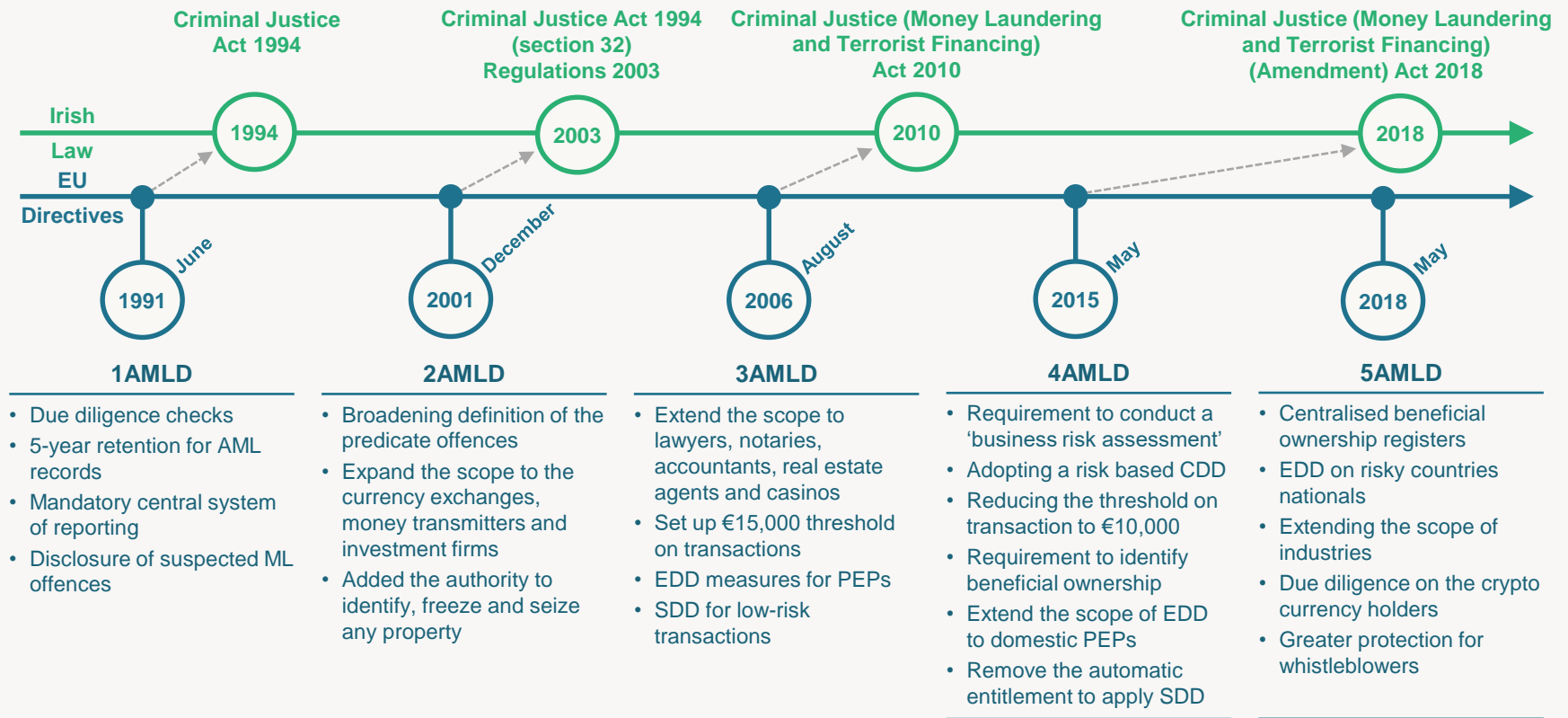


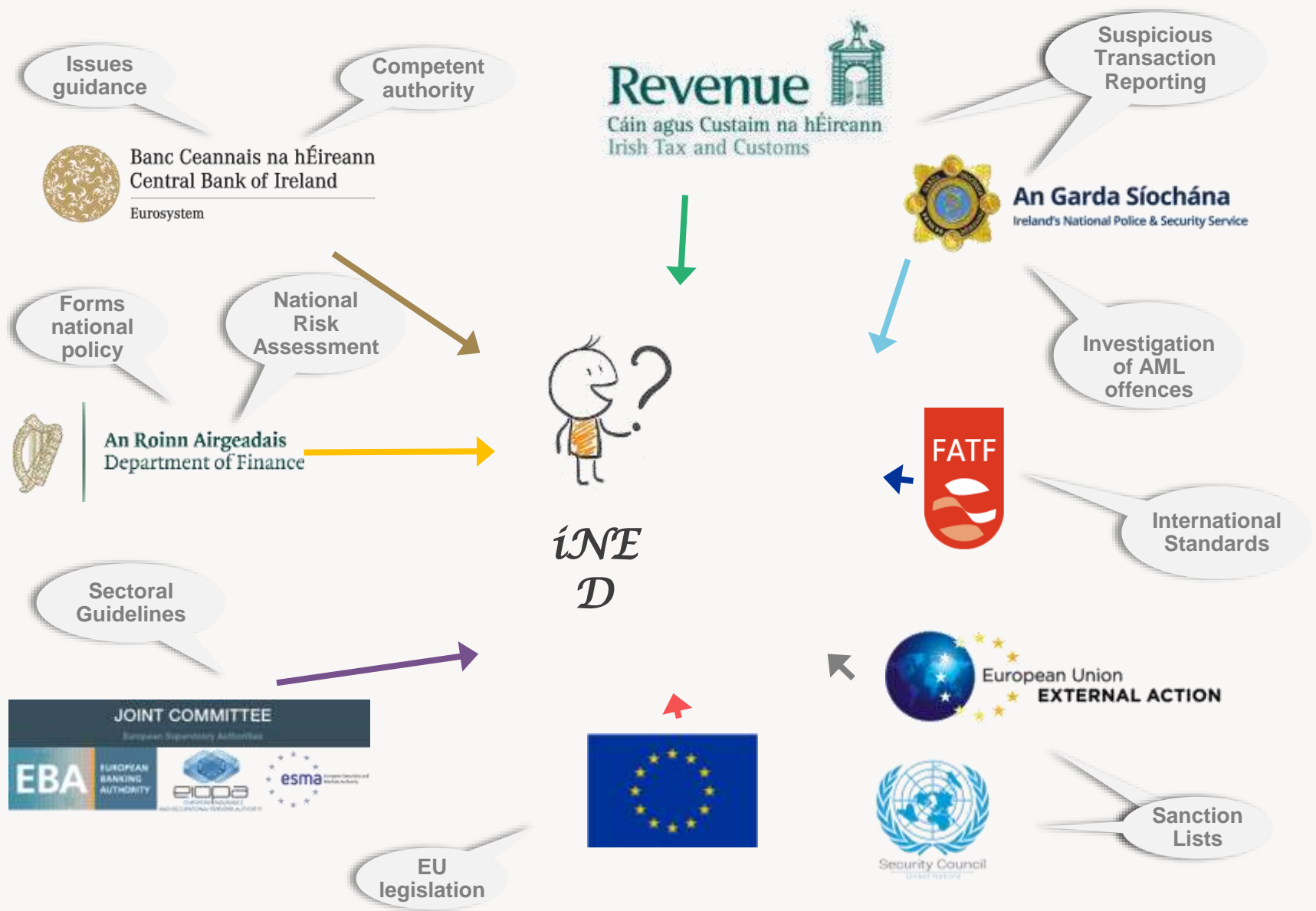
Anti-Money Laundering and Countering the Financing of Terrorism

CBI guidelines for the Financial Sector September 2019

1. Timeline – EU regulatory development



2. AML universe - no “shortage” of rules / guidance!



3. AMLD4 development



Key Areas:

- Governance arrangements
- National risk assessment for Ireland
- AML Business risk assessment
- Customer due diligence
- Beneficial ownership
- Preparing for a CBI AML Meeting

4. AMLD4 development (Con't)

FATF Recommendations

- 1 Assessing risks and applying a risk-based approach
- 2 National cooperation and coordination
- 3 Money laundering offence
- 4 Confiscation and provisional measures
- 5 Terrorist financing offence
- 6 Targeted financial sanctions related to terrorism and terrorist financing
- 7 Targeted financial sanctions related to proliferation
- 8 Non-profit organisations
- 9 Financial institution secrecy laws
- 10 Customer due diligence
- 11 Record-keeping
- 12 Politically exposed persons
- 13 Correspondent banking
- 14 Money or value transfer services
- 15 New technologies
- 16 Wire transfers
- 17 Reliance on third parties
- 18 Internal controls and foreign branches and subsidiaries
- 19 Higher-risk countries
- 20 Reporting of suspicious transactions
- 21 Tipping-off and confidentiality
- 22 DNFBPs customer due diligence
- 23 DNFBPs Other measures
- 24 Transparency and beneficial ownership of legal persons
- 25 Transparency and beneficial ownership of legal arrangements
- 26 Regulation and supervision of financial institutions
- 27 Powers of supervisors
- 28 Regulation and supervision of DNFBPs
- 29 Financial intelligence units
- 30 Responsibilities of law enforcement and investigative authorities
- 31 Powers of law enforcement and investigative authorities
- 32 Cash couriers
- 33 Statistics
- 34 Guidance and feedback
- 35 Sanctions
- 36 International instruments
- 37 Mutual legal assistance
- 38 Mutual legal assistance: freezing and confiscation
- 39 Extradition
- 40 Other forms of international cooperation

