

**[Provisional Translation]**

The original texts of the Guidelines are prepared in Japanese, and this translation is only provisional. The translation is to be used solely as reference material to aid the understanding of the Guidelines and is subject to any future changes.

# **Guidelines on Anti-Money Laundering and Combating the Financing of Terrorism for Financial Leasing Companies**

**Ministry of Economy, Trade and Industry  
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## **I General Concepts**

### **I-1 Risk-based approach**

The basic requirements on anti-money laundering and combating the financing of terrorism (“AML/CFT”) in Japan, such as identification and verification at the time of transactions, are prescribed in the Act on Prevention of Transfer of Criminal Proceeds (“Criminal Proceeds Act”, or APTCP), and other relevant laws and regulations.

Financial leasing companies are legally regarded as a “specified business operator” under APTCP, and therefore are subject to relevant requirements prescribed in such laws and regulations.

As characteristics of financial leasing transactions involve suppliers in addition to the parties to the contract, such as the financial leasing companies and the lessee, and the lease term is relatively longer, there is a risk that lessees and suppliers may collude and enter into financial leasing agreements without substance, and thus be used to money laundering and the financing of terrorism (“ML/FT”).

AML/CFT measures that a financial leasing company should take are substantially influenced by ever-changing international affairs. Financial leasing companies need to swiftly respond to the changes in such circumstances and their corresponding risk profiles, and effectively maintain their ML/FT risk control framework.

Implementing such swift and effective countermeasures requires financial leasing companies to appropriately identify and assess the ML/FT risks they face in a timely manner and to undertake mitigation measures commensurate with those risks, a so called *risk-based approach*.

The risk-based approach for ML/FT risk control framework is established as a central principle of the Financial Action Task Force (“FATF”) Recommendations, and has equally been an established practice in major developed countries. With the need for swift and effective measures, the risk-based approach is a minimum standard for financial leasing companies.

As the threat of terrorism has spread across borders, financial leasing companies shall establish effective risk control framework for terrorist financing with the awareness that their services can be abused as tools for terrorist financing.

For example, in the case where a financial leasing company conducts a transaction with a non-profit organization, it is important for financial leasing companies to be aware that they are at risk of being exploited for terrorist financing depending on the nature and areas of their activities, while presuming that not all non-profit organizations are inherently higher-risk customers, and to take necessary risk mitigation measures taking into account the National Risk Assessment (Japanese NRA as provided for in APTCP) and the analyses by the FATF.

Financial leasing companies shall establish appropriate risk control framework, including measures addressing the financing of proliferation of weapons of mass destruction,

taking into account relevant foreign and domestic laws and regulations such as the Foreign Exchange Act and the Act on Special Measures Concerning International Terrorist Assets Freezing.

To this end, the senior management and/or the Board of a financial leasing company needs to take the lead in establishing cross regional and cross-departmental governance, and under this governance, related departments need to continue their efforts to improve AML/CFT measures, in order to ensure that these measures against money laundering and terrorist financing function effectively in the business divisions, which are points of contact with customers.

Financial leasing companies should develop in their business strategies forward-looking actions for strengthening their AML/CFT measures for preventing the future misuse of their products and services. They should also fulfill their accountability to a wide range of related parties including customers and authorities with regard to their policies, procedures, programs as well as their implementation status by disclosing relevant data.

The Ministry of Economy Trade and Industry ("METI"), with necessary supervisory measures, shall monitor the AML/CFT measures of each financial leasing company based on the characteristics of their businesses, share the outcome with financial leasing companies, and urge them to enhance their risk control framework.

The Guidelines clarify the *required actions* and *expected actions* to be implemented by each financial leasing company and how the METI shall conduct monitoring going forward.

The Guidelines also explain the roles of industry associations and coordination with the authorities, with a view in particular to helping financial leasing companies with small sizes or limited scope of transactions to develop effective risk control frameworks.

## **I-2 Financial leasing companies' AML/CFT measures**

### **(1) ML/FT risk control framework**

Financial leasing companies are required to identify and assess their ML/FT risks based on an overall group-wide understanding of their services, transaction types, countries and geographic areas, and customer attributes, and to implement mitigation measures commensurate with such risks, taking into account their business environment and strategies as well as their risk tolerance levels.

In order to swiftly undertake measures commensurate with those risks that reflect everchanging international circumstances and the evolving responses by other financial leasing companies, it is vital not only to address individual cases or problems, but rather, with the involvement and understanding of the senior management and/or the Board, to undertake holistic evaluation including the necessity for reforming their risk control framework, and develop a group-wide effective ML/FT risk control framework.

To address this perspective, the METI will constantly review the Guidelines. Financial leasing companies are also required to establish and maintain their risk control framework reflecting the contents of related laws and regulations and the Guidelines, not focusing exclusively on compliance, under the guidance of control functions, with those regulations and the Guidelines and checking technical compliance with them.

While there are differences between the risks of money laundering and the financing of terrorism – such as the purpose, size, and value of those transactions as well as the countries or geographic areas that need caution upon executing those transactions – the basic frameworks required to maintain the soundness of the financial leasing industry do not differ fundamentally among those transactions. The Guidelines therefore explain AML and CFT simultaneously.

## **(2) Involvement and understanding of the senior management and/or the Board**

In establishing the aforementioned control framework, it is essential for the senior management and/or the Board to be involved in countermeasures, such as taking the initiative in establishing governance for control, rather than leaving it to the relevant departments to deal with the risk, based on the understanding that the risk of money laundering and terrorist can have serious repercussions for the financial leasing company overall.

The proactive engagement and leadership of the senior management and/or the Board would be necessary, for example, in conducting a gap analysis, taking cross-organizational measures involving multiple divisions, and strategically hiring and training their personnel and allocating resources according to their expertise and experience. In order to disseminate AML/CFT initiatives to all executives and employees, it would also be important to demonstrate the senior management and/or the Board's proactive commitment toward AML/CFT and convey their messages, such as by taking into account AML/CFT in the performance evaluation of employees.

It is vital for the senior management and/or the Board to increase the awareness of AML/CFT based on an appropriate understanding of ML/FT risks, and promote more advanced cross-organizational measures by their top-down initiatives. After all, the responsibility for fulfilling accountability outlined in I-1 above for strengthening the ML/FT risk control framework is to be primarily assumed by the senior management and/or the Board.

