



FATF

FATF Recommendations 18 and 23:

The Application of Group-Wide Programmes by Non-Financial Businesses and Professions

Explanatory Materials

In October 2021, the Financial Action Task Force (FATF) adopted minor amendments to Recommendation 23 and the FATF Glossary to clarify how the existing requirements in Recommendation 18 to implement group-wide programmes against money laundering and terrorist financing apply to Designated Non-Financial Businesses and Professions (DNFBPs)¹ under Recommendation 23.

The amendments and this non-binding guidance give more clarity as to the FATF's intentions in this area and how they fit with its overall objective of improving the effectiveness of

¹ DNFBPs are defined in the FATF Glossary and consist of a wide range of sectors (casinos, lawyers, notaries and other independent legal practitioners and accountants, trust and company service providers (TCSPs), real estate agents, dealers in precious metals and dealers in precious stones (DPMS)).

AML/CFT measures. These amendments are not intended to create onerous or mandatory new obligations on countries or the private sector or to tangibly affect mutual evaluation outcomes.

The requirements on DNFBP groups are designed to be proportionate and risk-based and help set expectations of the measures DNFBP groups should take to manage ML/TF risks effectively. By taking a risk-based approach, the amendments and explanatory material will contribute to a more level playing field across and within the financial and DNFBP sectors and aim to encourage greater adherence to international AML/CFT standards by all jurisdictions.

Critical to this approach is the need for countries to consult with DNFBP sectors to understand the operational structures and the associated money laundering or terrorist financing risks. Countries will have time to develop their approach prior to this issue being considered as part of the next round of mutual evaluations.

Basic concepts

What are ‘Designated Non-Financial Businesses and Professions (DNFBPs)’?

Under the FATF Glossary DNFBPs mean:

- a) Casinos;
- b) Real estate agents;
- c) Dealers in precious metals;
- d) Dealers in precious stones;
- e) Lawyers, notaries, other independent legal professionals and accountants; and
- f) Trust and Company Service Providers.

What is a ‘Financial Group’?

The FATF Glossary defines a financial group as a group that consists of a parent company or of any other type of legal person exercising control and coordinating functions over the rest of the group, together with branches and/or subsidiaries that are subject to AML/CFT policies and procedures at the group level.

What is a ‘DNFBP group’? What are ‘other DNFBP structures’

A ‘DNFBP group’ operates under the same structures as a financial group (i.e., parent/subsidiary-branch structure). ‘Other DNFBP structures’ do not operate like financial groups but they share common ownership, management or compliance control.

What are ‘group-wide programmes’?

A group-wide programme is a holistic AML/CFT risk assessment and management across a group or structure. These requirements are set out in R.18 and its Interpretative Note and may include group-wide policies and procedures, group risk assessment, the appointment of a group compliance officer and group audit functions.

Note: This is a high-level summary only; the glossary provides definitions that are more precise and are the authoritative source.

What is the FATF seeking to clarify?

The FATF has clarified that the requirements in Recommendation 18 on group-wide programmes against money laundering and terrorist financing apply under Recommendation 23 to DNFBPs operating under the same structures as financial groups (i.e. those with a vertical ownership structure where there is a parent company, or of any other type of legal person, exercising control and coordinating functions over the rest of the group together with its branches and/or subsidiaries).

Considering that there is a diverse ecosystem of structures connecting individual entities in the various DNFBP sectors, both domestically and/or internationally, and that they generally operate differently to financial groups, the FATF asks countries to also consider applying the requirements for group-wide programmes to 'other DNFBP structures' sharing common ownership, management or compliance control.

Based on their understanding of their ML/TF risks, countries should determine in which cases 'other DNFBP structures' could better mitigate their ML/TF risks by applying group-wide programmes and ensure that any requirements to this effect are practical and relevant to the goal of improving the effectiveness of AML/CFT systems.

Who does it affect?

The clarification is most relevant to regulatory and policy authorities, DNFBP supervisors and DNFBPs operating in groups or structures sharing common ownership, management or compliance control which can better mitigate ML/TF risks by applying group-wide programmes. The relevant DNFBPs will be a small sub-section of the overall regulated population in number. These clarifications are not intended to impact sole traders or other independently operating businesses or professionals.

What does the FATF mean by common ownership, management or compliance control?

Within and across DNFBP sectors there is a diverse ecosystem of structures connecting individual entities within a broader structure, both domestically and/or internationally. As there is no uniformity in the types of structures found in any particular DNFBP sectors, it is not appropriate to develop standardised rules for each DNFBP sector. Rather, the FATF encourages jurisdictions to understand the types of structures operating across the sectors and identify which DNFBP structures, by applying more holistic measures across their relevant entities, would be in a better position to mitigate ML/TF risk.