CBI AML Guidelines - Content

**Risk management
AML risk assessment**

AML Governance and Oversight

**Customer Due Diligence
SDD and EDD**

**Identifying and reporting of suspicious
transactions**

**AML/CFT training and
training records**

Record keeping

**International financial sanctions
Obligations on firms**



5. Governance – Legislative Framework

CBI Guidance – 2.1: Firms are obliged to put in place an effective risk-based AML/CFT framework which includes:

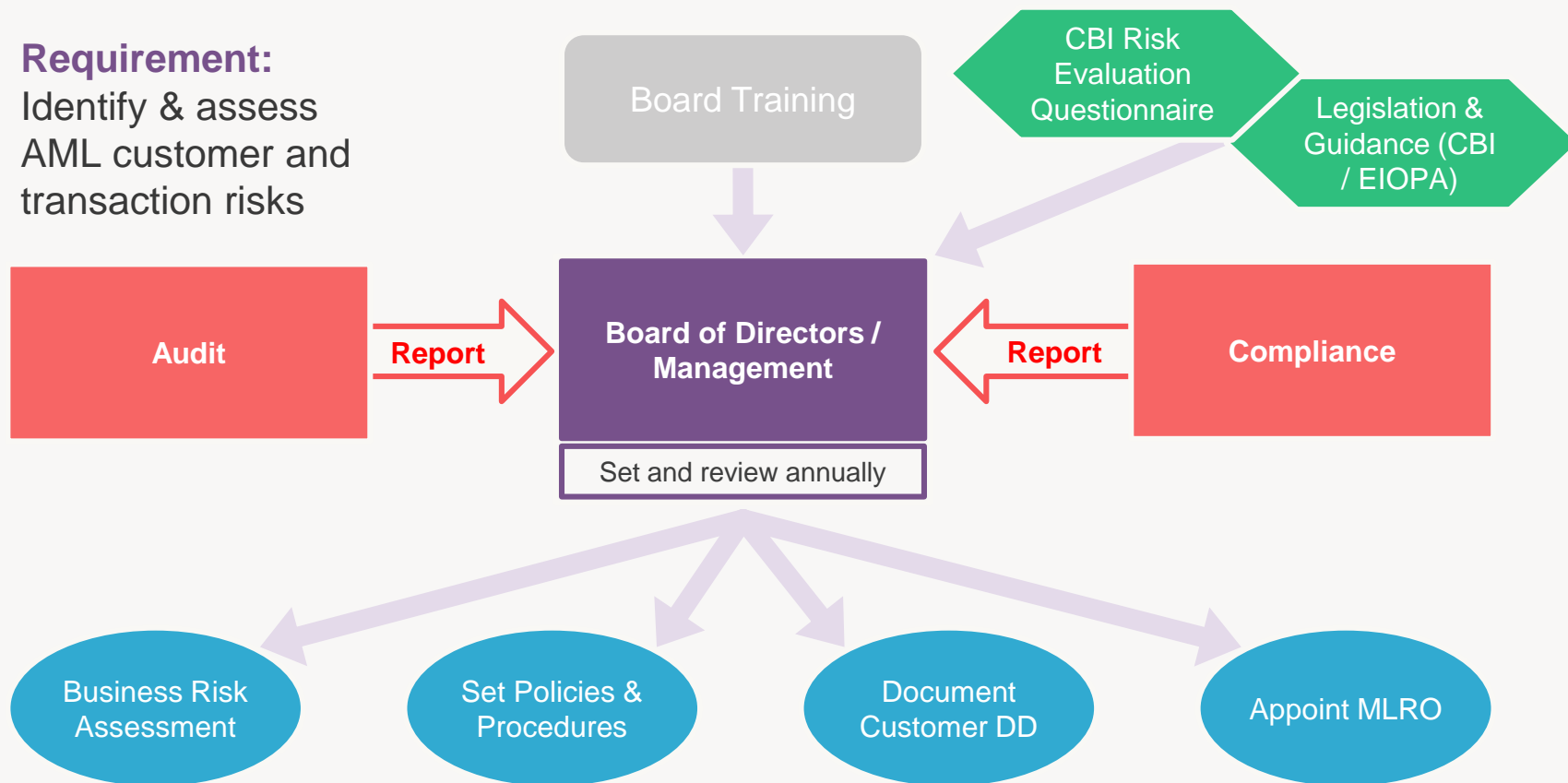
1. Risk-based approach;
2. CDD measures;
3. Reporting suspicions transactions;
4. Governance;
5. Policies and procedures;
6. Record keeping; and
7. Training.



