction of financial crime
- supporting the Island's economy and its development as an international financial centre



# Focus of Presentation

- Funds
- Financial Advice
- Investment Management/ Stockbroking
- AML/CFT
- Better information gathering



# Funds



# Industry Feedback

## Fund Licenceholders

- ◆ Importance of corporate governance
  - ◆ Board v operational responsibility
  - ◆ Oversight and enquiry
- ◆ Importance of implemented procedures
- ◆ Knowledge of the Compliance resource of Fund regulation



# Industry Feedback

Fund Licenceholders cont.

- ◆ Ongoing need to consider compliance with scheme particulars
- ◆ Disclosure and management of conflicts of interests
- ◆ Risk management
  - ◆ Assessment of funds and parties to them
  - ◆ Assessment of investors





# Industry Feedback

Fund Licenceholders cont.

- ◆ Clarity of responsibilities of functionaries and fund governing bodies
- ◆ Importance of client monies and client investments obligations
- ◆ Use of s6 disclosures to the FSC



# Industry Feedback

## Fund Governing Bodies

- ◆ Protection of shareholder interests
- ◆ Promoter/ Sponsor interests
- ◆ Conflict of interests:
  - ◆ linked functionaries and investments
  - ◆ disclosure and management thereof





# Industry Feedback

## Fund Governing Bodies

- ◆ Long term suspensions v winding up:
  - ◆ NAV, fees, side pocketing etc
  - ◆ Board records and review
  - ◆ Quality of investor information
  - ◆ Ongoing compliance obligations



# Industry Feedback

## Fund Governing Bodies

- ◆ FSC's powers of intervention
  - ◆ Directions
  - ◆ Appointments – FSC / Court
  - ◆ Fitness & Propriety
  - ◆ Prohibitions



# Online Funds Database

- Online portal for submitting standard fund info to FSC (standard forms, notifications, pricing errors and 1/4rly statistics)

## **Current status**

- The database is now fully live
- All standard information should now be submitted using the online portal
- Relationship Managers working to ensure portal fully utilised



# Financial Advice



# Intermediaries of long-term insurance

- ◆ 25 June 2012 IPA & FSC joint statement intermediation of long-term insurance contracts
- ◆ 'Pure protection products' are general insurance business & intermediation is within the IPA's remit



# Intermediaries of long-term insurance

- ◆ Pure protection business - IPA developing proposals re expectations and procedures for intermediaries registered with the IPA
- ◆ This work forms part of the IPA's review of the IAIS Core principles ICP18 – Insurance Intermediaries.





# Intermediaries of long-term insurance

- ◆ Intention – industry consultation mid 2015 on proposed developments to supervisory framework for general insurance intermediaries.



# Statements of Professional Standing and CPD

- ◆ SPS requirement – 1 Jan 2015
- ◆ Issuing Bodies – PFS/CII, CISI, IFS & CFA Society
- ◆ 35 hours relevant CPD requirement came into effect 1 February 2014
- ◆ Updated Training and Competence requirements issued



# Advice Retirement Benefit Schemes

- ◆ 2(6) permission required if licenceholder is **advising pension trustees or managers** – including SIPP-type arrangements



# Advice – SIPP arrangements

Where investor seeks financial advice

- ◆ Make sure it is clear to whom the advice is being provided and in what capacity they are acting
- ◆ If making investment arrangements for trustee/ manager ensure relevant agreements are in place
- ◆ Do not advise trustee/ manager unless you hold the permission to do so



# Advice – SIPP arrangements

FSC likely to review regulatory regime in next review cycle



# Visit focus for current year

- ◆ All advisers due a visit this year will have a visit looking at suitability
- ◆ All advisers will have a short (half day) focus visit to discuss
  - ◆ Their implementation of the new Rule Book Requirements and updated guidance
  - ◆ Their response to the IFA Product and Income questionnaire





# IFA - Rule Book Implementation Visits

- ◆ Rule Book updates effective 1 Feb 2014
- ◆ Large scale change to requirements for IFAs point of sale processes and other matters
- ◆ Visit Purpose - to consider licenceholders approach to Rule Book changes



# IFA - Rule Book Implementation Visits

## Process

- ◆ Licenceholders receive a detailed agenda with questions and Rule Book extracts before the visit
- ◆ Feedback from the Implementation Visit is provided in a post visit letter



