THE ACCOUNTANT'S GUIDE TO ANTI-MONEY LAUNDERING

#AATPowerUp

As part of our #**AATPowerUp** campaign, we dedicated November 2019 to anti-money laundering.

We brought you the latest guidance, warning signs, and advice to help you , but in case you missed it, we've pulled it all together into this guide.

Dive in for an overview on anti-money laundering, and why it's such an issue.

We'll even reveal the ways AAT Licensed Accountants are falling short on their AML responsibilities, which could result in your licence and membership being removed.

Make sure you're safely on top of things, with our article on your anti-money laundering responsibilities.

But when a client is determined to launder money, they may look to make you an accomplice, despite all your checks. Look out for the 10 signs you're being duped into laundering money, and make sure you're clued up on how to submit a Suspicious Activity Report when you do see something suspicious.

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Drug dealing, money laundering and crime

Just another day in the office?

Billions of pounds of illicit money are laundered in the UK every year and the authorities say it's happening far too easily.

When you hear stories on people trafficking, terrorism and drug cartels you wouldn't think that would have much to do with your day job. Sat in your office with your morning cup of coffee, running through the company figures you could be closer to corruption that you think...

Accountants: complicit or complacent?

Senior police officers have accused accountants of failing in their duty to draw attention to fishy financial dealings.

Crime commander Karen Baxter, national lead on economic crime, recently said accountants were 'complicit' or 'complacent' in laundering 'dirty money'. She also criticised them for failing to report suspicious activities.

In recent weeks a Panorama documentary has also kept accountants in the spotlight. It raised questions as to whether accountants had fulfilled their duty to report suspicious activities at one of the world's largest gold refineries, where a drug gang laundered money by selling 3.6 tonnes of gold.

The accountant concerned – EY – strenuously denies any wrongdoing and states its Dubai subsidiary ultimately helped bring to light the breach of applicable regulations. But the publicity has done little to improve perceptions of the profession.

Anti-money laundering: the issue

So, how exactly does the process of money laundering work?

On a small scale, it can be cash funnelled through small, apparently respectable, businesses that are a front for crime. For example, Walter White in Breaking Bad laundered his drug money through a car wash that wasn't properly checked.

Money laundering can also operate on a much more industrial scale, with perpetrators passing tens of millions through financial and professional services, transferring funds through complex corporate webs, often via offshore jurisdictions.

If accountants are not diligent, they can be unwitting links in these chains. This is why they must carry out thorough checks when taking on new clients and setting up companies. They also have a legal obligation to report suspicious activities.

"Accounting and legal professionals, and estate agents, can be criminally exploited – this is sometimes complicit, sometimes negligent, and sometimes unwitting," says the **National Crime Agency**.

How to stop money laundering?

The simple fact is that the National Crime Agency (NCA) is reliant on tip-offs in order to shut down money laundering operations.

It needs accountants and other professionals to be its eyes and ears and to report dubious behaviour through Suspicious Activity Reports (SARs).

Last year, just 1.06% of all SARs came from accountants – a figure the police say is far too low. At the same time, HMRC, the Financial Conduct Authority and the NCA are putting more onus on accountants as a crucial source of information.

Complicity vs complacency

Mark Ballamy, a forensic accountant who has worked on many money laundering cases, says that accountants need to be more sceptical of the people coming through their doors. “Too frequently, accountants do not insist on obtaining reliable, independent evidence that corroborates the economic activity undertaken by a prospective client that resulted in the client’s possession of wealth.”

Mark Halstead, a partner at Red Flag Alert (a credit risk management solutions company that specialises in anti-money laundering systems), believes that not enough accountants are doing enough to really meet the law. “It’s only about 0.01% of accountants that are complicit in money laundering,” he says. “The rest, you could argue, are complacent. That’s what the government wants us to wipe out.”

Record £7m HMRC fine

Accountants are obliged to report suspicious activity. If they are negligent – or complicit – they risk criminal convictions, fines and a ruined career.

Businesses could also pay an increasing heavy penalty for failing to uphold the law.

HMRC is getting tougher in issuing fines as it seeks to drive home the message that money laundering has to be stopped. In September 2019, it issued a **record fine against Touma Foreign Exchange Ltd** – a money transfer business. Between June 2017 and September 2018, the business breached rules on:

1. Risk assessments and associated record-keeping
2. Policies, controls and procedures
3. Fundamental customer due diligence measures
4. Adequate staff training.

