



THE INSTITUTE
OF CHARTERED
ACCOUNTANTS
IN ENGLAND AND WALES

The UK Anti-Money Laundering Roadshow 2009

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The UK Framework – a summary

- Requirements embedded in law and regulation are brief and principles based
- Industry Guidance fills out the requirements – in the case of accountants the CCAB Guidance
- The Courts are required to consider Treasury approved Guidance in their interpretation of the law – so they essentially become part of law.

The UK Framework – How to comply cost effectively

Examples from real life –

- Over and under compliance
- Using what is required by the law, for client service and risk control
- Getting the balance right
- Guidance and warning Alerts
- More implications for clients

Examples from real life

Getting the balance right:

- “The risk based approach”
- Client due diligence:
 - Long standing clients
 - Continuous monitoring
- Forming suspicions and reporting them

Running Order and Contents

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- Implications for clients
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The Risk Based Approach - Quotations from Real Life

“I have known all my clients for many years – there is no money laundering risk with any of them”

“I fear the QAD reviewers too much – the only safe thing to do is to treat all my clients as high risk”

Risks with long-standing clients

- **Risk of not knowing who your client is** (including changes of ownership or control)
- **Risk of previously law-abiding client breaking the law** (or their staff, children or trading partners)
- **Risk of not having the necessary information, in the event that a SAR does need to be made** (the Money Laundering Regs require ID information “on the basis of documents, data or information obtained from a reliable and independent source...”)

Risks with long-standing clients

But any professional will understand the risks better for familiar and well known clients. Over compliance adds unnecessary cost and inconvenience for both clients and firm – bringing risks of lack of competitiveness with rival firms.

Under compliance for new clients – especially those with unfamiliar backgrounds – brings many reputational risks besides the AML compliance risks. Don't risk not being able to do your job well.

Identifying Clients - Example from real life

Passports and Utility Bills

Following pressure from the FSA for consistent compliance with their AML Requirements, some clearing banks refused to open new accounts for anyone who could not tender a passport or photo driving licence and a recent utility bill.

This led to a huge political backlash as thousands of pensioners complained to their MPs about their inability to open accounts, even in banks where they were well known.

The Government failed to achieve its targets for “financial inclusion” as homeless people also could not open accounts.

Even this did not ensure compliance by the banks – printed copies of on-line utility bills were accepted, as proof of address, even though they can be easily amended to show false addresses.

Passports and Utility Bills – Lessons for accountants

If you fail to apply common sense to in client identification, you risk:

- losing potential clients unnecessarily
- reputational damage
- not actually doing enough to know your client

The CCAB Guidance – ID Verification

- Gives a range of ID verification sources
- Cross refers to the Joint Money Laundering Steering Group Guidance, which is more comprehensive
- For long standing clients, HMRC documents already on file may well be enough.
- Otherwise choose from one or more electronic or hard copy independent evidence – but make sure that results and outcome are recorded.

The CCAB Guidance – ID Verification & continuous monitoring

Watch out for:

- New clients taken on by staff or partners with insufficient caution or awareness of risk
- Changes in ownership or business activities, bringing new risks
- Lack of awareness (scepticism) in client facing staff, and hence a lack of continuous monitoring

Risk Policies for the Firm

- Are required
- Are not required to be complex
- May be not always be low risk, but must recognise risk characteristics

Risk Policies for the Firm

A lower risk policy:

- My firm will only accept personal clients, or business clients based in rural Dorsetshire

Risk Policies for the Firm

A lower risk policy:

- My firm will only accept personal or small business clients based in rural Dorsetshire
- I have ensured that everyone in the firm knows that if they accept a client outside this category, without letting me know in advance, they risk certain death
- If we do accept clients outside this category, we need to do more than usual, to ensure we know who they are and understand their business. This is for our own protection, and to ensure we can serve the client appropriately

Risk Policies for the Firm

A higher risk policy

- We have a niche practice in acting for businesses importing goods from South America. We welcome new clients referred from there

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A higher risk policy

- We have a niche practice in acting for businesses importing goods from South America. We welcome new clients referred from there
- We recognize that this is a higher risk area, but we have developed quite a skill in assessing South American passports, and have contacts with a number of reputable South American lawyers who can help us out with CDD. We use the ICAEW library electronic ID service a lot
- We also make a higher than average number of suspicion reports to SOCA

Suspicion Reporting

It may never happen, but if you or one of your people forms a reportable suspicion, it **MUST** be reported to SOCA

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If it isn't, you risk:

- Police suspicion or worse
- HMRC suspicion and increased tax investigations for your clients
- Institute suspicion and consequent disciplinary investigation
- Loss of professional self respect and reputation

Suspicion Formation and Reporting – Quotation from real life

“My clients are all cash businesses – I know they all cheat on their taxes. I will report them all”

Suspicion Formation and Reporting – Quotation from real life

“My clients are all cash businesses – I know they all cheat on their taxes. I will report them all”

- If you have evidence that your clients are evading taxes and have not persuaded them to regularise, you risk being in breach of your ethical requirement for integrity
- If you have no evidence, you have no reportable suspicion, and will breach client confidentiality by making a report

But take care – high risk clients require greater scepticism, to ensure that a reportable suspicion is recognised and a SAR made

Suspicion Formation and Reporting

- What is a reportable money laundering suspicion, and what is not (already covered)
- What needs to be included in a SAR and what doesn't
- Public interest imperative – making your reports useful without breaching your duty to your client (self interest too – don't encourage official suspicion or unnecessarily undermine client relations)

Suspicion Reporting: Identification evidence

- **Identification evidence** – all you have: names, nick-names, dates of birth, accommodation and alternate addresses, mobile phone numbers, car registration details, national insurance, and other unique identifying numbers, etc. etc.
- Where the suspect is not your client, you may have little identification evidence – that's OK: include what you do have.

