The Wolfsberg Group
Guidance on Customer Tax Evasion:

Key Themes

May 2019

the Wolfsberg Group

Purpose & Scope

The Wolfsberg Guidance on Customer Tax Evasion aims to assist FIs in the development, implementation and maintenance of an effective anti-tax evasion programme.

The objective of the guidance is to promote a culture of ethical business practices and compliance with legal and regulatory requirements, as well as industry best practice related to the prevention of tax evasion, including facilitation thereof by persons acting on behalf of FIs.

The scope of guidance is limited to risks manifesting from customer tax evasion and excludes other forms of tax related risks such as tax avoidance and non-customer tax evasion.

It is not the Wolfsberg Group's intention to suggest that all FIs should apply all elements in this guidance to the same level, rather it seeks to highlight key aspects to be considered in development of anti-tax evasion compliance programme. It is expected that the approach will vary across FIs, depending on the nature, scale and complexity of its activities, inherent risks and organisational structure.

Observations

In bringing together the guidance, the Wolfsberg Group notes:

- There is commonality in the design and execution of tax evasion related controls and procedures across the Wolfsberg member banks, which is encouraging and already suggests that core common practice exists in the industry.
- Whilst tax evasion facilitation (i.e. conduct risk) is distinct from the underlying predicate offence, most member banks consider both in tandem in their anti-tax evasion compliance programme design.
- An effective anti-tax evasion compliance programme generally involves modifying and augmenting already existing financial crime compliance, conduct and tax related procedures and controls.

Key Takeaways

- The Wolfsberg Group believes FIs should seek to adopt a risk based approach to customer tax evasion related risks that enable focus on higher risk customers, products and jurisdictions, as well as associated tax evasion facilitation risks.
- FIs must ensure that they have documented risk based tax evasion procedures supported by Senior Management. FIs should consider whether to state explicitly that tax evasion is a predicate offence to money laundering in the AML/CTF policy and procedures.
- FIs should ensure that staff working in areas identified as high risk receive targeted training on tax evasion risk indicators and/or red flags relevant to their role. The guidance clarifies that there is no expectation for FCC staff to become tax experts or routinely conduct an extensive analysis of a customer’s tax affairs. Rather where a tax related risk indicator or red flag is identified, an FI’s FCC programme should investigate and resolve as appropriate.
- It is important to have a clear organisational strategy with respect to an overarching approach for the management of tax evasion related risks. This approach is likely to require cross-functional collaboration and the leveraging of existing controls in financial crime, conduct and tax spaces.

Alignment with International Initiatives

The Wolfsberg Group acknowledge the importance and relevance of the guidance aligned to:

1. Financial Action Task Force (FATF) recognition that Tax crimes are a predicate offence to money laundering

   http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatfstepsupthefightagainstmoneylaunderingandterroristfinancing.html

2. Tax Evasion is included as one of three priorities of the International Monetary Fund (IMF) which require attention, alongside combating terrorism and corruption and maintaining correspondent banking relationships.

   https://www.imf.org/en/News/Articles/2017/06/21/sp062217-working-together-to-fight-money-laundering-terrorist-financing

3. Tackling Tax evasion is a key G20 objective

   http://www.oecd.org/ctp/oecd-secretary-general-tax-report-g20-leaders-july-2017.pdf

4. Tackling Tax evasion is a United Nations (UN) sustainability goal

   https://www.un.org/sustainabledevelopment/development-agenda/