

GCFFC Press Release

Former Regulators EXPERTS WORKING GROUP PAPER

IMPROVING SUPERVISORY EFFECTIVENESS - 10 KEY ENABLERS & 40 KEY TAKEAWAYS - FOR CONSULTATION

FOR THE FULL PAPER SEE HERE:

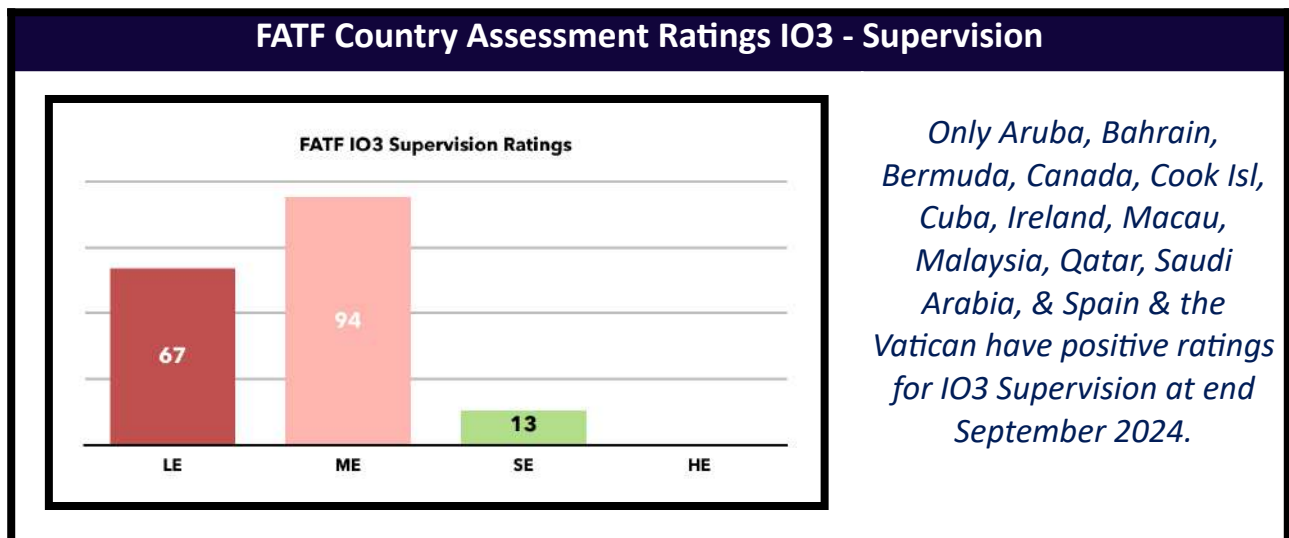
FOR THE SHORT PRESENTATION SEE HERE:

Effective supervision is not an exact science & cannot be strictly defined, or considered as something that can be taken *“off the shelf”* and is expected to work and operate effectively, repeatedly and without many years & cycles of operation. It is for most countries a journey, which starts with legacy regulators & regulations, updated to reflect AML/CTF global standards, new rules & regulations, or even with newly installed regulators and coverage of sectors new to regulation. In time, regulation & regulators can evolve from a relatively basic coverage & limited capabilities for licensing and authorisations, supervision & sanctions, to more effective approaches where experience & confidence is gained, & a focus on technical compliance via an audit style approach can evolve into a more risk based understanding of the ML/TF threats & how these are being addressed & where the regulator has a positive influence/impact on the regulated sector, & even on other AML/CTF stakeholders.

“Expectations for supervision should remain realistic & no one expects “Super Vision”, but superior levels of effectiveness, insights & actions can be achieved using the key enablers & key takeaways promoted by the Experts” - GCFFC Experts

1.1 FATF Assessment & Commentary on Supervisory Effectiveness

According to the FATF Country Assessments of Immediate Outcome 3 Supervision, the need for most countries to continue on their journey towards improving effectiveness in supervision is clear - (see chart below).



