

PRESENTATION

TO

AAT

Practice Management Event

22 March 2014

BY

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OVERVIEW

- Risk Assessments
- Customer Due Diligence
- Eight steps to compliance
- Summary

RISK ASSESSMENTS

- Identify
- Assess
- Implement
- Monitor
- Record

RISK ASSESSMENTS

- Identify the ML & terrorist financing risks
- Assess the risks
- Implement controls to manage risks
- Monitor the operation of controls
- Appropriate recording keeping

RISK ASSESSMENTS

■ Identify

- Size and structure of business
- Business activities
- Products and services

RISK ASSESSMENTS

- **Assessing the risks (1)**
 - Types of clients
 - Geographical area of clients
 - How you engage your clients

RISK ASSESSMENTS

- **Assessing the risks (2)**
 - **Client's business activities**
 - **Payment processes – is it cash based?**
 - **Movement of client's funds**

RISK ASSESSMENTS

- **Clients who pose a risk (1)**
 - Clients who carry out large one-off transactions
 - Clients who are not local to your business
 - Clients who handle large amounts of cash

RISK ASSESSMENTS

- **Clients who pose a risk (2)**
 - **Complicated ownership structure**
 - **Regular transactions to the same group/individual**
 - **Unwilling to provide evidence of ID**

RISK ASSESSMENTS

- **Implement the risk**
 - **Apply Customer Due Diligence**
 - **Ongoing monitoring**



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RISK ASSESSMENTS

- **Monitoring the risk**
 - Sudden increase in business
 - Unusual transactions
 - Untypical types of customer

RISK ASSESSMENTS

- **Record Keeping**

- Demonstrate to Supervisory Body that procedures are in place
- Records – what has been done and why

RISK ASSESSMENTS

■ Summary

- Regular assessments
- Appropriate monitoring procedures
- Regularly review and test procedures

CUSTOMER DUE DILIGENCE

- From 15 December 2007, you must carry out customer due diligence on a risk sensitive basis
- CDD required on both new and existing clients

CUSTOMER DUE DILIGENCE

- **Establishing a relationship**
 - Identify and verify client's identity
 - Identify the beneficial owner(s) and control structure
 - Obtain information on the purposes and intended nature of the business relationship

CUSTOMER DUE DILIGENCE

- **Establishing a relationship**
 - **Details of the client's business activity**
 - **Understand the source and origin of the funds**
 - **Beneficial owners**



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CUSTOMER DUE DILIGENCE

- **Identifying & verifying clients**
 - Government issued documents – e.g. passport
 - Information held by credit reference agencies
 - Bank statements, utility bills etc.

CUSTOMER DUE DILIGENCE

- **CDD Rules include concept of:**
 - **‘Simplified’ due diligence (Lower risk)**
 - **‘Normal’ due diligence (Normal risk)**
 - **‘Enhanced’ due diligence (Higher risk)**

CUSTOMER DUE DILIGENCE

- **'Simplified'**

- Credit or financial institution subject to MLR
- Listed companies (excludes AIM and PLUS)
- UK Public Authorities

- **'Enhanced'**

- Client not physically present
- Politically exposed persons (PEPs)
 - PEP – individual who has been entrusted with a prominent public function or is closely related

CUSTOMER DUE DILIGENCE

- **'Prohibited'**

- *Shell Banks* – financial institutions with no physical presence and no real business is conducted
- Countries with deficiencies in their anti-money laundering regimes – refer to FATF non-cooperative countries

CUSTOMER DUE DILIGENCE

- **'Prohibited'**

- Refer to HM Treasury's publication –

- <https://www.gov.uk/government/publications/money-laundering-and-terrorist-financing-controls-in-overseas-jurisdictions-advisory-notice>

- HM Treasury email service

- <http://engage.hm-treasury.gov.uk/fin-sanc-subscribe/>

CUSTOMER DUE DILIGENCE

- **'Simplified' CDD Measures**
 - Reduce the on-going monitoring based on a reasonable monetary threshold
 - Reduce the frequency of customer identification updates
 - Simplified CDD measures are NOT acceptable if there is suspicion of money laundering

CUSTOMER DUE DILIGENCE

- **'Enhanced' CDD Measures**
 - Obtain additional information
 - Obtain information on the reasons for transactions
 - Request 1st payment from account in the customer's name with a bank similar to CDD standards

WHAT ELSE COULD INDICATE HIGH RISK?

- Other reports in the past
- Cash based business
- Adverse press coverage
- Purpose of business not clear
- Previous HMRC investigations

BENEFICIAL OWNER

What is a beneficial owner?

- **Corporate bodies**

- Individual who owns or controls more than 25% of shares or voting rights

- **Partnerships**

- Individual who controls/entitled to more than 25% of the capital or profits

- **Charities**

- Usually trustees

BENEFICIAL OWNER

What is a beneficial owner?

