



# International AML Highlights for Client Onboarding

Volume 4



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## Introduction

The Third Quarter of 2020 brought more significant developments around the world in the area of AML KYC requirements for opening financial institution accounts.

Notwithstanding all the pandemic disruptions, the regulators having been staying busy in the U.S. The Financial Crimes Enforcement Network of the Department of the Treasury (FinCEN), the financial intelligence unit, published a detailed proposal for amendments of regulations to define the concept of “effective and reasonably designed” AML program. This proposal, if adopted, will affect how regulators determine, among other things, how adequately financial institutions have taken money laundering and terrorist financing risks into account in developing customer onboarding controls. In addition, FinCEN addressed a regulatory gap by requiring state banks and trust companies without federal deposit insurance and state credit unions to adopt AML and customer identification programs, including beneficial ownership due diligence.

Regulators around the world continue to adopt regulatory changes to accommodate digital financial services and remote account openings to address FinTech trends that have accelerated as a result of the pandemic.

European legislatures and regulators continue efforts to implement the Fifth AML Directive at the member state level. The UK is reworking some of its regulations impacting AML KYC for the anticipated post-Brexit world.

Finally, the consequences of AML compliance challenges in onboarding customers continue at a pace that has not slowed down appreciably as a result of the coronavirus. The Office of the Comptroller of the Currency, the U.S. national bank regulator, brought an enforcement action against former officers and directors of a failed national bank for failing to implement adequate AML due diligence in onboarding high-risk customers. The banking regulator of Singapore fined a trust company based on findings of AML violations that included not confirming the source of wealth of high net worth trust clients and put an asset management out of business for inadequate assessment of money laundering and terrorist financing risks. In the Baltic region, some regulators brought enforcement actions against banks in their country for alleged AML deficiencies, including in KYC processes for new customers.

We hope you find the summaries and analysis in this edition of our newsletter useful in your work relating to customer onboarding operations and compliance. As always, we welcome your questions and feedback.





## North America

### **United States agencies issue joint statement on Bank Secrecy Act due diligence requirements for customers who may be considered politically exposed persons**

On August 21, 2020, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network, the National Credit Union Administration, and the Office of the Comptroller of the Currency **issued** a joint statement on Bank Secrecy Act due diligence requirements for customers who may be considered politically exposed persons. The statement responds to requests from banks for an explanation on how to apply a risk-based approach to PEPs to be consistent with FinCEN's 2016 CDD Final Rule. The statement does not alter any existing Bank Secrecy Act or anti-money laundering legal or regulatory requirements; it merely provides additional clarifications for banks to use when conducting due diligence of PEPs.

The statement clarifies that the CDD rule itself does not contain any specific regulatory requirements or establish supervisory expectations for banks to have unique, additional due diligence requirements for customers who are PEPs. Additionally, the agencies explain that the CDD rule also does not require banks to determine whether customers or beneficial owners are PEPs during the account opening process. According to the statement, banks can make the choice to screen for PEPs during the account opening due diligence process if they decide that the information is necessary for developing a customer risk profile; however, there is no regulatory requirement to do so. (Recall, however, that separate AML regulations require covered U.S. financial institutions opening "private bank accounts" to

ascertain whether beneficial owners are "senior foreign political figures," a defined term capturing many PEPs.)

### **FinCEN issues final rule to require customer identification program, anti-money laundering program, and beneficial ownership requirements for banks lacking a federal functional regulator**

On September 15, 2020, FinCEN **issued** a final rule removing the anti-money laundering program exemption for banks that lack a federal functional regulator. Effective November 16, all banks, regardless of whether they are subject to federal regulation and oversight, must establish and implement anti-money laundering programs, customer identification programs, and beneficial ownership requirements.

This rule targets a select small group of banks lacking a federal functional regulator, including private banks, non-federally insured credit unions, and certain trust companies. It impacts state-chartered banking organizations that are not members of the Federal Reserve System and not insured by the Federal Deposit Insurance Corporation. As these banks are already subject to compliance with a number of Bank Secrecy Act regulations, along with state banking regulations and guidance, FinCEN does not expect the transition to compliance with the Final Rule to be unreasonably difficult or costly. FinCEN has allowed the banks 180 days from the publishing of the final rule, or until March 31, 2021 to establish compliance with the final rule and establish and implement their anti-money laundering programs, customer identification programs, and beneficial ownership requirements.