The application of a group-wide programme against ML/TF is dependent upon there being some connection between entities in the structure such that it is possible to set such a programme, monitor its implementation and enforce compliance therewith. In the case of a financial group, this connection is through the parent company for a subsidiary and head office for a branch.

Based on discussions with authorities and private sector entities, structures that share common ownership, management or compliance control are more likely to be able to implement group-wide programmes and to benefit from more efficient ML/TF risk mitigation. Outside financial groups, there will be common ownership where those persons holding the majority of shares, interests, or units in all parts of a structure are the same. For example, the partners of a law firm in country A that is a partnership are the same as the partners of a law firm in country B that is also partnership. There will be common management where, notwithstanding differences in ownership of parts of a structure, one single body or one person has responsibility for the strategic and day to day management of all parts of the structure. There will be compliance control where, aside from differences in ownership and management, the same procedures and controls are applied in all parts of the structure and one single body or one person has responsibility for monitoring implementation thereof and reporting on compliance therewith.

Below are some example of factors which could give rise to common ownership, management or compliance control:

- Common ownership
 - Common shareholder(s) or partner(s)
- Common management
 - there is a group governing or managing body, each entity works on the basis of a group-wide business strategy and/or a business model
 - group level reporting e.g. directors and other senior management
 - group audit or reporting function overseeing implementation of common/group policies and procedures;
 - arrangements exist requiring two or more entities/offices to implement and operate to common policies and procedures;
 - where responsibility for developing group policies and procedures rests with one entity in the group/network/franchise
- Common compliance controls
 - Existing group-wide policies, compliance and audit functions.
 - where an entity is obliged to periodically report to another connected individual/entity on compliance and/or risk management matters
 - periodic central administration/compliance costs being charged to the local entity by a connected individual/entity;

How should countries apply the discretion to extend group-wide requirements to ‘other DNFBP structures’?

Based on their understanding of their ML/TF risks, countries should determine in which cases ‘other DNFBP structures’ could better mitigate their ML/TF risks by applying group-wide programmes and ensure that any requirements to this effect are practical and relevant to the goal of improving the effectiveness of AML/CFT systems.

Some of the factors that countries could take into account include:

- What are the ML/TF risks posed by the DNFBP structure, including the extent to which risks are shared between entities of the group. Would applying group-wide programmes help to mitigate these risks?
- Is there an entity or mechanism able to create and enforce group-wide programmes (linking to common management and compliance controls)?
- Are the shared compliance controls in relation to key AML/CFT functions, such as undertaking customer due diligence checks?
- What is the degree of commonality of operations/business model/regulatory requirements between DNFBPs in the structure in different jurisdictions? What would be the added benefit of requiring group-wide programmes?
- The materiality of the DNFBP group and the size and nature of the business.

Some of these factors are also relevant to the type and extent of group-wide programmes that jurisdictions may require such structures to implement.

How do the group-wide requirements apply to different types of DNFBP groups or other structures in practice?

As set out above, diverse ecosystem of structures connecting individual entities in DNFBP sectors exist and it is not possible to define all these structures and variations. The application of group-wide programmes should be risk-based.

There are some common categories of structures in which DNFBP entities can be connected to one another:

- **Mixed Financial institution (FI)-DNFBP** groups or groups operating under the same structures as financial groups (e.g., parent institutions along with branches or majority-owned subsidiaries): A TCSP which is part of an FI may be formed as a separate legal person from the other activities conducted by the group or it may be undertaken within the same legal person carrying out

FI activities. In some cases, large casino operators and large DPMS may also operate as parent and subsidiary companies/branches. These entities are considered a 'DNFBP group' and are required to implement group-wide programmes. The type and extent of measures to be taken should be appropriate having regard to the risk of money laundering and terrorist financing and the size and nature of the business.

- **Formal networks:** Large, international legal and accounting firms tend to operate as a network. Each firm in the network is owned and managed independently (or through groups at the national level) and has entered into agreements with the other member firms/entities in the network to share a common name, brand, intellectual property, and quality standards. The network may establish a global entity to co-ordinate its activities but the 'international' entity does not usually undertake business activities and it tends not to own nor control the member firms. If they share common ownership, management or compliance control, these formal networks could be required to apply group-wide programmes to the extent it is necessary to mitigate money laundering or terrorist financing risks. The type and extent of measures to be taken should be appropriate having regard to these risks and the size and nature of the business.
- **Franchises:** Entities are individually owned and independent of one another but are parties to a contractual agreement where the franchisee usually gets a license to sell or use the franchise's service, brand name and support systems in accordance with the franchise's policies and processes. Internationally operating real estate agencies and jewellery stores (DPMS) may use this model. Other structures may also exist allowing entities to operate in a branding/marketing collective. If they share common ownership, management or compliance control, these formal networks could be required to apply group-wide programmes to the extent it is necessary to mitigate money laundering or terrorist financing risks. The type and extent of measures to be taken should be appropriate having regard to these risks and the size and nature of the business.