## **I-3 Roles of industry associations and central institutions**

Information gathering by an individual financial leasing company with respect to advanced practices on a risk-based approach or international developments in AML/CFT may sometimes qualitatively and quantitatively be limited. As the methods of ML/FT are constantly changing, it may be especially difficult for financial leasing companies with small volume or limited scope of transactions to accumulate sufficient information or expertise by themselves.

In order to enhance the level of the entire Japanese financial leasing industry, it is essential for industry associations, to take central and guiding roles in improving their member financial leasing companies' ML/FT risk control framework, in coordination with the authorities. This includes sharing of information and cases to which financial leasing companies should refer, providing support for creating risk control framework, promoting industrywide members via appropriate shared IT systems, and encouraging broader user understanding.

#### **I-4 Supervisory actions**

Keeping Japan's financial leasing industry sound and immune from ML/FT is extremely important, and the METI, as the authority, properly conducts the monitoring of financial leasing companies' measures and progress in developing AML/CFT measures in accordance with the Guidelines.

If such monitoring and other measures identify problems with a financial leasing company's ML/FT risk control framework, including the inadequate implementation of *required actions* in the Guidelines, the METI makes financial leasing companies improve by taking necessary administrative actions prescribed in relevant laws such as *report collection* and *correction orders*.

In addition to the required actions that financial leasing companies are required to implement, the AML/CFT Guidelines provide *expected actions* as further measures that financial leasing companies of a certain size and operation or in specific circumstances are encouraged to take to enhance their risk control framework and programs.

The amended Criminal Proceeds Act, which came into effect in October 2016, introduced risk assessment by the government and *specified business operators*. The Guidelines provide the *required actions* and *expected actions*, encompassing those requirements under the amended Criminal Proceeds Act and other necessary or expected measures, with the purpose of ensuring financial leasing companies' effective risk identification, assessment, and mitigation with a risk-based approach. Even if not described in the Guidelines, financial leasing companies shall take into account documents published by the METI such as *Points to Note regarding APTCP (for financial leasing companies)* and *List of Reference Cases of Suspicious Transactions for financial leasing companies*.

Effective AML/CFT measures such as a risk-based approach are an international requirement for financial leasing companies, and therefore they should pay adequate attention to the documents issued by the FATF, and other international bodies.

The Guidelines apply to firms that fall under the category of the specified business operators as prescribed in Article 2, paragraph 2 of APTCP and are under the entities listed in item 39 of the said paragraph.

## **II Risk-Based Approach**

### **II-1 Risk-based approach**

The risk-based approach in combating money laundering and terrorist financing means that financial leasing companies, etc. identify and assess their own inherent risks of money laundering and terrorist financing, and implement risk mitigation measures in order to effectively reduce such risks to within their risk appetite.

The types and techniques of ML/FT are constantly changing in conjunction with crime and other underlying trends, as well as broader socio-economic conditions such as industry and employment conditions, demographic movements, legal systems, new forms of transaction types due to advances in information technology ("IT"), and the globalization of the economy and financial services.

With the changes in the ML/FT methods, AML/CFT measures should be constantly enhanced.

Financial leasing companies need to take effective actions through the risk-based approach, in order to appropriately identify and assess ML/FT risks by themselves and prioritize and swiftly improve ML/FT risk control framework commensurate with the risks.

The risk-based approach has become an international standard, as set out in the Financial Action Task Force ("FATF") Recommendation 1 as an underlying principle in the whole document. <sup>(Note)</sup>

(Note) The FATF Recommendations state that "countries should identify, assess, and understand the money laundering and terrorist financing risks for the country" and financial institutions including financial leasing companies "should be required to take appropriate steps to identify and assess their money laundering and terrorist financing risks" for products and services they handle, requiring both countries and financial leasing companies to respectively implement risk-based approaches.

### **II-2 Identification, assessment, and mitigation of risk**

It is important under the risk-based approach to consider necessary actions against ML/FT risks in stages, for instance by categorizing them in stages of risk identification, assessment, and mitigation.

#### **(1) Risk identification**

Risk identification is a process to identify ML/FT risks faced by a financial leasing company through comprehensive and specific risk evaluation of the services offered, transaction types, the countries and geographic areas of transactions, customer attributes, and other relevant factors, and is the starting point of a risk-based approach.

In order to conduct a comprehensive and specific verification of risk that an entity faces, it is necessary to consolidate internal information and conduct analysis from a company-

wide perspective. Therefore, it is necessary for the senior management and/or the Board to take the initiative in ensuring cooperation and collaboration among all related departments, rather than leaving it to the department in charge of countermeasures against money laundering and terrorist financing.

When undertaking such evaluation, financial leasing companies must appropriately consider the National Risk Assessment (Japanese NRA as provided for in APTCP).

Further, financial leasing companies need not only to refer to the NRA, but also to comprehensively and specifically capture the characteristics of their businesses and identify the risks they themselves face.

***Required actions for a financial leasing company***

A financial leasing company shall:

- i. Identify the ML/FT risks it faces by comprehensively and specifically evaluating risks of the services offered, transactions types, the countries and geographic areas of transactions, customer attributes, and other relevant factors, while considering the results of the national risk assessment.
- ii. When conducting a comprehensive and specific evaluation, take into account the financial leasing company's specific features, such as the geographic attributes of its business region, business environment, and management strategy.
- iii. In cases where a customer as the counterparty of a transaction, its beneficial owners, or its transaction involves overseas countries and jurisdictions, comprehensively evaluate the possibility of direct and indirect transaction relationship, including the high-risk countries and geographic areas designated by the FATF and domestic and foreign authorities, and understand the risks.
- iv. When offering new services, or conducting transactions using new technologies/those with new characteristics, prior to their initiation, evaluate the AML/CFT risks associated with such services, including the effectiveness of the risk control framework of its alliance partner, other partners, outsourcing contractor and companies being acquired.
- v. Conduct comprehensive and specific evaluation of ML/FT risks with the senior management and/or the Board taking the lead in ensuring coordination and collaboration among all relevant departments.

***Expected actions for a financial leasing company***

- i. Understand the magnitude and change in significant risks for the financial leasing company in a timely and appropriate manner, by identifying and quantitatively analyzing key indicators, for example, the number and amount of foreign remittance transactions, non-face-to-face transactions, and non-resident transactions, to understand the risks of its services, transaction types, countries and geographic areas, customer attributes, and other relevant factors in light of the complexity of its business environment and the business strategy.



