Time to blow the whistle

Professional standards



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Jane Mellor explains the background on anti-money laundering whistleblowing and how members can report their concerns

Key Points

What is the issue?

The money laundering regulations require professional body anti-money laundering supervisors to encourage their own sectors to report breaches of the regulations.

What does it mean to me?

Members need to be aware of the CIOT and ATT whistleblowing policies and are encouraged to contact us on a confidential basis where they have concerns that the regulations have been breached.

What can I take away?

Whistleblowing is an important tool in the fight against economic crime. Members should ensure they report relevant matters to us (or another appropriate supervisor) promptly. They can be assured that any information supplied to us will be dealt with securely and on a confidential basis.

Anumber of areas of work are subject to anti-money laundering (AML) supervision in the UK. Of particular interest to our sector are the requirements placed upon those who in the course of business in the UK act as:

- an auditor;
- an external accountant;
- an insolvency practitioner;
- a tax adviser; or
- a trust or company service provider.

Further guidance on the definitions for each area is included in the Regulations or AML Guidance for the Accountancy Sector.

Legislation

Members in practice undertaking work outlined must comply with the UK’s AML legislation. This includes The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (MLR) (‘the Regulations’)

Under Regulation 46 (2) of these Regulations AML supervisory authorities must:

take effective measures to encourage its own sector to report actual or potential breaches of the provisions of these Regulations to it;

provide one or more secure communication channels for persons to report actual or potential breaches of these Regulations to it; and

take reasonable measures to ensure that the identity of the reporting person is known only to the supervisory authority.

What is whistleblowing?

Whistleblowing in this context specifically relates to the reporting of actual or potential breaches of the AML legislation, rather than a wider (perhaps more generally understood) definition which members may find set out in the policies of their own firms. It enables supervisors to investigate and provide education, guidance or ultimately to sanction those not meeting their requirements under MLR. Adherence to the regulations is a legal requirement and must not be ignored or taken lightly.

There are some important distinctions to be aware of:

- **Whistleblowing** is the disclosure of a concern, or intention to disclose a concern, that may involve risk of malpractice or wrongdoing (typically witnessed in the workplace).
- **A complaint** is a grievance towards someone else, or dissatisfaction about a service that has been received.
- **Suspicious activity reporting (SAR)** is the requirement to make internal reports to a money laundering reporting officer (MLRO) or for an MLRO to make an external report to the National Crime Agency where they have knowledge or suspicion of money laundering or terrorist financing.

The whistleblowing requirements set out in the Regulations ensure that supervisors provide a channel through which concerns about AML compliance can be raised. It is one of the tools which assists supervisors to monitor compliance. Concerns raised might simply feed into a supervisor’s programme of newsletters and webinars if it appears that clarification is needed on specific areas of legislation. It may also help to identify the firms in greatest need of help and guidance to ‘get things right’. Where serious breaches are identified it may be that more formal action is required but we would expect this to be rare.

What sort of things might members come across?

Members might come across a number of situations in the marketplace which cause them to have concerns about AML compliance. Possible scenarios include:

- **Failure to register for supervision:** Occasionally, a member may come across a firm where it looks as if it is not registered for AML supervision. For example, when AML requirements are discussed, the firm may state that AML does not apply to them and give a reason, such as because they only do tax compliance work or they are purely involved in preparing claims. (Both of these are services which should in fact be supervised.)
- **Client due diligence failures:** New clients may express surprise about requests for information and indicate that a previous adviser did not ask for the same details.
- **Training:** New staff members joining from other firms might indicate that they have never received AML training and are unfamiliar with AML risks or areas of compliance (such as internal reporting).

If members within a firm have concerns about compliance by their own firm, they should raise them via the firm's internal whistleblowing policies where appropriate or with their MLRO. If their concerns extend to the effectiveness of their MLRO or there is an ethos of non-compliance from the top down, they may need to raise their concerns with their supervisor via the whistleblowing procedures.

Who should report concerns and how?

Members who come across anyone who appears to be ignoring their obligations under the AML legislation are encouraged to report their concerns. For employees, consider your own firm's whistleblowing procedures and consult your MLRO where appropriate.

Where internal procedures are not appropriate to address the issue and if you think the individual concerned is a member of CIOT or ATT and you want to make a report confidentially, you can email us at: whistleblowing@ciot.org.uk or whistleblowing@att.org.uk. Please be assured that all reports received by the CIOT or ATT will be treated confidentially and held securely.

Other supervisors will have similar channels enabling reports to be made to them about their members and you should refer to their websites. If HMRC is the supervisor or if you cannot find the name of a known supervisor, then reports should be made to HMRC.

If an issue has arisen which is actually a complaint, those matters should continue to be referred to our independent disciplinary body, the Taxation Disciplinary Board.

If you need to report money laundering or terrorist financing, you should make a report to your MLRO or directly to the NCA, as appropriate. The NCA website provides further guidance on making SARs.

The full CIOT and ATT policies are included on their websites. The CIOT and ATT would encourage all members to be familiar with this policy and to feel free to get in touch with us whatever the nature of the AML concern.