According to the FATF Methodology in 2023, a country’s supervisory regime is based on a number of success factors which include licensing, ML/TF risk understanding, use of sanctions and communication etc

but its much more than compliance with AML/CTF requirements. According to FATF, compliance is not enough, as compliance also needs to mitigate the ML/ TF risks. For example one of 6 main factors states:

- *“with a view to mitigating the risks, how well do supervisors, on a risk sensitive basis, supervise or monitor the extent to which FI’s are complying with their AML/CFT requirements?”*

It’s also not enough that for example FI’s are effective as described above, but are effective not least due in part because of the impact from supervisors. For example another factor states:

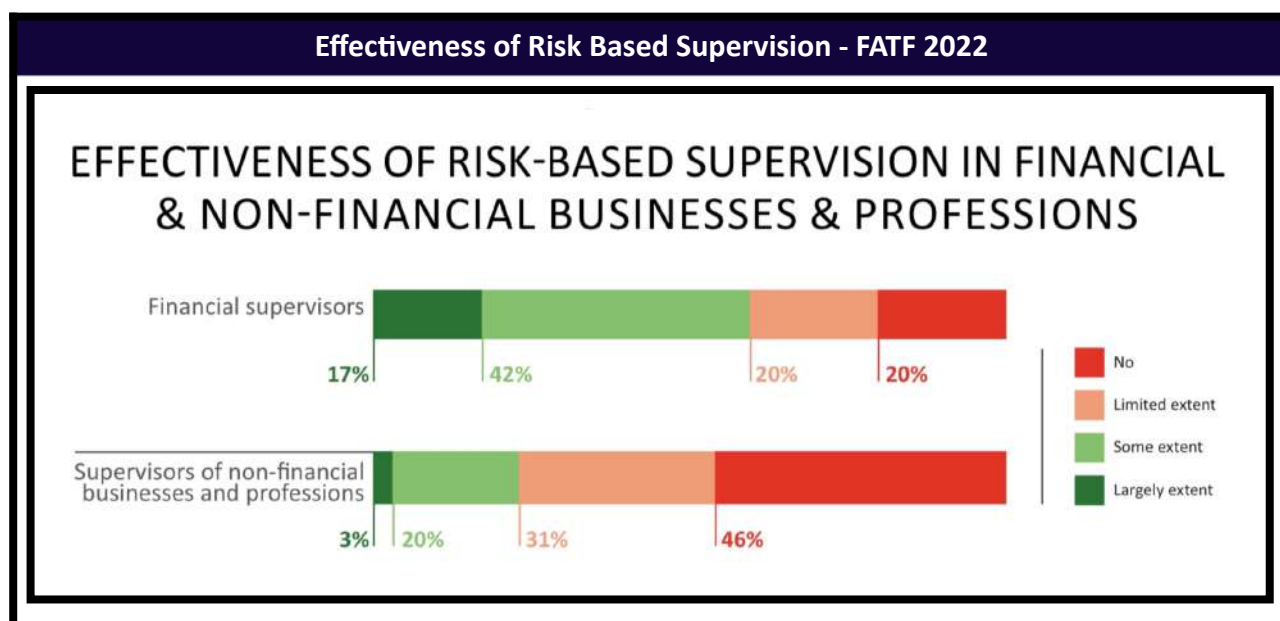
- *“to what extent are supervisors able to demonstrate that their actions have an effect on compliance by financial institutions?”*

In FATF’s own Risk Based Approach to Supervision 2021¹ Report, it states that, “AML/CFT Supervisors play an essential role in protecting the financial system and other sectors from misuse by criminals and terrorists by:

- *increased FI’s awareness and understanding of the ML/TF risks and setting regulatory obligations and facilitating and encouraging good practices*
- *enforcing and monitoring compliance with AML/CTF obligations and*
- *taking appropriate measures where deficiencies are identified”*

