ANTI-MONEY Laundering

Read time: 9 mins

Hello,

Money laundering is a severe type of criminal fraud whereby illegal money is acquired and turned into legal tender.

The National Crime Agency (NCA) reports that over £100 billion of laundered money affects the UK's economy each year.

As a result, firms must verify the identity of clients, have an internal money laundering reporting process, provide training to staff to ensure awareness of the regulations and keep adequate records. There is not a "one size fits all" approach.

The systems and controls should be comprehensive and proportionate to the firm's activities' nature, scale and complexity.

This guide will explore what money laundering is, the regulations in place to try and prevent money laundering and the responsibilities we all have in preventing and reporting suspected money laundering activities.

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Learning lab

What is money laundering?
Definition

According to HM Revenue and Customs, the definition of money laundering is straightforward. “Exchanging money or assets that were obtained criminally for money or other assets that are ‘clean’.

Money laundering is a severe type of criminal fraud whereby illegal money is acquired and turned into legal tender. Three distinct money laundering stages are then followed for the ‘dirty’ illicit funds to be reintegrated or ‘cleaned’ into the legal, financial system for the criminal’s benefit.

By laundering money, criminals attempt to disguise the true origin and ownership of the proceeds of their criminal activities, aiming to avoid prosecution, conviction and confiscation of the criminal property.

It is important to note that money laundering does not mean just cash; it can include anything gained from the proceeds of a crime, for example, jewellery, antiques or even high-value cars.

What is money laundering?

The stages of money laundering

By laundering money, criminals are attempting to disguise the true origin and ownership of the proceeds of their criminal activities and follow three distinct stages:

» Placement
» Layering
» Integration

The placement of funds

Financial criminals move the cash from its source after getting hold of illegally acquired funds through theft, bribery, and corruption.
The criminal money is 'washed' and disguised by being placed into a legitimate financial system, such as offshore accounts.

The layering of funds

Once the funds are placed into the financial system, the criminals make it difficult for authorities to detect laundering activity. They do this by obscuring the audit trail through the strategic layering of financial transactions and fraudulent bookkeeping.
Layering is a significantly intricate element of the money laundering process. Its purpose is to create multiple financial transactions to conceal the original source and ownership of the illegal funds.

What is money laundering?

The stages of money laundering

The integration of funds

Once the 'dirty' money has been placed and layered, the funds will be integrated into the legitimate financial system as legal tender. Integration is done very carefully from legitimate sources to create a plausible explanation for the origins of the money.

The 'dirty' money is now absorbed into the economy, for instance, via real estate. At this stage, it is challenging to distinguish between legal and illegal wealth. The launderer can use the money without getting caught. It is incredibly challenging to catch the criminal if there is no documentation to use as evidence from the previous stages.

METHODS OF Money Laundering

Methods of money laundering

The six most common examples of crime associated with the placement stage in the laundering money process are as follows:

The blending of funds

This process is whereby businesses blend illegal funds with legitimate takings and is typically done through cash businesses, as they have little or no variable costs. Historically, laundrettes were used for these purposes, hence the term money laundering.

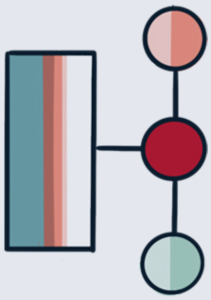
Invoice fraud

Invoice fraud is the most common technique used for transferring dirty money.

Primary techniques include:

- Over-invoicing or under-invoicing.
- Falsely describing goods and services.
- Phantom shipping, where no items have been shipped, and fraudulent documentation was produced to justify the payment abroad.

Methods of money laundering



'Smurfing'

'Smurfing' is the act of breaking a considerable sum into smaller and less-suspicious transactions below the reporting threshold.

The illegal funds are often deposited into one or multiple bank accounts by either multiple people (known as smurfs) or by a single person over an extended period.

Offshore accounts

Laundered money is often hidden through offshore accounts as this process easily hides the identity of the actual beneficial owners and is a way to evade paying tax to HMRC. Offshore accounts are bank accounts opened in a country outside of where an individual resides.