The box below provides a jurisdictional example of how requirements can apply to different categories of DNFBP groups/structures.

Example of Guidance to Licensed Trust Companies and Accountants on group-wide programmes- Singapore

Licensed Trust Companies

In relation to paragraph 13.6 of the MAS Notice TCA-N03 on Prevention of Money Laundering and Countering the Financing of Terrorism (TCA-N03), examples of the types of information that should be shared within the financial group for risk management purposes are positive name matches arising from screening performed against ML/TF information sources, a list of trust relevant parties who have been exited by the trust company, its branches and subsidiaries based on suspicion of ML/TF and names of parties on whom STRs have been filed. Such information should be shared by a branch or subsidiary of a trust company incorporated in Singapore with the trust company's group level compliance, audit, and AML/CFT functions (whether in or outside Singapore), for risk management purposes."

Accountants

Ethics Pronouncement 200 (EP200) has separate definitions for "group" and "network". EP200 defines "group" as parent, and its subsidiaries and branches", and "network" as a larger structure that is aimed at co-operation, that is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand-name or a significant part of professional resources. EP200 requirements relating to "Group Policy" only apply to groups and do not apply to networks.

EP200 requirements relating to 'Group Policy' states that a professional firm that has branches and / or subsidiaries must develop and implement group-wide AML/CFT programmes, including policies and procedures for sharing information within the group required for the purposes of customer due diligence (CDD) and ML/TF risk management. Where a professional firm has a branch or subsidiary in a country or jurisdiction known to have inadequate AML/CFT measures, the professional firm needs to ensure that the group policy on AML/CFT is strictly observed by the management of that branch or subsidiary. Where the minimum AML/CFT requirements of the country of the branch/subsidiary are less strict than those in Singapore, professional firms shall ensure that their branch/subsidiary implements the requirements of Singapore, to the extent that host country laws and regulations permit.

EP200 requirements relating to CDD applies to both group and network. For example, professional firms are not to rely on third parties to conduct ongoing monitoring, except where the third party is part of the professional firm's group or network.

Source: Monetary Authority of Singapore

What are the risks in relation to DNFBP groups and other structures? What are the opportunities to strengthen AML/CFT compliance by applying group-wide programmes to DNFBP groups and other structures?

The application of group-wide programmes aims to foster a more consistent and harmonised approach to identifying and managing the ML/TF risk to which entities are exposed because of their operations, whether domestically or internationally.

Through the application of group-wide programmes the FATF seeks to mitigate some of the following risks:

- FI or DNFBPs with subsidiaries or branches frequently introduce their customers to other parts of the group. In countries that permit cross-border reliance on affiliates, FI and DNFBP groups that rely on other parts of the group for customer due diligence are required to have group-wide programmes in place. Clients are shared between members of the 'group' or other structure (particularly where law firms and associated/affiliated TCSPs are members of a network) or are referred from one member of a network to another (in the case of law firms with network members in different jurisdictions). Such introductions may not be subject to as rigorous CDD measures as non-introduced clients, and assumptions about CDD already performed by other groups entities may be incorrect, given different legal frameworks/requirements, internal policies and procedures and supervisory arrangements across different jurisdictions. In some cases, the group may not be able to implement group-wide policies because some of their members are located in jurisdictions whose rules do not permit sharing of information, for example.
- Inconsistencies or gaps in risk understanding and mitigation:
 - Different members of the group or structure may come to different conclusions as to customer risk, due to either different risk appetites or risk information being available. One example provided during consultation includes a situation where recently acquired entities in the group continue to operate under their existing policies and procedures rather than applying the policies of the group. The parent entity may have little understanding of the risks across the group (an issue particularly relevant in the context of companies becoming insolvent because of COVID-19 economic slowdowns).