Adam Williamson, AAT Head of Professional Standards sums it up like this:

“The simple, if harsh, message for accountants is that no one is exempt. Big or small, high or low-risk services – it doesn’t matter.

If you’re not fully compliant with the regulations then you’re committing an offence which also means, for AAT licensed members, removal of licence and membership. There is no more room for complacency.”

6 ways AAT Licensed Accountants are failing

Touma's failings are still shared by many accountants.

AAT conducts compliance monitoring of licensed accountants who it supervises for AML purposes. The process identified the following common shortcomings:

1. No written procedures, policies or controls.
2. No initial or ongoing client due diligence procedures.
3. Members not carrying out an adequate risk assessment of clients.
4. No annual review of compliance with MLR2017.
5. No or inadequate training taking place.
6. No whole firm risk assessment being carried out.

How to stay on top of AML

It is vital that AAT licensed accountants fully understand their responsibilities. We've put together an easy-to-follow guide summarising the key points for practices.

In summary

- Accountants are obliged to report suspicious activity if they come across it in their professional lives.
- If they're negligent, or complicit, they risk criminal convictions, fines and a ruined career.
- HMRC may impose **measures, including a financial penalty**, if you do not comply with the *Money Laundering Regulations*. In more serious cases, it may consider criminal prosecution.

But what exactly are your responsibilities when it comes to anti-money laundering?

How do you make sure you're not unwittingly breaking the law?

We've pulled together the rules you need to follow as an accountant.

Know your anti-money laundering responsibilities inside out

Here are the essential things you need to know to fight money laundering.

The tricks of money laundering crime rings are constantly evolving and becoming ever-harder to spot, as the 2017 **National Risk Assessment** made plain. It's also increasingly likely that professional services, such as accountancy, could provide a gateway for criminals to disguise the origins of their funds.

So accountants need to be vigilant and effective in their efforts to fight money laundering. They also need to stay up to date with criminal tactics and professional obligations.

Here are the requirements of the *Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017).*

Procedures, policies and controls

Does your firm have written policies, procedures and controls in place to combat money laundering? These can be proportionate to the size and nature of the business, but they need to be clear, written down and well-understood. Appropriate policies and procedures include:

- client due diligence
- record-keeping
- clear communication of policies and procedures
- internal checks and controls
- risk management practices
- compliance monitoring.

Client due diligence

Is your firm doing appropriate risk assessments on clients? Controls must be in place to ensure due diligence is undertaken before services are provided to a client. There must also be processes set up to identify and respond to any changes later in your relationship that might present a risk. It's important that you keep a written record of all client risk assessments, and revisit them regularly – particularly those with which you've identified an element of risk, but not enough to terminate the relationship.

A firm-wide risk assessment

MLR 2017 requires accountants to undertake a regular, firm-wide risk assessment of activities. This should happen at least every year.
A firm-wide risk assessment should consider:

- your clients
- the country in which you operate
- the services you offer
- transactions
- delivery channels.

You're required by law to keep a written record of your risk assessment and review it frequently. AAT Licensed Accountants will be expected to supply a copy of their risk assessment as part of their annual practice performance review.

Awareness, training and CPD

Are employees kept up to date with the necessary skills and knowledge to carry out their responsibilities? Every employee who deals with customers or transactions in any way needs to understand the firm's policies, controls and procedures. They need to understand the legal requirements, the risk of money laundering, checks they should make, and how to report suspicious activities.

Record-keeping

Records should be kept of relationships with clients. Does your firm keep anti-money laundering records for at least five years after a business relationship with a client concludes? Record-keeping is a constant theme in anti-money laundering compliance. When policies and plans are reviewed, a note should be made – even if nothing is altered.

Supervision

It's important that your firm not only has its own supervision standards, but that it is meeting them. There are also regulatory requirements such as carrying out a criminality check on all beneficial owners, officers or managers. These are required for AAT supervision of anti-money laundering compliance.

Suspicious activity reporting

Your firm must have specific internal reporting procedures for when a member of staff knows or suspects (or has reasonable grounds to know or suspect) a person is engaged in money laundering or terrorist financing. Does the procedure include other factors such as timescales and tipping off? The annual review is also an opportunity for the money laundering reporting officer to carry out a review of any internal suspicious activity reports and how this impacts the risk management of the firm.

