ICAEW
REPRESENTATION 117/18

ANTI-MONEY LAUNDERING: THE SARS REGIME

Issued 4 October 2018

ICAEW welcomes the opportunity to comment on the *Anti-Money Laundering: the SARs Regime Consultation Paper* published by the Law Commission on 20 July 2018, a copy of which is available from this link.

This ICAEW response of 4 October 2018 reflects consultation with ICAEW's Business Law Committee and its Money Laundering Sub-Committee which includes representatives from public practice and the business community. The Committee is responsible for ICAEW policy on anti-money laundering and economic crime issues and related submissions to legislators, regulators and other external bodies.

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ICAEW is a Supervisory Body recognised by HM Treasury for the purposes of the Money Laundering Regulations 2017 dealing with approximately 13,000 member firms.

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1. In this response we include a major points section followed by our responses to specific questions.

MAJOR POINTS

2. The objective of any reform must be improving the quality of SARs made throughout all parts of the regulated sector, including accountancy. In our view there are ways that the SARs regime could operate more effectively and provide better intelligence. By making it easier for accountants to clearly convey their concerns should go some way to achieving this. We would therefore welcome the introduction of sector specific reporting.
3. Hand in hand with this improved reporting should be a feedback mechanism from the NCA to the reporter, to educate reporters on how useful the SAR has been, and where the NCA's priorities lie.
4. We would support an increase in the hurdle for required disclosures, so that only matters likely to be of intelligence value are reported. Changing the threshold to 'reasonable grounds to suspect' may be a way of achieving this, but clear guidance would be needed as to what constitutes reasonable grounds.
5. We welcome the suggested changes relating to the movement of mixed funds and consent for returning funds to victims, but we would suggest that such provisions should extend beyond the banking sector to all professionals who operate client bank accounts.
6. The improvement of intelligence sharing between law enforcement agencies with the UK and overseas must be a priority of any reform, such that duplicate reporting is not required within the regulated sector.
7. There is also a need for reform to the consent regime, especially in relation to insolvency appointments.

RESPONSES TO SPECIFIC QUESTIONS:

Q1: Do consultees agree that we should maintain the "all crimes" approach to money laundering by retaining the existing definition of "criminal conduct" in section 340 of the Proceeds of Crime Act 2002:

If not, do consultees believe that one of the following approaches would be preferable?

- ***(1) A serious crimes approach, whether based on lists of offences or maximum penalty;***
- ***(2) Retaining an all crimes approach for the money laundering offences but requiring SARs only in relation to "serious crimes" (to be defined by category and or sentence as discussed above). This could be achieved by extending the reasonable excuse defence to those who do not report, for example, suspected non-imprisonable crimes or those crimes listed on a schedule; or***
- ***(3) Providing the opportunity to the regulated sector to draw to the attention of the FIU any non-serious cases, whilst maintaining a required disclosure regime for offences on a schedule of serious offences listed in one of the ways identified above.***

8. While we recognise the need to focus SARs on serious criminal conduct, we believe that it is unreasonably onerous to expect MLROs to form a judgement on the nature of the predicate offence, and whether it is a serious offence or not. There is also a risk that terrorist financing related information would be lost if the reports only relate to serious offences. A preferable approach would be for the analytical capabilities of the UKFIU to be improved such that the wheat can be sorted from the chaff, by further investment in technology. If reports that would initially have been discarded are found to in fact involve a PEP or suspected criminal or terrorist, the analysis would identify it.

9. Introducing the ability (on a no liability basis) for reporters to risk rate a SAR should also help the NCA to prioritise the SARs that are likely to be of higher value. A reporter should be given the option to classify the SAR as reports where there is an obligation to file but the reporter does not consider there to be significant intelligence value; versus reports where the reporter is concerned and believes the NCA should be investigating as a priority.
10. We would also welcome further tightening up of what is considered 'useful to law enforcement' to include the identification of the offender or location of the property.
11. We note that other jurisdictions only require reporting on serious offences. It may be that the experiences from these other jurisdictions could inform any potential changes within the UK.

Q2. We would value consultees' views on whether suspicion should be defined for the purposes of Part 7 of the Proceeds of Crime Act 2002? If so how could it be defined?