- The inability to see a clients' footprint across a network may limit an entity's ability to assess risks. The compartmentalisation of information may benefit criminals' use of regulatory arbitrage e.g., in splitting up activities across different jurisdictions which form part of the FI or DNFBP group or structure. Whereas one part of the group may have closed an account for, or submitted a suspicious transaction report in respect of, a particular customer, other parts of the group may continue to service that customer hence exposing the group to ML/TF and reputational risks.
- A group may undertake more than one type of activity within and across more than one jurisdiction. This may be DNFBP activities such as accountancy or legal services with associated TCSP activities or a group may undertake a mix of FI and DNFBP activities where for example banking and investment might be offered from one or more jurisdictions, but provision of TCSP activities in the same or separate jurisdiction/s. Any ambiguity in the requirement to apply group-wide programmes over DNFBP activities could foster inconsistency in central oversight and control over all the group's activities. There should be equal treatment of DNFBP functions within financial groups (e.g. company formation services accessed or introduced by a bank) and those in separate non-financial groups. They are functionally equivalent, but may face different requirements.
- While not an ML/TF risk, there may also be reputational risks for the home/parent company or jurisdiction or other entities in the group if ML/TF risks crystallise as a result of poor group-wide policies and procedures or deliberate regulatory arbitrage.

In addition, implementation of group-wide programmes by relevant DNFBP groups and structures provides the following opportunities:

- Promote stronger compliance internationally by DNFBPs, an area which has proved to be a challenge as evidenced by the generally poor results of Mutual Evaluations in this area.²
- Reduce regulatory arbitrage of AML/CFT requirements whereby high-risk activities are moved to entities of the group where standards are lower. This is referenced in GIFCs guidance: "Regulatory arbitrage within loosely organised group structures has also occurred, including the transfer of business away from where CDD was perceived as becoming intrusive. Coordinating supervisory action around such trends can be important."³

² For example, 44% countries rated NC on R.28, related to the supervision of DNFBPs (as at January 2021). Across nearly all indicators, the coverage and supervision of DNFBPs remains relatively weaker than for FIs. This is an area that continues to be outstanding from the 3rd round, despite strengthened considerations on the materiality of the sector, risk and context of each country in the 4th round.

³ <https://www.groupifcs.org/letsgo/uploads/revised-college-protocol-v7.pdf>; Section 3.2.5, p.5

- Build supervisory confidence in preventative measures taken by DNFBPs in order to make R.17 reliance more readily available to DNFBP groups and other structures which are in many countries excluded from benefitting from the reliance rules.
- More efficient application of AML/CFT controls by reducing duplication of efforts by each entity of the group or other structure and forming a better picture of potentially criminal or terrorist financing activity.

In some cases, entities within DNFBP structures may operate completely independently such that they are unrelated and do not present specific ML/TF risks because of their structure. These entities would not fall within the requirements set out above. Countries should assess the DNFBP structures present in their jurisdiction, the ML/TF risks associated with these structures and issue guidance to clarify the subset of DNFBP structures to which group-wide programmes should apply and the type and extent of measures to be applied.

How should DNFBP groups and other structures implement group-wide programmes?

Recommendation 18 sets out the general requirements for group-wide programmes including:

- Group-level controls as appropriate to the business of the branches and subsidiaries (internal policies, procedures and controls, including appropriate compliance management arrangements and adequate employee screening procedures; employee training; and an independent audit function).
- Policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management. The scope and extent of this information sharing should be determined based on the sensitivity of the information, and its relevance to AML/CFT risk management.
- Application of AML/CFT measures consistent with the home country requirements and if this is not permitted, appropriate additional measures to manage the ML/TF risks, and a duty to inform the home supervisor.

The FATF Standards require a risk-based approach in the application of group-wide programmes. As set out in paragraph 2 of INR.18, the type and extent of measures under a group-wide programme should be appropriate having regard to ML/TF risk and the size of the business. Paragraph 4 of INR.18 notes that group programmes should be appropriate to the business of the branches and majority-owned subsidiaries.

In applying a risk-based approach to group-wide programmes in a DNFBP context, jurisdictions should take into account the factors set out above in paragraph 14 including the:

- Materiality of the DNFBP group and the size and nature of the business.

- ML/TF risks posed by the DNFBP group or other structure, including the extent to which risks are shared between entities of the group and other structures.

As there are a diverse ecosystem of ‘structures’ within the DNFBP group/networks, representing different levels of risk, countries should allow some flexibility in terms of their expectations of different types of DNFBP groups.

- For DNFBP groups operating like FI groups, the whole set of measures set out in R.18 should apply.
- For DNFBPs operating within other structures, common policies and procedures may be appropriate but more demanding requirements (such as ongoing information sharing) may not be appropriate or necessary. On information sharing, countries may determine the scope and extent of information sharing within such structures based on the applicable regulation to the group, sensitivity of the information, measures necessary to ensure adequate safeguards to confidentiality and use of information exchanged and its relevance to AML/CFT risk management.