Carrying small sums of cash abroad

Money can be laundered by carrying small sums of cash abroad below the customs declaration threshold. Then this cash is paid into foreign bank accounts before sending it back home.

Aborted transactions

The money is transferred to a lawyer or accountant to hold until a proposed transaction is completed. The transaction is then cancelled, and the funds are repaid to the criminal from an unassailable source.

MONEY LAUNDERING Regulations

Money laundering regulations

Overview

Over recent years the main legal provisions dealing with money laundering include:

- **Prevention of Terrorism Act 2000**
- **Anti-Terrorism Crime and Security Act 2001**
- **Proceeds of Crime Act (POCA) 2002**
- **Serious Organised Crime & Police Act 2005**
- **Terrorism Act 2006**
- **Money Laundering Regulations 2007**
- **Terrorist Asset Freezing Etc Act 2010**

Current requirements are contained in the Money Laundering Regulations 2007; the main aspects of the regulations are:

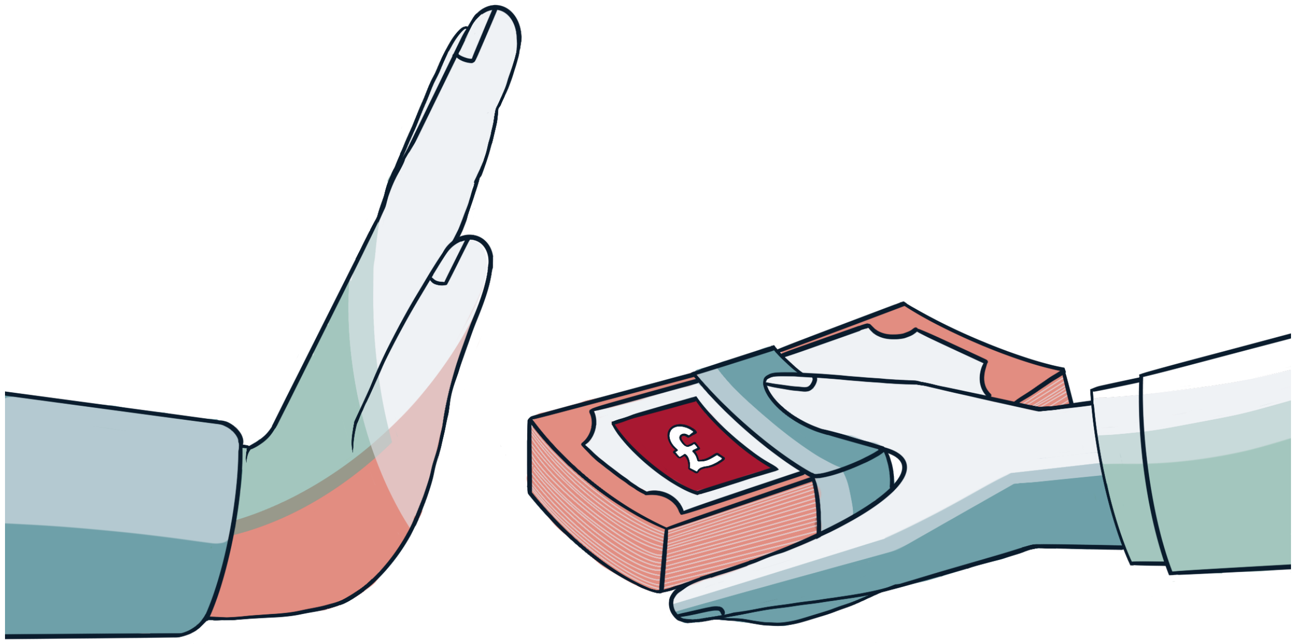
- **Verifying the identity of clients as necessary**
- **Internal reporting procedures**
- **Keeping records**
- **Providing training to staff to ensure awareness of the regulations**

The Terrorism Act &
Financial sanctions

The Terrorism Act also requires everyone forming a belief or suspicion of terrorist money laundering in the course of their trade or profession to make a report. This Act applies to all businesses in all sectors of the economy.

The United Nations require the United Kingdom to freeze the assets of any person who commit terrorist acts. It is a criminal offence to make funds or financial services available to individuals or entities on the financial sanctions list maintained by HM Treasury.