12. In light of the concerns detailed in the consultation, that there is insufficient understanding and inconsistent interpretation of the term "suspicion", we would welcome a definition of the term for Part 7 of the Proceeds of Crime Act 2002. This should encourage reports to be made in cases where professionals in the regulated sector are unsure if they should be reporting activity. It should also reduce the number of unnecessary SARs that are based only on speculation and are made for defensive purposes.
13. Should the proposals mentioned later on in the consultation, to change the threshold for reporting a SAR to one of 'reasonable grounds to suspect', this would need to be taken into account in any definition produced.
14. We consider that the Joint Money Laundering Steering Group guidance provides the most appropriate material from which to derive a definition in the context of money laundering activity. This is set out in paragraph 7.20 of the consultation:

    "Suspicion is more subjective and falls short of proof based on firm evidence. Suspicion has been defined by the courts as being beyond mere speculation and based on some foundation, for example: A degree of satisfaction and not necessarily amounting to belief but at least extending beyond speculation as to whether an event has occurred or not; and Although the creation of suspicion requires a lesser factual basis than the creation of a belief, it must nonetheless be built upon some foundation."
15. The Law Society guidance definition is also useful and can be found at https://www.lawsociety.org.uk/support-services/advice/articles/help-i-m-a-new-mlro-am-i-suspicious/

Q3: We provisionally propose that POCA should contain a statutory requirement that Government produce guidance on the suspicion threshold. Do consultees agree?

16. We would welcome a statutory requirement for government to produce guidance on the suspicion threshold. Should suspicion be formally defined for the purposes of Part 7 of the Proceeds of Crime Act 2002, the detail of such guidance may be reduced, but some form of explanatory material would still be of value to the regulated sector.
17. Any guidance produced would need to do more than just repeat the statutory definition. For the guidance to be of use, it would need to clearly define the suspicion threshold.
18. However, the key is to enable flexible reporting – i.e. where there is more, less or different information to report - but also to enable users of the information to understand the context in which it is provided. For example by providing options to record if the engagement was in the context of insolvency or audit - and to enable an explanation of why no information is available (e.g. transaction details or date of birth).

Q4: We provisionally propose that the Secretary of State should introduce a prescribed form pursuant to section 339 of the Proceeds of Crime Act 2002 for Suspicious Activity Reports which directs the reporter to provide grounds for their suspicion. Do consultees agree?

19. A move to a form which requires explanation for the suspicion can only improve the usefulness of SARs. The NCA rejects too many SARs because they contain insufficient details, so a requirement for users to justify their decision to report should clarify reports and improve ease of assessment by the NCA. We would therefore welcome prescribed forms but there is a risk that non-banks will remain shoe-horned into inappropriate forms unless the forms are designed in conjunction with the relevant sectors.
20. Perhaps with the development of a new SARs system, some common options could be provided for reporters to select from, to assist classification of reports. In particular, there could be different forms to suit different types of report; so a different form for banks who make hundreds of reports per day, compared to a sole practitioner accountant who makes very few annually.

Q5: We would welcome consultees view on whether there should be a single prescribed form, or a separate form for each reporting sector.

21. The existing SARs report is primarily designed with banks and financial institutions in mind. While we note that this is because banks submit far more reports than any other sector (due to the large volumes of transactions and quantum of funds they deal with), the form is not as applicable for accountants, or any section of the regulated sector where suspicions are formed based mainly on patterns of behaviour rather than specific transactions. Currently accountants have to 'shoehorn' their reports into this format. Rather than continuing with the current 'one size fits all' approach, we strongly recommend that steps should be taken to enable differentiation by each reporting sector.
22. The separate forms for each sector should help to produce better quality SARs and better engagement from reporters, although this would need to be reviewed.

Q6: We provisionally propose that the threshold for required disclosures under sections 330, 331, and 332 of the Proceeds of Crime Act 2002 should be amended to require reasonable grounds to suspect that a person is engaged in money laundering. Do consultees agree?

23. Raising the hurdle for required disclosures, so that only things that should be reported are reported, would be welcome, especially given the considerations around confidentiality in the accountancy sector, and the potentially serious impact on those who are the subject of a report.
24. If the test for reasonable grounds to suspect was a mixed test such that the subjective suspicion was supported by objective grounds, we would support this change. However if the test was a purely objective one, we would be very concerned that the lower threshold would expose those in the regulated sector, and result in even higher levels of defensive reporting. This is a very legalistic solution to a problem and there may be challenges in applying it in practice.
25. If this change were to be made, clear guidance would be needed from government as to what constitutes reasonable grounds to suspect that a person is engaged in money laundering, so that reporters can be satisfied that the objective part of the test is met.

Q7: If consultees agree that the threshold for required disclosures should be amended to reasonable grounds for suspicion, would statutory guidance be of benefit to reporters applying this test?

