NEWGATE
COMPLIANCE

Newgate News

Financial Crime Focus

The UK Government have recently published a consultation paper covering various proposed amendments to the UK's anti-money laundering framework. The purpose of these amendments is to ensure that the UK is meeting international AML/CTF standards set by the Financial Action Task Force (FATF).

TRANSFERS OF CRYPTOASSETS

It is proposed that cryptoasset firms will need to put in place systems for ensuring that personal information of the originator and beneficiary of a cryptoasset transfer, including name, address, account number and personal document number, is transmitted and received alongside the transfer. The information requirement will differ depending on the amount of the transactions. Firms will also be required to provide this information to authorities on request.

It is also proposed that cryptoasset service providers will be required to implement effective procedures to detect whether the required beneficiary and originator information is missing from an inbound transfer. This will include, where appropriate, monitoring transactions in real time or after the transfer.

In terms of record keeping, the government proposes that the receiving cryptoasset service provider will be required to retain the above beneficiary and originator information for a period of five years from the date it reasonably believes the transaction is complete.

Where a cryptoasset exchange provider repeatedly fails to provide the required information, the receiving cryptoasset service provider will be required to report the failure to the NCA.

The proposal sets the threshold for cryptoasset transfers at GBP 1,000 so it will therefore be necessary for firms to calculate the value in GBP of, for example, a transfer of Bitcoin or Ethereum.

Some cryptoasset firms also perform deposit-taking activities for fiat currency, and the government papers notes that it is possible that the market will move towards a model where more firms offer services in both cryptoassets and fiat currency.

It is therefore proposed that the linked transfers should include both cryptoasset and fiat transfers. In practice would mean that linked transfers that in total exceed GBP 1,000, whether in cryptoassets alone or a combination of both fiat and crypto, would be treated as one large transfer.

Impact on firms: Cryptoasset firms may need to update their systems, policies, and procedures to ensure they are able to collect the necessary information relating to transactions. Firms should keep up to date with developments in this area.

SUSPICIOUS ACTIVITY REPORTS

This consultation is seeking views on the merits of amendments the MLRs to allow AML/CTF supervisors to have rights to view the content of SARs submitted by their supervised population(s) request. Stakeholders have raised concerns whether supervisors (such as the FCA and HMRC) are allowed to access and view the contents of SARs. According to the government, this has led to an inconsistent approach being taken across AML/CTF supervisors, with each taking their own view on whether they can access and view the content of SARs.

This consultation is seeking views on whether it is useful or necessary for supervisors, for the purpose of fulfilling their functions, to collect and view the content of SARs.

Impact on Firms: The FCA is seeking more flexible information and intelligence gathering powers to use across its supervised population. Access and use of SAR information, will the FCA state, help inform its risk-based approach to supervision. This is further evidence of the far more focused tougher approach the FCA is adopting to towards AML in particular those subject to supervision under the Money Laundering Regulations.

ONGOING REQUIREMENT TO REPORT DISCREPANCIES TO COMPANIES HOUSE

Firms are currently required to report beneficial ownership discrepancies to Companies House at the onboarding stage of a client relationship.

Since the updated MLRs came into force in January 2020, over 35,000 beneficial ownership discrepancies have been reported to Companies House. This highlights valuable roles firms are carrying out in ensuring that the UK's companies register is accurate and up-to-date. Moving forward it is proposed that firms will be required to report discrepancies on an ongoing basis throughout the business relationship.

Impact on Firms: When undertaking mandatory periodic monitoring of clients for AML purposes, additional procedures may now be required to report identified discrepancies. Further clarification and guidance are also required as to whether discrepancies should be addressed with clients in the first instance or whether this itself presents confidentiality or tipping off concerns.

THE FCA HAS ISSUED A WARNING TO FIRMS IN RELATION TO POTENTIAL FINANCIAL CRIME RISKS LINKED TO AFGHANISTAN

The escalating situation in Afghanistan in recent weeks has led the UK Regulator to remind firms of the possible impact these events may have on patterns of financial activity when they assess risks related to particular customers and flows of funds.

The FCA have highlighted their expectations for firms to consider the impact of these developments on their anti-money laundering policies and procedures in a risk-based manner, and to take the steps necessary to ensure they continue to meet their legal and regulatory anti-money laundering and reporting obligations. Specifically, firms should:

- ensure that they appropriately monitor and assess transactions to Afghanistan to mitigate the risks if their firm being exploited to launder money or finance terrorism
- continue to ensure that suspicious activity is reported to the UK Financial Intelligence Unit (UKFIU) at the National Crime Agency (NCA) and that they meet their obligations under Money Laundering Regulations and terrorist financing legislation

Sanctions are already in place in respect of Afghanistan and firms should continue to screen against the UK Sanctions List and in particular the regime specific list for Afghanistan.

Impact on Firms: Naturally firms operating in this region will have to pay particular care and attention to money flows with Enhanced Due Diligence absolutely essential. This also serves as a reminder that being alive to geo-political events globally is critical in understanding your firms AML Risk. On a regular basis Firms should be updating business wide risk assessments alongside procedures for customer due diligence, enhanced due diligence and transaction monitoring.

HOW NEWGATE CAN ASSIST

Our experienced team of consultants, many of whom are ex-regulators with the FCA, are able to provide a full independent AML audit in line with both UK and global regulations. We also provide full and detailed updates to firms' financial crime policies, procedures, and risk assessments. Please do reach out to us if you would like to discuss further or if you need more information on the services we provide.

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About Newgate Compliance

Newgate Compliance is a compliance consultancy offering a modern solution to implement your compliance function using an innovative compliance software solution called **The GATEway**.

Newgate has an unrivalled combination of experienced professionals, many of whom are ex-regulators.

Our customer focused approach seeks to provide appropriate, pragmatic and flexible solutions to our clients helping them to meet both the regulator's rules but also the spirit, principles and culture of the regulatory regime.

We look to build long-term relationships with our customers helping to encourage business growth, productivity and innovation. Our proactive approach is tailored to each customer's needs changing to meet those needs as the customer progresses and develops.