## North America *continued*

### **FinCEN seeks public comment on amendments to regulations regarding anti-money laundering programs**

On September 17, 2020, FinCEN **issued** an Advance Notice of Proposed Rulemaking, notifying the public of an opportunity to comment on the creation of a specific definition for an “effective and reasonably designed” anti-money laundering program. More specifically, FinCEN is considering regulatory amendments that would explicitly define an “effective and reasonably designed” AML program as one that (1) identifies, assesses, and manages the risks associated with money laundering, terrorist financing, and other related financial crimes, consistent with both the institution’s risk profile and national AML priorities; (2) assures and monitors compliance with the requirements of the Bank Secrecy Act; and (3) provides useful and risk-appropriate information to government authorities. With the addition of this definition, FinCEN seeks to strike a balance between establishing a clear understanding of effective and necessary AML program elements between agencies and financial institutions and attempting to impose minimal additional obligations on currently compliant AML programs.

FinCEN welcomes written comments addressing the appropriateness of the definition, providing possible suggestions for changes to the proposed definition, mentioning industry-specific issues to consider when writing the definition, and answering whether the requirement should be proposed to all financial institutions subject to AML program rules. Additionally, the ANPRM also seeks comment on the possibility of imposing an explicit requirement for a risk assessment process and for the Director of FinCEN to issue a list of

national AML priorities, to be called FinCEN’s Strategic Anti-Money Laundering Priorities, every two years. Written comments must be received on or before November 16, 2020.

### **Office of the Comptroller of the Currency issues enforcement actions against City National Bank of New Jersey for deficient AML compliance procedures**

On September 17, 2020, the United States Office of the Comptroller of the Currency **announced** the issuance of a total of seven enforcement actions against former officers and directors of the City National Bank of New Jersey. Previously, in November 2019, the OCC declared City National Bank of New Jersey as a failed bank and appointed the Federal Deposit Insurance Corporation as receiver for the bank.

In this set of enforcement actions, the OCC focused on the bank’s “critically deficient” Bank Secrecy Act and anti-money laundering program as the basis for the enforcement actions. In particular, the OCC found that individuals were responsible for failing to maintain an appropriate Bank Secrecy Act program while expanding the bank’s recruitment of high-risk businesses as clients. The OCC noted that City National Bank of New Jersey BSA program did not conduct adequate due diligence on high-risk businesses and failed to appropriately monitor for and report suspicious activity.

Civil monetary penalties — ranging from \$3,000 to \$70,000 USD — were issued to all seven individuals, and for three of them, including the former Chairman of the Board, CEO, and President, cease and desist orders were also issued.



## EMEA

### Bank of Greece authorizes remote electronic identification of natural persons

On May 29, 2020, the Bank of Greece **enacted** Executive Committee Act 172/1/29.05.2020, which establishes a regulatory framework for credit and financial institutions with respect to the remote electronic identification of natural persons. The Act specifies two methods of remote electronic identification: (1) video conference with a trained employee, and (2) automatized identification via a live, “dynamic” selfie (i.e., not a static portrait).

Valid identification documents include those that are listed in the European Council’s [Public Register of Authentic travel and identity Documents Online](#) (PRADO) that contain (a) a photograph and signature of the holder, (b) a machine-readable zone, and (c) two additional advanced visual security features among those specified in PRADO.

In certain cases, credit and financial institutions may also accept Greek identification cards issued by the Hellenic Police that contain a customer’s full name printed in Latin characters. This document is only accepted via the video conference method with subsequent authentication through the [Central Portal of Public Administration](#).

The Act also covers technical and procedural methods to combat fraud and train employees. The framework now puts Greece in line with most of the other EU Member States with regards to the processes of remote electronic identification of natural persons.

### Slovenia transposes 5th EU AML Directive into national law

On June 26, 2020, the Slovenian National Assembly incorporated the European Union’s Directive 2018/843

into Slovenian law by **adopting** the “Act Amending the Prevention of Money Laundering and Terrorist Financing Act” (ZPPDFT-1B). The Act came into effect on July 11. As part of the transposition, ZPPDFT-1B implements the Directive’s definition of “fiat currency” (a monetary asset used as means of exchange) and uses the term as part of an amended section that brings cryptocurrency exchange activities under the purview of Slovenian AML law.

