



Chartered
Institute of
Taxation

Anti-Money Laundering Newsletter

May 2018

Criminality Checks

In previous Newsletters, we have highlighted changes introduced by the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. One of the changes made by the Regulations was the requirement in [Regulation 26](#) that no beneficial owners, officers and managers (BOOMs) of supervised firms can have any criminal convictions for offences listed in [Schedule 3](#). Members supervised by CIOT or ATT for AML will therefore need to demonstrate this by declaring in their AML registration form that they have carried out criminality checks on their BOOMs and none have any relevant unspent convictions. Criminality checks must be carried out through [Disclosure and Barring Service \(DBS\)](#) for members working in England and Wales or through [Disclosure Scotland](#) or [AccessNI](#) if you work in Scotland or Northern Ireland. Further information on how to carry out criminality checks can be found [here](#). Checks cost £25 and should be processed within 14 days. Members will need to apply for the checks themselves as CIOT/ATT are not registered to carry out checks on behalf of members.

HM Treasury have stipulated that sole practitioners will need to provide a copy of their clean criminality check certificate to their Supervisory Body. As a result, Member Services will be contacting sole practitioner members following completion of their AML registration form.

We also sought clarification from HM Treasury of a more specific definition of BOOMs and agreed the following:

Officer

This should include:

- a sole practitioner;
- a partner in a partnership (including a Scottish Limited Partnership (SLP));
- a member in a limited liability partnership (LLP);
- a director or company secretary in a limited company; and - a member of the firm's management board or equivalent.

Beneficial owner

This should include:

- a sole practitioner;
- a partner, or LLP member, in a firm who:
 - holds (directly or indirectly) more than 25% of the capital, or profits or voting rights; or

- exercises ultimate control; and
- a shareholder in a limited company who:
 - ° holds (directly or indirectly) more than 25% of the shares or voting rights; or
 - ° ultimately owns, or exercises ultimate control.

Manager

This should include:

- the nominated officer (the MLRO);
- the member of the board of directors (or if there is no board, of its equivalent management body) or of its senior management as the officer responsible for the relevant person's compliance with MLR17); and
- any other principal, senior manager, or member of a management committee who is responsible for setting, approving or ensuring the firm's compliance with the firm's Anti-Money Laundering policies and procedures, in relation to the following areas:
 - client acceptance procedures;
 - the firm's risk management practices;
 - internal controls, including employee screening and training for AML purposes;
 - internal audit or the annual AML compliance review process;
 - customer due diligence, including policies for reliance; and
 - AML record keeping.

NCA Defence Against Money Laundering FAQ

The first edition of the [Defence Against Money Laundering \(DAML\) Frequently Asked Questions](#) was published on the NCA website on 1 May 2018.

The purpose of the DAML FAQ

This product draws together the good practice and interpretations provided by experienced Money Laundering Reporting Officers (MLROs) from across the UK SARs regime. Collaborative answers are provided to the most frequently asked questions concerning the DAML process.

The ambition of these core answers is to help a large cross section of the SAR reporting community and improve the quality of DAML disclosures. Time should be saved for the UK Financial Intelligence Unit (UKFIU) sending requests for further information and for reporters replying to such requests. The aim will be to regularly review the content as it is anticipated that this product will evolve into further editions following the introduction of new legislation, regulations and crime trends.

The provided answers to the questions are intended to provide good practice GUIDANCE ONLY. The answers are not intended to, nor should they be construed as, providing any form of legal advice. It signposts that more tailored industry specific advice regarding DAML requests, submitting SARs to the NCA or more general AML compliance should be sought from regulators, supervisors, trade bodies and considerations be given to seeking independent legal advice.