6. Governance – Company Organisation Framework

Requirement:

Identify & assess
AML customer and
transaction risks

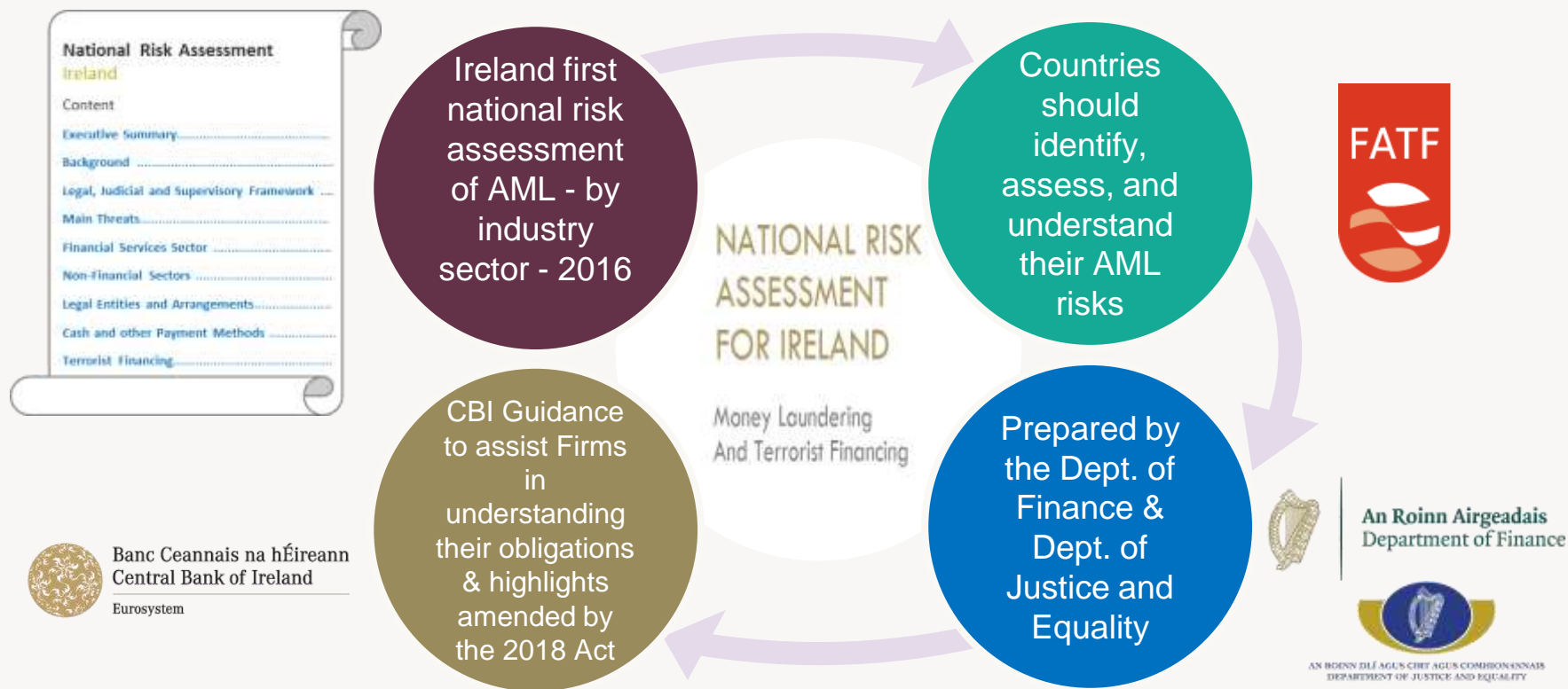


CBI Guidance 5.1: Firms should document their determination in writing and retain the determination in accordance with the Firm's record keeping policies and procedures.

Observation: Must be able to demonstrate that AML system of governance is embedded in the organisation and staff are familiar with their duties.



7. National risk assessment for Ireland



Life Insurance Risk Rating **Medium (Low)**

Main Vulnerabilities:

- Reliance of intermediaries and other third parties for customer DD.
- Ability to exercise an oversight of intermediaries across multiple jurisdictions.
- The wider geographic reach of cross border insurers increases the likelihood of their exposure to PEPs DD and other higher risk customers