# IFA - Rule Book Implementation Visits

At the meeting Licenceholders need to demonstrate

- ◆ changes made re specified rules using updated procedures as evidence
- ◆ how point of sale procedures work in practice using suitable client file/s
- ◆ how complaints procedures work in practice using suitable file/s



# IFA - Rule Book Implementation Visits

FSC Officers will not

- ◆ undertake detailed checking of procedures or files or
- ◆ normally take copies of procedures or other documents



# IFA - Rule Book Implementation Visits

- ◆ Feedback via a post visit letter
- ◆ It may indicate the need for a more detailed review. In this case a separate review or visit will be arranged.
- ◆ In other cases procedures will be reviewed in the normal way during the next supervisory visit.





# IFA - Rule Book Implementation Visits

- ◆ Rules covered
  - ◆ 6.13 Advertisements – general
  - ◆ 6.18A Extent of Advice (Full, Limited, Restricted and Execution Only)
  - ◆ 6.20 Churning
  - ◆ 6.29 Knowledge of client
  - ◆ 6.29A Vulnerable clients
  - ◆ 6.30 Suitability
  - ◆ 6.34 Disclosure and information





# IFA - Rule Book Implementation Visits

- ◆ Rules covered - cont
  - ◆ 6.38 General need for client agreement or terms of business
  - ◆ 6.39 Retail and other investors
  - ◆ 6.40 Contents of client agreement or terms of business – general
  - ◆ 6.41 Contents of client agreement - retail



# IFA - Rule Book Implementation Visits

- ◆ Rules covered - cont
  - ◆ 8.4 Management controls (RDR level 4 requirement)
  - ◆ 8.5A Continuing professional development (“CPD”) 35 Hours plus SPS
  - ◆ 8.6A Remuneration
  - ◆ 8.29 Complaints



# Investment management and stockbroking



# Clients money visits

- ◆ 2013/14 in depth client money visits undertaken to Investment Businesses and TCSPs
- ◆ Main findings relevant to Investment Business ...



# Segregation

Licenceholder monies should not be in the clients money bank account

Any licenceholder invoices e.g. fees on the sale of a client investment (where the client's money is in the clients money bank account), must be paid from the clients money bank account in a timely manner i.e. not left for a period of time and swept out of the account in one go.



# Nominee company bank accounts

The Commission is reviewing the client money rules for nominee bank accounts of licenceholder nominees to ensure requirements are clear





# Zero balance accounts

Reminder

Accounts with zero balances should still  
be checked and reconciled



# Visit focus for the current year

- ◆ Visits to investment managers, stock brokers and custodians continue to be bespoke according to the nature of business undertaken
- ◆ There will be a focus on compliance, corporate governance, risk management, outsourcing and trading protocols



# Market Information

- ◆ Market info needed re investment business, stockbroking and funds to assess impact of and best response to MiFID II
- ◆ Initial sector questionnaire soon
- ◆ Info will help assess impact and provide market analysis to support Supervisions work
- ◆ Future questionnaires may follow as needed



# MIFID II

## Keeping up to date

### ◆ EU

[http://ec.europa.eu/internal\\_market/securities/index\\_en.htm](http://ec.europa.eu/internal_market/securities/index_en.htm)

### ◆ UK FCA dedicated MiFID II site

<http://www.fca.org.uk/firms/markets/international-markets/mifid-ii>

### ◆ FCA MiFID email updates – register at [MiFIDII@fca.org.uk](mailto:MiFIDII@fca.org.uk)

Watch the trade press



# AML / CFT



# AML/CFT

## **AML Code** (not FSC but of interest to you)

- ◆ 30 responses to DHA Code consultation
- ◆ Pooled accounts
  - ◆ Biggest comment area whether proposals were commercially acceptable
  - ◆ Likely to be significant changes to consultation draft
- ◆ Consultation feedback due in near future on DHA site
- ◆ 2<sup>nd</sup> Consultation will follow





# AML/CFT

## **FSC AML Handbook**

- ◆ In process of update in line with the new Code proposals
- ◆ Organisation of handbook will be in line with new Code
- ◆ New sector specific guidance including for new sectors