- **Trusts**

- Individual who is entitled to a specified interest in at least 25% of the capital or trust controller

- **Estates of deceased persons**

- Executor or administrator of the estate

WHAT IS KNOWLEDGE OR SUSPICION?

- Not defined in legislation
- Actual knowledge that something is the case
- Suspicion is more definite than speculation
- Falls short of knowledge based on evidence

WHAT IS KNOWLEDGE OR SUSPICION?

- **Must be criminal conduct – proceeds of innocent errors are not criminal property**
- **Reasonable grounds**
 - Not yet tested by Courts
 - Would an 'honest' and 'reasonable' person in your position have had knowledge that money laundering was taking place?
 - Cannot turn a 'blind eye'

WHAT IS KNOWLEDGE OR SUSPICION?

- “He is a scrap dealer, all scrap dealers are criminals, he is a criminal”
 - This is not suspicion!
- Do not need to identify the crime or gather sufficient evidence to enable it to be proved in a court of law
- If unsure....report the suspicion

TIPPING OFF

- Do not tip off the relevant person
- Do not tell anyone that a report has been made
- Asking normal questions is not tipping off
- Asking unnecessary questions or investigating further may make you liable

CONFIDENTIALITY

- SAR to NCA can have adverse effects on client relationship
 - NCA – National Crime Agency replaced SOCA as from 7 October 2013
 - www.nationalcrimeagency.gov.uk
- Maintaining the confidentiality of SARs is important to NCA
- Agencies that are involved have a duty to keep source confidential

CONFIDENTIALITY

- MLROs should take steps to protect confidential source
- Only refer to source's name once in the source ID field but nowhere else
- Do not refer to names of staff that made internal report
- Highlight any particular concerns about safety (physical, reputational etc.)

CONFIDENTIALITY

- Cannot be sued for breach of confidentiality when report to NCA provided
 - Report is made properly and promptly
 - You acted in good faith

RECORD KEEPING

- Clients' identity
- Supporting evidence of verification
- Business relationship
- Occasional transactions
- Kept for 5 years after termination of business relationship

CONTINUING CUSTOMER DUE DILIGENCE

- Must be on an on going basis
- Regular monitoring
- Significant changes in business
- Changes in appointments of senior managers / shareholders require checks

NON-COMPLIANCE

- **Client refusal –**
 - Do not proceed with relationship
 - Terminate existing relationships
 - Consider if report is appropriate

EIGHT STEPS TO COMPLIANCE (1)

Appoint MLRO

- Senior position
- Internal reports
- Appoint DMLRO

EIGHT STEPS TO COMPLIANCE (2)

Compliance Manual

- Best practice
- Reference tool
- Include policy statement

EIGHT STEPS TO COMPLIANCE (3)

Training

- 'Relevant employees'
- Annually
- Can be tailored

EIGHT STEPS TO COMPLIANCE (4)

Verify clients

- Part of CDD
- Manual or electronic
- Beneficial owners

EIGHT STEPS TO COMPLIANCE (5)

Risk based approach

- Understand risk client poses
- Obtain information on client
- Use manual forms
- Existing clients – separate list

EIGHT STEPS TO COMPLIANCE (6)

Reporting

- Reporting procedures in place
- Staff to MLRO
- MLRO to NCA
- Document decisions

EIGHT STEPS TO COMPLIANCE (7)

Record keeping

- Be able to prove compliance
- Training, risk assessments, reports etc.
- Manual or electronically

EIGHT STEPS TO COMPLIANCE (8)

Be supervised

- Register
- 22 professional bodies
- HMRC



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SOURCE OF INFORMATION

- **The Consultative Committee of Accountancy Bodies (115 pages)**
 - With ML Regulations 2007, POCA 2002 & CTA 2000
- **HMRC Notice MLR8 (79 pages)**
- **Compliance departments at your Supervisory Body**

SUMMARY

1. Appoint MLRO
2. Compliance manual
3. Training
4. Verify clients



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ML OFFENCES

- **Standard Chartered Bank - £7.6m fine for failure to comply**
- **TV Boss jailed for insurance scam**
 - 124 false claims linked to company owned by TV boss
- **Doorstop fraud**
 - Cold calling contractors charged £16,400 for work assessed at £590
 - Builder jailed for 7 years for overcharging for poor workmanship – wife guilty for handling bank affairs

ML OFFENCES

- **Family jailed and ordered to pay back £423,942**
 - Sale of counterfeit goods and drug trade
- **Family of 8 arrested in £51M ML probe connected to tax evasion**
 - HMRC encourage tax fraud to be reported to Customs Hotline

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