



Real Estate Sector

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Contents of presentation



- **Customer Due Diligence (CDD)**
- **Customer risk assessment and risk rating**



I. CDD



Customer Due Diligence

CDD plays a crucial role in achieving the objective of the AML/CFT state ordinance, i.e. to prevent and combat money laundering and terrorist financing.

Sound CDD measures are vital because they:

- help to protect the real estate company and the integrity of the sector in which it operates by reducing the likelihood of becoming a vehicle for, or a victim of, financial crime; and
- assist law enforcement, by providing available information on customers or activities and transactions being investigated – following an unusual transaction report to the MOT.



I. CDD (cont'd)



Since the enactment of the AML/CFT State Ordinance all real estate companies should perform customer due diligence on its clients as meant in article 6 of the AML/CFT State Ordinance.

The real estate company should tailor the customer due diligence to the risk sensitiveness to money laundering or terrorist financing.

Each customers should be categorized in to:

- Low risk
- Medium risk or
- High risk



I. CDD (cont'd)

CDD measures

The AML/CFT State Ordinance requires the application of:

- Basic CDD measures;
- Enhanced CDD measures; and
- Simplified CDD measures.



I. CDD (cont'd)



Basic CDD measures

The basic CDD measures involve:

- Identifying the customer and verifying the customer's identity.
- Identifying the UBO and taking reasonable measures to verify the identity of the UBO.
- Identify any third parties on whose behalf the customer is acting.
- Determining the purpose and intended nature of the business relationship.
- Keeping the above information up to date, and monitoring the business relationship.



I. CDD (cont'd)



Enhanced CDD measures

Enhanced CDD involves:

- Requiring more than 1 verification documents
- Requesting additional information, from independent sources etc.



I. CDD (cont'd)



Simplified CDD measures

Simplified CDD involves:

- Requiring 1 verification document.



I. CDD (cont'd)



When to apply CDD measures??

Pursuant to article 8 of the AML/CFT State Ordinance, a real estate must apply CDD measures BEFORE entering into a business relationship or BEFORE carrying out an occasional transaction.



I. CDD (cont'd)



The CDD process in 7 steps

1. Applicability of CDD requirements
2. Identification
3. Verification
4. Ultimate Beneficial Owner (UBO)
5. Politically Exposed Person (PEP)
6. Relationship information and risk assessment
7. Monitoring and review



The 7 steps of CDD



Step 1

When are the CDD measures required?

For all Real estate companies:

At the purchase and sale in or from Aruba of register objects, as well as the rights to which these objects can be subjected (no threshold applicable).



The 7 steps of CDD (cont'd)



Step 2

Identification

Collect relevant identification information on a customer:

- Natural person: the surname, given names, date and place of birth, and address.
- Legal person: the legal form, name under the Articles of Association, trade name, address, and, if the legal person is listed with the Chamber of Commerce, the registration number, and of the persons acting on behalf of the legal person the surname, given names, and date of birth.
- Record and retain the information collected.



The 7 steps of CDD (cont'd)



Step 3

Verification

To verify the customer's identity reliable documents, data or information from a reliable and independent source should be used, for example:

- Resident natural person: passport, driver's license or identity card.
- Non-resident natural person: passport.
- Domestic legal person: company registry extract.
- Foreign legal person: documents, data, or information that is reliable and internationally accepted or recognized by law in the state of origin of the customer as a valid means of identification.



The 7 steps of CDD (cont'd)



Lower risk – information to be verified

- Legal name;
- Principal residential address.

Using at least one identification verification method.

Medium risk – information to be verified

- Legal name;
- Principal residential address;
- Place of birth;
- Nationality; and
- Sex.

Using at least two identification verification methods.



The 7 steps of CDD (cont'd)



Higher risk – information to be verified

- Legal name;
- Principal residential address;
- Place of birth;
- Nationality; and
- Sex;
- Government issued personal identification number.

Using at least two identification verification methods.



The 7 steps of CDD (cont'd)



Step 4

Ultimate Beneficial Owner (UBO)

Is the customer a legal person???

Then the UBO must be identified and his identity must be verified.

UBO = a natural person:

- a. Who holds an interest of more than 25% of the capital interest or can exercise more than 25% of the voting rights in the shareholders meeting of a customer, or can in another way exercise actual control over such a customer;
- b. Who is beneficiary of 25% or more of the assets of a legal arrangement, including a foundation and a trust, or can exercise actual control over such a legal arrangement



The 7 steps of CDD (cont'd)



Step 5

Politically Exposed Person (PEP)

PEP = a person who holds or held a prominent public position, as well as direct family members and direct associates of such a person

Is a customer or a UBO a PEP???

- Check internet, reliable (inter)national PEP-lists or other reliable information sources.
- Senior management approval is required to enter into the business relationship or perform the transaction.



The 7 steps of CDD (cont'd)



Step 6

Relationship information and risk assessment

Higher risk customers trigger more sophisticated CDD measures, including more far-reaching verification methods.

To establish an adequate customer risk profile, the real estate company should assess:

- The purpose and intended nature of the business relationship.
- The nature of the transaction.
- The source and destination of the funds or other assets involved in the business relationship or transaction.