# National Risk Assessment

- ◆ Work shop with World bank 10-12 November
- ◆ Exercise will run for next 6+ months
- ◆ NRA leads to action plans
- ◆ Moneyval Assessment Q2 2015
- ◆ Following slides are from World Bank introduction to the Work Shops



# What is ML / TF Risk?

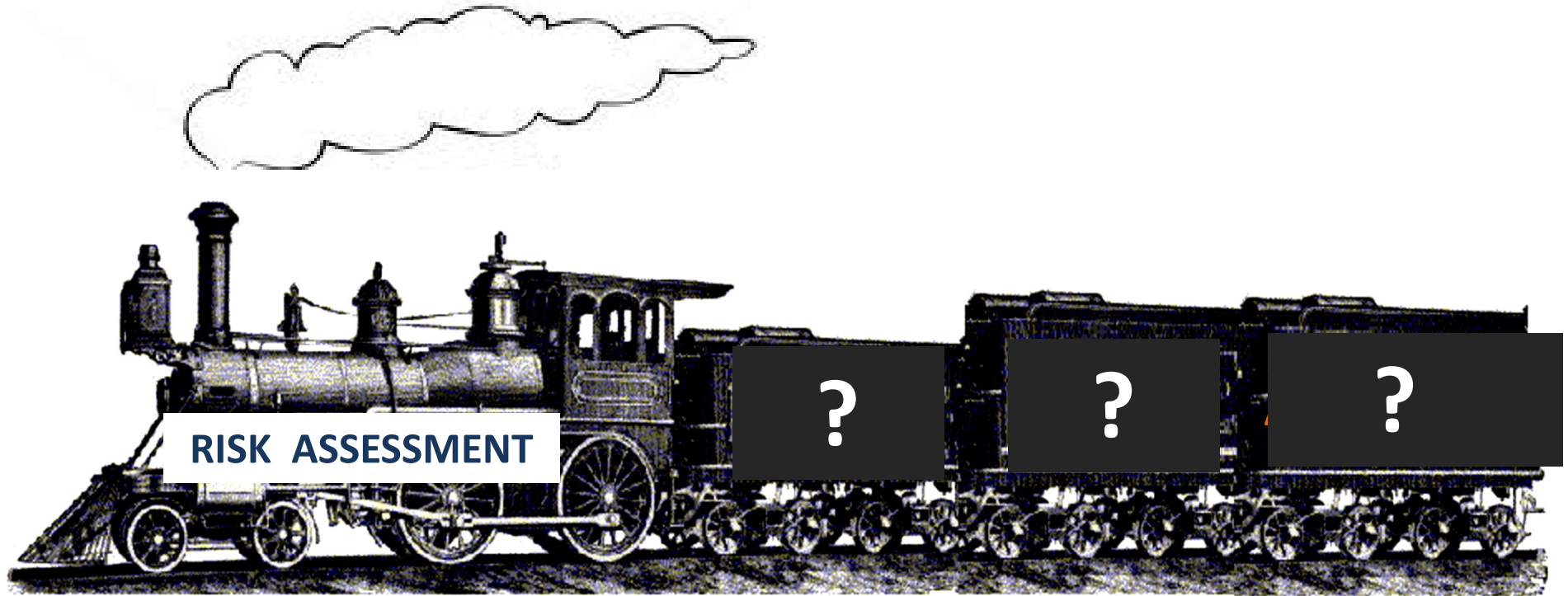


**THREAT**

**VULNERABILITY**



# Why do we need the risk assessment?



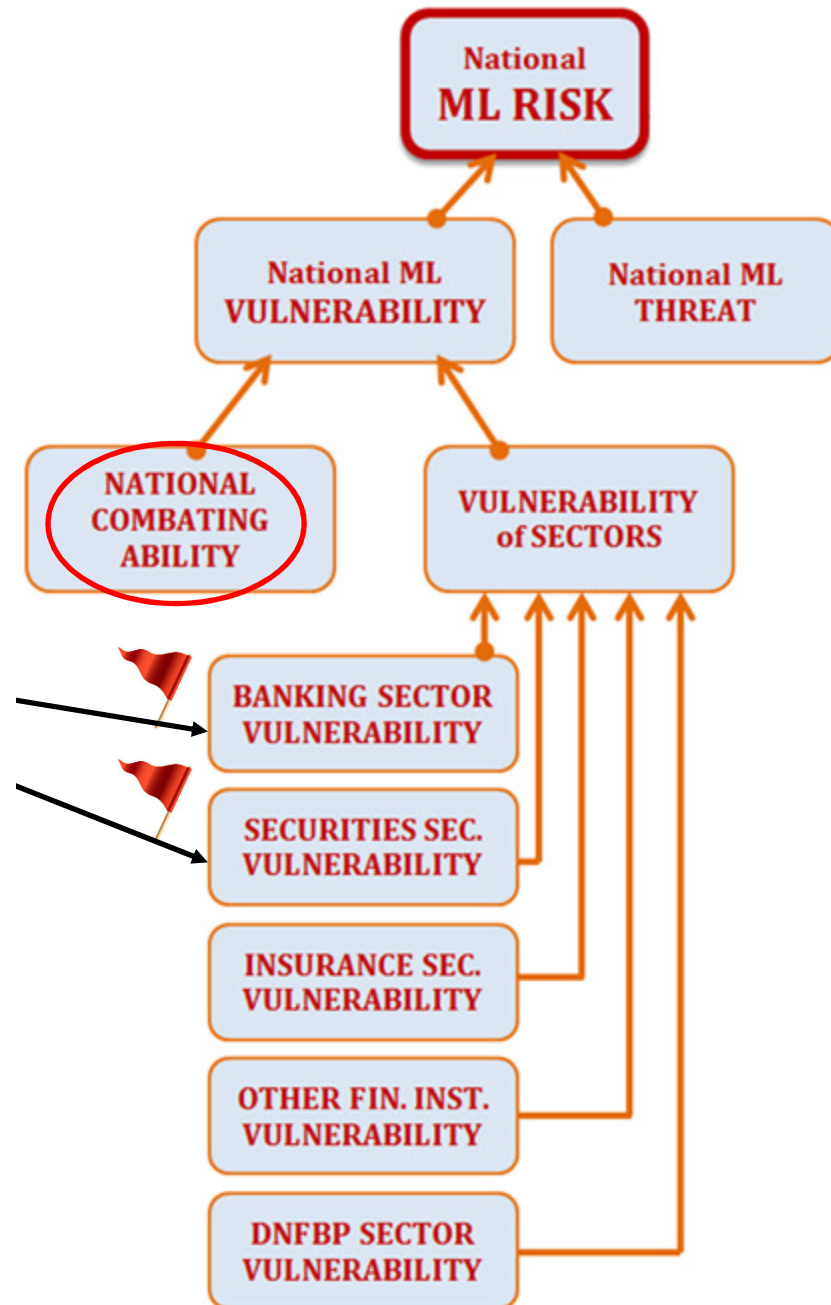
**Recommendation 1:**  
Main objective is not the assessment  
but the **mitigation** of the risks!

