Highlights of the RBA Guidance for the Securities Sector

Introduction and Objectives

1. The FATF risk-based approach (RBA) Guidance for the securities sector includes a general presentation of the RBA and provides specific guidance both for securities market participants and their supervisory authorities.

2. RBA is central to the effective implementation of the FATF Recommendations. It means that supervisors, financial institutions, and intermediaries identify, assess, and understand the money laundering and terrorist financing (ML/TF) risks to which they are exposed, and implement the most appropriate mitigation measures. This approach enables them to focus their resources where the risks are higher.

3. **The Guidance aims to support the design and implementation of the RBA, taking into account national ML/TF risk assessments and AML/CFT legal and regulatory frameworks**. While it is non-binding, it draws on the experiences of countries and the private sector and may assist in effective implementation of the applicable FATF Recommendations.

4. It includes a general presentation of the RBA and provides specific guidance for firms and intermediaries, and for their supervisors. **The guidance was developed in partnership with the private sector, to make sure it reflects expertise and good practices from within the industry.**

Key Highlights

5. **The Guidance describes various types of securities providers that may be involved in a securities transaction** and their business models. It also sets out key characteristics of securities transactions that can create opportunities for criminals, and measures that can be put in place to address such vulnerabilities.

6. **The Guidance underlines some of the specificities of the securities sector, which should be taken into consideration when applying a RBA**. In particular,

a) it clarifies the role and responsibilities of intermediaries that may provide services on behalf of securities providers to customers of securities providers, customers of intermediaries or both. It highlights that the nature of the business relationship between the securities provider, the intermediary and any underlying customers will affect how ML/TF risks should be managed.

b) it clarifies that when determining the type and extent of CDD to apply, securities providers should understand whether its customer is acting on its own behalf or as an intermediary on behalf of its underlying customers.

c) it clarifies that there is generally no expectation or requirement for a securities provider to apply CDD on an intermediary's customer, which is, instead the responsibility of the intermediary. However, an understanding of the intermediary's customer base can often be a useful element in determining the risk associated with the intermediary itself. The level of understanding should be tailored to the perceived risk level of the intermediary.

d) as some business relationships in the securities sector might have characteristics similar to cross-border correspondent banking relationships, the Guidance contains a description of how AML/CFT requirements apply to such relationships.

7. **The development of the ML/TF risk assessment is a key starting point for the application of the RBA by securities providers**:

a) its key purpose is to understand and mitigate inherent ML/TF risks, and enable the securities providers to effectively manage residual risks.

b) it should be commensurate with the nature, size and complexity of the business. This means that a simple risk assessment might suffice for small providers and that where providers are part of a group, risk assessments should take into account group-wide risk appetite and framework.

c) it should be periodically reviewed and updated.

8. The Guidance **provides examples of geographic, customer and product/service/transaction risk factors, which security providers should take into account for their risk assessment.**

9. Regarding mitigation measures, the Guidance illustrates **how the intensity and depth of customer due diligence (CDD) checks will depend on ML/TF risks.** Enhanced due diligence measures will apply where there are higher risks, and simplified due diligence may be applied in lower risk situations. It also provides examples of enhanced or simplified measures.

10. **The Guidance stresses the importance of internal controls**:

a) the "tone from the top" i.e. the involvement of senior management and board of directors in setting up risk management, governance and control mechanisms and support AML/CFT initiatives.

b) securities providers, which distribute their products or services through intermediaries, such as stockbrokers or funds platforms, should include these networks in their AML/CFT internal risk assessment processes.

c) adequate internal communication processes, which should link the board of directors, the AML/CFT compliance officer, relevant committee (e.g. the risks or ethics/compliance committee), the information technology unit and each of the business areas.

d) the importance of independent testing of AML/CFT programme, policies and processes and the quality of risk management.

11. The Guidance clarifies that the **obligation to report suspicious transactions is not risk-based, but applies regardless of the amount of the transactions**. While the policies and processes leading securities providers to form a suspicion can apply on a risk-sensitive basis, a securities provider should report the activity once ML/TF suspicion is formed.

12. The Guidance **provides up-to-date examples of indicators of suspicious activity in relation to securities sectors, which may trigger filing of STRs or additional CDD measures** by securities providers, or further investigation or ongoing monitoring.

13. On AML/CFT supervision, the **Guidance provides practical examples of countries' supervisory practices for the implementation of the RBA in the securities sector**. It also:

a) provides examples of inherent risk factors that supervisors could consider when developing their understanding and assessment of the securities sector (e.g. nature and complexity of products and services, size and business model, financial and accounting information, delivery channels, customer profiles, geographic location and countries of operation) as well as controls in place.

b) presents ways for supervisors to mitigate ML/TF risks, based on the requirement that they allocate and prioritise more supervisory resources to areas of higher ML/TF risks.

c) stresses the importance of the group level approach, including the development of group-wide assessment of ML/TF risks, and the sharing of relevant information between supervisors involved.

d) provides guidelines on how to supervise securities providers in a cross-border context.