Ongoing monitoring

It's important you carry out regular reviews and updates on your AML procedures. The money laundering reporting officer and senior management should monitor the effectiveness of the review so that improvements can be made when inefficiencies are found. A firm should always compliment the annual review with regular meetings, too.

Does your organisation comply with the requirements of the *Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017*?

This is a great opportunity for you to make an impact in your company by taking charge of your AML responsibilities and leading the firm towards compliance. If you need any assistance in working towards this goal, AAT are here to help as an AML supervisor for AAT Licensed Accountants and Bookkeepers.

Email us at **aml@aat.org.uk** or call us on **+44 (0)20 3735 2418**.
Lines are open 09.00–17.00 (UK time), Monday to Friday.

And whilst working towards compliance, you must exercise caution with clients, as some of them may be out to trick you. Read on for the signs you're being duped...

Are you being duped?

10 signs of money laundering

Are you sufficiently aware of the signs of money laundering?

Senior police officers say accountants are not doing enough to identify suspicious activity and report potential crimes.

Would you spot the signs of suspicious activity? Here are 10 tell-tale indicators that could have you going online to file a **Suspicious Activity Report**.

1 Unexplained third-party investment

Business funding that comes from apparently unconnected sources could be a red flag. According to Jeremy Clarke, Assistant Director of Practice at ICAS, specific signals to look out for include a "disproportionate amount of private funding or cash which is inconsistent with the socio-economic profile of the individuals involved", and also where there is no logical explanation or economic justification for the finance being provided.

2 Difficulty identifying everyone in the business

Look out for individuals trying to hide their identity or the identities of beneficial owners or partners in the business. This could be by withholding or falsifying identification documents, for example, or where the money is paid out by the business to numbered bank accounts. The onus is on you as an accounting professional to know who your clients are. One red flag highlighted by the Financial Action Task Force is when a client avoids personal contact without good reason. Documents issued by public authorities such as passports and driving licences are the most reliable forms of identification because they are difficult to forge and have a photograph of the holder, so another suspicious sign is if one of these official proofs of identification is not forthcoming.

3 The business operates in high-risk countries

Look at whether any business assets, such as properties, are located in high-risk countries – including countries that are tax havens. The business could also have directors or owners (or other people involved with the company) that are residents in high-risk countries.

The European Commission identifies "high-risk third countries" and its latest list contains 16 countries: Afghanistan, Bosnia and Herzegovina, Guyana, Iraq, Lao PDR, Syria, Uganda, Vanuatu, Yemen, Ethiopia, Sri Lanka, Trinidad and Tobago, Tunisia, Pakistan, Iran, and Democratic People's Republic of Korea.

You're required to apply enhanced due diligence measures to mitigate the risks arising in any business relationship or transaction with a person established in one of these countries.

4 High volumes of cash transactions through the business

Certain business sectors are more susceptible to money laundering. For example, the "archetypal" money laundering business is a pizza restaurant or a nail salon or similar, where there are high volumes of cash transactions, and "dirty" money can be added in by inflating the turnover. This should arouse particular suspicion when there are no records such as till receipts to back up the cash volume.

Other warning signs include large cash deposits being made using night safe facilities and cash deposit machines, thereby avoiding direct contact with the bank; and a large aggregate amount of cash being deposited with the bank in numerous small amounts, or at different branches, to avoid scrutiny.

5 Finance from poorly-regulated sources

Ron Warmington, previously head of global investigations at Citibank, says that around 20 years ago, the organisation was tipped-off about its branch at Puerto Banus, Marbella. "We'd have expected the biggest loan in a retail bank in Marbella to be maybe $800,000, this bank had $40m loans on its books."

Many of the loans were guaranteed by a Finnish bank and were in turn underwritten by a Russian bank. In Europe, countries like Cyprus, Malta, Latvia and Estonia have built their economies around attracting foreign money, without effectively policing its origin.

Money from non-banking sources, such as Bitcoin finance, is often completely unregulated.

6 Unusual behaviour or actions that are out-of-character

If someone asks you to complete a transaction quickly without giving a reason why or to short-cut normal processes, then alarm bells should ring. Individual transactions that are disproportionate or don't fit the usual pattern of the business are also a cause for concern. And if you have an established client whose lifestyle is familiar, and you suddenly find out they are buying a Ferrari, or playing the casinos in Monte Carlo, that might also be a reason to suspect something untoward is going on.

