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To report or not to report - that is the question

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Disclaimer

These slides have been produced for the guidance of delegates at the event for which they were prepared. SAR reporting is a complex area. Your AML supervisor may be able to assist but you may also need to seek legal advice on occasion.

No responsibility can be accepted for the consequences of any action taken or refrained from as a result of these notes or the talk for which they were prepared.

The views expressed by the MLROs are their own not those of their firms or the CIOT & ATT



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Contents

- The role of suspicious activity reporting in the fight against economic crime
- A reminder of the key requirements
- Scenarios where a SAR may be required
- Challenges for the MLRO

The role of suspicious activity reporting

- It is estimated that £100 billion is laundered through the UK each year
- Suspicious activity reports (SARs) are used to alert law enforcement to potential instances of money laundering or terrorist financing
- SARs provide vital intelligence to the National Crime Agency (NCA) not only on economic crime but on a wide range of criminal activity
- Every single SAR submitted is held on the NCA system for a period of 6 years and is constantly cross referenced daily by law enforcement to check against criminality



The role of suspicious activity reporting (continued)

- More than 573,000 SARs a year are received by the NCA but less than 1% come from accountants and tax advisers
- Value of SARs is wide-reaching. Some SARs provide immediate opportunities to stop crime and arrest offenders, others help uncover potential criminality which needs to be investigated
- SARs can help identify changes and patterns in the nature or prevalence of types of organised crime which feeds into NCA alerts
- Information provided can lead to the recovery of proceeds of crime through restraint orders, confiscation orders and cash seizures



**** KEY REQUIREMENT ****

- Persons working in the AML regulated sector must report to the MLRO/submit SARs in respect of information coming to them in the course of their business if they know, or suspect or have reasonable grounds for knowing or suspecting money laundering or terrorist financing
- Reporters are not routinely provided with updates on their SARs but remember you could be providing the last piece of a jigsaw puzzle needed by law enforcement





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A reminder of the key requirements

The essential elements required in order to make a report are:

Knowledge or suspicion or reasonable grounds for knowledge or
suspicion +
Crime +
Proceeds/criminal property

The knowledge or suspicion must have come to the individual in
course of their work





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A reminder of the key requirements (continued)

- What is meant by the term suspicion?
- What guidance should you be aware of about crime?
- What is included in proceeds/criminal property





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A reminder of the key requirements (continued)

There are criminal offences connected with “failing to report” so

- Employees should make sure that they report knowledge or suspicion to their MLRO as soon as practically possible – firms must have internal procedures
- Where required the MLRO must make a report to the NCA as soon as practicable – MLROs should retain notes





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A reminder of the key requirements (continued)

Defences and exemptions are available against failure to report:

- Overseas conduct
- Privileged circumstances exemption
- Lack of employee or agent training – might assist the employee but the business has committed an offence!
- Reasonable excuse





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A reminder of the key requirements (continued)

What about submitting a report where a request for a defence against money laundering (DAML) may be relevant?

Very small numbers of these for the accountancy sector but make sure you are aware of these and when they might be required



A reminder of the key requirements (continued)

How to report:

- Employees – your employer should have policies and procedures which make the reporting process clear and confirm the name of the MLRO
- Sole practitioners or MLRO – SARs are best made online using the NCA portal
[https://www.ukciu.gov.uk/\(pti1v145322oty55ufu1b43u\)/SARonline.aspx](https://www.ukciu.gov.uk/(pti1v145322oty55ufu1b43u)/SARonline.aspx) - good practice to register





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A reminder of the key requirements (continued)

NCA is keen to improve the quality of SARs – see the Webinar we arranged for the CIOT autumn conference “Why making good quality SARs matters”:

<https://ciotmktgprodeun.azureedge.net/policy-autumn-conference-webinar-why-making-a-good-quality-sar-matters>

<https://www.att.org.uk/autumn-conference-webinar-why-making-good-quality-sar-matters>

Remember to:

- include full details
- use glossary codes
- avoid or explain abbreviations or acronyms



A reminder of the key requirements (continued)



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What happens after making a report:

- Potential for tipping off offence
- Continuing to act for a client

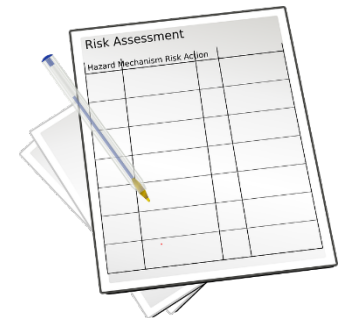




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Scenarios where a SAR might be required - Key issues for tax practitioners

- Tax errors – innocent and corrected vs deliberate and not corrected
- Tax planning advice v tax evasion
- Privilege Reporting Exemption
- Potential clients who do not become clients
- Ceasing to act – is a SAR needed too?

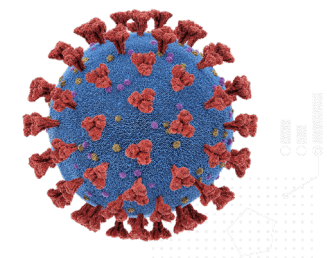




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Where might a SAR be required – Case Study 1

When dealing with a client's accounts the tax adviser identifies that the client took a bounce back loan. There is no indication that their business has been hit by COVID as turnover and expenses are in line with the previous two years. The loan had quickly been withdrawn from the business and the tax adviser is aware that the director has had a new patio laid out in their garden around the same time.

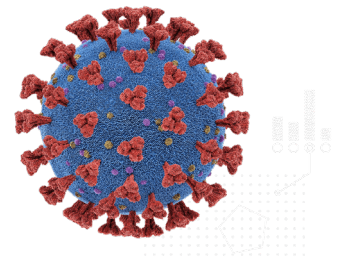




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Where might a SAR be required – Case Study 2

Cocktails R Us (a cocktail bar) has contacted Albany Accountants Ltd to ask for help with their accounts and tax returns. In the initial meeting they explain that all sales have been made by card since March 2020. Prior to that they only took cash for sales. The business has generated significant income even during lockdown. Albany Accountants asked a number of questions about this during the initial meeting. The client never signs the engagement letter and does not return the adviser's calls.





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Where might a SAR be required – Case Study 3

ABC accountants have been acting for David Jones for a number of years. He phones as he is very worried – his friend told him in the pub last night that he should have been declaring rental income on the house he bought 4 years ago. He was sure there was no profit as his income is matched by the amounts he pays to the building society each month but these amounts are capital plus interest. ABC accountants explain that they can help David put matters in order. It is now a year later – David never came back with his tax return information for 2020 and ABC accountants are now chasing him for 2021 information.





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Any Questions





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More resources

Further guidance on AML is available on the CIOT and ATT websites:

<https://ciotmktgprodeun.azureedge.net/anti-money-laundering-aml>

<https://www.att.org.uk/professional-standards>

You should also refer to the helpful guidance on the NCA website:

<https://nationalcrimeagency.gov.uk/what-we-do/crime-threats/money-laundering-and-illicit-finance/suspicious-activity-reports>

If you have any queries or want to talk through potential suspicious activity reports where we are AML supervisors please email standards@ciot.org.uk or standards@att.org.uk