## **(2) Risk assessment**

Risk assessment is a process to assess the level of impact on a financial leasing company of the ML/FT risks identified in the preceding (1), and formulates the basis for specific actions such as mitigation measures. The risk assessment therefore needs to reflect the characteristics of the financial leasing company's business environment and the business strategy.

As the risk assessment is directly linked to the specific details of risk mitigation measures and the (re)allocation of resources, it needs to be conducted in a firm-wide and consistent manner with the involvement of the senior management and/or the Board.

### ***Required actions for a financial leasing company***

A financial leasing company shall:

- i. Establish an enterprise-wide policy and specific methods for its risk assessment, and conduct assessments of the ML/FT risks identified in "(1) Risk Identification" above based on factual, concrete and objective evidence in accordance with the said policy and methods.
- ii. In making the assessment in (1) above, consideration should be given to the analysis of the status of Suspicious Transaction Reporting.
- iii. Analyze the status of suspicious transactions reported, for example, quantitative information such as the number of reports should be analyzed by division, location, reporting factors, detection scenario, etc., and utilized for risk assessment.
- iv. Document the results of the risk assessment, and utilize them for developing measures necessary for risk mitigation.
- v. Conduct the review of the risk assessment regularly, at least once a year, as well as when an event such as the occurrence of new risks and the introduction of new regulation that may have a significant impact on AML/CFT measures occurs.
- vi. Involve the senior management and/or the Board in the processes of risk assessment, and obtain approval from the senior management and/or the Board for documenting the results of the risk assessment.

### ***Expected actions for a financial leasing company***

- i. When services it offers, transaction types, countries and geographic areas of transactions, customer attributes, etc., are wide-ranging, break down the associated risks into smaller categories, assess risks for each category, and reassess them by combining results of each category, so that the result of the firm-wide risk assessment is visualized in a risk map and reviewed in a timely manner.

### **(3) Risk mitigation**

#### **(i) Risk mitigation measures**

Risk mitigation is a process to conduct measures to mitigate a financial leasing company's ML/FT risks and dictates the effectiveness of the company's ML/FT risk control framework.

Under a risk-based approach, financial leasing companies are required to collect and verify information about specific customers' profiles and activities, compare that information with the results of risk assessment conducted in accordance with aforementioned (1) and (2), and determine and implement effective measures to mitigate those identified risks. <sup>(Note)</sup>

(Note) In the Guidelines, "customer due diligence" ("CDD") refers to, among other mitigation measures, a series of processes in which a financial leasing company collects and verifies information about specific customers and their activities and transactions in light of the results of its own risk assessment, compares that information with the results of the risk assessment, and determines and implements effective measures necessary to mitigate those identified risks. Apart from the approach that focuses on each customer, there are other approaches that focus on each transaction to analyze and detect unusual transactions. It is effective to combine both approaches for risk mitigation.

Risk mitigation measures must be implemented according to the level of the risks posed by each individual customer and their transactions. Enhanced measures are required when a financial leasing company finds high risks based on its own criteria, whereas simplified measures are allowed when the financial leasing company finds lower risks.

Each financial leasing company should, in accordance with risks it face, consider and implement the risk mitigation measures individually and specifically for each customer and transaction. In addition to the items listed in the Guidelines, financial leasing companies are required to devise mitigation measures commensurate with their risks while also referring to information provided by relevant domestic and foreign authorities and case examples shared through their industry associations.

#### ***Required actions for a financial leasing company***

A financial leasing company shall:

- i. Collect and verify information about customers and their activities and transactions, compare that information with the results of risk assessment, and determine and implement effective measures to mitigate those identified risks.
- ii. Undertake enhanced mitigation measures in cases where ML/FT risks are high, commensurate with the level of risks posed by individual customers and their transactions, in accordance with policies, procedures, and programs developed by the financial leasing company.

- iii. Examine updated cases and information from domestic and foreign authorities and industry associations as well as the items listed in the Guidelines, and then undertake mitigation measures commensurate with the risks the financial leasing company faces.

## **(ii) Customer due diligence (CDD)**

As noted above, “customer due diligence” (“CDD”) in the Guidelines is, among other mitigation measures, a series of processes in which a financial leasing company identifies and assesses ML/FT risks with regards to a specific customer, reviews the information about the customer and their transactions in light of the results of risk assessment, and determines the measures necessary to mitigate the identified risks, and is the core element of risk mitigation measures.

When a financial leasing company transacts with a customer, it is vital that it collects and verifies fundamental information about the customer, such as who the individuals or entities including legal arrangements or its beneficial owners are, what they do, why they would like to conduct transactions, and where their funds come from. It then needs to consider and implement appropriate mitigation measures based on such information collected and verified.

The processes of CDD may be expediently categorized into three stages: the start, continuation, and end of the business relationship. Each financial leasing company should determine and implement appropriate mitigation measures at each of the stages according to the level of risks posed by the individual customers and their transactions.

A financial leasing company shall conduct customer risk assessments for all customers, taking into account the information confirmed in these processes, as well as their size, characteristics and business status. Financial leasing companies, etc. should implement risk-based enhanced customer management (Enhanced Due Diligence: EDD) for customers that they assess to be at high risk of money laundering and terrorist financing, including those who conduct transactions with foreign Politically Exposed Persons (PEPs) (Note 1) and specified countries (Note 2). On the other hand, when it is concluded that the risk is low, consideration should be given to the efficient execution of transactions by conducting Simplified Due Diligence (SDD) in accordance with the risk.

(Note 1) Foreign PEPs as defined in each item of paragraph 3, Article 12 of the Order for Enforcement of APTCP and Article 15 of the Ordinance for Enforcement of APTCP.

(Note 2) Jurisdictions as specified in each item of paragraph 2, Article 12 of the Order for Enforcement of APTCP."

### ***Required actions for a financial leasing company***

A financial leasing company shall:

- i. Formulate a customer acceptance policy, based on the risk identification and assessment of the company, to systematically and specifically identify and determine high-risk customers and transactions and required actions for them.

