

Proceeds of Crime

Reporting Suspicious Activity

The Proceeds of Crime Act 2002 and the Terrorism Act 2000 require the regulated sectors¹ to report knowledge or suspicion of money laundering or terrorist financing to the authorities. These reports are known as Suspicious Activity Reports (SARs) and are ultimately submitted to the Serious Organised Crime Agency (SOCA) where initial internal investigation proves their suspicions are grounded. They are categorised into two types – a Protected Disclosure and an Authorised Disclosure. The former is a required disclosure based on suspicion and the latter is a disclosure made by a perpetrator on own initiative.

Within all organisations, Money Laundering legislation requires that a person is designated as a Money Laundering Reporting Officer (MLRO), to act as a focal point for all monitoring, training and reporting of suspected money laundering activity. The MLRO is a partner, director or employee of an organisation, designated to receive SARs from within their organisation concerning clients, customers or others. In turn the MLRO is obliged to make reports to SOCA.

The MLRO, or a delegate/deputy during absence, is responsible for implementing a systematic risk-based approach to money laundering prevention by assessing the levels of money laundering risk represented by different clients, products and services, and how to mitigate that risk by applying appropriate levels of customer due diligence and record keeping. These require the implementing and overseeing of a number of procedures covering:

- Identity Verification and Updating (Know Your Customer - KYC)
- Politically Exposed Persons
- Transaction Monitoring - applying manual or computerised systems
- Reporting – receiving and assessing internal reports
- SARs reporting to SOCA - management of disclosure and consents
- Record Keeping and ML Compliance Audit
- Staff Training

¹ Regulated Sectors

- accountants and auditors
- tax advisers
- dealers in high value goods (including auctioneers) whenever a transaction involves accepting a total cash payment equivalent to €15,000 (around £10,000) or more
- casinos
- estate agents
- some management consultancy services
- company formation agents
- insolvency practitioners
- legal advisers
- bureau de change



The Crown Prosecution Service (CPS)

Investigative Powers & Cash Seizures

The powers of investigation available under Part 8 of the Proceeds of Crime Act 2002 (POCA) for the purpose of a criminal confiscation order include Production Orders, Search and Seizure Warrants, Customer Information Orders and Account Monitoring Orders.

	Purpose of power
Production order	Obtain material already in existence relating to a known account in control of a known person e. g. bank statements and correspondence
Search and seizure warrant	(1) Search premises where production order not complied with; or (2) Search premises where production order likely to be ineffective and seize material
Disclosure order	Require any person to produce documents, provide information or answer questions relating to investigation
Customer information order	Trawl financial institutions for accounts in the name of a particular person or organisation
Account monitoring order	Monitor future transactions through a known account for up to 90 days

Section 341 defines the types of investigations in respect of which the powers set out in Part 8 may be variously exercised. These are:

- an investigation into whether a person has benefited from criminal conduct and the extent or whereabouts of his benefit (a confiscation investigation);
- an investigation into whether property is recoverable property or associated property, who holds the property and its extent or whereabouts (a civil recovery investigation); and
- an investigation into whether a person has committed a money laundering offence (a money laundering investigation).

Consultation - Tackling Money Laundering: Suspicious Activity Reports

The Home Office has sought stakeholder views on whether the proposals set out in chapter 2 and in the Partial Impact Assessment at chapter 7, to prescribe the form and manner for reporting suspicious activity under section 339 of the Proceeds of Crime Act 2002 are acceptable, and would not cause significant burden to the industry. The Consultation closes on 22nd October 2007 and a summary of the responses is expected within one month of the closing date.