7 Transactions that don't appear to make sense

If a business sells an asset for less than its market value, this can often be an indicator of money laundering. Property is a particular case in point, where the price can be manipulated to hide proceeds of criminal activity. For example, you could buy a property using illicit funds and then sell at a loss to make the proceeds "legal".

It can also work in the other direction: you could understate the value of the property and pay the realtor the balance behind the scenes using illicit cash – then sell again at the market value and appear to have made a profit.

8 An overly-complicated ownership structure

A company could have several complex, illogical layers of corporate officers, shareholders and people with significant control, which could make it difficult to see who the beneficial owners are.

Ownership structure becomes even more difficult to determine when companies based overseas are appointed as shareholders (often from tax havens or offshore locations). "Unnecessarily complex group structures and investments in areas with no obvious geographical connection can both be indications of money laundering," says the **Consultative Committee of Accountancy Bodies** (CCAB).

9 A frequent change in accountants

A business that frequently changes its accountants or other professional advisers is a classic red flag. The rationale behind this is that no adviser is ever allowed to get too close to the business and to spot changes in financial or behavioural patterns.

A business that chooses advisers who are geographically remote without any obvious explanation should also ring alarms.

10 Politically-exposed persons involved with the business

Evidence shows that a politically exposed person is likely to abuse their position for the purpose of committing money laundering and terrorist financing offences. A politically-exposed person could be a current or former senior official in the executive, legislative, administrative, military, or judicial branch of a government (elected or not), or a senior official of a major political party.

For further information about money laundering and how to spot it, visit **flagitup.campaign.gov.uk**

Hopefully none of those tell-tale signs of money laundering sounded too familiar, and all your clients are squeaky clean.

But on the off-chance that you do have a shady character on your client list, read on to find out how to go about submitting a SAR the right way.

How to submit a Suspicious Activity Report (SAR)

Something about your client doesn’t sit right.

The money going through the business doesn’t seem to match the set-up. The company structure seems a little hard to fathom – some of the shareholders are companies based overseas.

Your instinct is that something is wrong.

In that case, it’s your duty to submit a Suspicious Activity Report (SAR).

Preparing a SAR

SARs can be submitted to the National Crime Agency **online**. You will be required to fill out several fields – include as much information as possible, including all customer due diligence information.

All fields must be filled in – if you don’t know something, write the word “unknown”.

Make sure you include the client’s date of birth, as it’s essential to ensure they are identified correctly.

Ensure the report is clear and concise, with a summary of your suspicions, a chronological sequence of events, and no jargon or acronyms.

Explain your work briefly if you’ve been providing quite technical services. Include evidence, including financial data.

To avoid tipping off your client, you may have to undertake activities that you suspect may be offences under the Proceeds of Crime Act. In this case, you need to **request a Defence Against Money Laundering (DAML)**, which you can use as a defence to a money laundering offence if necessary.

The NCA will then assess the case and inform you if you’ve been successful.

The SAR is submitted

Once you have sent in your SAR, it will be reviewed by the authorities. Again, keep your suspicions to yourself. It’s important that you do not tip the client off in any way. Ask them questions in a neutral way, as if you’re just checking your facts.

Your SAR will be investigated to determine whether a case can be built.

The National Economic Crime Centre (NECC) has strong links with the NCA, the Serious Fraud Office (SFO), the FCA, HMRC, The Home Office, The Crown Prosecution Service and City of London Police.

Within the NECC is the Joint Money Laundering Intelligence Taskforce, which is a public/private information sharing initiative to help build a better picture of the patterns within high-end money laundering. Your information may be shared there.

The investigation process

The NCA and Police will look into your SAR to determine whether there is a case to bring to court. This may involve surveillance, warrants to search properties, or a forensic investigation involving the assistance of forensic accountants.

Conclusion

Money laundering is a serious problem in the UK, with billions of pounds being laundered every year. With the authorities convinced that accountants could be doing more, it's more important than ever that you're up-to-speed on your responsibilities.

Suspicious Activity Reports are essential in the fight against money laundering, and accountants are obliged to file these if they suspect criminal activity. Otherwise, you risk weighty fines, criminal convictions, and a ruined career.

AAT are here as an AML supervisor for all AAT Licensed members to help you comply and stay on the right side of the law. We provide resources and guidance, and conduct practice assurance reviews to provide detailed feedback on your compliance levels.

If you have any questions on AML, email us at **aml@aat.org.uk** or call us on **+44 (0)20 3735 2418**. Lines are open 09.00–17.00 (UK time), Monday to Friday.

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