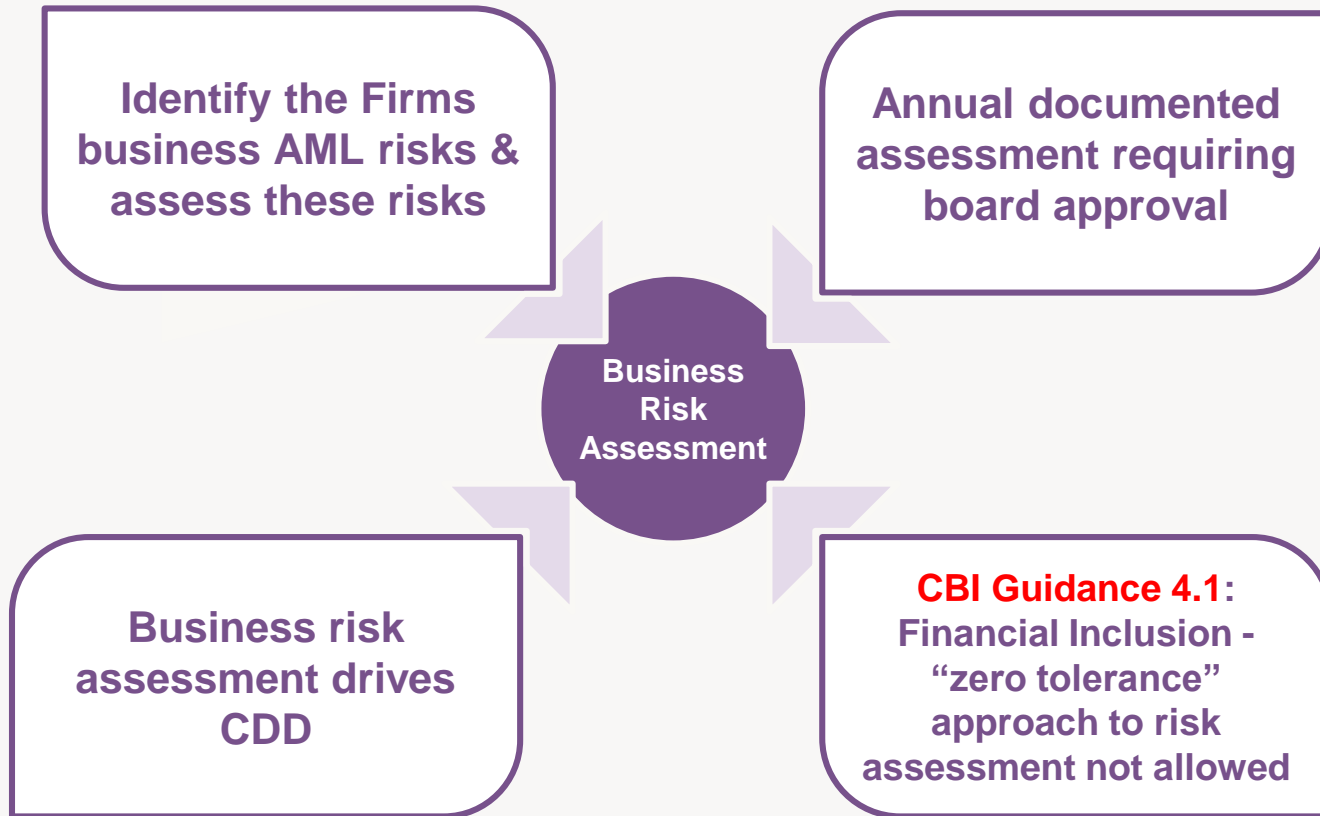
8. CBI supervisory engagement model

Risk of money-laundering / terrorist financing				
	High	Medium (High)	Medium (Low)	Low
Inspection Cycle	3 years	5 years	Strategic, spot check & responsive	Strategic, spot check & responsive
AML/CFT review meetings	Annually	5 years	Strategic, spot check & responsive	Strategic, spot check & responsive
AML/CFT Risk Evaluation Questionnaires	Annually	2 years	3 years	Strategic, spot check & responsive



9. AML Business risk assessment

CBI Guidance 4.2: Firms **MUST** conduct an AML Business Risk Assessment that:

