

## 2019 AML Autumn Workshops Series – Questions & Answers

In the autumn of 2019 the CLC ran a series of AML workshops for Money Laundering Reporting Officers, facilitated by Teal Compliance. Below are some of the questions asked during the sessions, along with the guidance provided.

Remember to take a *risk-based approach* to your compliance with the money laundering regulations (MLRs). If you need help, speak to your Regulatory Supervision Manager or refer to the [Legal Sector Affinity Group's Anti-Money Laundering Guidance](#).

### **Identification and verification (ID&V)**

#### **Q: Do we need to be 100% certain that a person is who they say they are?**

A: You need to take a risk-based approach and run sufficient checks. For AML purposes you do not need to be 100% certain.

#### **Q: Can we accept and use electronic copies of ID documents?**

A: Yes – but only if you are verifying the authenticity of the document with an electronic check.

#### **Q: Can we rely solely on e-verification?**

A: Yes – you can comply with the MLRs while solely relying on e-verification. You should satisfy yourself that the e-verification provider is secure from fraud and misuse.

#### **Q: How do we choose an e-verification provider?**

A: If you are introducing e-verification make sure that you understand how the service works and that it will provide sufficiently reliable results. You should investigate and make a decision based on an assessment of the quality of the datasets relied upon.

You should make sure you understand different providers' pass/fail thresholds. Some providers may accept close matches rather than exact ones (i.e. the test will still pass if the date of birth is incorrect).

The MLRs set out that an e-verification provider may be regarded as reliable where it is secure from fraud and misuse and capable of providing appropriate assurance that customers are who they say they are.

#### **Q: How long must we keep ID documents for?**

A: Although regulation 40 of the MLRs only requires ID documents to be retained for five years, you need to retain them for longer, in line with the CLC [Transaction Files Code](#).

#### **Q: What ID and verification is required for beneficial owners and directors when the client is a company?**

A: You must:

- a) *Take reasonable measures* to determine and verify the full names of the board of directors (or members of the management body) and the senior persons responsible for the operation of the body corporate.
- b) *Identify* the beneficial owner
- c) *Take reasonable measures* to verify the identity of the beneficial owner.

**Q: What is the position on using facial recognition apps to satisfy ID&V requirements?**

A: Using facial recognition technology is a good idea, however, it won't fully satisfy your CDD requirements. This is because UK Finance still requires the citing of paper documents or certified copies of documents.

**Q: How often do we need to repeat ID&V?**

A: Apply a risk-based approach when determining when and how often you will do ID&V. Practices are recommended to repeat ID&V no less frequently than every two years, unless the client's documentation has expired or they have moved address in the meantime.

**Q: Should we be conducting the same ID&V and CDD checks on third-party funders?**

A: Yes – You should always extend the ID&V (and source of funds and wealth) checks to third-party funders.

**Source of funds and source of wealth checks**

**Q: What about when the client is a limited company?**

A: All you are really able to do is satisfy yourself that the company is a legitimate trading company and not a shell company.

**Q: Conducting source of funds and wealth checks can feel intrusive. How in-depth do we need to be?**

The MLRs require you to take reasonable steps to identify where monies have come from. The level of enquiry will be down to your practice's risk appetite in the circumstances. At a minimum, you should ask for six months' worth of bank statements.

Remember that asking for additional information is not tipping off.

**Q: Do we need to be more cautious with monies coming from China?**

A: When receiving funds from China you need to consider the strict foreign exchange controls that the Chinese Government has in place and whether any of these have been breached in transferring the money out of China. If so, you may be dealing with the proceeds of crime or be involved in a fraud and should report to the National Crime Agency.

**Politically Exposed Persons (PEPs)**

**Q: What should we be looking for when conducting enhanced due diligence on a PEP?**

It's important to ensure that any money coming from a PEP does not come from public funds. You should monitor the source of funds and wealth at the outset and throughout the transaction.

**Q: What's the best way to ask a client if they are a PEP?**

A: You should ask clients whether they are a PEP as part of your initial client information questionnaire. However, don't just rely on what they tell you and compare their response to the results of your electronic verification and searches.

If you don't use electronic verification, run a Google search.

**Staff training**

**Q: How regularly should we train our staff?**

A: Refer to your practice-wide risk assessment, which should include the AML risk associated with each part of the business. People working in areas with higher AML risk, such as those that do client due diligence, should be trained more regularly than lower risk employees. You should ensure that all staff receive at least high-level AML training.

Try to deliver training in a variety of formats to keep it engaging. Training should also be delivered consistently – not just when the law changes or a new employee is inducted.

**Q: Who should be trained?**

The MLRs require that all ‘relevant’ employees (and agents) are trained. A relevant employee is someone whose work relates to compliance with the MLRs, who can contribute to the identification or mitigation of risk of money laundering, or who can contribute to the detection or prevention of money laundering (regulation 24).

Arguably, all staff at your practice should be considered as relevant employees and should receive AML training. For example, a cashier, receptionist, or fee earner will view different client behaviours and information in the course of their duties and are all capable of identifying money laundering red flags.

**Independent audit of policies, controls, and procedures (PCPs)**

**Q: Do all practices require an independent audit of their PCPs?**

A: No. Whether you are able to appoint someone within the practice that is independent of the AML PCPs and relevant work will depend on the size of the practice. Smaller practices are unlikely to be able to appoint an independent internal auditor, but should still maintain a schedule for the monitoring and review of PCPs.

**Suspicious Activity Reports (SARs)**

**Q: What are the timescales for the NCA if we submit a SAR the day before completion?**

A: The NCA has seven working days to respond to a SAR, however, it can enter into a moratorium period and withhold consent for up to 31 days. In addition, they may apply for up to six additional extensions of 31 days each.

You should ensure as far as possible that the SAR is submitted correctly the first time, to reduce the likelihood of an extended processing time. Make sure that you correctly and clearly identify the suspected criminal property and criminal activity.

**Q: Is it reasonable to rely on the bank to submit a SAR?**

A: No. The bank may not have submitted a SAR, and even if they have, the NCA might have provided consent. If in doubt, submit a SAR.