- ii. When formulating the customer acceptance policies in i. above, consider customers' and beneficial owners' occupations and business activities and other various information such as their backgrounds, assets and incomes, sources of funds, countries/regions of residence, services of their use, and their forms of transactions.
- iii. Seek reliable evidence when surveying information relevant to a customer and its beneficial owner and the purpose of transaction, including identity information of the customer and beneficial owner and other information such as the occupation and business details, personal history, the state of assets and incomes, source of funds, country/region of residence, etc.
- iv. Comply with laws and regulations related to Japanese and other foreign sanctions, such as by screening the names of customers and their beneficial owners with sanctions lists compiled by the relevant authorities, and take other necessary measures according to the risks involved.
- v. Establish a framework to properly detect high-risk customers in accordance with the size and characteristics of the financial leasing company, for instance by utilizing reliable databases and filtering systems or other reasonable measures.
- vi. Conduct customer risk assessment for all the customers based on the results of the assessment of the risk of ML/FT for services, transaction types, countries/geographic areas, customer attributes, etc. (risk assessment to be conducted in II-2 (2)), and determine the mitigation measures to be taken in accordance with the customer risk assessment.
- vii. For customers determined to be of high ML/FT risk, apply enhanced due diligence (EDD) measures in accordance with the customer risk including the following:
  - a. Obtain additional information in accordance with the risk, especially that of customer's state of assets and incomes, purpose of transactions, occupation, title, and source of funds;
  - b. Obtain the approval of senior management for transactions with such customers;
  - c. Enhance transaction monitoring for transactions conducted by such customers and increase the frequency of periodic reviews of CDD information, in accordance with the risk; and
  - d. Examine the need to assign stricter customer risk ratings for other customers with similar attributes.
- viii. Additional measures, such as understanding the actual business status and geographic areas, etc., should be taken prior to the start of transactions or when conducting large transactions, in cases where there is a high risk, such as where the customer's business, geographic area, etc., is deemed to be irrational in light of the purpose of transactions, transaction pattern, etc.
- ix. For customers determined to have low ML/FT risk, give due consideration for smooth execution of transactions by implementing simplified due diligence (SDD) measures taking into account the nature of the risk, such as varying the scope, methods, and frequency of investigation and updating of customer information, while taking into account the characteristics of such risk. <sup>(Note 1) (Note 2)</sup>

(Note 1) Even in this case, financial leasing companies must comply with the laws and regulations of Japan and other jurisdictions applicable to such transactions.

(Note 2) FATF cite routine and small transactions by individuals as examples of transactions that do not require EDD.

- x. In addition to the *required actions* in “(v) Suspicious transaction reporting (STRs)” listed below, implement ongoing CDD measures including the following:
  - a. Develop and implement ongoing CDD policies that include the scope and frequency of the review on customers information taking into account the results of the company’s risk assessment and transaction monitoring with respect to transaction types and customer attributes in particular;
  - b. Continually review the appropriateness of the scope and methods of the due diligence conducted for each customer in light of the customer’s transaction status as well as the results of transaction monitoring;
  - c. Appropriately manage the records of investigations, including the communication with the customer, and share these with the relevant executives and employees;
  - d. Revisit customer information promptly when certain events occur that are assumed to increase the risk of each customer. In addition to this, the frequency of periodic customer data refresh should be different depending on the risk of the customer; and
  - e. Review and, as appropriate, update the customer risk rating and apply risk mitigation measures based on customers’ risk attributes obtained in the process of ongoing CDD. Further, conduct transaction monitoring reflecting the customer risk rating result determined through ongoing CDD.
- xi. For customers and transactions with which CDD measures a financial leasing company determines to be adequate cannot be completed, including cases where the customer refuses to provide requested CDD information, consider appropriate measures to eliminate the risk, such as rejecting the transaction. In such instances, financial leasing companies are required to assure that the customer or transaction are not refused or rejected without a legitimate reason and that AML/CFT requirements are not used as an excuse for rejecting the customer.

#### ***Expected actions for a financial leasing company***

- i. When assessing the risk of a customer who falls into the category of organization, it is required to consider ML/FT risk of not only for the organization but also for the group as a whole, including the group formed by the organization.

#### **(iii) Transaction monitoring and screening**

In addition to CDD that focuses on individual customers, there is another approach for ensuring the effectiveness of risk mitigation measures, which focuses on the transactions to reduce risks through analysis of the actual transactions and monitoring and filtering. It is essential for financial leasing companies to implement these approaches in combination to further increase the effectiveness of risk mitigation measures.

#### ***Required actions for a financial leasing company***

- i. A financial leasing company shall establish and maintain an appropriate control framework for monitoring transactions in accordance with the risk in order to detect

transactions, etc. that would lead to detecting and reporting of suspicious transactions. Such framework would at minimum cover the followings:

- (a) Set scenarios, which is for detecting unusual transactions that reflect its own risk assessment result.
- (b) Analyze the characteristics of the transactions for which a STR has been filed (line of business, geographic areas, etc.) and the effectiveness of the current transaction monitoring method (scenarios, etc.) based on the results of detection according to the criteria in (a) above and the status of STR, etc., and enhance the transaction monitoring method.

#### ***Expected actions for a financial leasing company***

- i. A financial leasing company shall establish and maintain an appropriate control framework for filtering transactions to detect sanctioned transactions. Such framework would at minimum cover the followings:
  - (a) Ensure that the sanctions lists are up-to-date, effectively managed to screen the details of transactions, and that the criteria for detecting sanctioned items are reviewed and set at an appropriate frequency according to risk.
  - (b) Take necessary measures to comply with laws and regulations pertaining to Japan and other foreign or international sanctions regimes according to their business profile and risk, such as screening a customer without delay when economic sanctions are designated by sanctions regimes such as United Nations Security Council resolutions.

#### **(iv) Record keeping**

The customer identification records and transaction records maintained by financial leasing companies not only provide the status and results of their CDD, but also represent essential information for submitting required data to the authorities and for determining the necessity for filing a suspicious transaction report.

#### ***Required actions for a financial leasing company***

- i. A financial leasing company shall maintain the records necessary to implement appropriate AML/CFT measures, including evidence relevant to customers' KYC, etc. information as well as the records of transactions and communication with the customers.

#### **(v) Suspicious transaction reporting (STR)**

Suspicious transaction reporting (STR) is a legal obligation under APTCP. Being "specified business operators" under the Act, financial leasing companies are required to fulfill their obligations to report suspicious transactions. In addition, suspicious transaction reports can be utilized to strengthen their ML/FT risk control framework by analyzing them together with other indicators.