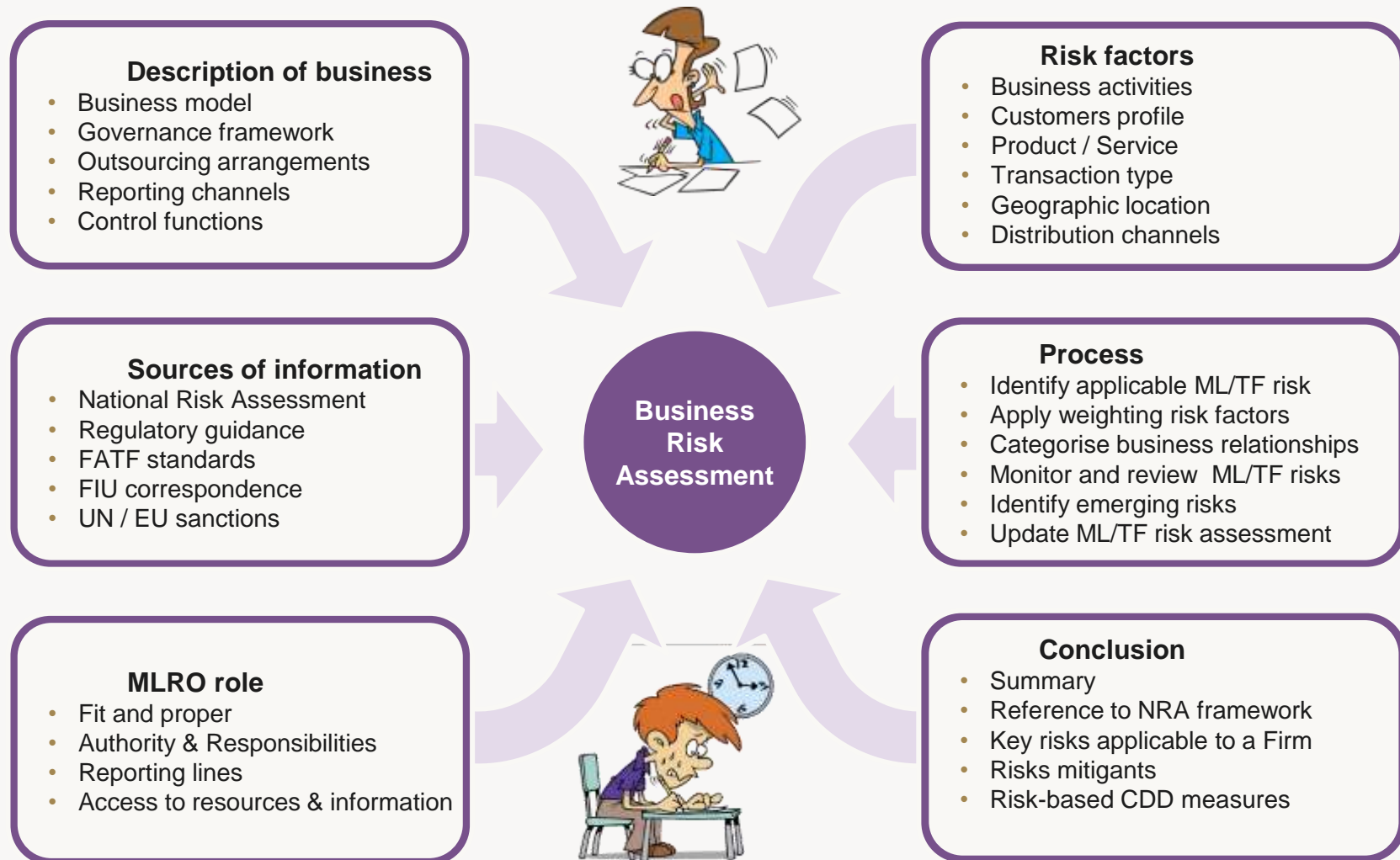


Failure to complete a business risk assessment is an offence liable to (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months (or both), or (b) on conviction on indictment to a fine or imprisonment not exceeding 5 years (or both).



