

GUIDANCE FOR NRA LEGAL AND ACCOUNTANCY QUESTIONNAIRE

This document is designed to help you complete the NRA questionnaire. It is split into two sections:

- Additional explanation and guidance on completing the questionnaire
- Glossary of key terms

GUIDANCE ON COMPLETING THE QUESTIONNAIRE

Section 1: About You

Questions 3 & 4: Please ensure that your response is marked and explained clearly if you wish your response to be kept confidential. **An automatic confidentiality disclaimer generated by your IT system will not, by itself, be regarded as binding on the Departments.**

Some of the requested information may be commercially sensitive and could even indicate vulnerabilities within AML/CTF systems. The information you provide will be anonymised and will only be reviewed by Home Office and HM Treasury staff engaged on the NRA project. It will not be passed to law enforcement, supervisors or regulators

Furthermore, under section 41 of the Freedom of Information Act, confidential data collected in voluntary surveys conducted by the Home Office and HM Treasury is protected under an absolute exemption. The statutory Code of Practice under section 45 of the Freedom of Information Act also sets out, amongst other things, the obligations of confidence that public authorities must comply with.

As such, if you consider that your response should be kept confidential, please ensure that this is indicated and explained in your response in question 3 & 4.

Question 5-8: Information about firms' turn-over, and the number of their customers and/or client businesses (in the UK and internationally), and areas of service will allow us to differentiate risks by geographic reach as well as the nature, size and diversity of firms' business.

Section 2: Risk based approach

The FATF Recommendations (2012) require firms "to use a risk-based approach to discharging certain of their anti-money laundering (AML) and counter-terrorist financing (CTF) obligations. Adopting a risk-based approach encompasses recognising the existence of the risk(s), undertaking an assessment of the risk(s) and developing strategies to manage and mitigate the identified risks".

Questions 9 to 13: Responses to these questions will enable us to compare and analyse the overall scope and key factors of firms' risk assessments, identify common themes, and gain a detailed understanding of the tools that are employed to support such assessments. These questions also cover accountability and sign-off of your firm's risk assessment and written policies and procedures. Senior management can represent a director(s) and senior managers (or equivalent) of a firm who are responsible, either individually or collectively, for the management and supervision of the firm's business.

Questions 14 to 23: Responses to these questions will enable us to gain a detailed understanding of the severity and significance of different ML/TF risks firms face and allow us to rank and catalogue risks by country, service, product, transaction and business and customer relationships.

Question 14 refers to “non-sanctioned” jurisdiction; by this we mean countries that are not on any sanctioned list provided by HM Treasury; please find more information on sanctioned/non-sanctions countries on the HM Treasury webpage at the following link:
<https://www.gov.uk/government/publications/financial-sanctions-faqs>

Section 3: Reporting risks

The FATF recommendations (2012) state clearly that if a firm “suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, by law, to report promptly its suspicions to the financial intelligence unit”. This section of the questionnaire seeks to obtain information about firms’ processes for reporting suspicious activity and risks both internally as well as to the UK Financial Intelligence Unit.

Questions 24-31: These questions cover firms’ risk reporting process to the UK Financial Intelligence Unit and your responses will supplement SOCA/NCA data sets to get a better breakdown of reports by individual sector and wider risk themes and trends.

Section 4: AML/CTF Control

This section of the questionnaire seeks to obtain information about firms’ internal AML/CTF control policies, procedures and provision of staff training with a view to identify good practice and uncover gaps and vulnerabilities.

Question 32-38: These questions provide information about firms’ AML/CTF training will enable analysis of common practice and allow identification of potential gaps in training provision nationally. They also cover firms’ procedures for dealing with internal suspicious ML or TF activity, and consider how firms’ AML policies, procedures and revisions are communicated to staff.

Section 5: Customers, CDD, EDD, business relationships

This section of the questionnaire seeks to obtain detailed information about firms’ implementation of Customers Due Diligence (CDD) and Enhanced Due Diligence (EDD) requirements as well as their dealings with Politically Exposed Persons (PEPs). The last part of the questionnaire seeks firms’ views on their general AML effectiveness, their dealings with high risk jurisdictions and general compliance with the Money Laundering Regulations.

Questions 39-43: These questions cover firms’ processes for dealing with new clients/businesses (including trusts) and measures to identify and differentiate between higher and lower risks as well as the ability to identify inaccuracies in CDD/EDD systems and procedures.

Questions 44-47: These questions cover firms’ approaches to dealings with foreign and domestic PEP clients. The FATF recommendations (2012) require firms “to have appropriate risk-management systems to determine whether a customer or beneficial owner is a PEP and obtain senior management approval for establishing such business relationships as well as take reasonable measures to establish the sources of wealth and funds and conduct enhanced monitoring of the business relationship”.

Questions 48-50: These questions cover firms’ approaches to targeted financial sanctions as well as their dealings with higher risk jurisdictions (as defined and publicly listed by FATF). The FATF Recommendations (2012) require “financial institutions to apply enhanced due diligence measures to business relationships and transactions with natural and legal persons, and financial institutions,

from countries for which this is called for by the FATF. The type of enhanced due diligence measures applied should be effective and proportionate to the risks”.

Questions 50-56: These questions ask firms’ to evaluate the overall effectiveness of their AML/CTF regimes and also rate the level of compliance of the sector they operate in.

If not already captured in previous questions, this is also an opportunity to provide further comment on ML/TF risks in your sector and what you perceive to be barriers to effective mitigation

GLOSSARY

AML: Anti-money laundering

Beneficial owner: The individual who ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted. Refer to the Money Laundering Regulations 2007 (Regulation 6)

CDD: Customer Due Diligence

Consequence: This is the impact that the facilitation of money laundering and/or terrorist financing can cause. This could range from financial stability, adverse market reactions, or reputation impacts. Consequences may be short or long term and relate to population, specific communities, business environments or national/international interests as well as the reputation and attractiveness of the London.

CTF: Counter-terrorist financing

Customer/client: This can be any individual or corporate that sets up a business relationship with you or carries out an occasional transaction as defined by the Money Laundering Regulations 2007.u

EDD: Enhanced Due Diligence

FATF: Financial Action Task Force

Internal reports of suspicion: suspicions activity reports prior to them being submitted as SAR's to the UK Financial Intelligence Unit

MLRO: Money Laundering Reporting Officer

NCA: National Crime Agency

PEP: Politically exposed person as defined by the Money Laundering Regulations 2007

POCA: Proceeds of Crime Act

Risk & threat: A product, service, customer, person(s), process, delivery channel, legislative vulnerability or enabler that facilitates or carries the potential to facilitate money laundering and/or the financing of terrorist activity.

SARs: Suspicious activity reports

Senior management: This can represent a director(s) and senior managers (or equivalent) of a firm who are responsible, either individually or collectively, for management and supervision of the firm's business.

SOCA: Serious Organised Crime Agency

TF: Terrorist financing

UKFIU: UK Financial Intelligence Unit

Vulnerability: This is anything that represents weakness in our AML/CTF systems and controls or other weaknesses in the UK's AML/CTF regime. This may also be more specific and relate to a particular weakness/feature in a product or type of service.