### ***Required actions for a financial leasing company***

A financial leasing company shall:

- i. Establish programs for reviewing potentially suspicious transactions and determining whether STR is necessary, by comprehensively taking into account specific information available to the company including customer attributes and circumstances of transaction and by this way meet legal obligations and utilize the STR-related information to strengthen the financial leasing company's risk control framework.
- ii. Establish programs for monitoring, detecting and analyzing suspicious customers and transactions, utilizing IT systems/procedures fit for the business operations of the financial leasing company.
- iii. In determining whether STR is necessary or not, consider: customer attributes; a foreign PEP status; usage type of the service; possibility of concealment of the true contractor; the nature of the transaction, such as the amount and number of transactions in comparison with the customer attributes and business profile; customer behavior and attitude; inquiries or communications received from external sources related to the customers; and other circumstances, while taking into account the results of the National Risk Assessment, the Reference Cases on Suspicious Transactions, and FI's submitted STR cases.
- iv. Review and file a STR appropriately a transaction's nature such as an ongoing transaction with an existing customer or a one-off transaction with a walk-in customer
- v. Establish a framework to promptly file a report once a transaction is determined to be suspicious.
- vi. Evaluate the effectiveness of risk mitigation measures for the transactions that have been reported as suspicious, and review, and modify, if necessary, the mitigation measures applied to similar types of transactions.
- vii. For customers who are determined to be at high risk, review their risk rating, and apply risk mitigation measures as appropriate.

### **(vi) IT systems**

Utilizing IT systems including software enables a financial leasing company an integrated management of various information associated with the transactions with their customers, such as services, transaction types, countries and geographic areas, and customer attributes.

In order to properly utilize an IT system for AML/CFT, it is important to establish well designed IT systems, evaluate their effectiveness, and update them on a timely basis. These require evaluating the system from operational aspects, such as whether scenarios are adequate in light of risks being faced and whether the sanctions lists used for screening are up-to-date.

### ***Expected actions for a financial leasing company***

A financial leasing company shall:

- i. Examine the necessity of promptly introducing an IT system according to the size and characteristics of the financial leasing company's business operation, and implement the items listed in ii. to v. below for the system management.
- ii. The senior management and/or the Board shall analyze the workload related to the risk control framework of ML/FT and consider the possibility of using IT systems for more efficient, effective and timely execution.
- iii. In implementing IT systems as part of countermeasures against ML/FT, verify that the design and operation of the IT systems adequately respond to trends in ML/FT risks and are consistent with the risk control framework undertaken by themselves. In addition, regularly review and enhance, as necessary, the system.
- iv. Evaluate the effectiveness of the IT system by reviewing, through an independent assurance process, such as internal and external audits.
- v. Even in the case of outsourcing some process, analyze the characteristics of its own business and accompanying risks, and determine if additional measures are necessary.

**(vii) Data governance**

The effectiveness of IT systems can only be ensured with the accuracy of data such as customer information, customer identification records, and transaction records, each of which is used in those IT systems.

In addition to ensuring the accuracy of customer identification records and transaction records, financial leasing companies are required to appropriately manage data as a prerequisite for effective use of IT systems, by collecting and storing accurate data and organizing it into analyzable means."

***Required actions for a financial leasing company***

- i. Establish an appropriate data management method for collecting and storing data that can be used for risk assessments and evaluation of the effectiveness of risk mitigation measures, organizing it in a manner capable of analysis, and making it available for submission to authorities if required. The data includes the items below as well as the information in the customer identification records and transaction records:
  - a. Number of suspicious transaction reports filed (breakdown by country/geographic area, customer attribute, etc.);
  - b. The numbers and contents, etc., of internal audits and training (including the numbers of employees obtained relevant qualifications); and
  - c. Reports to the senior management and/or the Board on ML/FT risk control framework, and the records of their discussions.

***Expected actions for a financial leasing company***

A financial leasing company shall:



- i. Ensure the accuracy of customer identification records and transaction records and appropriately manage data as a prerequisite for the effective use of IT systems, by collecting and storing accurate data and organizing it in a manner capable of analysis.
- ii. Periodically validate integrity and accuracy of the data used for IT systems such as customer information, customer identification records, and transaction records.

#### **(4) FinTech**

New technologies such as AI (artificial intelligence), block chain, and RPA <sup>(Note)</sup> are used in various phases of AML/CFT to improve the effectiveness of controls, including the identification and verification at the time of transactions and the detection and reporting of suspicious transactions.

These new technologies are expected to be utilized to a greater extent in AML/CFT measures. Financial leasing companies are expected to examine the benefits of new technologies, as well as their effectiveness as necessary and explore the possibility for leveraging them for increased sophistication and streamlining of AML/CFT controls, taking into account the practices of other financial leasing companies and issues surrounding the introduction of new technologies.

(Note) Robotic process automation: Using program or technology such as artificial intelligence to automate routine jobs such as document preparation and data input.

#### ***Expected actions for a financial leasing company***

- i. Examine the benefits and effectiveness of new technologies as necessary, explore the possibilities for leveraging them for increased sophistication and streamlining of AML/CFT controls, taking into account the practices of other companies and issues surrounding the introduction of new technologies.

### **III Evaluation and Review of the ML/FT Risk Control Framework and its Effectiveness**

In order to ensure the effectiveness of AML/CFT measures, financial leasing companies are required to establish an effective ML/FT risk control framework by formulating their policies, procedures, and programs, and implement them consistently throughout the organization with the involvement of the senior management and/or the Board.

Financial leasing companies are required to regularly evaluate the effectiveness of their AML/CFT that are based on those policies, procedures and programs, and to make constant efforts to improve effectiveness of the AML/CFT measures based on such evaluation and through necessary revisions.

In order to establish such firm-wide risk control framework, a robust governance structure must be built, with the understanding and active involvement of the senior management and/or the Board, including the appointment of an executive with the responsibility and authority to implement AML/CFT measures, and clear definition of the roles and responsibilities of each division.

In addition, a financial leasing company that belongs to a financial group or operates globally is required to formulate AML/CFT policies, procedures, and programs, and apply them consistently across the groups and globally, taking into account the differences in the business profiles of group entities, and the countries and geographic areas in which they operate.

