Money Laundering Reporting Officer MLRO

Every practice should have a ‘nominated officer’ officer or a Money Laundering Reporting Officer (MLRO) as provided for by Part 7 of the Proceeds of Crime Act 2002 or Part 3 of the Terrorism Act 2000. Regulation 20 of the 2007 Regulations require this person to be appointed, to have procedures where staff make internal suspicious activity disclosures to the MLRO and a defined policy for the MLRO to consider any such internal reports to determine if a SAR should be made. A breach of regulation 20 can result in an offence (regulation 45).

If you are a sole practitioner then you will be regarded as your practices’ MLRO. In larger practices the presence of an appointed MLRO ensures that the direction of AML/CTF policy is centralised and that submissions to NCA or the relevant Financial Intelligence Unit (FIU) are consistent.

1. The MLRO should have a degree of seniority and authority within the business to drive policy decisions and actions. He/she should have undergone sufficient level of training and hold suitable qualifications and experience. Arrangements should be in place for when the MLRO is absent.

Internal systems and policies

2. In conjunction with the senior management if applicable, the MLRO should oversee the implementation and adherence to risk based policies and processes on:
   - customer due diligence and ongoing monitoring,
   - reporting processes,
   - keeping of records,
   - internal controls,
   - practice AML/CTF risk assessment,
   - training of staff,
   - communication of ML/TF policy and issues within the business

3. The MLRO’s duties include establishing an internal AML/CTF policy which will set out on record how all risks considered in the practice AML/CTF risk assessment, surrounding clients, services, locations served and delivery channels, are managed. (See CCAB Guidance, para. 3.7-3.8)

4. The MLRO should ensure that the practice AML policies are recorded and monitored for effectiveness. The risk assessment of the business should be conducted by the MLRO and they have responsibility for monitoring internal compliance and effectiveness of controls.

5. The MLRO should work with management to ensure that the training provided to staff is suitable for the practice on a risk-sensitive basis.

Evaluation of internal reports

6. Sections 327-329 of POCA 2002 outline the MLRO’s responsibilities surrounding disclosures where there are suspicions or knowledge of specific offences around ML/TF. The MLRO should also be fully aware of their responsibilities around requesting consent and the types of disclosures as laid down in sections 335-339 POCA 2002.

7. A failure to make a disclosure or a SAR where one should be made can have serious repercussions for the practice and therefore the MLRO position carries great responsibility. Once a junior staff member makes a report to the MLRO, the MLRO then assumes responsibility for the suspicion reported. The MLRO should remind staff of their obligations regarding the offence of tipping-off.

8. When evaluating an internal report, the MLRO should consider the complete client profile and history of the business relationship, including the initial client on-boarding CDD information and ongoing monitoring information. The MLRO must review the patterns of activity or services provided to the client up to the present time including the volume, frequency, size of business done. Consider how long the client has been with the practice - is it an
entirely new client or a long-standing well-known one? The importance of good CDD is seen in this instance as it gives the MLRO a detailed understanding of who the client is and whether suspicions are well-founded.

9. The MLRO may also require further information to be obtained, from the client if necessary. The Joint Money Laundering Steering Group state that any approach to the client should be made sensitively, and probably by someone other than the MLRO, in order to minimise the risk of alerting the client that a disclosure to the FIU may be being considered.

10. The MLRO should consider if professional privilege will exempt the practice from making a report where the knowledge or suspicion comes to the practice from privileged circumstances, provided the information received is not with the intention of furthering a crime (section 330 POCA). Examples of Privileged circumstances are outlined in the CCAB Guidance para. 7.3.

MLRO responsibility to provide sufficient content in the SAR

11. The MLRO has a duty to include as much relevant information as possible about the client and the activity which is suspicious. The SAR should be in the format outlined in s. 339 of POCA.

12. The MLRO must ensure that the content of the SAR includes as much useful information as possible: on the identity of the suspect (client’s occupation/company’s business and National Insurance etc); as much detail as possible to explain the basis on which the suspicion or knowledge of the money laundering is founded; the whereabouts of the illicit property if known.

Ensure that your reasons for suspicion are specific and make it clear what services you are actually providing/proposing to provide when the suspicion arose.

13. Additional information to be included in a SAR: Name of who the reporter, the date, who is suspected or information assisting identification process, name of victim(s) if applicable, other parties involved and how, facts of the matter giving rise to suspicion, whereabouts of any criminal property, what the involvement with the business is e.g. providing book-keeping service. Without good information it is difficult for law enforcement to provide consent to act if the MLRO has requested consent. The MLRO must make a report as soon as practical once a suspicion arises.

14. A decision by the MLRO not to report externally must be documented and have sufficient reason and detail outlined describing how the decision was made. The details of this should be filed separately from the actual client file to ensure the client is not tipped-off accidentally.

15. If the practice has already carried out an act for a client without realising that the act could amount to a money laundering offence, the MLRO should immediately make an authorised disclosure under POCA.

Post SAR period

16. The MLRO should ensure that once a SAR is submitted with a request for consent that the practice does not do the act in question until the notice period has elapsed (i.e. 7 working days from day after SAR is made).

17. If consent to act is refused by the NCA or relevant FIU, the MLRO must wait until the ‘moratorium period’ has elapsed which is a period of 31 days starting with the day on which the person receives notice that consent to the doing of the act is refused.

18. Where consent is received or refused the NCA or relevant FIU will communicate this to the MLRO and it is the duty of the MLRO to ensure that the staff or officers act accordingly.