

AML: enforcement trends

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- Highlight what we are seeing in firms and issues at client and file level
- Offer insights into our enforcement action
- Show the cases which have resulted in financial penalties

NCA Publication



The NCA's UK Financial Intelligence Unit, in a recent August 2023 publication, confirmed:

 'Professional Enablers pose a significant risk to the integrity of the UK's legitimate economy and reputation highlighting their role at the heart of serious and organised crime impacting the UK. Their specialist skills, knowledge and expertise are exploited by criminals to launder the proceeds of crime'

NCA Publication



 'Individual or organisation that is providing professional services that enable criminality. Their behaviour is deliberate, reckless, improper, dishonest and/or negligent through a failure to meet their professional and regulatory obligations.'

Dedicated AML teams since 2019

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We have three bespoke teams:

- AML Policy
- AML Proactive Supervision

• AML Investigations

Issues at firm level

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- Lack of controls
- Inadequate firm-wide risk assessments and polices and procedures
- Failing to train and supervise staff
- Not paying sufficient regard to warning notices and guidance

Firm-wide risk assessments

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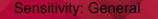
Firm-wide risk assessments (FWRA):

- A requirement since 2017
- Some firms still don't have one
- Risk assessment must reflect size and nature of business
- Your risk assessment must consider information we publish
- It must cover five key risk factors set out in the regulations





- Warning notice <u>www.sra.org.uk/AML-firm-risk-assessment</u>
- Guidance and an editable template <u>www.sra.org.uk/risk-</u>
 <u>assessment-guidance</u>
- Must be in writing, kept up-to-date and provided upon request
- Declaration made to us about FWRA compliance
- Templates are fine but need to be tailored







- Still seeing firms that don't have PCPs
- The 2003 regulations mandated procedures of internal control and communication
- The 2007 regulations reinforced that firms must establish and maintain appropriate and risk-sensitive policies and procedures

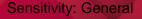


- Legal Sector Affinity Group guidance, published in September 2017 (Treasury approval in March 2018)
- Where appropriate to the size and nature of firm, must establish an independent audit function
- Robust PCPs but not communicated to staff

Training



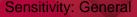
- Firms must make sure employees are regularly given training
- Firms must maintain a record in writing of the training given
- We see that targeted AML training is not being given to staff
- Staff not being trained well enough on the application of the firm's PCPs







- AML Investigations Team receives reports of potential breaches
- Half of reports come via AML Proactive Supervision Team
- Others from law firms, law enforcement, other agencies or regulators
- Last year, there were 249 AML related reports and 522 breach reasons



Reports



- Often, reports have more than one suspected breach
- Mixture of reports about a firm's AML controls but also breaches at client and file level
- Most significant reasons for reports:

Specific matter reason	Count
Failure to have proper AML policies and procedures	61
Failure to carry out a source of funds checks	60
Failure to carry out a risk assessment on client/matter	58
Failure to carry out a firm-wide risk assessment	48
Failure to carry out/complete initial CDD	47

Issues at client and file level



- Most common issue seen is inadequacy of customer due diligence (CDD) measures
- CDD is mandatory and vital to combatting money laundering
- Lawyers can facilitate money laundering by negligently failing to identify the risks or by deliberate, reckless, improper and dishonest actions



- Treat each client and matter appropriately from inception, so that CDD is adequate
- Firms must risk assess clients and matters and consider factors such as the purpose and size of the transaction
- Regulations state firms must be able to demonstrate the extent of the measures it has taken
- This will inform the level of CDD to be obtained



- Assessing and identifying risks from the outset is key
- Important factors in relation to CDD:
 - o Identify and verify identity of the client
 - Perform ongoing monitoring of the transactions
 - Perform source of funds checks, when necessary
 - Undertake enhanced CDD (known as EDD) when relevant

Common issues



- Failing to know identity of the client PEP? Sanctions?
- Not completing client and matter risk assessments
- Treating risk assessments as a 'tick box' exercise
- Failing to check source of funds
- Fee earners relying on centralised compliance departments
- Having systems and processes that allow events to happen unchecked

Case studies

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Mrs A

- Failing to follow firm's PCPs
- Not assessing level of risk appropriately
- No source of funds checks

• £2,000 fine

Case studies



Firm B

- Failing to have a FWRA and incorrect declaration
- Inadequate PCPs
- No independent audit
- Failing to train staff
- Failing to perform client and matter risk assessments and source of funds checks
- £20,000 fine

Case studies

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Mr C

- Failure to perform CDD adequately
- Failure to perform EDD
- Manifest incompetence

• 12 months suspension of practicing certificate at SDT

Case studies

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Firm D

- Issues with FWRA
- Incorrect declaration to SRA
- Remedied breach swiftly and reviewed PCPs
- Letter of Advice

Our new fining powers and financial penalties - <u>www.sra.org.uk/financial-penalties</u>