Also that *“In order to perform this function effectively and efficiently, supervisors must implement a risk based approach. An RBA involves tailoring the supervisory response to the assessed risks. Tailoring supervision to address the relevant ML/TF risks will reduce the opportunities for criminals to launder their illicit proceeds and terrorists to finance their operations and improve the quality of information available to law-enforcement authorities. It will also ensure that supervisory activities do not place an unwarranted burden on lower risk sectors, entities, and activities. This is crucial for maintaining or increasing financial inclusion which could reduce overall ML/TF risks by increasing transparency”.*

In FATF’s Report on the State of Effectiveness and Technical Compliance 2022², one of the 5 main improvements countries could do *“to improve supervision”*, was to, *“adjust the nature & focus of supervisory activity to the identified ML/TF risks & national context. This may include longer, more in depth and frequent supervisory activity, as well as more nuanced supervisory plans for different sectors, depending on ML/ TF risks”*. Another was to *“transition from a rule-based to a risk-based approach”*. The 2022 effectiveness report assessed progress being made by supervisors to move to this risk based approach.



The FATF also stated in this 2022 effectiveness report (based on a sample of 59 countries³), that:

- *“Across both financial and non-financial sectors, supervisors are overall struggling to effectively implement a risk-based approach. In the analysed sample, as the graph above highlights, just 17% of financial institutions’ supervisors and 3% of designated non-financial business and practise (DNFBP) supervisors had been able to do so to a large extent”* - see chart above.

The 2022 report also stated that a *“transition from a rule-based to a risk-based approach takes time”* AND, *“it also requires a change in the supervisory culture, & investment in capacity building & training of staff”*

In FATF’s 2022 report, countries that performed well in respect to “Supervision” demonstrated many of the below traits, that:

- *“Supervisors have a good/very good understanding of risks, with regularly updated sectoral risk assessments;*
- *Supervisors use a combination of tools to identify and understand risk, including offsite and onsite actions;*
- *Regulations cover most or all designated DNFBP’s (with supervisors monitoring their implementation);*
- *Supervisors co-operate on a domestic and international basis;*
- *Supervisors apply the risk-based approach to a large extent for Financial Institutions, and for designated non-financial businesses and professions;*
- *Supervisors have access to a range of sanctions, or which many are considered effective; and*
- *Supervisors are conducting outreach activities to the private sector on a regular basis to support understanding and implementation of obligations”*

1.2 BCBS/EBA - Other Supervisory Expectations

FATF reviews are the only publicly available independent information source that assesses the performance of supervisors, albeit against ML/TF expectations, but they are not the only standard setter that is interested in supervision. FATF has relied to a large extent on the formative work of the Basel Committee on Banking Supervision (BCBS) which published “Guidelines - Sound management of risks related to ML/TF 2020”⁴, updating previous work that dates back decades, and the EBA’s Risk Based Supervision Guidelines most recently updated in November 2023⁵, which provides rich content particularly on what risk based AML/CTF supervision looks like.

1.3 GCFFC Supervisory Experts propose 10 key enablers and 40 key takeaways

In response to the challenges countries are facing in converting progress in largely achieving positive technical compliance results, into positive supervisory effectiveness ratings in FATF assessments, GCFFC Experts have identified a number of important success factors or key enablers and from these key takeaways, which, if adopted, could make a real difference and help to improve effectiveness in ratings for supervisors. Having considered reports from the FATF, BCBS and supranational institutions like the EU as regards AML/CTF supervision, and based on personal knowledge and expedience, the GCFFC Experts stress the importance of these key enablers and key takeaways which if considered and implemented, where still needed, could help significantly improve supervisory effectiveness. These Key Enablers and Key Takeaways are also supported by Explanatory Notes set out in the Appendix.

1.4 Consultation

The GCFFC and its Experts are publishing this paper, as a consultation draft, and intend to engage and discuss with all interested stakeholders these key enablers, key takeaways and explanatory notes in order to better improve supervisory effectiveness.

