

Anti-Money Laundering Newsletter - Issue Sixteen

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Fourth Money Laundering Directive

It has been a long time coming but the text of the 4th Money Laundering Directive, which was agreed in trilogue negotiations between the EU Commission, parliament and presidency in December and approved by the European Council in February, has now been formally adopted by the Council by being published in the EU Official Journal in June - http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:JOL_2015_141_R_0003&from=EN. The Directive will come into force on 26 June 2015 and must be transposed into the national laws of the Member States by 26 June 2017.

In addition to moving towards a risk-based approach to combating money laundering and terrorist financing, the key provisions of the Directive include the requirement for:

- “corporate and other legal entities ... to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held”.
- the “trustees of any express trust [to] obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust”.

as well as broadening the categories of individuals who can be regarded as Politically Exposed Persons (PEPs) to cover domestic PEPs and changing the definition of “criminal activity” to include tax crimes relating to both direct and indirect taxes (which is already the case in the UK).

Consent (authorised disclosures) and changes to Proceeds of Crime Act 2002 (POCA)

The Home Office has published a [circular](#) detailing amendments to POCA with the provisions taking effect from 1 June. It includes the introduction of additional protection from civil liability for those reporting suspicions of money laundering in good faith - see Chapter 4, paragraphs 54-56. The new subsection 338(4A) to POCA provides that: “where an authorised disclosure is made in good faith, no civil liability arises in respect of the disclosure on the part of the person by or on whose behalf it was made”. But, note that the amendments to POCA relate to “consent SARs” made pursuant to section 338 of POCA and not the reporting of knowledge or suspicion etc. of proceeds of crime under sections 330/331 of POCA. Also, you can

still be challenged for making a disclosure in bad faith so it is important to keep records/notes to show that you acted in good faith should it ever be challenged.

Outcomes from the meeting of the FATF Plenary

The Financial Action Task Force (FATF) had a Plenary meeting in Paris in February where main issues included issuing a statement on FATF action on terrorist finance; adopting and publishing a report on the financing of the terrorist organisation Islamic State in Iraq and the Levant and reviewing voluntary tax compliance programmes in several jurisdictions. Further details can be found [here](#).

Improve your cyber security

Online crime and data security breaches are on the increase for small businesses as well as large organisations. The Information Security Breaches Survey 2014, commissioned by BIS, found that 81% of large organisations and 60% of small businesses had suffered a security breach during the previous year so it is important to consider what you need to do to help protect your business. A useful starting point is this free course, which has been developed by the UK Government as part of its National Cyber Security Strategy with the support of both accountants and lawyers - <http://www.att.org.uk/Standards/generalguidance> or <http://www.tax.org.uk/Resources/CIOT/Documents/2015/06/150806%20Cyber-security%20course.pdf>. The Home Office initiative www.cyberstreetwise.com is also a useful source.

CEO Impersonation: an emerging threat

It was brought to our attention at a recent Supervisory Bodies meeting that there is an emerging threat, with typical individual losses exceeding £0.5m, whereby fraudsters attempt to extract funds from corporates by impersonating a senior executive. In this blog Mike Lowe (PwC Senior Manager) discusses a methodology used by fraudsters to attempt this type of fraud and the control weaknesses being exploited to successfully perpetrate it: http://pwc.blogs.com/fraud_academy/2015/05/ceo-impersonation-an-emerging-threat.html

Training

Some of you asked for an AML training event on your AML registration form. By request, members of the Professional Standards team have recently been visiting various branches to give a professional standards update (including AML). They will also be at the [ATT Annual Conferences](#) being held at locations throughout the country so if you are attending, do go and ask them any AML queries you may have.