Furthermore, the effectiveness of AML/CFT measures depends on how well the executives and employees understand the policies, procedures, and programs. Financial leasing companies are required to ensure that employees have required expertise and fitness through recruitment and training.

### **III-1 Formulation, implementation, evaluation, and review of AML/CFT policies, procedures and programs (PDCA)**

Financial leasing companies are required to prepare AML/CFT policies, procedures, and programs and disseminate them throughout the organization in order to establish an effective ML/FT risk control framework and to function effectively.

Such policies, procedures, and programs must be designed to ensure the effectiveness of the AML/CFT measures commensurate with the risks the financial leasing company faces and clearly define the sequential processes of identifying, assessing, and mitigating the risks, taking into account the company's size and characteristics.

In addition, a financial leasing company is required to evaluate the effectiveness of such policies, procedures, and programs, and revise them on an ongoing basis.

To evaluate the effectiveness of each process of identification, assessment, and mitigation of risks, it is important that executives responsible for and divisions in charge of AML/CFT conduct regular monitoring, while the internal audit division verifies how executives and employees of each division and office are familiarized with the company's AML/CFT measures.

Based on the result of this evaluation, a financial leasing company is required to reexamine possibilities of further improvements in the measures for each process and risk control framework, and to enhance the policies, procedures, programs, and risk control framework for the identification, assessment, and mitigation of risks.

#### ***Required actions for a financial leasing company***

A financial leasing company shall:

- i. Formulate AML/CFT policies, procedures and programs considering the risks in light of the business sector of the company and geographic area in which it operates as well as the trend of ML/FT, and apply specific approaches and practices of customer acceptance policies, CDD,
- ii. Conduct ongoing evaluation on effectiveness of the policies, procedures, and programs for identifying, assessing, and mitigating risks, taking into account the results of monitoring of each division and office.
- iii. Consider the need to improve risk mitigation measures, including whether or not to offer such products/services, or to implement further measures, depending on the risk

- appetite of a one's own company and the impact on it, etc., by assessing residual risks after risk mitigation measures have been taken.
- iv. Have the control division and internal audit division evaluate the effectiveness of the risk control framework, taking into account internal information, whistle-blowing reports and questions from employees.
  - v. If, as the result of the aforementioned evaluation of effectiveness, possibilities of further improvements are identified, enhance the policies, procedures, programs, and risk control framework, for the identification, assessment and mitigation of risks.

***Expected actions for a financial leasing company***

- i. Establish, as appropriate, a department solely dedicated to implementation of AML/CFT measures, taking account of the company's size, characteristics, and business operations and other factors.
- ii. Similarly, undergo a review by an external expert, as appropriate.
- iii. Prior to appointing external experts, the adequacy and competence of the external experts shall be reported to and approved by the senior management and/or the Board when receiving reviews by external experts for the review and assessment of the risk control framework system for ML/FT. In addition, the internal audit department shall conduct post-evaluation of the suitability and capability of external experts, etc. as necessary.

**III-2 Involvement and understanding of the senior management and/or the Board**

The level of ML/FT risks faced by a financial leasing company varies according to the way it operates based on their business strategy. Therefore, ML/FT risks must be assessed in the context of the company's business strategy, as part of the processes of evaluating and reviewing risk appetite and resource allocation policy.

Failure to implement effective AML/CFT measures leads to a management problem such as reputational damage.

Furthermore, "tone at the top" is critical to increase the awareness of AML/CFT measures among the executives and employees including the business divisions. The senior management and/or the Board must therefore have a keen awareness of AML/CFT based on proper understanding of the risks mentioned above, and demonstrate its commitment and clear policy, to promote enhancement of measures throughout the organization from the top down.

In light of this, the senior management and/or the Board of financial leasing companies, etc., shall take a leading role in promoting the enhancement of their own countermeasures against ML/FT.

***Required actions for a financial leasing company***

- i. Recognize AML/CFT as one of the most important strategic issues.
- ii. Appoint an executive responsible for AML/CFT measures of the company granting the authority necessary to fulfill the responsibilities.

- iii. Establish programs by which necessary information is provided to the executive responsible for AML/CFT in a timely and appropriate manner so that the executive can explain the financial leasing company's AML/CFT measures to internal and external related parties.
- iv. In view of the importance of AML/CFT, allocate adequate resources such as personnel with expertise and sufficient budget to the division responsible for AML/CFT.
- v. Establish programs for coordination between the executives and divisions involved in AML/CFT.
- vi. Ensure that the senior management and/or the Board approves the design and review of policies, procedures, and plans for countermeasures against ML/FT, and the senior management and/or the Board takes the initiative in the implementation of such policies, procedures, and plans by receiving reports on a regular and ad hoc basis and holding discussions as necessary.
- vii. Ensure that the senior management and/or the Board participates or is otherwise proactively involved in AML/CFT training for the senior management and/or the Board and employees.

***Expected actions for a financial leasing company***

- i. Ensure that an appraisal and remuneration systems appropriately reflect compliance records and contributions of executives and employees to AML/CFT measures.

**III-3 The senior management and/or the Board and control: three lines of defense**

Financial leasing companies are required to establish effective ML/FT risk control framework in accordance with the size and characteristics of their business operations. It is important that the senior management and/or the Board takes responsibility for defining the roles and responsibilities of the business divisions, control and audit divisions in the fight against ML/FT, and implement measures in a coordinated manner.

One way of clarifying the roles and responsibilities of each division is defining the functions of business divisions, control and audit divisions under the concept of "three lines of defense."

In the following sections, the functions in the ML/FT risk control framework by financial leasing companies are defined under the concept of three lines of defense and expected actions are provided. Each financial leasing company may formulate its risk control framework under a different model, including outsourcing, depending on the characteristics of its business operations. In such instances, those financial leasing companies are required to design programs that achieve the same level of effectiveness that is required with the expected actions.

## **(1) First line of defense**

The first line of defense (“the first line”) is the business division. Offices and the business divisions that are engaged in business activities serving customers are the front line to face ML/FT risks first and therefore play a primary role in prevention of ML/FT.

In order for the first line to function effectively, all employees belonging to the first line must engage in day-to-day business operations with a correct understanding of ML/FT risks.