26. Any such guidance would need to do more than just repeat the statutory definition. It should detail what evidential burden would be required to constitute reasonable grounds, and also provide illustrative examples of what would fall either side of the line in terms of when a disclosure would be required. In light of our earlier comments about the reporting regime being designed for the banking sector, the illustrative examples should extend to the accountancy and legal sectors also to enable those working in these regulated sectors to feel confident that they understand when it is appropriate to make a disclosure.

27. It should also be acknowledged that while case studies are helpful, they can't define every situation.

Q8: We provisionally propose that the suspicion for the money laundering offences in sections 327, 328, and 329 of the Proceeds of Crime Act 2002 should be retained. Do consultees agree?

28. We support the proposal that the threshold for the offence of money laundering remains unchanged. We consider that where action is taken for money laundering offences, there has been due cause for the offender to be punished.

Q9: We provisionally propose that it should be a defence to the money laundering offences in sections 327, 328, and 329 if an individual in the regulated sector has no reasonable grounds to suspect that property is criminal property within the meaning of section 340 of the Proceeds of Crime Act 2002. Do consultees agree?

29. If the defence of no reasonable grounds to suspect operated such that it provided additional protection to those in the regulated sector, then we would agree that this should be included, in line with the proposed changes to the threshold for required disclosures.

Q10: Does our summary of the problems presented by mixed funds accord with consultees' experience of how the law operates in practice?

30. Yes it does. This also applies in insolvency cases.

Q11: We provisionally propose that sections 327, 328 and 329 of POCA should be amended to provide that no criminal offence is committed by a person where:

- ***(1) They are an employee of a credit institution;***
- ***(2) They suspect [or if earlier proposal in chapter 9 is accepted have reasonable grounds to suspect] that funds in their possession constitute a person's benefit from criminal conduct;***
- ***(3) The suspicion [or if our earlier proposal in Chapter 9 is accepted reasonable grounds to suspect] relates only to a portion of the funds in their possession;***
- ***(4) The funds which they suspect [or if our earlier proposal in Chapter 9 is accepted have reasonable grounds to suspect] constitute a person's benefit from financial conduct are either:***
  - ***a) Transferred to an account within the same credit institution; or***
  - ***b) The balance is not allowed to fall below the level of the suspected funds;***
- ***(5) They conduct the transaction in the course of business in the regulated sector (as defined in Schedule 9 of the Proceeds of Crime Act 2002; and***
- ***(6) The transfer is done with the intention of preserving criminal property.***

Do consultees agree?

31. The proposed amendment would help to address the issue of fungibility of funds in a pragmatic way, and we agree it should help to alleviate the difficulties faced by the banking sector when suspicions arise over mixed funds. As long as the quantum of the suspicious funds is preserved then this is a proportionate response to the issue. We consider that the potential to simply lock the account containing the balance of the suspected criminal funds should be considered as an alternative to transferring the funds to another account.
32. Our comments only stand if the tests outlined above are 'and' criteria so that all 6 tests must be met for the employee to be absolved of a criminal offence. Crucially, there should be a requirement for the suspicious transaction to be reported. While rules that prevent unnecessary consent applications would be welcome, they should not diminish the obligation to report suspicious activity.

33. We would welcome a similar form of protection for all professionals operating client accounts, and Insolvency Practitioners acting as liquidators or administrators who are having to deal with part tainted funds.

Q12: We provisionally propose that statutory guidance should be issued to provide examples of circumstances which may amount to a reasonable excuse not to make a required and/or an authorised disclosure under Part 7 of the Proceeds of Crime Act 2002. Do consultees agree?

34. We would instead suggest that non-statutory sector guidance should be issued to illustrate situations in which it is appropriate to make a SAR, and which kinds of circumstances do not yield valuable intelligence to law enforcement agencies. This should reduce the number of defensive and low value SARs. We agree that regularly reviewed and updated guidance is of more value than an exhaustive list within the legislation, which may purely serve as a tick box for those avoiding reporting matters which should be reportable.

Q13: It is our provisional view that introducing a minimum financial threshold for required and authorised disclosures would be undesirable. Do consultees agree?

35. We agree that no de minimis threshold should be introduced, due to the risk of offenders adapting behaviour to avoid detection. The issue of large volumes of reports with low intelligence value could be better addressed through greater technological analysis.

Q14: Do consultees believe that the threshold amount in section 339A of the Proceeds of Crime Act 2002 should be raised? If so what is the appropriate threshold?