The Act imposes a new obligation for entities to report any discrepancies between the entities’ beneficial ownership on file at the Office of Money Laundering Prevention and the entities’ actual beneficial ownership within 30 days of discovering the discrepancy. The Act aligns the definition of “electronic means of identification” with the EU’s eIDAS Regulation (No. 910/2014). The Act also removed a paragraph that had required institutions to treat accounts of customers not physically present for identification as high-risk accounts.

### Finantsinspeksioon fines AS SEB Pank for AML/CFT breaches

On June 25, 2020, the Estonia Financial Supervision Authority (Finantsinspeksioon) **levied** a fine of €1,000,000 (\$1,700,000 USD) against AS SEB Pank for deficiencies in its AML measures. The fine comes after Finantsinspeksioon identified customer due diligence (CDD) shortcomings for the period of time from November 2017 to September 2019.

During an on-site inspection, Finantsinspeksioon assessed AS SEB Pank’s AML systems and controls and discovered that AS SEB Pank failed to apply proper CDD measures during customer onboarding and ongoing monitoring, specifically breaching its duty to document and retain data, identify beneficial owners, and report





## EMEA *continued*

suspicious of money laundering or terrorist financing.

Finantsinspeksioon has given AS SEB Pank a maximum of six months to fix the shortcomings identified during the inspection. If AS SEB Pank fails to comply, Finantsinspeksioon has the authority to fine the bank €32,000 (\$37,440 USD), and an additional €100,000 (\$117,000 USD) for each similar subsequent breach.

### **Latvia's Financial and Capital Market Commission fines bank for inadequate customer due diligence measures**

In July 2020, Latvia's Board of the Financial and Capital Market Commission (FCMC) **imposed** a fine worth €906,610 (\$1,061,794 USD) on Signet Bank AS after an on-site inspection identified numerous breaches and deficiencies related to AML requirements. Signet Bank AS had failed to carry out essential customer due diligence measures, including verification of the identity of beneficial owners; verification of the source of wealth for its customers; timely and high-quality due diligence review of customer documents; assessment of unusually large, complex, and inter-related transactions; and classification of individual customers as shell companies.

In addition to paying the imposed fine, Signet Bank AS must submit an action plan to the FCMC that addresses the breaches and shortcomings identified and, furthermore, it must perform a future independent audit to ensure the sufficiency of its internal control systems with respect to AML compliance and efficiency.

### **Bank of Lithuania fines Via Payments for violating AML/CTF requirements**

On July 7, 2020, the Bank of Lithuania **imposed** a €120,000 (\$140,400 USD) fine on Via Payments, UAB,

a Lithuanian online banking services provider, for improperly conducting customer risk assessments and, consequently, inaccurately allocating customers into risk groups. Via Payment's missteps included not properly checking customers' beneficiary information, using a flawed framework for determining whether a customer is a politically exposed person, not identifying sources of funds from high-risk customers, and failing to properly monitor business relationships and transactions. Additionally, for some customers, Via Payments had not received the requisite information about the purpose and nature of the customer's business relationships.

Via Payments had already been reprimanded by the Bank of Lithuania this year for failing to meet its capital requirement.

### **Latvia recommends enhanced internal control systems, customer due diligence, and other measures for preventing financial crimes**

In August 2020, Latvia's Financial and Capital Market Commission (FCMC) **issued** a series of recommendations that aim to strengthen financial institutions' prevention of money laundering and terrorist financing. The recommendations address four key issues: risk assessment, internal control systems, customer due diligence, and reporting.

For adequate risk assessment, FCMC recommends that financial institutions utilize an institutional risk matrix and a corresponding risk-based assessment procedure when onboarding new customers.

Regarding internal control systems, the FCMC recommends that financial institutions employ a customer risk scoring system, follow best practices



## EMEA *continued*

for internal governance and training, and undergo independent audits to check for efficacy.

Regarding customer due diligence, the FCMC recommends specific standards for in-person and remote customer identification; adherence to tiered levels of simplified, standard, and enhanced due diligence; and protocols concerning beneficial owners, politically exposed persons, origins of wealth, and handling of documentation.

Lastly, the FCMC provides guidelines for reporting relevant customer information to FCMC, the Financial Intelligence Unit, and the Security Service.

### Portugal transposes 5th EU AML Directive into national law

On September 1, 2020, Law No. 58/2020, which was [issued](#) on August 31 by the Portuguese Assembly, became effective. The law's primary purpose was to incorporate the European Union's Directive 2018/843 into Portuguese law. Beyond implementing the necessary EU-directed changes, the law also reaches "entities that carry out any activities with virtual assets," and requires them to comply with AML/CFT requirements as well as bringing these entities under the direct supervision of the Bank of Portugal.