# What is a Risk Based Approach?

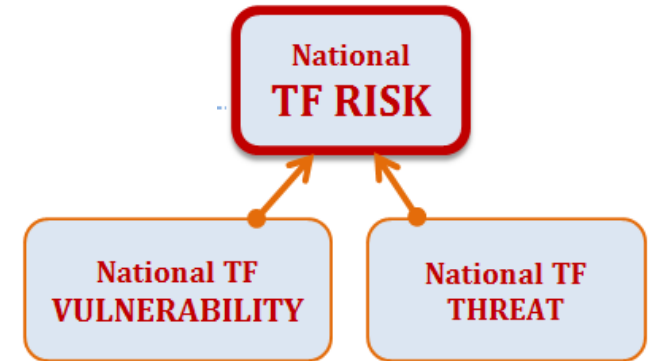
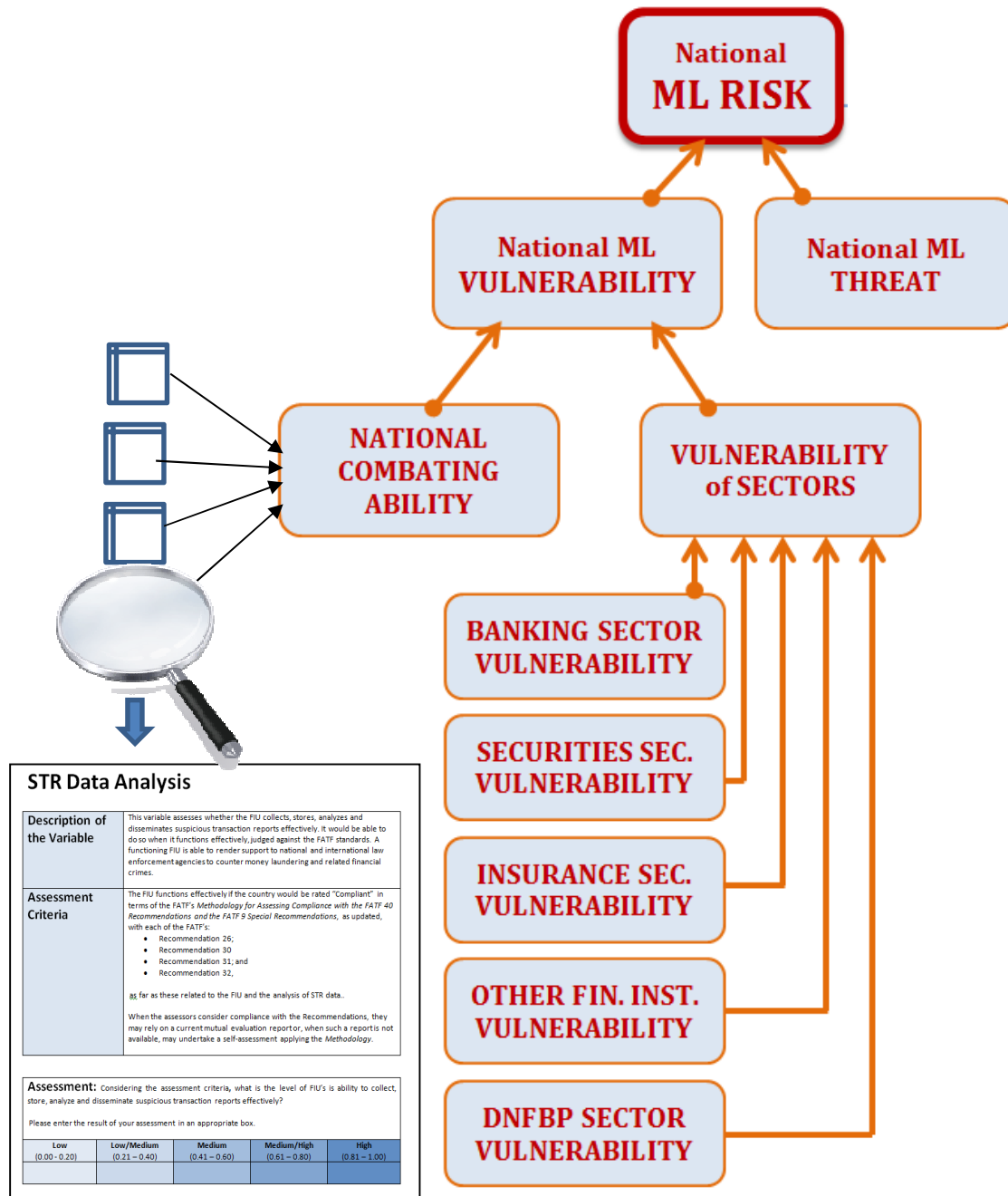


- Enhanced CDD, Standard CDD, Simplified CDD
- Licensing vs. Registration
- Supervision vs. Monitoring/Oversight
- Intensity and Scope of Supervision/Monitoring
- Intensity and Range of Compliance Obligations
- Extra coverage, standard coverage, limited exemptions

What is the logic behind WB Tool?







**Each building block includes a set of input variables that need to be assessed**

# Important reminders!

1. Never lose the big picture
2. Tool is not a crystal ball
3. Leadership and observing deadlines
4. Dynamic/proactive approach needed
5. Cooperation among all stakeholders, preferably both public and private

# Better Information Gathering



# Better information gathering

## FSC reviewing

- ◆ Annual Regulatory Return
  - ◆ More risk focused
  - ◆ Gathering more info per business stream
- ◆ Statistics will be separated into a Statistical Report
  - ◆ Will cover the details FSC needs for risk assessing sector
- ◆ Approach and info will come out to professional bodies in due course





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