Where DNFBPs operate as individual businesses rather than as part of a group or other structures, the group-wide programmes described here will not be relevant.

How should DNFBP supervisors monitor these activities?

In order to monitor the implementation of group-wide programmes by DNFBPs, supervisors (including self-regulating bodies (SRBs)) need to understand the risks presented by the group/structure and have oversight of group activities. For groups or structures providing services internationally, international cooperation with other supervisors (including SRBs) is also important.

‘Group-wide supervision’ is a concept founded by prudential supervisors of Core Principles institutions. For DNFBP groups operating under the same structures as financial groups, or as part of financial groups, supervisors should consider employing similar principles to those set out in the Core Principles issued by the Basel Committee on Banking Supervision⁴ and International Association of Insurance Supervisors and use of [GIFCS colleges](#) for TCSPs as promoted by the Group of International Financial Centre Supervisors. To a certain extent, home-host supervisory collaboration can be established in sharing information or supervisory concerns of the group.

⁴ See for example, *BCBS Core Principles for Effective Banking Supervision 2012*, *BCBS Principles for the Supervision of Financial Conglomerates 2012*, *BCBC Guidelines on the Sound management of risks related to money laundering and financing of terrorism* revised in July 2020.

Supervisors should tailor their activities based on the risks present in the sectors they supervise, the types of groups/structures they oversee and their own organisational context (if they are a SRB or competent authority). In the context of ‘other DNFBP structures’⁵, the supervisory activities may be a ‘light-touch’ compared to consolidated financial supervision of financial groups. For ‘other DNFBP structures’, it is more likely that supervision occurs over individual entities by supervisors of the country in which the DNFBP is operating mainly due to the practical implementation/supervision issues. In this case, the supervisor should understand the structure and the risks imported by the broader structure (if any) and, where relevant, seek to cooperate with other supervisors to ensure that the monitoring of the entity takes into account any broader risks.

FATF Recommendation 40 refers to the ‘widest range of international cooperation’ with the ‘widest range of foreign counterparts’ by competent authorities, including DNFBP supervisors. Although SRBs are not considered competent authorities, they are encouraged to cooperate internationally with the support of other competent authorities where this is permitted. The FATF glossary definition of a ‘supervisor’ notes that non-public bodies (including SRBs) with responsibilities for ensuring compliance by regulated entities should be supervised by a competent authority in relation to their functions. The relevant competent authority/s could also facilitate cooperation with supervisors in other jurisdictions.

Why has FATF updated the definition of ‘financial group’?

The definition of ‘financial group’ in the FATF Standards was developed in 2012. At that point-in-time, the major financial groups were operating in banking and insurance. The Core Principles are mentioned in the definition of ‘financial group’ because this was the main reference point and the origin of the concept. The use of other terms such as consolidated supervision and home-host arrangements are borrowed from the Core Principles. However, the requirements in R.18 also apply to other non-bank/insurance/securities activities according to risks. This is evidenced by countries considering MVTs ‘groups’ holistically for the purposes of regulation and supervision based on the identified ML/TF risks. Further, Mutual Evaluations of jurisdictions which are the home supervisors of major MVTs groups have also covered these issues under R.18 (where legislation commonly applies to all FIs) and under the assessment of effectiveness under IO.3 (for example, in the evaluations of the US, UK and Ireland which were the headquarters of large MVTs providers at the time of their evaluation). The application of R.18 requirements beyond core-principles FIs is also clarified in FATF Guidance on MVTs and Virtual Assets, including “the effectiveness of the AML/CFT

⁵ i.e., DNFBPs that are not structured like financial groups.

policies and processes and the quality of the risk management across its operations, departments, branches and subsidiaries, both domestically and, where relevant, abroad”.⁶

In line with existing practice, FATF is therefore confirming that the current definition of ‘financial group’ applies also to non-Core Principles FI activities, in particular where they are operating internationally and there is an entity exercising control and co-ordinating functions across its related entities (e.g., the headquarters of an international MVTs provider, its subsidiaries in other countries and their agent networks). These requirements apply only for AML/CFT purposes and not prudential or other requirements not covered under the FATF Standards. The Interpretative Note to R.18 describes group-wide programmes and highlights that the type and extent of measures to be taken should be appropriate having regard to the risk of money laundering and terrorist financing and the size of the business.

For more information, see www.fatf-gafi.org/recommendations

⁶ [Updated Guidance for a Risk-Based Approach for Virtual Assets and Virtual Asset Service Providers](#) (FATF, 2021), p.66