AML GUIDANCE – Policy & Procedures

Purpose

This is a tool kit, use it to design and develop the AML Policy & Procedures you will need for your business to comply with the Money Laundering Regulations.

Background

The Money Laundering Regulations (MLRs) set out a framework of requirements for businesses operating in the regulated accountancy sector. Each business is free to choose its own preferred way to address the requirements of the MLRs in a proportionate and effective way.

The MLRs seek to reduce the risk that a practice is used or abused to enable Money Laundering (ML), Terrorist Financing (TF) or Proliferation Financing (PF) – collectively MLTPF.

Because every business operating in the sector is different, a one size fits all approach will not be effective. Whilst it may be tempting to simply adopt a third party document, even if this is effective for the other business, it is not likely to be fully appropriate or desirable for use elsewhere.

Example: A business that onboards a high volume of new clients that tend to be unable to visit the office in person may have chosen to invest in an electronic verification process to address risks and increase the speed of client onboarding. However, a practice that takes on a limited number of new local clients may find this process unnecessarily financially and time-consuming. They may prefer a policy of ensuring a client is met face to face for manual verification processes through hard copy original documents.

The processes that each business would follow would be very different, but achieve the same effective outcome in the way that suits them best.

For IAB supervised practices, responsibility for approving the practices policy and procedures rests with the IAB member through which supervision is provided. This individual must also ensure that the approach taken continues to be proportionate, effective and updated to address any changes in regulations or risks that the practice is exposed to.

The MLRs require that the way that the practice has decided to meet its regulatory requirements are documented. These documents are referred to as the AML 'Policy and Procedures'. As an IAB supervised practice, it is expected that you will have taken time in their preparation.
When creating or reviewing these documents, the practice should read and consider the HMT approved accountancy sector guidance provided by the *Consultative Council for Accountancy Bodies (CCAB).*

Where a practice has more than one employee, they may separate some of the regulatory tasks across appropriately senior individuals. This may be appropriate if an individual with regulatory responsibility often spends time away from the practice, or if the practice would continue to function in their absence.
Although certain tasks can be separated, for the purpose of guidance, the allocation of responsibility for compliance and reporting is often attributed to one individual referred to as the Money Laundering Reporting Officer (MLRO).

What are 'Policy & Procedures'?

A Policy is: ***'A course or principle of action adopted by an organisation'***
Procedures are: ***'An established or official way of doing something'***

Every practice needs to have these worked out and documented. When considering the approach to be taken by the practice every practice needs to:

- Understand the MLRs and their own personal responsibilities
- Decide on policies that comply with the MLRs and support the practices overall approach
- Shape policy to be relevant to mitigate against the risks identified through the Firm Risk Assessment
- Decide on the most proportionate and effective processes to achieve those policies
- Construct explanatory policy and effective procedures to a level relevant for the practice
- Continue to review the effectiveness of the existing system and make changes where necessary.

This guidance will help but your understanding of your business is needed to ensure your AML policy and procedures are fit for purpose. By understanding the purpose of each requirement and taking time to consider your approach, you will turn an otherwise potentially meaningless tick box approach into an effective process that helps to safeguard your practice from enabling crime or regulatory disciplinary action.

The MLRs permit a range of proportionality, both with the documents and the underlying procedure. When writing your policy and procedure documents, you should consider what the process is aiming to achieve, and who the audience will be.

In all cases, your documents should be of sufficient detail to allow your AML supervisor to review and understand your approach to MLR compliance without further explanation.

For sole practitioners, the documents should support consistent practice. Some compliance tasks will be routinely completed, others may be periodic. In both cases, following the written process will support a consistent approach.

For practices with multiple employees, the documents should be of sufficient detail to allow an employee to be able to understand and follow the set process. This may vary, depending on the level of additional training, ongoing oversite and the specifics of the task. These documents should be made available to all relevant employees. It is prudent to obtain evidence of employees awareness of these documents and any subsequent changes.

The practice must be able to evidence its ongoing review of effectiveness. From time to time the policy and/or procedure may require an amendment. This may be because the risks that the practice is subjected to has changed – for example a new service is being offered. Alternatively, the existing policy or process may not be considered effective or the desired way that the practice wants to proceed – for example the practice may move from a policy of only accepting face to face clients to accepting distance clients.

The practice must review the effectiveness of its AML approach, including its policy and procedure documents, at least once a year, or at the time that any material change occurs within the practice - whichever is most frequent.