36. We are not aware of evidence that suggests the current threshold of £250 to meet living expenses is inappropriate.

Q15: We provisionally propose that any statutory guidance issued should indicate that the moving criminal funds internally within a bank or business with the intention of preserving them may amount to a reasonable excuse for not making an authorised disclosure within the meaning of sections 327(2)(b), 328(2)(b) and 329(2)(b) of the Proceeds of Crime Act 2002. Do consultees agree?

37. As part of the other changes proposed in relation to ring-fencing of the criminal part of mixed funds, we would agree that the movement of funds within a single bank to preserve them should amount to a reasonable excuse for not making an authorised disclosure.

38. However further thought would be needed regarding whether the intention is to allow movement of funds between different jurisdictions with divergent legal systems. We suggest that this defence should also apply to the movement of all criminal property.

Q16: Do consultees agree that there is insufficient value in required or authorised disclosures to justify duplicate reporting where a report has already been made to another law enforcement agency (in accordance with the proposed guidance)?

39. We strongly believe that duplicate reporting should not be necessary. If a report is made to the NCA or the Treasury, then these organisations should be sufficiently joined up to share that information between themselves, not require reporters to make duplicate reports. The relevant law enforcement agencies need to make substantive changes to how they share intelligence, such that the details contained within the initial report are shared with all relevant agencies without the need for another report to be made.

40. Duplicated reporting should not be required **across the whole regime (which should include supervisors)** - as long as there is clear and reasonable evidence that a report has already been made and there is no additional intelligence known to the second party that should be reported.

41. Much of the current duplicate reporting is to entities not normally regarded as LEAs, such as the Charities Commission. A new SAR system should give reporters the option to flag reports as needing to be sent to specific bodies. Under such a new system, the first recipient should be the NCA, and then once a reference number is available, this could be used by the NCA to share the report with all other relevant entities, and the reporter should be notified of who the report has been shared with. Such a mechanism may also be of use where a reporter is aware that another obliged entity has made a report and has the reference number, or even perhaps where a non-obliged entity, such as a client, has made a report.
42. In the case of suspected tax evasion, it may be preferable for the first recipient of the report to be HMRC, with a mechanism for HMRC to share this report with the NCA, if HMRC agree that there is deliberate tax evasion. HMRC should then provide confirmation to the reporter that they have shared the report with the NCA.

Q17: We provisionally propose that statutory guidance be issued indicating that a failure to make a required disclosure where a report has been made directly to a law enforcement agency on the same facts (in accordance with proposed guidance on reporting routes) may provide the reporter with a reasonable excuse within the meaning of sections 330(6)(a), 331(6) and 332(6) of the Proceeds of Crime Act 2002. Do consultees agree?

43. In line with our comments in relation to question 16 above, where a report has been made to a law enforcement agency, no further reporting should be required, and this should provide the reporter with a full exemption rather than a reasonable excuse, if the guidance has been followed. We would also suggest that there should be a priority body for reports to be made to (i.e. the NCA)), and confirmation of which other law enforcement agencies the details of such a report would then be shared with. This should reduce uncertainty for reporters and result in a more consistent reporting approach.

Q18: We provisionally propose that a short-form report should be prescribed, in accordance with section 339 of the Proceeds of Crime Act 2002, for disclosures where information is already in the public domain. Do consultees agree?

44. A short-form report would be a useful alternative, as long as it requires cross-reference to the information in the public domain, or details of where such information can be sourced.

Q19: We provisionally propose that statutory guidance should be issued indicating that it may amount to a reasonable excuse to a money laundering offence not to make an authorised disclosure under sections 327(2), 328(2) and 329(2) of the Proceeds of Crime Act 2002 where funds are used to purchase a property or make mortgage payments on a property within the UK. Do consultees agree?

45. To the extent that this is specifically in the context of an authorised disclosure, and not a required disclosure, there may be some merit in allowing there to be a reasonable excuse to a money laundering offence where funds are used to purchase a property or make mortgage payments in the UK. If the reality is that law enforcement wouldn't refuse a defence/consent in these circumstances, then there is little merit in the authorised disclosure being made. However, it would need to be clear that a required disclosure should be made in these circumstances, and there would be no reasonable excuse defence.

Q20: We provisionally propose that the obligation to make a required disclosure in accordance with sections 330, 331, and 332 of the Proceeds of Crime Act 2002 in these circumstances should remain. Do consultees agree?

46. We strongly agree that a disclosure should still be required where suspicions of money laundering exist, in relation to funds used to purchase a property or make mortgage payments. This is especially pertinent given the concerns around the quantum of illicit overseas funds being used to purchase high value property in the UK.

