



Financial Management Professionals for SMEs

## YOUR ESSENTIAL AML UPDATE

### Welcome to your essential Anti-Money Laundering Update



Dear Members of IFA and FTA

The IFA was pleased to be chosen by HM Treasury as one of the professional bodies to act as an Anti-Money Laundering Supervisory Authority under the Money Laundering Regulations 2007.

However, it is a position of trust with duties attached!

This is the first E-Newsletter aimed at you, our IFA and FTA practising members, with the specific remit of informing you about our AML work. Part of our remit as a Supervisor is to “educate” our members in AML matters. This can be a dry subject, but we have put together a mixture of items which we very much hope will stimulate your interest! We hope to send out Newsletter 2 in May/June, and would be interested to have your reactions to the contents of this first issue.

I would also like to bring to your attention the large number of AML information pages now on the IFA’s website:

<http://www.ifa.org.uk/advice-and-support/additional-aml-guidance> which I very much hope will assist with those frequently asked questions members may have.

Our programme of compliance questionnaires and visits (not everyone will get a visit from our assessors!) will begin during March. The questionnaires can be answered in a few minutes and your responses will indicate to our Manager of Professional Standards, Martin Nimmo, whether you understand the essentials of the legislation. Martin, or Mark Outhwaite (our AML consultant), will be making presentations at a number of Regional Seminars and District Society events this year, and Martin is always pleased to tackle your questions!

With best wishes

David Woodgate

Chief Executive



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### What the Treasury expects...

In its most recent Supervisory Note (November 2009), Her Majesty's Treasury suggests "effective supervision" by the Supervisory Authorities would involve the following:

- Providing clear guidance on AML/TF<sup>1</sup> legal obligations and best practices.
- Providing support, outreach and education to supervised population on legal obligations.
- Risk-based monitoring of the compliance of supervised population with ML Regulations and risk-based guidance.
- Active cooperation with other supervisors to improve consistency and encourage best practices.
- Effective and proportionate use of disciplinary and enforcement powers to deter and reduce non-compliance.
- Encouraging supervised firms to employ a risk-based approach, which effectively manage risks whilst minimising burdens upon themselves.
- Actively cooperation and collaboration with other relevant bodies across AML regime, including law enforcement for information exchange

The IFA fully endorses this approach as the basis for its own AML supervision. Most of the members required to be supervised have already returned the special Registration Form (if you have not done so, please ensure you do so now, as otherwise you may find yourself without supervision and therefore operating outside the law).

The amount of guidance information available to members on the IFA website has increased significantly over recent weeks, and may be accessed on the "open" part of the website under the tab marked "Advice and Support". Sessions on AML, given by either Mark Outhwaite (a well-known AML consultant with wide experience) or Martin Nimmo (the IFA's recently-appointed Professional Standards Manager), will be included in some of the forthcoming Regional Seminars.

The IFA will begin desk-top monitoring of its members this Spring; this will involve a short questionnaire (usually sent by email) which seeks to examine whether you are complying with the Money Laundering Regulations, identifying gaps and prompting compliance.

There will additionally be a small number of random visits to members and affiliates by our AML compliance assessors, who are mostly FFA or FTA qualified and trained in the specific needs of AML compliance. A visit does not mean that you have been found wanting, but is intended to give guidance where needed and to confirm with you that you are indeed complying with the Regulations. If you are selected, at least a fortnight's notice (often a month) will be given of a visit, and full consideration will be given by IFA to any logistical problems you may have in accommodating such a visit. In using visits as part of our supervision regime, we also give full consideration to our need to operate under the Better Regulation requirements of the UK Department for Business, Innovation and Skills (BIS, formerly BERR).

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### Counter Terrorism Act

The Counter-Terrorism Act 2008 came into force on 26 November 2008. Schedule 7 of the Act gave new powers to HM Treasury to issue directions to firms in the financial sector. Such directions can be issued in circumstances where there is a high risk of money laundering, terrorist financing or proliferation financing and can require firms to take action in respect of:

- customer due diligence;
- ongoing monitoring;
- systematic reporting; or
- Limiting or ceasing business.

The requirements on UK firms can apply to their business with particular countries or entities within particular countries outside of the European Economic Area. The UKFIU continues to work with HM Treasury and other interested parties across Government to consider any implications for the SARs regime.

### CONTEST Strategy

The Government's counter-terrorism strategy, CONTEST, was refreshed in March 2009 to take account of the changing threat, lessons learned and new challenges the country faces against terrorism.

The revised strategy sets out a comprehensive plan for dealing with the threat and includes actions for Government at international, national and local level. As part of this strategy, the UKFIU Terrorist Finance Team continues to work closely with the National Terrorist Financing Investigation Unit in the Metropolitan Police Service and regional Police Counter Terrorist Units to exploit SARs information in ongoing counter terrorism investigations, intelligence development, building understanding of the funding of radicalisation and disrupting the movement of funds into this country for that purpose.