Version control that clearly identifies when the policy and procedure document has been reviewed or amended, and by who should be in place. Keeping a record of the policy and procedure in place may be useful to support the completion of past processes having been complete in line with the live policy at the time.

AML Policy – What's in it?

Policy is: *'A course or principle of action adopted by an organisation'*
Your AML Policy sets out what you have decided your business needs to have in place to comply with the MLRs.

It doesn't need to be a lengthy document or contain a regurgitated lift of regulatory requirements. It should be statement about the approach your business will adopt around a specific area. It should acknowledge awareness of the regulatory requirements and evidence that your practice is set up to be effective in compliance.

Procedures

Procedures are: ***'An established or official way of doing something'***
Whilst policy will describe the overall plan and goal of the organisation surrounding a topic, the procedure will provide detail as to how the organisation will achieve this – usually by describing the process step-by-step. The audience (particularly those practices with multiple employees) and the task at hand will dictate how detailed the procedure needs to be. It may be useful to cross reference other procedures to avoid duplication.

You may find it useful to consider the following questions, and ensure that your documents provide the answers clearly:

Purpose	*what the policy is designed to achieve*
Why	*is something needed or has to be a certain way*
What	*has to be done, produced, or recorded*
How	*must it be carried out, using what systems or techniques*
When	*must it be done, or how often.*
Where	*something takes place, must be recorded, stored, or filed*
Who	*is responsible for doing it and to whom does this procedure apply*
Checks	*what checks are made, by whom, and how often, to make sure it has been done correctly*
Review	*how frequently and by whom will the procedure itself be reviewed and updated*

The MLRs require that a practice has a documented policy and procedure that explains how your practice will meet the MLR requirements across certain areas. The practice may feel that it is appropriate to include wider regulatory requirements, professional standards or its own approach to related topics within this document. It is important that the document is accessible and relevant to those who will use it, and as a minimum, contains those areas that the MLR require addressing:

Risk management practices;
This should cover your approach to conducting:

- The Firm Risk Assessment (now including a risk assessment relating to proliferation financing, as well as MLTF)
- An individual Client Risk Assessment for each client
- Reviews of the effectiveness and appropriateness of the overall MLR processes

Internal controls:

- For practices with more than one employee:
- Employee screening (relating to skills, knowledge and integrity) of relevant employees.
- An independent audit function for review of adequacy and effectiveness of the MLR processes.
- Identifying a nominated officer. This individual within the practice who is responsible for receiving internal SARs, reviewing and deciding if onward SAR reporting to the NCA is required.

- For all:
- Identifying the individual with responsibility for compliance. For IAB supervised practices, this must be the IAB member through which supervision is provided.

Outlining the responsibilities that are allocated to this individual will serve as a useful checklist and evidence that the individual is aware of what is required of them.

- a process for responding fully and rapidly to enquiries from relevant law enforcement authorities,

Training:

All practices will have at least one relevant employee, even if they operate as a sole practitioner.

- Ensure relevant employees are aware of the law relating to MLTPF
- the requirements of data protection
- regularly given training in how to recognise and deal with transactions and other activities or situations which may be related to MLTPF
- Ensure that it has considered guidance provided by its supervisory authority
- maintain a record of the training given
- Training should be relevant to the individual receiving it, and may vary across roles for practices with more than one employee.
- A training strategy should be outlined, ensuring that there are appropriate processes in place to ensure that employees have achieved and maintained the above understanding. The practice should set and review its strategy based on its overall profile – taking into account the output of the Firm Risk Assessment - which can change over time. The MLRO will retain responsibility for this.

Customer due diligence:

- Outline the policy of the practice surrounding due diligence requirements and risk appetite
- The process should set out the CDD process that the practice will go through to onboard a client, listing the various checks that have been chosen and the acceptable outcomes or alternatives. A practice should consider what each check achieves, as well as the level of reliance it can place on the outcome.
- Where additional checks exist to mitigate against non-standard risks (Enhanced Due Diligence, EDD), the circumstances that they should be used should be identified. For example, if the practice chooses to perform additional electronic identity verification on clients who are not met face to face. The MLRs outline a number of situations where relevant EDD must be conducted:

- PEP clients
- Clients identified as high risk
- Where the practice discovers false or stolen identification documentation or information has been provided and the practice intends to continue their business relationship
- Where transactions are complex, unusually large or form part of an unusual pattern
- Where the transaction has no apparent economic or legal purpose
- In any circumstance which, by its nature, can present a higher risk of MLTPF

The document should acknowledge that additional due diligence conducted must be relevant to the underlying risk identified. For example, if the practice identified a risk surrounding a cash intensive business, performing an extra identity check on the client would not address underlying risk.