The 7 steps of CDD (cont'd)



The real estate company thus collects information from the customer: What does the customer want, and why, and does this make sense?

The customer risk profile will enable a real estate company to:

- identify a pattern of expected business activity and transactions within each business relationship; and
- identify unusual or higher risk activity and transactions that may indicate money laundering or terrorist financing activity.



The 7 steps of CDD (cont'd)



Step 7

Monitoring and review

Ongoing attention should be paid to the risk profile of a customer and monitored whether the transactions are consistent with the expected business activity and transactions.

If this is not the case, updating of the customer risk profile may be required. Self-evidently, real estate will consider whether the filing of an unusual transaction report to the MOT is required.



II. Client risk rating



Customer risk assessment and risk rating



II. Client risk rating(cont'd)



Risk assessment

Determining the potential money laundering or terrorist financing risks posed by a customer, or category of customers, is critical to the development and implementation of an overall risk-based framework. Based on its own criteria, the real estate company should determine whether a particular customer poses a higher risk and the potential impact of any mitigating factors on that assessment.

For example customers that are associated with higher risk countries, as a result of their citizenship, country of business, country of residence, etc. require enhanced CDD measures, depending upon their overall risk profile taking into account all other relevant factors.



II. Client risk rating(cont'd)



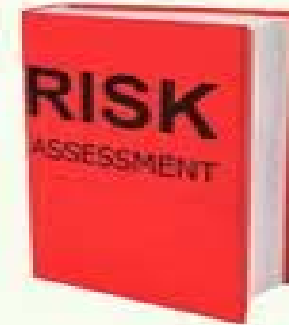
CDD Measure	Timing
Basic	Always
Enhanced	<ul style="list-style-type: none"> - Customer is not a resident of Aruba - Customer is not physically present for identification - Customer is a legal person, trusts and comparable entities that are intended as private assets holding vehicles - Customer is a PEP - Customer is a natural person, legal person, trusts and comparable entities that originate from countries or jurisdictions which do not or insufficiently apply the internationally accepted AML/CFT standards
Simplified	<ul style="list-style-type: none"> - Customer is a regulated entity - Customer is a public limited company of which all shares are held by the State of Aruba - Customer is The country of Aruba - Customer is a Public legal person - established and active in other parts of the Kingdom of the Netherland



II. Client risk rating(cont'd)



- **Customer risk**
- **Product/ Service risk**
- **Country risk**



II. Client risk rating(cont'd)

Customer risk



- **Type of customer.**
A PEP will present a higher risk.
- **Nature and scope of business activities generating the funds/assets.**
 - A customer conducting activities which are prohibited if carried on with certain countries;
 - A customer engaged in higher risk trading activities;
 - Or a customer engaged in a business which involves significant amounts of cash, may also indicate higher risk.
- **Customers who have no address, or multiple addresses, without legitimate reasons.**



II. Client risk rating(cont'd)



- **Transparency of customer.**
Customers where the structure or nature of the entity or relationship makes it difficult to identify the true UBOs may indicate higher risk.
- **Unwillingness or reluctance to provide information.**
- **Reputation of a customer.**
A well known, reputable person, with a long history in its industry, and with abundant independent information about it and its UBOs may indicate lower risk.



II. Client risk rating(cont'd)



- **Behavior of a customer.**
 - Where there is no commercial rationale for a customer buying the products that he seeks, where a customer requests undue levels of secrecy, where a customer appears to be structuring a transaction in various smaller transactions below the designated thresholds in an attempt to avoid the filing of an unusual transaction report (also known as smurfing);
 - Or where it appears that an “audit trail” has been deliberately broken or unnecessarily layered, a customer may indicate higher risk.
- **Type and complexity of relationship.**

Unexplained use of corporate structures and express trusts or foundations, and use of nominee and bearer shares may indicate higher risk.



II. Client risk rating(cont'd)



Product or service risk

- **Speed of the transaction.**
Transactions that are expedited without a reasonable explanation, may be higher risk.
- **Successive transactions.**
Especially of same property in short period of time with unexplained changes in value.
- **Introduction of unknown parties at a late stage of transactions.**
For example arrangements made between purchasers.



II. Client risk rating(cont'd)



- **Third-party vehicles.**
For example trusts used to obscure true ownership of buyer.
- **Under- or over-valued transactions.**
- **Property value does not match with the profile of the customer.**
- **Unusual sources, e.g. funds obtained from unknown individuals or unusual organizations.**



II. Client risk rating(cont'd)



Country risk

Residence in or connection with higher risk jurisdictions

The following jurisdictions present a higher risk:

- those that are generally considered to be un-cooperative in the fight against money laundering or terrorist financing;
- those that have inadequate AML/CFT safeguards in place;
- those that have high levels of organized crime;
- those that have strong links (such as funding or other support) with terrorist activities;
- those that are vulnerable to corruption; and
- those that are the subject of UN or EU sanctions measures or prescribed persons or organizations listed by the OFAC.



The Real Estate Sector



Together we will achieve the objective we strive for.....

Which is...

Combat money laundering and terrorist financing



The Real Estate Sector



Questions???



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Thank you



CENTRALE BANK VAN ARUBA

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33