1.5 GCFFC Experts

GCFFC Experts formed a working group led by Chair, Jamal El-Hindi⁶ and Vice Chairs, Mariano Federici⁷ & Bryan Stirewalt⁸, with support and contributions from subject matter experts with special thanks to Hans Peter Bauer⁹, Maud Bokkerink¹⁰, Nicolas Choules Bourbidge¹¹, Sharon Campbell¹², Alison Clew¹³, John Cusack¹⁴, Himamauli Das¹⁵, Sylvie Matherat¹⁶, Hiroshi Ozaki¹⁷, David Parody¹⁸, Gabriel Romo¹⁹, Maija Treija²⁰ & Daniel Zuberbühler²¹. This work has been supported by the GCFFC Effectiveness Secretariat Team without which this paper could not have been produced, and many thanks go to Lotte Ludekens²² and Karel de Zoete²³.

2. Ten (10) Key Enablers (KE) and 40 Key Takeaways (KT)

The 10 key enablers & 40 key takeaways focus on key areas where improvements in supervisory effectiveness could result in the biggest gains, in many countries. As policy makers and supervisors consider where improvements are still needed, this consultation paper is intended to form the basis for a constructive discussion. The 10 key enablers & 40 key takeaways are supplemented by Explanatory Notes, recognising these may evolve through further discussions and engagements.



Key Enablers 1 & 9 are pre conditions & continuing conditions for supervisory effectiveness; Key enabler 3 is related to coverage and systems; Key enablers 4, 5 & 6 relate to “risk based supervision” - Key enablers 7, 8 & 9 relate to influencing and impacting behaviours, co operation and essential capabilities & Key Enabler 10 for supervisory maturity.

3. Conclusion

Achieving effective levels for supervision is not easy, & takes time. So called “pre conditions”, “environmental factors” & “supervisory arrangements” play a significant role. No country has yet achieved “High Effectiveness” ratings for supervision from FATF (for IO 3 Supervision) but with just over a dozen receiving positive effectiveness ratings, there is much to be done, but best practices to improve supervision are now available. Whilst there is no one size fits all approach to improving supervisory effectiveness, the GCFEC Experts believe that improvements can be achieved by focussing on areas which can enable improvements to materialise. At their heart, they involve supervisors willing to adopt truly risk based supervisory processes, which also means supporting risk based processes for those they supervise. This requires knowledgeable, skilled, experienced, cooperative, collaborative & committed supervisors, and may require in some cases cultural change. The gains to be had for success in supervision are not only to be found in achieving positive FATF IO3 results, but will help facilitate better results for FATF IO4 (Preventative Measures) as well as FATF IO6 (Financial Intelligence) & for other Immediate Outcomes (IO’s). Expectations for supervision should remain realistic & no one expects “Super Vision”, but superior levels of effectiveness, insights & actions can be achieved using the key enablers & key takeaways promoted by the Experts.

Chair of the Experts Working Group **Jamal El-Hindi**²⁴ states that:

“Our working group had frank discussions and we hope that the paper will lead to more of the same. The critical ability of supervisory communities to work with other components of AML regimes for the purpose of developing more effective supervisory efforts requires developing and sustaining more trust and understanding among all such components. We hope that this paper and further iterations can serve as a guide to those supervisors seeking to adapt their current methods for the sake of greater effectiveness.”

Vice Chair of the Experts Working Group **Bryan Stirewalt**²⁵ states that:

“As can be seen from FATF Mutual Evaluations, effective supervision is an illusive and moving target. This paper does not contain any silver bullets but does contain several lessons learned from experienced supervisors. We hope this paper will encourage creative thinking and provide support to supervisors around the globe in performing their critical functions of preventing financial crime, protecting consumers and society, and promoting financial stability.”