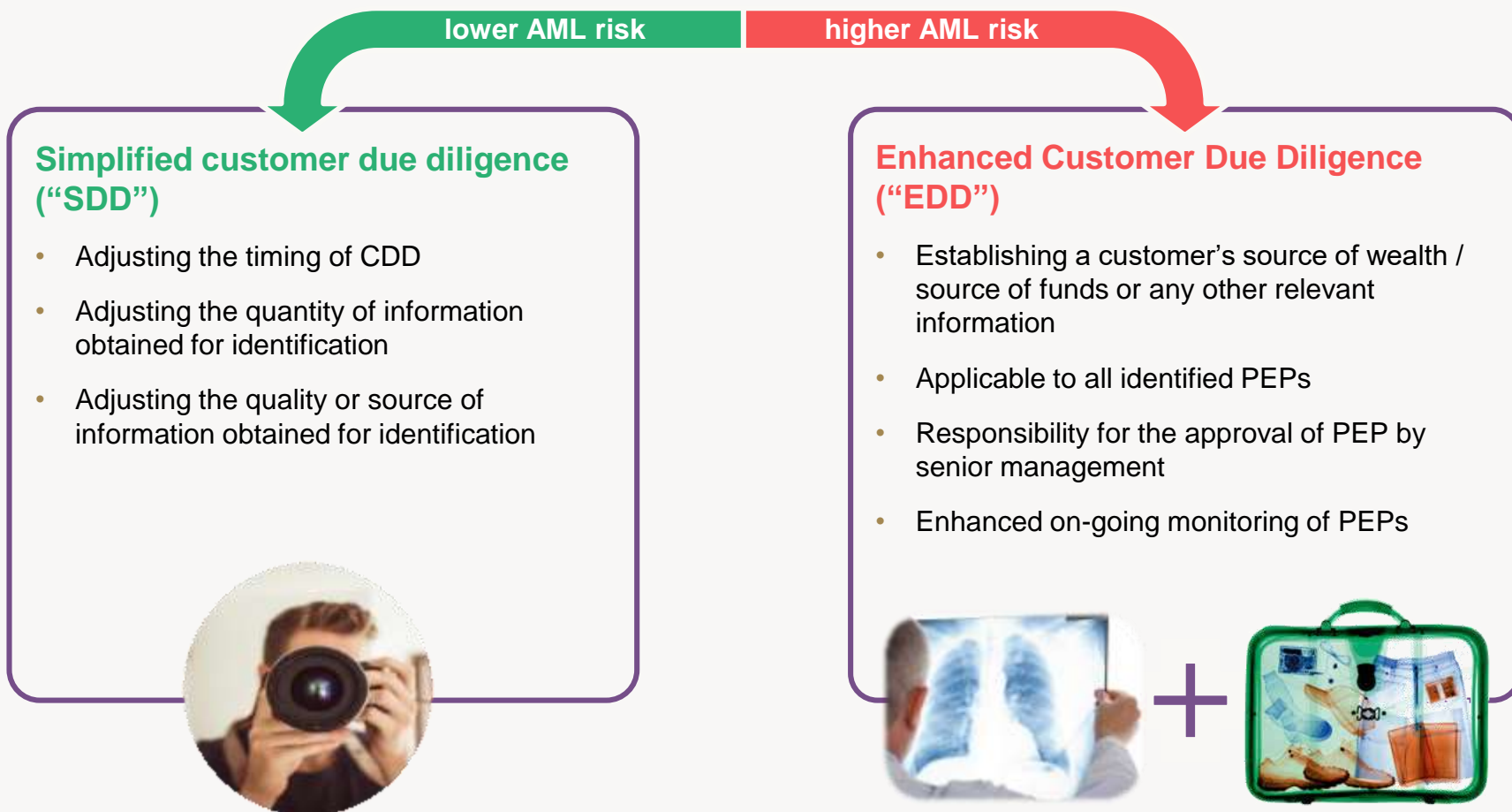
10. Business risk assessment

CBI Guidance – 9.2.1: Firms should document and record their Business Risk Assessments including:



11. Customer Due Diligence

- Firms are required to **identify and verify customers** and where applicable, **beneficial owner(s)**.
- The level of Customer Due Diligence (“CDD”) measures depends upon the **nature of the relationship** between the Firm and its customer, the **type of business** conducted and the perceived **ML/TF risks** arising.



12. Customer Due Diligence (CDD) – Comments on the guidance

CBI Guidance 5.4: Exemption for SDD removed. Firms put measures in place and document. Monitoring still required.

Beneficial ownership identity still required

Allows future technological developments

CBI Guidance 5.2: no prescriptive list of acceptable CDD documentation, firms should instead maintain their own lists of documents.

Guidelines seem to suggest there could be circumstances where the obligation to verify a beneficial owner's identity did not arise.

CBI Guidance 5.2: new obligation imposed under section 33(6) prohibits processing transactions prior to completing customer verifications.

CBI Guidance 5.22: Obligation to identify all beneficial owners and verify their identity by taking such measures reasonably warranted by a risk-based approach.



13. Customer Due Diligence (CDD) – Issues

Trusts – requirement to identify all beneficial owners—legacy systems issues

Trusts – systems ability to store multiple BO & allow searches.

Sanction screening - not robust - directors / authorised signatories / trusts ben

BO – Failing to **identify** beneficial owner – even if SDD.

Demonstrate ongoing monitoring - business relationship clients & transactions.

AML Tools - lack of documentation / awareness / oversight

AML “Hits” - Documenting action to be taken when an AML “hit” arises



14. Beneficial ownership confusions

FATF Rec. 24 & 25

- **Ensure** adequate, accurate and timely information on beneficial ownership
- **Consider** measures to facilitate access to beneficial ownership and control information by financial institutions

AMLD4 Art. 13 - CDD

- CDD shall comprise identifying the beneficial owner & take reasonable measures to verify that person's identity
- Member States shall ensure that BO information is held in a central register & is accessible by competent authorities and others with a legitimate



5 November 2016

- Requirement to have a BO register
- BO > 25% or if none directors / CEO
- All Irish companies & other bodies corporate (inc. ICAVs, industrial and provident societies)