### Are you in Practice on the Isle of Man?

Practicing members of the IFA and the FTA living on the Isle of Man, should note that the Manx Government has requested the IFA to be the AML Supervisor for those of its members and affiliates on the Isle of Man, who are in practice as tax advisors or external accountants.

**Please follow the link for more information:**

<http://www.ifa.org.uk/advice-and-support/members-on-the-isle-of-man>

### Interim Managers

The Money Laundering Regulations 2007 require providers of the following services (in addition to providers of accounting services) to be monitored for compliance:

- company formation services
- firms or individual members that act as, or who provide others to act as, directors or trustees (which means that non-executive directors who act via a 'personal services' company are included)
- **interim managers who provide accounting services via a contract for services rather than as direct employees.**

A Trust or Company Service Provider is any firm or sole practitioner who by way of business provides specified services to third parties. A full list of such services may be found on the HMRC site at <http://www.hmrc.gov.uk/mlr/mlr9-reg-dates-announced.htm>. Interim Managers who provide services for an end client through a third party (such as an agency) and neither contract with nor invoice the end client are exempt from the requirement to be supervised.

If you are being supervised as a “Trust and Company Service Provider” by another of the designated Supervisory Authorities under the MLR 2007, you should advise us of the fact without delay.

If you are an interim manager and believe you should be supervised, you should download the forms (including Form D) from the IFA website, under “AML guidance”.

### Performance of the SARs Regime

Work to improve the regime over the year has continued to focus on three main areas:

- improving the quality of reports;
- improving UKFIU performance; and
- increasing the value extracted by end users.

Last year’s report made the commitment that greater effectiveness in these areas would be achieved through:

- using information more effectively;
- integrating recent improvements and securing benefits in new contexts; and
- preparing the way for SARs transformation.

These priorities were applied to all areas of the SARs regime and its overall performance is reviewed using the above criteria. Data shows that the number of SARs received by the UKFIU has increased compared to the previous reporting period. The UKFIU is neutral as to whether increases or decreases are positive or negative as reporting levels should reflect levels of suspicion within the reporting sector.

### Improving the quality of reports

Over the year, work has taken place to encourage reports to contain information that is useful and relevant, which are in compliance with legal obligations, and are submitted in a format that allows for more efficient processing. The principal mechanism by which the UKFIU influences the quality of reporting is via a dedicated “Dialogue Team” which works exclusively with SARs regime participants. The Dialogue Team’s main aim is to improve communication and understanding between SARs regime participants.

In 2008-9, reviews were conducted of the UKFIU in terms of dialogue and communications with regime participants. The key conclusions from these reviews were that the UKFIU should focus on targeting the most vulnerable areas of the reporting sector and to develop a more structured approach to the planning and delivery of messages by developing an outreach strategy. Over the year, the SARs Regime Committee ensured that these recommendations had been implemented, in line with the principle of integrating improvements and securing benefits.

*From the SOCA Annual SARs Report 2009*

## Anti-Money Laundering Supervisors

*The AML Supervisors' Forum is convened by HM Treasury and is a forum in which regulators discuss anti-money laundering and counterterrorist financing issues. The IFA is represented on the Forum by Martin Nimmo, Manager of Professional Standards.*

## Review of the Money Laundering Regulations 2007

The Government's strategic principles of effectiveness, proportionality and engagement are also guiding HM Treasury's review of the Money Laundering Regulations 2007, which is taking place from autumn 2009 into 2010. Implementation of the new three-year approach to the SARs regime will need to accommodate to any changes arising from the review.

The IFA has made a response to the consultation and has also endorsed the response made by the ICAEW on behalf of the Accountancy Affinity Group of AML Supervisors, which includes the major accountancy bodies operating in the UK, the various bookkeeping and taxation professional bodies, the Insolvency Association and HMRC (as the default Supervisor of Accountancy Service Businesses).

For the full article please follow the link: <http://www.ifa.org.uk/advice-and-support/additional-aml-guidance>

## Anti-Money Laundering - Countries with Equivalent Procedures (to the UK) on AML

EU Member States have agreed a list of equivalent third countries for the purposes of the relevant parts of the EU Third Money Laundering Directive.

In the UK the list is relevant to assessing whether a jurisdiction is equivalent for the purposes of simplified due diligence and reliance.

For the full article please follow the link: <http://www.ifa.org.uk/advice-and-support/additional-aml-guidance>

For more information on Anti-Money Laundering

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<http://www.ifa.org.uk/advice-and-support/additional-aml-guidance>

If there remain questions which you would like to ask, please address them to Martin Nimmo, Manager Professional Standards at [MartinN@ifa.org.uk](mailto:MartinN@ifa.org.uk).



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