Vice Chair of the Experts Working Group **Mariano Federici**²⁶ states that:

“We hope this paper will serve as a practical resource for regulators seeking to advance AML/CFT supervisory effectiveness. By outlining best practices from lessons learned and focusing on realistic, risk-based approaches, it aims to support supervisors in building robust, adaptable frameworks that meet evolving standards and challenges. Through a shared commitment to continuous improvement, regulators can drive impactful change, reinforcing the resilience of financial systems worldwide”.

Former FATF President 2020 - 2022, **Marcus Pleyer**²⁷, states that:

“Effective supervision is key in preventing money laundering and terrorist financing. Therefore, I very much welcome the GCFEC’s consultation draft with 10 key enablers and 40 key takeaways compiled by former senior regulators to help improve supervisory effectiveness. I am excited about the consultation process that will for sure finally provide a product that can serve as a useful guidance for present and future supervisors.”

The GCFEC which to thank the contributors to the paper, in particular, the GCFEC would like to thank all the Experts - see above. For more details for those interested in learning more and or getting involved in GCFEC work, contact the GCFEC Secretariat: secretariat@gcfc.org

16 October, 2024

Endnotes:

- ¹ See: <https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Guidance-Risk-Based-Supervision.pdf>
- ² See: <https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Report-on-the-State-of-Effectiveness-Compliance-with-FATF-Standards.pdf.coredownload.pdf>
- ³ In-text review of 59 country mutual evaluation reports, consisting of 29 FATF and 30 FSRB Members.
- ⁴ See: <https://www.bis.org/bcbs/publ/d505.pdf>
- ⁵ See: [https://www.eba.europa.eu/sites/default/files/2023-11/c0a72a30-19c6-4fbb-96cd-e2486ff0c8ec/Final report on guidelines amending the Risk Based Supervision Guidelines.pdf](https://www.eba.europa.eu/sites/default/files/2023-11/c0a72a30-19c6-4fbb-96cd-e2486ff0c8ec/Final%20report%20on%20guidelines%20amending%20the%20Risk%20Based%20Supervision%20Guidelines.pdf)
- ⁶ See: <http://linkedin.com/in/jamal-el-hindi-9b40889>
- ⁷ See: <http://linkedin.com/in/mariano-federici-05234037>
- ⁸ See: <http://linkedin.com/in/bryan-stirewalt-770996217>
- ⁹ See: <http://linkedin.com/in/hans-peter-bauer-8b730b20>
- ¹⁰ See: <http://linkedin.com/in/maudbokkerink>
- ¹¹ See: <http://linkedin.com/in/nicolas-choules-burbidge-38252479>
- ¹² See: <http://linkedin.com/in/sharon-c-4b63b72>
- ¹³ See: <http://linkedin.com/in/alison-clew>
- ¹⁴ See: <http://linkedin.com/in/john-cusack-48107a7b>
- ¹⁵ See: <http://linkedin.com/in/himamauli-das-98526375>
- ¹⁶ See: <http://linkedin.com/in/sylvie-matherat>
- ¹⁷ See: <http://linkedin.com/in/hiroshi-ozaki-133618a8>
- ¹⁸ See: <http://linkedin.com/in/dparody>
- ¹⁹ See: <http://linkedin.com/in/jamal-el-hindi-9b40889>
- ²⁰ See: <http://linkedin.com/in/maiya-treija-b394a290>
- ²¹ See: <http://linkedin.com/in/jamal-el-hindi-9b40889>
- ²² See: <http://linkedin.com/in/lotte-ludekens>
- ²³ See: <http://linkedin.com/in/kareldezoete>
- ²⁴ See: <http://linkedin.com/in/jamal-el-hindi-9b40889>
- ²⁵ See: <http://linkedin.com/in/bryan-stirewalt-770996217>
- ²⁶ See: <http://linkedin.com/in/mariano-federici-05234037>
- ²⁷ See: <http://linkedin.com/in/marcus-pleyer-4658bb1b6>