The law also clarified the procedure for determining beneficial ownership for Collective Investment Units ("CIUs"), differentiating the approach from the more comprehensive framework used when evaluating the beneficial ownership of trusts and similar entities. The Legal Framework of the Central Registry of the Ultimate Beneficiary approved by Law No. 89/2017 on August 21 was amended to reflect these new changes, as well as changes to the deadlines to report beneficial ownership

information to the Registry: the first declaration must be made within 30 days of registering the entity and the annual confirmation must be made before the end of the calendar year.

### Luxembourg updates AML/CFT regulations

On August 14, 2020, the Commission de Surveillance du Secteur Financier ("CSSF") [issued](#) the CSSF Regulation No 20-05 amending the "CSSF Regulation No 12 – 02 of 14 December 2012 on the fight against money laundering and terrorist financing." A concurrent "Grand Ducal Regulation of 14 August 2020" was [issued](#) the same day to update the "Grand Ducal Regulation of 1 February 2020." These regulations implemented a variety of changes.

One change is that clients categorized as low-risk can be onboarded with an automatic acceptance process. Other changes were meant to reconcile the regulatory framework with the shift to online and over-the-phone business dealings. In cases of a non-face-to-face business relationship where the business professional did not use approved means of electronic identification (as delineated in EU Regulation No. 910/2014), they are now required to take certain additional measures to address the risk in the relationship – for example, verifying provided documents with the appropriate public authority. Previously all non-face-to-face business relationships automatically required Enhanced Due Diligence.

These regulations also clarify the use of Simplified Due Diligence procedures. The regulations underscore that to assess whether a client qualifies for SDD, the business professional must use not only the "non-exhaustive" factors listed in the recently amended Annex III of the





## EMEA *continued*

“Law of 12 November 2004 on the fight against money laundering and terrorist financing,” but also any other risk factors they deem relevant. An example of a risk factor listed in the Law is whether the client is a public company listed on a stock exchange and subject to disclosure requirements. Other risk factors from that list include whether the client is registered in a country known to have effective anti-money laundering systems or if the client is a government-affiliated entity from a country known to have low levels of corruption. Specific to investment operations, the regulations require professionals to assess and categorize the AML/CFT risk posed by investments, and then pursue commensurate due diligence measures. This risk procedure should be formalized and reviewed each year.

Beyond these changes, the regulations also clarify the scope and responsibilities of several defined roles, including “Person Responsible for Compliance,” a member of management responsible for combating ML/FT, and “Person Responsible for Control,” an individual like a compliance officer charged with implementing AML/CFT measures.

### **UK enacts Money Laundering and Terrorist Financing Regulations 2020 in preparation for EU exit**

In September 2020, the United Kingdom [amended](#) its existing AML regulations through the enactment of the Money Laundering and Terrorist Financing Regulations 2020 (the “Regulations”). The Regulations implement EU Directive 2018/843, which pertains to trust registries and customer due diligence (CDD) measures, and further account for deficiencies that may arise at the end of the UK’s EU exit transition period.

In line with the EU Directive, the Regulations expand the scope of trusts that are required to register in the UK and furthermore allow registry information to be made available to parties with a legitimate interest.

In preparation for the end of the UK’s EU exit transition period, the Regulations also confer equal status and treatment to trusts established in the European Economic Area (EEA) and non-EEA trusts. Upon the Transition Period’s formal closure, EEA and non-EEA trusts will be subject to the same registry requirements, and EEA membership will no longer receive differential treatment under the UK’s AML regulations.

Finally, the Regulations also clarify the “appropriate level of assurance” that must be met during CDD electronic identification procedures and require that discrepancies in beneficial ownership information that arise from CDD procedures be reported to relevant authorities.



## APAC

### Monetary Authority of Singapore imposes sanctions on two firms for their failure to comply with AML requirements

In July 2020, the Monetary Authority of Singapore (MAS) **imposed** a penalty of \$1,100,000 SGD (\$800,000 USD) on Asiatic Trust Singapore Pte Ltd (ATSPL). MAS found that ATSPL conducted insufficient audits of trust companies between 2007 and 2018, constituting a significant breach of AML requirements. In particular, ATSPL was cited for failing to corroborate the source of wealth for the individuals who effectively control trusts and failing to conduct adequate diligence into the background and purpose of unusual transactions by politically exposed persons. ATSPL paid the penalty in full and also took remedial measures to address these failures by reviewing customer accounts, filing suspicious transaction reports, and terminating higher-risk trust accounts.