Suspicion Reporting: Reasons for Suspicion

- Clear, concise, comprehensible

Reasons for Suspicion: Quotation from real life

Reason for suspicion:

“Understated income. Overstated expenses.”

Suspicion Reporting: Reasons for Suspicion

- Clear, concise, comprehensible

That is, comprehensible to a policeman rather than to another accountant

But the reason for suspicion does not need to be long, nor include a full analysis of your evidence

The aim is to include enough to provide valid usable intelligence – a Court Order will follow, if criminal standard evidence is required.

Suspicion Reporting: Other content

- Requests for consent

Suspicion Reporting: Other content

Requests for consent

Not required for audit, accounts preparation or tax compliance work (unless you are complicit in helping a client to cover up their proceeds of crime)

May be required for:

- Client money accounts
- Setting up or running companies, trusts or other potential money laundering vehicles

Suspicion Reporting: Other content

SOCA Glossary and Alert Code words.

SOCA have built these into their system, to help them to analyse what they have on their database, and quickly identify the best destination for a SAR

It is not compulsory to include either, and it may be better to omit them than delay making a SAR

Guidance and Warning Alerts

- The CCAB Guidance
- SOCA Alerts, duty desk and confidentiality hotline
- Regulation, training, helplines and panic stations

The CCAB Guidance

- Importance, and Treasury approval
- Structure, and finding your way round it
 - Chapter headings and key points
- Interactive version [subject to resources]
- Updating – currently in progress

Quotations from Real Life – The CCAB Guidance

“The CCAB Guidance is far too long for my practice – Why can’t we have simplified Guidance for small firms?”

“I can see what you were aiming at with the CCAB Guidance, but why doesn’t it include more on [overseas clients/clients which are cash businesses/identification sources for parish councils/making reports to SOCA/risk areas for small clients etc, etc, etc]?”

SOCA Alerts, duty desk and confidentiality hotline

- Making reports – the SOCA SARs online reporting form
- Seeking consent – the SOCA duty desk
- Complaints & confidentiality of SARs – the SOCA “contact us” area (includes the “SAR Confidentiality Breach Line” on 0800 234 6657)
- What SOCA wants ICAEW PC holders to know, about current investigations and areas of concern – the SOCA Alerts

Regulation, training, helplines and panic stations

For ICAEW members and member firms:

- QAD reviewers
- The training organisations
- Technical and ethical helplines
- Ultimately, the support members...

For all accountants and accounting firms:

- Web based information
- Your own professional body or regulator
- Ultimately, SOCA, the police, or your lawyer...

Implications for Clients

- Clients who should be regulated, but have not signed up or got systems in place
- Clients who are not regulated, but are at particular risk of being implicated in money laundering
- Clients who evade taxes or cheat on health and safety, waste management, or other regulatory requirements
- Clients who are naïve, stupid or complacent

The Regulated Sector

- effecting or carrying out long-term insurance contracts
- dealing in, managing, advising on, safeguarding or administering investments
- changing or transmitting money, or cheque cashing
- estate agency work
- operating a casino – onshore or web based
- engaged in insolvency practice
- tax advice or accountancy, by way of business
- legal services – banking, investment and property
- providing formation, operation or management of a company or trust, by way of business
- accepting cash payments of more than €15,000, for goods

The Regulated Sector

Some may lack awareness of obligations and risks:

- IFAs
- Informal cash transmitters including Hawala and Hundi
- High value dealers – including jewellery, cars, antiques over Euro 15,000
- Trust and company service providers – including registered offices, correspondence addresses and nominee directors or trustees
- Estate agents

The Unregulated – High risk

- Betting shops, including online betting
- High value services
- Cash businesses, including pubs, clubs and music venues
- Charities

These businesses can still commit the primary money laundering offences – or be assumed to have done so with hindsight.

The Unregulated – “Low risk”

Criminals and their professional money launderers continually seek safer opportunities to launder their proceeds, and use them safely.

This means that criminals themselves will be seeking “low risk” sectors where they can spend or save their proceeds, without attracting suspicion.

Tax evading/regulation breaching Clients

- Clients who evade taxes, despite all the advice and support given them by their accountant, are the ones who have broken the relationship of trust between client and professional – not the accountant who reports them
- Regulations are there for a reason, still more so the imposition of criminal offences where they are breached. Clients who ignore them are ignoring controls put there for the protection of customers, the environment and fair economic conditions

Naive clients

- risk being exploited by criminal customers or staff

The fact that a professional accountant suspects money laundering by a client's customer, rather than by the client, makes no difference to the need to make a report to SOCA – provided that the accountant has information on the identity of the suspect and/or the whereabouts of the proceeds.

Quotations from Real Life

“The Father of one of the pupils at my school has a prominent political position in Nigeria. He has always paid the fees late and usually in cash. In fact, getting the cash at all is a problem. Can you advise me?”

Quotations from Real Life

“I run a private college, which attracts many overseas pupils. There are always a proportion who never turn up at the beginning of their course. Sometimes they have paid their fees in advance, and ask for a refund – including to a different account from where they came from.”

Quotations from Real Life

“My customer asked me if I would mind over-invoicing him, and refunding the difference to another account. There is no reason why I shouldn't do that, is there?”

The UK Regime – high cost/broad scope but high intelligence value

We think it is worth it

- Fairer competitive environment – including for your law abiding clients
- Reduced risk of terrorism and other serious crime
- Safer and fairer place to do business
- Recovery of proceeds of crime

The Regulated Sector - Guidance

The web: www.icaew.com/moneylaundering

The Helpline: +44 (0)1908 248 025

Support members: +44 (0)800 917 3526



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