Therefore, firms will need to ensure they do not provide any financial services to such persons. Your firm will have created a procedure for you to check the financial sanctions list and report any findings.



The Proceeds of Crime Act & Criminal property

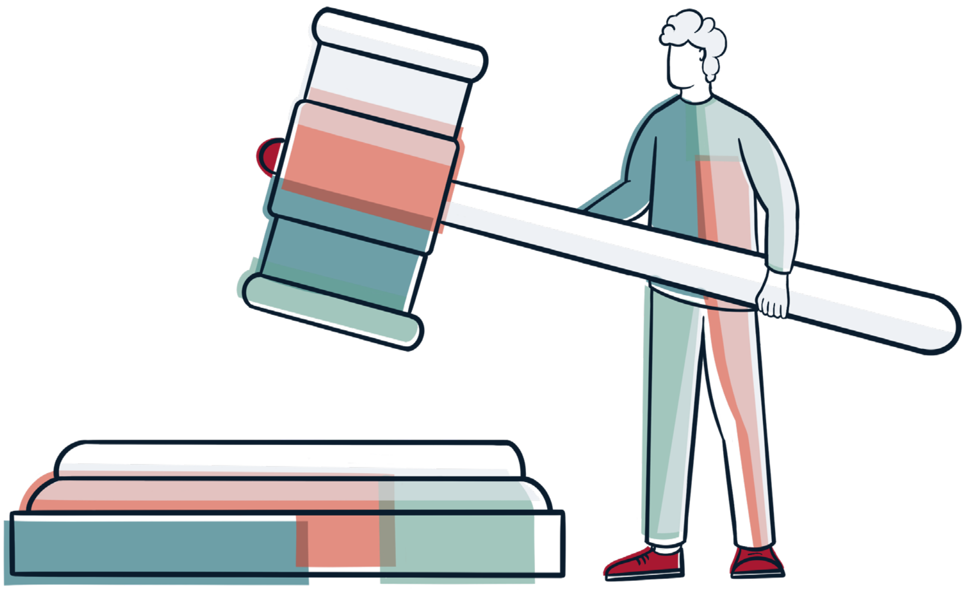
The Proceeds of Crime Act (POCA) 2002 imposes criminal sanctions on anyone who commits an offence of money laundering, tipping off or prejudicing an investigation.

The following are money laundering offences under the sections of the Act:

» Concealing criminal property
» Arranging
» Acquiring, using, or possessing criminal property

Criminal property includes (and is not limited to):

» The proceeds of tax evasion
» A benefit obtained through bribery and corruption
» Benefits obtained, or income received, through the operation of a criminal cartel
» Benefits (in the form of saved costs) arising from a failure to comply with a regulatory requirement, where that failure is a criminal offence



MONEY LAUNDERING
Offences

Money laundering offences

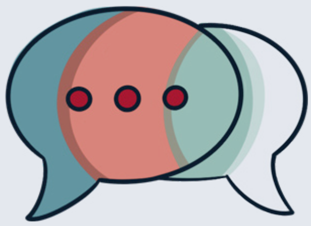
There are five core offences under the Money Laundering regulations, these are as follows:

Assistance

It is an offence for any person to provide assistance to a money launderer to obtain, conceal, retain, or invest funds if that person knows or suspects that the funds are the proceeds of serious criminal conduct.

Tipping Off

It is an offence for anyone to prejudice an investigation by informing the subject of a 'suspicion', or any third party, that a disclosure has been made or that the authorities propose to act or investigate.



Failure to report

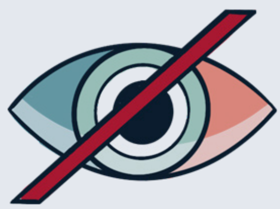
It is an offence for any person who acquired knowledge or suspicion of money laundering in the course of their employment not to report it as soon as practicable.

Acquisition

This offence is committed when a person has the necessary knowledge or suspicion that the property represents a benefit from criminal conduct.

Concealing

This offence is committed where a person disguises, conceals, converts, transfers, or removes any criminal property from the jurisdiction to avoid prosecution or the enforcement of a Confiscation Order.