Days later, in a separate enforcement action, MAS **revoked** Apical Asset Management Pte Ltd's (AAMPL) Capital Market Services license due to the firm's failure to comply with AML regulations. MAS found that from 2013 to 2018, AAMPL failed to conduct enterprise-wide money laundering or terrorist financing risk assessments, assess whether customers posed high money laundering risks, conduct heightened monitoring of funds related to politically exposed persons, or conduct independent audits of AML controls to check for efficacy. MAS also reprimanded AAMPL's CEO and Director for their failure to ensure AML compliance at the firm.

### Reserve Bank of India updates Master Circular for Self Help Groups

On September 18, 2020, the Reserve Bank of India **issued** an updated Master Circular on the Deendayal Antyodaya Yojana - National Rural Livelihoods Mission ("DAY-NLRM"). The DAY-NLRM is the Indian government's flagship poverty alleviation program - focused on creating lasting access to financial resources for socio-economically disadvantaged groups, with an emphasis on financial empowerment for women. The program aims to incentivize the formation of (primarily female-only) Self Help Groups. These Self Help Groups, whether formally registered or not, are given access to financial assistance, including access to bank loans with subsidized interest payments. Given the financial focus of the DAY-NLRM, the Reserve Bank of India has issued guidance on the role of banks and KYC procedures as pertaining to transactions and account openings by Self Help Groups. The purpose of these simplified KYC procedures is to lower the bureaucratic barriers that Self Help Groups face when applying for a bank account or a bank loan. For example, upon account opening, KYC verification is necessary for only the office holders of the Self Help Group and not for all of the members. In addition, the Self Help Group will not need to provide a Permanent Account Number, which is a means of identification issued by the Indian Income Tax Department. CDD of all members of a Self Help Group is also not necessary when linking a savings account with a loan account.

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Steve is a globally recognized authority on anti-money laundering (AML) and sanctions laws and has extensive knowledge of regulations aimed at preventing the financing of terrorism. He counsels clients on the full range of laws governing U.S. financial institutions, providing practical business and operational advice that addresses compliance requirements. His practice also encompasses representing firms before a wide range of regulatory bodies, including the Financial Crimes Enforcement Network (FinCEN) and the Office of Foreign Assets Control (OFAC). Steve previously was the Chief Anti-Money Laundering and U.S. Sanctions Officer at Fidelity Investments and represented the investment industry on the Bank Secrecy Act Advisory Group of the U.S. Department of the Treasury. Earlier in his career, he served as Counsel to the Financial Services Committee of the U.S. House of Representatives, where he advised Congress on pending legislation and helped conduct money laundering investigations, and worked in the Office of the U.S. General Counsel of the Securities and Exchange Commission.



Fabio Urso is Director and Industry Principal in Financial Services at Pega, where he specializes in Pega's Client Lifecycle Management (CLM) and Know Your Customer (KYC) solution, including the client classification part of tax and regulatory regimes such as CRS, FATCA, Dodd-Frank, EMIR and MiFID. Fabio joined Pega in 2018. After earning a degree in law, he entered the banking industry and served in a number of key front- and back-office positions at organizations such as ABN AMRO Bank, The Royal Bank of Scotland and Rabobank, where he was the Subject Matter Expert for client due diligence processes and procedures as well as the tools supporting them, for which he was creating the business and functional requirements. As a member of the department running regulatory deliverables and translating compliance policy into business and IT solutions — and tasked with managing stakeholders (e.g., Legal, Compliance, Front Office) — Fabio focused primarily on risk models, fields/values/rules creation, interfaces with product systems, data migration, global/local regulatory requirements, and documentary verification requirements.



## Contacts *continued*



Alex is Global Head of Client Lifecycle Management (CLM) and KYC business at Pega, where he's focused on delivering thought leadership and products that meet clients' needs now and are built to handle the inevitable changes in the future. Prior to joining Pega in October 2019, Alex worked at Morgan Stanley, JP Morgan, Credit Suisse and UBS covering Client Lifecycle and data responsibilities. His last role at UBS was as Global Head of Client Onboarding and Regulatory Compliance for the Corporate and Investment Bank, as well as Wealth Management in the Americas. He has successfully built out multiple client onboarding systems, as well as near shore teams in Krakow, Poland and Nashville, Tennessee, while guiding a team of over 300 globally. He has extensive regulatory experience in CLM, KYC/AML, Dodd Frank, EMIR, FATCA/CRS, and MiFID I & II, as well as in leading industry efforts such as the LEI Steering Committee and the creation of ISDA Amend to solve many regulatory issues. Most recently, he was at Bloomberg leading their Entity Exchange and Entity Intelligence businesses. Alex has a BS in Materials Science & Engineering from Lehigh University, and spent the first part of his career at Andersen Consulting coding in Cobol and C++ prior to moving into strategic transformation initiatives.