22 November 2019

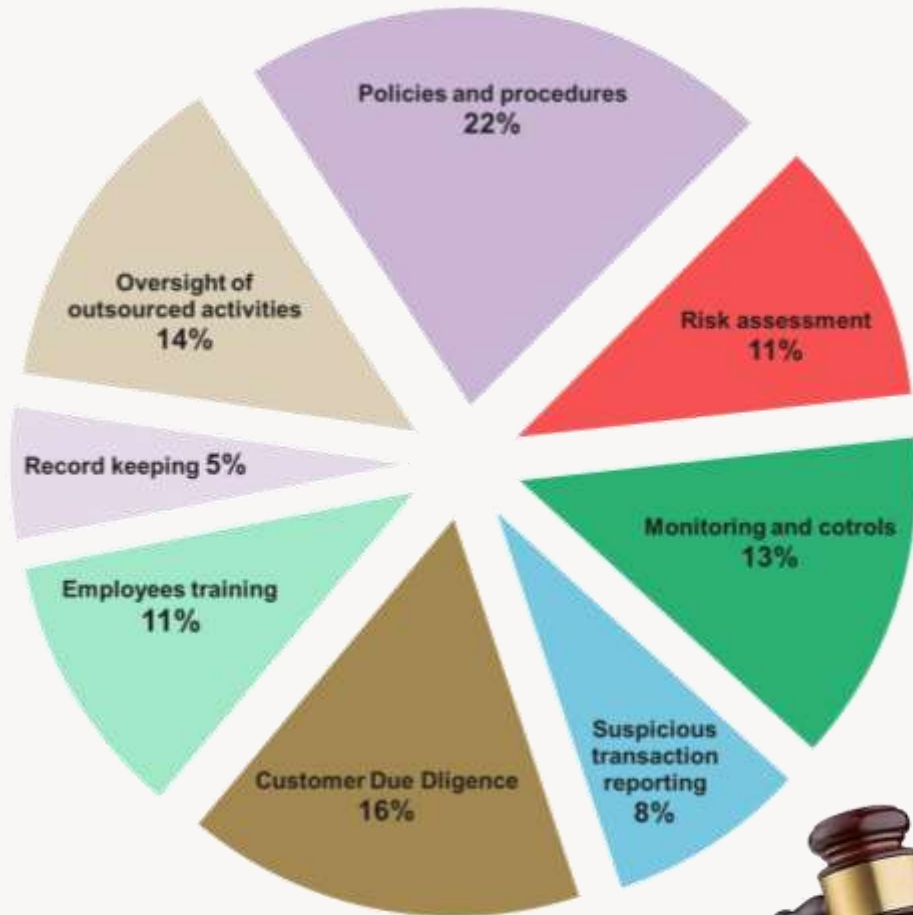
- Centralised BO register
- BO > 25% or if none directors / CEO – No change
- All Irish companies & other bodies corporate (inc. industrial and provident societies) – Not ICAV
- PPS / Ben 2

AMLD5



15. CBI fines in respect of breaches of the CJA

CBI published information on AML failures (2012-2019). Total fines of €12,582,000 in relation to 12 financial Firms.



Typical failures

- Failure to adopt policies & procedures to monitor and manage compliance with CJA.
- Failure to incorporate a mechanism for regular review of policies & procedures.
- Failure to conduct adequate customer due diligence on new and existing customers.
- Failure to identify a PEP or a close associate of a PEP prior to establishing a business relationship.
- Failure to ensure that all necessary arrangements were in place with third parties to conduct CDD.
- Failure to monitor and scrutinise customer transactions and identify suspicious activities.
- Failure to demonstrate that staff had been instructed on the AML / CTF requirements.
- Failure to assess the ML/TF risks specific to the business and the relevant mitigating systems.



16. Preparing for CBI AML Review Meetings

- The Anti-Money Laundering Division (“AMLD”) of the CBI is a division that monitors adherence to AML regulations.
- A typical review meeting with the AMLD lasts 2 hours and focuses on a high-level overview of the firm’s activities, governance framework, AML risk assessment and AML policy and procedures.
- In preparing for this meeting attendees should be comfortable answering questions on the following areas:
 - Be able to articulate their role in relation to AML, i.e. PCF Head of Compliance and MLRO;
 - Have read and understood the sector rating and implications for their sector set out in the National Risk Assessment;
 - Describe the AML reporting arrangements for the board;
 - Describe the training they have received;
 - Describe the firm’s AML processes and ongoing monitoring including triggers; and
 - Describe the main AML risks to the firm.



17. Key takeaways

Areas covered:

- ✓ Governance arrangements
- ✓ National risk assessment for Ireland
- ✓ AML business risk assessment
- ✓ Customer due diligence
- ✓ Beneficial ownership
- ✓ Preparing for a CBI AML Meeting

Key learnings:

- ✓ Document policies and procedures and review annually
- ✓ Know about the National risk assessment for Ireland
- ✓ Mandatory AML business risk assessment
- ✓ Customer due diligence common issues to be alert for
- ✓ All client BO must be identified
- ✓ Actions to prepare for a CBI AML Meeting
- ✓ Directors need specific training on their AML responsibilities
- ✓ Ensure monitoring in 2020 of AML by Compliance / Audit



Don't forget SEAR !!!





THANK YOU

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IRELAND