Financial leasing companies are expected to take measures necessary to promote the first line’s understanding of the ML/FT risks associated with their operations, in light of the nature of such operations, for example, by formulating and disseminating AML/CFT policies, procedures, and programs, and by providing training to raise awareness.

### ***Expected actions for a financial leasing company***

A financial leasing company shall:

- i. Ensure that all employees belonging to the first line have sufficient understanding of the AML/CFT policies, procedures, and programs applicable to their division and duties, and properly implement the mitigation measures commensurate with the risks.
- ii. Provide a clear and easy-to-understand description for employees of their obligations and instructions in the AML/CFT policies, procedures, and programs, and communicate them with all employees of the first line.

## **(2) Second line of defense**

The second line of defense (“the second line”) is control divisions such as compliance and risk control framework. The second line independently checks the autonomous risk controls by the first line, and at the same time supports the first line in implementing controls.

For the purpose of AML/CFT risk control framework, control divisions include the main division in charge of AML/CFT, and the human resources division in charge of hiring and retaining personnel with expertise.

In order to fulfill the roles for supporting and checking the first line, the control divisions are expected to possess knowledge relating to business of the first line as well as correct understanding of the ML/FT risks inherent to the business.

### ***Expected actions for a financial leasing company***

A financial leasing company shall:

- i. Monitor independently whether the ML/FT risk control framework is functioning effectively, for example, by checking compliance by the first line with AML/CFT policies, procedures and programs, and evaluating the effectiveness of mitigation measures implemented by the first line.

- ii. Provide sufficient support to the first line, for example, by providing information and responding to questions relating to ML/FT and by advising on specific measures.
- iii. Clarify the roles and responsibilities of the division in charge of AML/CFT and all other divisions involved in AML/CFT, and share the understanding of the roles and responsibilities of each division. In addition, establish a collaborative environment between the division in charge of AML/CFT and other divisions, and ensure close communication and coordination.
- iv. Allocate employees with sufficient knowledge and expertise of AML/CFT to control divisions.

### **(3) Third line of defense**

The third line of defense (“the third line”) is the internal audit division. The internal audit division is expected to independently verify whether the first line and the second line are functioning appropriately and whether there is any possibility for further enhancement on a regular basis.

In addition, the internal audit division is expected to independently give an assurance on the effectiveness of firm-wide AML/CFT policies, procedures, and programs; raise issues if any; and advise on the necessity for reviewing the policies, procedures and programs or for enhancing the measures.

#### ***Expected actions for a financial leasing company***

A financial leasing company shall:

- i. Formulate an audit plan that includes the following items in an audit scope and conduct audits adequately:
  - a. Appropriateness of the AML/CFT policies, procedures, and programs;
  - b. The expertise and competency of employees in charge of implementing such policies, procedures, and programs;
  - c. The effectiveness of employee training;
  - d. The status of detection of unusual transactions in the business division;
  - e. Operating status of IT systems including the effectiveness of detection standards; and
  - f. The status of the implementation of risk mitigation measures for detected transactions and of STR.
- ii. Ensure that the scope, frequency and approaches of audits are appropriate in light of the ML/FT risks being faced.
- iii. Take necessary measures for business operations other than those assessed to have high risk. For example, instead of uniformly excluding such operations from the audit scope, conduct audits by adjusting the frequency and depth.
- iv. Report the results of the internal audits conducted by the internal audit division to the corporate auditors and the senior management and/or the Board, and follow up on the audit results and advise on improvements.

- v. Allocate employees with the sufficient knowledge and expertise of AML/CFT to the internal audit division.

#### **III-4 Group-wide risk control framework**

A financial leasing company that belongs to a financial group is required to formulate group-wide AML/CFT policies, procedures and programs, and apply them consistently across the group, taking into account the differences in the business sectors of group entities, and the countries and geographic areas in which they operate.

In particular, where a financial leasing group operates through overseas offices, it is required to recognize the difference in the geographic, political, and other environments between Japan and the foreign jurisdictions, establish group-wide programs consistently and apply across the group in consideration of such differences to ensure the effectiveness of the AML/CFT measures.

Moreover, it should be noted that differences in AML/CFT requirements and information protection regulations between Japan and foreign jurisdictions may make it difficult to share information necessary for effective implementation of AML/CFT measures.

Therefore, a financial leasing group that operates through overseas offices is required to establish risk control framework consistently applied on a group basis and exercise appropriate oversight of the business operators within the group, taking into account such differences as well as the practices of other groups that are operating globally. This is particularly relevant for financial leasing groups in which their overseas operations represent a large proportion of their business or those which recognize the operations as strategically important, given rapidly increasing calls for stricter AML/CFT measures.

Japanese offices of foreign financial leasing companies are required to fulfill accountability to the Japanese authorities and other related parties for their ML/FT risk control framework of the group as a whole.

#### ***Required actions for a financial leasing company***

A financial leasing company shall:

- i. Formulate group-wide AML/CFT policies, procedures, and programs consistently applied across the group, and implement customer acceptance policy, specific CDD measures and record-keeping standard in a consistent manner throughout the entire group, in consideration of its business profiles and geographic areas in which it operates.
- ii. Establish programs for information sharing within the group required for group-wide risk assessments and for ensuring the effectiveness of AML/CFT measures.
- iii. Where a financial leasing group operates through overseas offices, implement risk mitigation measures appropriate for the group as a whole, in compliance with each AML/CFT regulation applicable to its corresponding overseas operations and by allocating personnel in line with the risks, based on the identification and assessment of risks visualized through these processes and inherent to each overseas office.

- iv. Where a financial leasing group operates through overseas offices, in order to implement the AML/CFT measures consistently across the group in a timely and appropriate manner, establish programs that enable sharing of necessary information and consolidated risk control framework, including the information about the customers and transactions involved in unusual transactions and the results of analyses as well as the status of STR, based on proper understanding of the information protection regulations applicable to overseas offices and the stance of local regulators. (The necessity of such programs must be understood when formulating a business strategy for overseas operation.)
- v. Where a financial leasing group operates through overseas offices, if the AML/CFT requirements of the jurisdiction in which each overseas office operates are less strict than those of Japan, apply and implement the group-wide policies, procedures and programs to those overseas offices in a consistent manner. If this is not permitted by the local regulation, inform the METI. <sup>(Note)</sup>  
 (Note) If the requirements of a foreign jurisdiction are stricter than those of Japan, the local requirements must be followed.
- vi. In the case of Japanese offices of foreign financial leasing groups, fulfill accountability to the authorities and other related parties for the ML/FT risk control framework of the group as a whole.