Q21: We provisionally propose that reporters should be able to submit one SAR for:

(1) Multiple transactions on the same account as long as a reasonable description of suspicious activity is provided; and/or

(2) Multiple transactions for the same company or individual.

Do consultees agree?

47. We would welcome the means for reporters to use one SAR reference number for multiple authorised disclosures for linked transactions or transactions related to the same underlying company or individual. This should reduce the administrative burden on reporters.

Q22: Do consultees agree that banks should not have to seek consent to pay funds back to a victim of fraud where they have filed an appropriate report to Action Fraud?

48. Where the victim of the fraud can be reliably identified, then we agree that banks should not have to seek consent before they can repay those funds back to the victim, so long as the funds are not subject to a restraint or confiscation order, of which the bank should be aware. On the basis that the bank will have retained records of the repayment, law enforcement agencies could review the details of funds flow if necessary at a later date.

49. We would also welcome the ability for all professionals operating client accounts to be exempt from seeking consent in these circumstances.

Q23: Do consultees believe that there is value in disclosing historical crime?

50. Disclosure of historical serious crimes may still have intelligence value to law enforcement, but it is hard to see how disclosure of minor and inconsequential historical crimes add any real intelligence value. However disclosure of crimes connected to Serious Organised Crime, Terrorist Financing or crimes inflicting serious social harm, would surely be of intelligence value, whether historical or not.

Q24: How long after the commission of a criminal offence would a disclosure be considered historical for the purposes of law enforcement agencies?

51. Any definition of historical for criminal offences should be in line with the applicable statutory limitation period for the relevant offences.

Q25: We provisionally propose that statutory guidance be issued indicating that where a transaction has no UK nexus, this may amount to a reasonable excuse not to make a required or authorised disclosure. Do consultees agree?

52. In the age of increased cross-border information sharing between Financial Intelligence Units, we consider that required disclosures should still be made regardless of whether they have a UK nexus, so that the NCA can share that information with the relevant overseas FIU. Given the international aspect of criminal activity, important intelligence could be omitted if any non-UK nexus activity was not reported.

Q26: Are there any additional types of SAR under POCA which are considered to be of little value or utility that we have not included?

53. We would also question the value of reports which are duplicate reporting (including by a supervisor where they see reasonable evidence that a regulated firm/member has already reported.

Q27: We provisionally propose that there should be a requirement in POCA that Government produces guidance on the concept of "appropriate consent" under Part 7 of the Act. Do consultees agree?

54. We would welcome guidance from the government on the concept of "appropriate consent" to clarify to reporters what consent it, and what it isn't. We note that the term consent is often misconstrued as being a decision based on an investigation where no issues have been identified, so the reporter can proceed; rather than whether there is any law enforcement interest.

Q28: Based on their experience, do consultees believe that statutory guidance on arrangements with prior consent within the meaning of section 21ZA of the Terrorism Act 2000 would be beneficial?

55. Please see our comments in response to question 27 above.

Q29: Do consultees believe that sharing information by those in the regulated sector before a suspicion of money laundering has been formed is:

(1) Necessary; and/or

(2) Desirable; or

(3) Inappropriate?

56. Although we acknowledge the potential benefits of pre-suspicion information sharing, and think it would be desirable, we have concerns about how this sharing of information could be compliant with the General Data Protection Regulations, and also how protection would be provided from action for breach of confidentiality. In our view, some form of protection or safe harbour must be provided for those in the regulated sector to allow pre-suspicion information sharing. Otherwise there would be reticence on the part of those in the regulated sector to do so.

Q30: We invite consultees' views on whether pre-suspicion information sharing within the regulated sector, if necessary and/or desirable, could be articulated in a way which is compatible with the General Data Protection Regulation. We invite consultees' views on the following formulations:

(1) Allowing information to be shared for the purposes of determining whether there is a suspicion that a person is engaged in money laundering;

(2) Allowing information to be shared for the purpose of preventing and detecting economic crime;

(3) Allowing information to be shared in order to determine whether a disclosure under sections 330 or 331 of the Proceeds of Crime Act 2002 would be required; or

(4) Some other formulation which would be compatible with our obligations under the General Data Protection Regulation?

57. Option 1 would provide the broadest protection to those in the regulated sector if the objective is to encourage sharing of information prior to establishing that there is a suspicion of money laundering. We are however unable to comment on whether this would be an acceptable interpretation under the General Data Protection Regulations.

