

# Don't get wrung out

The anti-money laundering rules enable accountants to play a vital role in crime prevention, says *Alan Hind*.

## TEN SECOND SUMMARY

- 1 **Compliance with the Money Laundering Regulations will ensure that accountants avoid damaging themselves and their profession.**
- 2 **An enhanced due diligence exercise must be carried out for high-risk clients, such as politically exposed persons.**
- 3 **Employees must be aware of their AML responsibilities and appropriate policies and procedures must be put in place.**

In UK law, money laundering includes possessing the proceeds of one's own crime and facilitating any handling or possession of criminal property. The definition includes money or money's worth, securities, tangible and intangible property.

Money laundering is a critical enabler of serious and organised crime and poses a significant threat to economic stability. It is estimated to cost the UK £24bn a year (see diagram) and destroys lives by enabling criminals to profit from trafficking humans, drugs and weapons, and can facilitate terrorist activity. It is not a victimless crime.

Accountants want to get it right and avoid damaging themselves and their profession. This means complying with the Money Laundering Regulations 2007 (MLR), the Proceeds of Crime Act 2002, the Terrorist Act 2000 and the Terrorism Act 2006. By complying with this legislation, businesses can avoid exploitation by criminals and terrorists. Critical compliance components are appropriate policies and procedures, effective due diligence, training and submitting a suspicious activity report (SAR) to the National Crime Agency (NCA) when money laundering or terrorist activities are known or suspected. Effective due diligence is not a one-off "tick-box" exercise. It needs careful thought and must be ongoing.

Money laundering is a worldwide issue and anti-money laundering (AML) supervisors, such as the IFA, have duties to ensure members comply with the requirements and provide them with support.

## Use resources to help you

IFA members' supervision fees include AMLCC – a software product designed to help smaller accountancy practices meet their AML compliance responsibilities. It provides a manual, a recording and assessment system to facilitate compliance as well as training modules.

An IFA member selected for review can give system access to the AML reviewer, facilitating a desktop compliance review. This saves time and effort on paperwork and answering queries and streamlines the monitoring process. If you have not already done so, please sign up to AMLCC. This will help address the following common issues that firms don't always get to grips with.

## Identifying clients and risks

Client identification does not just involve obtaining a passport and utility bill or undertaking a Companies House search. The risk must be assessed as part of the overall "due diligence" process. This should be included in client "take-on" procedures. It's about knowing the client and demonstrating this. Who is the client, what does their business do, and what services do they require? Do any of these make the client higher risk? This provides the basis for assessing risk (which must be documented). And this must be done for new and existing clients.

## Enhanced due diligence

Where the assessment concludes that the client is "high risk", an "enhanced due diligence" exercise must be carried out. This includes situations where, for example, the adviser has not met the client "face to face" or if they are a politically exposed person (PEP). International sanctions can also prohibit an adviser from acting for individuals or businesses. There is a financial sanctions list and a list of proscribed terrorist groups that should be consulted.

## Ultimate beneficial owners

The identity of individuals or ultimate beneficial owners (UBOs) who own or control more than 25% of an organisation – company, partnership, fund, trust, co-operative or unincorporated association – should be checked. From 6 April 2016, UK companies and limited liability partnerships (LLPs) must identify and record such people in a persons of significant control (PSC) register and provide this to Companies House. This can be found in a Companies House search, but will not work for other types of legal entities such as trusts or charities. The same client identification procedures apply to them, but identifying UBOs or persons of significant influence will be more difficult.

It may be indicative of high-risk if a new client is covered by this legislation, but does not have such a register. Because it is a criminal offence not to have the register the submission of a suspicious activity report (SAR) may be appropriate.



**Alan Hind** – AML reviewer  
Alan is a chartered accountant with 25 years' experience working in regulation. He has visited both large and small accountancy practices throughout the UK, providing support and guidance in both regulated and unregulated areas. As well as his work for the IFA, he is a pension fund trustee and member of the CII audit committee.

## Electronic data checking

As part of AMLCC, identity verification is carried out online and potential or existing clients can be checked against the financial sanctions list. However, electronic verification does not replace the need to obtain photographic identification to ensure that the client is who they say they are.

## Staff awareness

Staff need to know their AML responsibilities. Appropriate policies and procedures are of little use if not followed. It is good practice to provide training to all client-facing staff, including principals and senior support staff. They must know the firm's procedures and how to apply them. There should be regular updates and the induction training of new members of staff should include AML.

## Reporting

If money laundering is known or suspected, a prompt report must be made to the firm's money laundering reporting officer (MLRO) who must decide whether to make a SAR to the National Crime Agency (NCA). The SAR should include essential information on individuals, what is suspected and why.

Take care when communicating with clients or third parties when a SAR is being considered or has been submitted. Disclosing such matters could be a "tipping off" offence or could prejudice an ongoing investigation. This could lead to a maximum sentence of five years imprisonment, an unlimited fine, or both.

## Retention of records

Evidence of client AML checks must be retained for five years after ceasing to act. Some form of disengagement communication may be relevant at that point. This can specify the cut-off point in the services provided and evidence when the client relationship ceased. Records can be hard copy or electronic and may be original documents or copies.

## Non-compliance

Unfortunately, we do see examples of what can happen when the rules are not complied with.

In one instance, an IFA member had not complied with the requirements to identify or risk-assess a client he had known for some time because he knew him personally. He accepted funds into his client account that were unrelated to normal accountancy activity, but these were linked to money laundering. The member spent considerable time and effort convincing the police of his innocence. The effect on his business was devastating even though he was not actually involved in money laundering.

Another IFA member had not undertaken any risk assessment or identification procedures. He told the Institute that he would bring all matters up to date following a compliance visit. He had to put in place a procedures manual, implement full due diligence procedures, obtain identification documents from all clients, and train all staff. Given

**Money Laundering is a critical enabler of Serious and Organised Crime.**  
**This costs the UK an estimated £24 billion a year.**



the significant areas of non-compliance, this was required in a two-month period, meaning that day-to-day client work was affected. If the correct procedures had been applied from the outset, the extra work would have been avoided.

## Conclusion

The above rules may seem heavy-handed, but individuals involved in the failure of a business to meet its obligations under the MLR may be subject to criminal sanction – up to 14 years in prison and/or unlimited fines. The consequences of involvement in money laundering, either wittingly or unwittingly, can be severe. Conducting effective due diligence and flagging up knowledge or suspicions by submitting a SAR will help prevent money laundering and minimise the risk to the adviser, their business, the Institute and the profession.

The Money Laundering regulations have been with us since 2007, being unaware of them or ignorant of the compliance rules is not an excuse. Remember, if it doesn't feel right it probably isn't.

## ➤ FURTHER INFORMATION

Sign up to AMLCC at:  
[tinyurl.com/jkhd7hq](http://tinyurl.com/jkhd7hq)  
Financial sanctions list:  
[tinyurl.com/l5dlu9t](http://tinyurl.com/l5dlu9t)  
Proscribed terrorist groups:  
[tinyurl.com/k6uz8m8](http://tinyurl.com/k6uz8m8)  
National Crime Agency:  
[www.nationalcrimeagency.gov.uk](http://www.nationalcrimeagency.gov.uk)  
Guidance on how to submit SARs:  
[tinyurl.com/jrafkaz](http://tinyurl.com/jrafkaz)