### **III-5 Human resource development**

In order to ensure the effectiveness of ML/FT risk control framework, employees of offices and various other divisions must have the expertise and competency required for their roles, to properly implement policies, procedures, and programs prescribed by the senior management and/or the Board.

Financial leasing companies are required to deepen their employee's understanding of AML/CFT measures, and maintain and improve expertise and competency for the entire organization, by hiring and training employees with such expertise and competency necessary for their roles through provision of appropriate training (including the status of relevant qualifications obtained) on an ongoing basis.

#### ***Required actions for a financial leasing company***

A financial leasing company shall:

- i. Continually evaluate that the employees involved in AML/CFT measures have the knowledge and expertise required for such role, along with the competency to properly implement the measures including the identification and verification at the time of transactions and other measures after training.
- ii. In order to ensure that the employees have a proper understanding of specific CDD procedures including the identification and verification at the time of transactions according to their role, provide easy-to-understand material that helps them become familiar with the procedures, and other appropriate training on an ongoing basis.
- iii. Analyze and examine whether the contents of such training are consistent with the risks being faced, whether they are in line with the latest laws and regulations, and information from authorities and industry associations and whether there is room for improvement from the perspective of dissemination.



- iv. Evaluate the effectiveness of training, by examining whether the procedures outlined in the training content are being followed, and by following up with the employee. Review the number of participants, frequency, status, and content of training, etc., as necessary, taking into account any emerging risks.
- v. Deepen the risk awareness of the business division, for example, by sharing the information about the firm-wide STR status and providing responses to questions, and by ensuring the information be available to each employee within the business division.

***Expected actions for a financial leasing company***

- i. Where a financial leasing group operates through overseas offices, in addition to creating and distributing materials on risk assessment methodologies for the employees in charge of conducting risk assessment in each overseas office, provide training about the importance of risk assessment and the correct way of assessing risks, taking into account the unique and specific situation of such office, and review the contents of such training on an ongoing basis.
- ii. Where a financial leasing group operates through overseas offices and the overseas operations are strategically important for the company, establish programs for supporting the employees in charge of AML/CFT measures to undergo effective training and obtain relevant qualifications in relation to international trends concerning ML/FT.

**IV Monitoring and Public Private Partnership**

**IV-1 Monitoring by the Ministry of Economy, Trade and Industry**

As noted earlier, the METI effectively monitors AML/CFT measures that financial leasing companies undertake taking into account the Guidelines, shares the outcome from the monitoring with individual companies and industries, urges them to enhance ML/FT risk control framework, and takes necessary supervisory actions.

The METI focuses on substantive ML/FT risks. Therefore, the METI collects and integrates available information to identify and assess the ML/FT risks of each business category and those of each individual financial leasing company in respective industries, with a holistic review.

Based on the assessment, the METI conducts effective and efficient monitoring by allocating resources according to the level of the identified and assessed ML/FT risks. In the aforementioned processes of identifying and assessing ML/FT risks, the METI considers the characteristics of financial leasing companies, as well as international trend relating to ML/FT. The METI utilizes these factors to conduct a forward-looking monitoring.

In order to conduct the aforementioned identification, assessment and analysis of ML/FT risks, objective data such as quantitative and qualitative information are necessary. The METI further improves the effectiveness of its risk-based monitoring by collecting the below-listed information from financial leasing companies in addition to already available data, and conducting interviews or other qualitative researches about their internal

control. In order to effectively conduct such monitoring, the METI develops expertise of specialists including employees of the Local Finance Bureaus and increases the number of employees with expertise through further recruitment of external experts.

- ✓ Number of STRs filed (breakdown by country/geographic area, customer attribute, etc.);
- ✓ Implementation status of internal audits; internal and external training, that also include the status of relevant qualifications obtained by officers and staff employee;
- ✓ AML/CFT Risk assessment that a financial leasing company is required to prepare under this Guidelines; and
- ✓ Reports to the senior management and/or the Board on ML/FT risk control framework, and the records of discussions.

That information is also useful for a financial leasing company to conduct identification and assessment of its ML/FT risks under its risk-based approach. A financial leasing company is thus expected to accumulate, organize, and utilize information necessary for their risk analyses including information listed above to improve the effectiveness of its risk-based approach.

The METI proactively shares cases collected through the monitoring process and information obtained from foreign authorities with financial leasing companies and industry associations to improve the overall level of AML/CFT of Japanese financial leasing companies.

Article 3, paragraph 3 of APTCP stipulates that the National Public Safety Commission publishes the Japanese NRA concerning the risks of transfer of criminal proceeds in Japan. The METI, as the supervisory authority of financial leasing companies, monitors financial leasing companies with the risk-based approach, taking into account the NRA.

#### **IV-2 Public private partnership and cooperation with relevant authorities**

In order to address increasing ML/FT risks and ensure the soundness of Japan's entire financial leasing industry, it is necessary, in addition to the actions of individual financial leasing companies, that relevant ministries and agencies, industry associations, financial leasing companies coordinate and cooperate to address the ML/FT risks.

In particular, it is important to follow developments on international discussions and advanced practices in order to swiftly address ever-changing ML/FT trends. However, that information may, in some cases not be easily obtained by an individual financial leasing company, and thus information gathering by the individual company may be inefficient for accumulating the knowledge to address the ML/FT risks."

Under such circumstances, the METI enhances information collection through increased coordination with industry associations, relevant ministries and agencies, and foreign authorities, and shares with financial leasing companies good practices obtained through the coordination and the useful cases obtained through monitoring activities. In addition

to the coordination with business associations, the METI engages in and undertakes ongoing dialogue with individual financial leasing companies, in order to facilitate continuous examination of AML/CFT-related issues, solutions, and improvement among financial leasing companies and industries.

Meanwhile, industry associations need to play a central role in providing member financial leasing companies with information on the latest trends, issues and actual cases or possible solutions to address the issues, and overseas useful practices regarding AML/CFT, and in supporting the implementation and the improvement of AML/CFT for those financial leasing companies.

At the same time, to further facilitate smooth communication between the public and the private sector, the METI continues to review its approaches of monitoring and outreach reflecting discussions with industry association and individual financial leasing companies.