

Anti-Money Laundering Newsletter - February 2017

‘Flag It Up’ campaign returns to tackle money laundering in the UK

We all know that money laundering poses a serious threat to the UK, but too many of us are guilty of thinking that it “wouldn’t happen to me”. In reality, criminals are reliant on the skills of professionals to profit from their crimes, and are adept at disguising their endeavours to give the illusion of legitimacy.

Serious and Organised Crime costs the UK at least £24 billion each year. That’s why the legal and accountancy sectors are working with Government to run the ‘Flag It Up’ campaign. This joint initiative aims to raise awareness of the warning signs of money laundering, and help professionals protect themselves and their firms.

Any of us could be caught out by becoming unwittingly involved in a money laundering scheme.

“A joined-up and relentless response to money laundering is vital if we want to tackle this complex and destructive crime. Working with industry to help professionals spot the warning signs of suspicious activity will make things even harder for those seeking to evade the law,” Security Minister Ben Wallace, said. “The Government, law enforcement and industry are working together to ensure there is nowhere left to hide for the criminal and the corrupt.”

Ultimately, a collective response from industry and government is the most effective way to tackle this threat, and makes things much harder for those individuals seeking to evade the law. By continuing to work together, we can all help to make sure it has an even greater impact when it comes to tackling money laundering in the UK.

Don’t get caught out by criminals. Do your due diligence, and if you notice anything suspect remember to flag up suspicious activity to the National Crime Agency.

For guidance on anti-money laundering best practice and reporting, visit:

<https://www.tax.org.uk/members/anti-money-laundering-and-counter-terrorist-financing/anti-money-laundering-resources>

<http://www.att.org.uk/members/anti-money-laundering>

<http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/ukfiu/how-to-report-sars>

NCA: Guide to making better SARs

The NCA has released [guidance on submitting better quality SARs](#). In particular, you should refer to closure of cases on page 15 because if one or more of the listed criteria is missing from a SAR, the United Kingdom Financial Intelligence Unit (UKFIU) will be unable to assess your request and the case will be closed.

Working as a subcontractor tax adviser

Firms often rely on using subcontractors during busy times of year and some members work solely for accountants as subcontractors. If you are such a subcontractor it is important not to forget AML arrangements when you are agreeing terms of engagement with the contracting firm.

Whilst you may be providing all your services to other firms of AML registered accountants or tax advisers you still need to be registered for AML supervision unless the following terms and conditions apply.

If all of your clients (i.e. the contracting firms) are **Accountancy Service Providers** who are supervised by HMRC or a professional body; and

- You do not do business directly with the supervised Accountancy Service Providers' own customers*
- You are included in the supervised Accountancy Service Providers' AML controls and procedures, suspicious activity reporting, and training programmes
- You have a written contract with each of your clients confirming that every aspect of the relationship between you meets all AML requirements.

*Contacting the contracting firm's clients, for example by telephone or email, to resolve queries and ensure the completion of work is not considered to be doing business directly with clients. However if you are engaged directly by the contracting firm's client that would be considered to be doing business directly.

Reliance on customer due diligence (CDD) undertaken by others

If, as a tax adviser, you are called upon to advise another professional firm (often regarding a specialist issue) then you need to ensure you have undertaken CDD on that firm.

Where your involvement is not solely with the other firm but with the other firm's client and you come into direct contact with and/or enter into dialogue with that client then you must also carry out CDD on the client. You can rely on the CDD undertaken by the other firm but there are strict criteria which must be met.

Full details of the criteria applying are set out in section 5.33 to 5.41 of [the CCAB guidance](#) but include the following:

- The CDD of a limited range of other organisations can be relied on all of which must be regulated themselves under the Money laundering regulations. For example regulated credit or financial institutions such as banks and professional lawyers, auditors, external accountants, insolvency practitioners and tax advisers.
- The other firm must agree to reliance being placed and must be able to provide the records if asked.

Reliance on CDD should not be entered into lightly:

- Even though you are relying on another's CDD you remain liable for any failure to comply. For this reason many advisers obtain certified copies of CDD from the original adviser instead in order to fulfil their CDD obligations.
- If another adviser asks to rely on your CDD you need to consider the request carefully. You need to ensure that your client has no objection to the information being passed across to the person seeking reliance and have the necessary record keeping systems in place to respond to any requests.

Case study

My client came to see me yesterday and dropped the following bombshell. His aunt died several years ago and left him quite a substantial sum of money which he had duly invested partly in shares and partly in property. He knew he should have declared the income from these investments and paid tax on it but somehow had never got round to it. However he now wanted to put matters right and make a full disclosure to HMRC.

My client is happy for me to bring matters up to date and I have drafted a letter to HMRC with initial details. I assume I do not need to consider this case in relation to AML or make a suspicious activity report because the client is willing for me to contact HMRC?

There are potential proceeds of crime in a case such as this as the client has deliberately underpaid tax. Even though the client is willing to bring matters up to date with HMRC the reporting of the income to HMRC is not sufficient in itself, it is still necessary to consider whether to make a suspicious activity report.

Situations such as this need to be considered individually. The privilege reporting exemption will often apply in the circumstances outlined (very broadly where a client or his representative seeks 'legal advice' and gives information in connection with the 'legal advice'). Legal advice can be taken to mean advice on taxation matters where the tax adviser is giving advice on the interpretation or application of any element of tax law and in the process is assisting a client to understand his tax position. If you are satisfied the exemption does apply then you should keep a record of the reasons for your decision in case you are challenged at a later date. The tax sector appendix to the [CCAB guidance](#) sets out further information in relation to disclosures to HMRC and gives examples of where the privilege reporting exemption might apply or is unlikely to apply. This is however a complex area and if a member is in doubt he should seek specialist help.

Financial sanctions checklist

From April 2017 the Treasury's office of Financial Sanctions Implementation (OFSI) will be able to impose penalties for serious breaches of the financial sanctions regime. Whilst the Treasury are still consulting on the circumstances and processes regarding the imposing of penalties it is important that tax advisers undertake appropriate checks as part of the client due diligence process.

The list of organisations and individuals subject to financial sanctions can be accessed on the Treasury website

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>. Members should ensure they include this check as part of client due diligence processes to make sure they comply with any sanctions, embargos and restrictions as published. Those using electronic identification verification software should check with their provider that it includes a check of the financial sanctions checklist.

This is a specialist area and HM Treasury have published materials to assist firms and this can be accessed on their website.

In addition, you should also check the Home Office's Proscribed terrorist groups or organisations list as part of your client due diligence procedures

<https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2>

Professional Standards needs you

We have recently updated the ID Verification and AML training section on the website. We are eager to hear which training and ID providers you have found particularly useful. In particular we know that not one size fits all e.g. what a MLRO in a larger organisation needs will not necessarily be the same as a sole practitioner's needs. We are really eager to get your feedback on training which has been particularly appropriate to your circumstances and organisation. Please email us on standards@ciot or standards@att.