James is Senior Director and Industry Principal in Financial Services at Pega, where he helps companies to realize their Digital Transformation Strategy using Pega's Client Lifecycle Management (CLM) and Know Your Customer (KYC) solution. Prior to joining Pega, James worked with both EY as a Senior Manager and Fenargo as Head of Client Solutions in the Americas, a position with a global reach. There he specialized in addressing client challenges to designing and implementing Target Operating Models that met regulatory compliance across Tax, Derivative Reform, KYC/AML, Beneficial Ownership and Data Privacy/Residency, with a focus on a client-centric approach. His knowledge and experience cover Corporate, Institutional, Retail, Commercial, Private Banking and Wealth & Asset Management. Prior to working in FinTech, James worked for a number of years as a relationship manager in Industry and earned a BSc in Software Engineering — a background providing him with experience as a user of banking systems as well as a deep technical understanding of their limitations and possibilities.

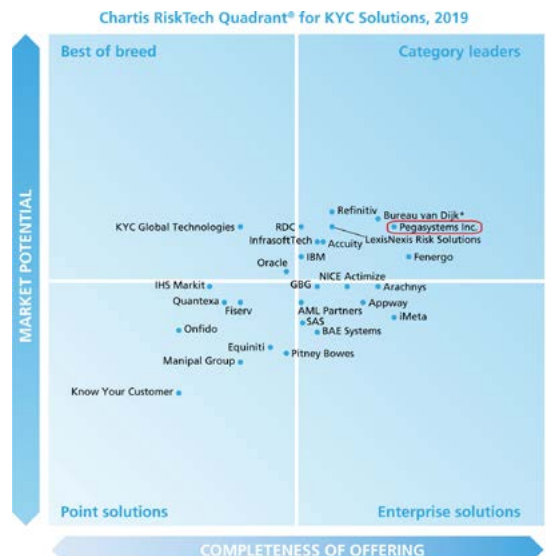
# About Pegasystems

Pega is the leader in cloud software for customer engagement and operational excellence. The world's most recognized and successful brands rely on Pega's AI-powered software to optimize every customer interaction on any channel while ensuring their brand promises are kept. Pega's low-code application development platform allows enterprises to quickly build and evolve apps to meet their customer and employee needs and drive digital transformation on a global scale. For more than 35 years, Pega has enabled higher customer satisfaction, lower costs, and increased customer lifetime value.

## PEGA CLIENT LIFECYCLE MANAGEMENT & KNOW YOUR CUSTOMER (CLM/KYC)

The Pega CLM application (which includes Pega KYC) provides the only globally scalable solution for large, complex financial institutions to manage multijurisdictional, multiproduct onboarding with predefined industry best practices across all lines of business. Our product is a robust, industry-leading, rules-driven application, allowing financial institutions to manage and drive complex regulatory requirements as part of onboarding and client lifecycle management. The solution allows for specialization of due diligence requirements by region, line of business, and risk. It has extensive out-of-the-box functionality and comes with preconfigured AML/CTF rules covering 60 major jurisdictions as well as CRS, FATCA, Dodd-Frank, EMIR, FINRA, IROCC, and MiFID II that are developed and updated quarterly in cooperation with a global team of lawyers, industry experts, and policy makers. Through Pega's low code approach, the solution allows financial institutions to stay compliant with the constantly evolving regulatory landscape, while improving onboarding time and time-to-revenue.

The solution simplifies very complex onboarding, ensuring parallel processing of hundreds of cases for multiple functional areas, such as KYC, Credit, Legal, and Operations. Pega provides preconfigured customer journeys from onboarding through to offboarding, providing a global experience for the financial institution and client. Pega's global team of experts has deployed and built onboarding and KYC solutions for more than 40 of the world's largest financial institutions. For more information, visit [www.pegaonboarding.com](http://www.pegaonboarding.com).



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