- Ensure that your processes have appropriate mechanisms to allow you to identify the above and other relevant risks that the practice may be subject to, including circumstances that might favour anonymity. These checks should be proportionate and recorded.

Consider how these specific MLR requirements may also link to wider requirements or risk protection for the practice. For example, a practice with clients that an increased risk of links with sanctioned entities may find it appropriate to subscribe to a sanctions checklist alert service. Where the risk of this is lower, an initial check at the onboarding stage may be considered more proportionate. Equally, a practice may consider setting a news alert under some clients names, should they consider there to be a higher risk of relevant publicity.

- Circumstances where the practice feels that a simplified due diligence (SDD) process can be applied, and the process that must be followed in this case.
- The CDD process must acknowledge that the Client Risk Assessment (CRA) is part of this process. Further relevant verification work may be required depending on the CRA outcome.
- Completion of the initial or review CDD process will set or update the ongoing monitoring and risk mitigation strategy for the individual client or client group.
- The timing of CDD being completed prior to starting an engagement
- The requirement to cease the engagement and consider the relevance of reporting a SAR, should it not be possible to complete the CDD process. This includes ongoing reviews of CDD, as well as at the point of initial onboarding.
- Outline the ongoing monitoring strategy for general risk based and event driven CDD reviews, including making clear events that must trigger a CDD review and the extent of the review to be undertaken
- The process your practice will follow if any 'material discrepancies' are identified between information held on Companies House and information provided by your client as part of the CDD process

Reliance and record keeping:

- Specify the requirements for maintaining accurate and up-to-date records of customer due diligence, transactions, and AML compliance efforts.
- Define retention periods for different types of records in accordance with regulatory requirements.
- Where the practice wishes to participate in a CDD reliance agreement with a relevant third party, outline the specifics of the process that is relevant to this circumstance. Identify where this process can be used.

Change in technology used:

- The practice must outline how it will ensure that when new technology is adopted, appropriate measures are taken in preparation for, and during, the adoption of such technology to assess and if necessary mitigate any money laundering or terrorist financing risks this new technology may cause.

Suspicious Activity Reporting (SAR):

- The practice must outline how anyone in the practice who knows or suspects (or has reasonable grounds for knowing or suspecting) that a person is engaged in money laundering or terrorist financing as a result of information received in the course of the business or otherwise through carrying on that business is required to report a SAR.

- It would be reasonable to outline the offence of failure to report, and how the practice will avoid this.
- For practice with more than one relevant employee:
  - this must contain the process for internal SAR reporting
  - The process that the nominated officer should go through upon receipt of an internal SAR
  - Detail the record keeping requirements specific to a SAR, if not outlined in record keeping
- Acknowledge the risk of tipping off and the strategy adopted to prevent this from occurring

AML Policy – Format

You may choose the format of your policy document to suit your style. This guide suggests breaking down the above required categories into a number of sub categories for ease of reference.

Some practices will find explaining processes more effective using flow charts or diagrams, rather than text blocks. It is natural that some categories will cross reference others – consider using cross references to avoid lengthy duplication, or conflicting information when processes update. However, some users find over reliance on cross references makes a process difficult to follow. It is a personal choice for each practice to consider how it can produce the most effective document for its own use.

Common issues and omissions

As part of our AML Inspection process, we conduct thorough reviews of Policy & Procedures to ensure they are adequate for the purpose of compliance with the MLRs. Some of the common issues we see are:

- Use of a template used which is basic and has not been tailored to the practice
- Documents not updated to incorporate the MLR Amendments of 2019 & 2022 (including procedures for risks relating to Proliferation Finance and reporting material discrepancies to Companies House)
- No explanation about what constitutes reasonable grounds for Simplified and Enhanced Due Diligence
- Not documenting that an engagement will be refused (or if existing terminated) where the client refuses to provide CDD or if CDD information cannot be confirmed
- No detail regarding how record retention is managed within the practice
- For practices with staff – no internal SAR reporting procedure