58. Options 2 and 3 could also be potentially useful exemptions if government can provide comfort that these would be consistent with GDPR.

59. The overarching issue with proposed pre-suspicion sharing is the potential breach of confidence between a professional and their client, which could expose the professional to civil action, or may erode confidence in the professions, for whom confidentiality is paramount. As pre-suspicion sharing could help to prevent crime, there should be protection provided from contractual confidentiality requirements.

60. Any move toward pre-suspicion information sharing should be carefully balanced with the right of an individual to seek advice from a lawyer or accountant on a confidential basis, in the confidence that their information won't be shared with third parties unless required by

law. Any such pre-suspicion information sharing should have a clear and defined purpose and be proportionate in effect.

Q31: Do consultees believe that significant benefit would be derived from including any of the following within the JMLIT scheme operating under the gateway in section 7 of the Crime and Courts Act 2013:

(1) Additional regulated sector members;

(2) The regulated sector as a whole; or

(3) An alternative composition not outlined in (1) or (2)?

61. We would suggest that there should be different groups for different sectors where there is no overlap in the sector activities; but that there should be a single overarching group where the full regulated sector picture is discussed, to ensure that the full range of criminal behaviour is captured.

Q32: Do consultees believe that there would be significant benefit in including other law enforcement agencies within the JMLIT scheme?

62. Please see our comments in response to question 31 above.

Q33: Do consultees believe that there would be significant benefit to including any other entities within the JMLIT scheme?

63. Please see our comments in response to question 31 above.

Q34: Do consultees believe that the consent regime should be retained? If not, can consultees conceive of an alternative regime that would balance the interest of reporters, law enforcement agencies and those who are the subject of disclosures?

64. We support the retention of the consent regime, albeit with some amendments to recognise the issues that insolvency practitioners face in administering businesses where there may be underlying concerns of the nature of funds within the business. A specific consent mechanism for insolvency practitioners would be welcomed, where consent could be requested for the overall administration of the business throughout its insolvency.

65. The current time scale in obtaining a response from the NCA to a consent application creates practical difficulties for those in the regulated sector, especially in relation to insolvencies. A shorter timescale for a response would be welcome, or at least some guidance on how the individual seeking consent can handle the situation with their client while awaiting a response, without the risk of tipping off.

66. We would also welcome guidance on what would constitute a ‘reasonable excuse’ for certain insolvency scenarios. This could include for example, that there is a reasonable excuse for not applying for consent on appointment when taking control of assets, on the basis that this happens fast; but when distributions are to be made to creditors, then consent would be required. Also, when a business is trading there can be large numbers of transactions, so a blanket consent request would be appropriate.

Q35: Do consultees believe that a power to require additional reporting and record keeping requirements targeted at specific transactions would be beneficial?

67. We would be concerned that transactional based rather than suspicion based reporting, would increase the volume of low intelligence value disclosures. The benefit of requiring reports from the regulated sector is where experienced individuals apply their professional judgement to a situation to determine whether it is suspicious and requires reporting. To ignore this judgement process and just report based on transaction values would likely reduce the value of SARs.

68. However we do think the SAR process could be improved by the reporters being asked for more information about context of the report, the predicate offence, the nature of the ML and the launderer - but in a way that could be accessed for easy reporting in specific data fields for each data type.

Q36: Do consultees see value in introducing a form of Geographic Targeting Order?

69. In the absence of any specific evidence that certain geographical areas in the UK require targeting, we would not see much merit in introducing Geographical Targeting Orders. A great deal of attention is already focussed on London as a financial capital so it is unclear what additional measures would be proposed above those already in place.
70. While geographical targeting is used in the US, this is because it draws in sectors that are not normally regulated. Of far more use would be targeted intelligence sharing of risks in specific areas so that businesses could ensure effective use of resources in high risk cases.

Q37: Do consultees believe that consideration should be given to a new offence whereby a commercial organisation would be criminally liable for their employees or associates failure to report suspicions of money laundering or terrorist financing?

71. Whether such a measure is proportionate or necessary will depend upon whether companies are empirically the cause of under-reporting by employees. We would welcome further consultation on this proposal once data is available to ascertain the extent of this problem. In any event the company would be liable from a regulatory stand point if they have taken insufficient action to train their staff or quality check their operations.

Q38: Do consultees believe that consideration should be given to introducing an offence for a commercial organisation to fail to take reasonable measures to ensure its associates reported suspicions of criminal property?

72. Please see our comments in response to question 37 above.