REPORTING
Suspicions

Reporting suspicions

What is a suspicious transaction?

It is essential to be aware of what constitutes a suspicious transaction. Suspicious transactions could involve the following:

- Unrealistic wealth compared to the client profile, for example, a high-value car being acquired by somebody who has alow-ranking occupation
- Source of money/premium is challenging to identify, for example, cash payments
- Concerns over potential tax evasion/fraud
- Insistent clients who will not take your recommendations and insist on another course of action
- Transactions that have no apparent purpose
- Clients for whom identity cannot be verified or client is reluctant to provide verification documentation
- Early or frequent cancellation
- Third-party premium payments where there is no apparent connection with your client, e.g., a cheque is drawn on a business account which the client has no connection with
- Refund requests to be paid in cash or to a third party where there is no apparent connection with your client
- Payments made from a foreign bank account and branch
- Refund requested to a foreign bank account and branch
- Frequent, similar claims (particularly commercial clients)
- Insistence on cash payments for premiums (mainly where large sums are involved)
- Those persons named on the HMT Financial Sanctions list

Reporting suspicions

What is a suspicious transaction?

Questions worth considering in determining whether a transaction is suspicious could include:

» Is the transaction size consistent with the client's normal activities?

» Is the transaction rational in the context of the client's business or personal activities?

» Has the pattern of the transactions conducted by the client changed?

» If the transaction is international in nature, does the client have any apparent reason for conducting business with the other country involved?

Reporting suspicions

The reporting process

If there is any knowledge or suspicion of money laundering, firms should ensure that staff follow these steps:

1. Employees must not alert the client to the fact that they have knowledge of or are suspicious of money laundering
2. Employees must report the matter immediately to the Nominated Person and provide details of the client, nature of the transaction and the reasons for the suspicions
3. Employees must not disclose to anyone else (other than their line manager) that they have made a report
4. Employees should raise their suspicions via a durable medium (email)
5. If the employee does not receive an acknowledgement, they must contact the nominated individual to ensure the report has been received
6. The nominated individual in the firm may require further information, in which case, employees must cooperate promptly
7. By reporting the matter, employees have fulfilled their obligations

Reporting suspicions

Nominated person

Each firm should formally appoint a "Nominated Person" (with a deputy). You should report any suspicions directly to your firm's Nominated Person.

The Nominated Person will consider the matter and, if they deem it appropriate, they will file a confidential "Suspicious Activity Report (SAR)" to the authorities. The SAR will contain details of the suspicious activity.

The SAR is usually submitted to the National Crime Agency (NCA) or, if the case is related to matters arising from the Financial Sanctions regime, HM Treasury.

Reporting suspicions

Consequences of failing to report a suspicion

All staff are personally liable under the Money Laundering Regulations and Proceeds of Crime Act.

Therefore, you must report all suspicions or knowledge to the nominated person within your firm.

Failure to do so would mean that you are committing an offence, which under the Money Laundering regulations can attract unlimited fines and the following terms of imprisonment:

» Up to 14 years for the principal money laundering offences
» Up to 5 years for the failure to report an offence and the tipping off offences
» Up to 2 years for contravening the systems requirements of the Regulations.

IDENTITY CHECKING
Obligations

Identity checking obligations

Verifying a customer’s identity

It is crucial to be aware of how criminals may use your firm and the importance of verifying the customer’s identity.

In the IFA/Mortgage field, the regulations impose more specific requirements for checking an individual’s identity and establishing who the customer is.

You must verify the following core information:

- Full name
- Permanent address including postcode
- Occupation
- Date of birth
- Nationality

Identity checking obligations
Obtaining proof of identity & address

Proof of identity

You must verify the information that a customer provides by checking their identity. You can do this by obtaining the following original documents:

» A full current passport
» An armed forces identity card
» National identity card (non-UK resident)
» Current UK photo-card driving licence
» HM Revenue Customer tax notification

Proof of address

You must verify the current permanent address given by the customer. You can do this by obtaining one of the following original documents:

» Recent utility bill (Gas, Electric, Water)
» Current local authority council tax bill
» Bank or building society or credit union passbook with current address
» Local council rent card or tenancy agreement.

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