



Anti-Money Laundering & Combating Terrorist Financing Code & Guidance

Anti-Money Laundering & Combating Terrorist Financing Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the CLC must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcome**:

- **Client matters are dealt with using care, skill and diligence. (Outcome 2.2)**

Combating Money Laundering (AML) and Terrorist Financing (CTF) helps you deliver this **Outcome** and act in a principled way:

1. **Act with independence and integrity. (Overriding Principle 1)**
2. You comply with anti-money laundering and prevention of financing terrorism legislation. (**CoC P1m**)
3. You **systematically** identify and mitigate risks to the business and to **Clients**. (**CoC P2f**)
4. You promote ethical practice and compliance with regulatory requirements. (**CoC P2g**)
5. You maintain proper governance, management, supervision, financial and risk management **arrangements** and **controls**. (**CoC P2i**)

You must also comply with the following **specific requirements**:

6. You have appropriate management **arrangements** and systems and **controls** in place to comply with anti-money laundering regulations.

7. You ensure that management **arrangements**, systems and **controls** enable the identification, assessment, monitoring and management of AML/CTF risk and are appropriate to the nature, scale and complexity of your activities.
8. You carry out regular reviews of the adequacy of management **arrangements**, systems and **controls**.
9. You ensure that, in order to meet your responsibilities under the AML/CTF Legislation your management **arrangements**, systems and **controls** include:-
 - (a) an appropriate AML/CTF policy ;
 - (b) appropriate and regular training for **employees** (of which a record must be kept) in relation to AML/CTF to enable **employees** to recognise and deal with transactions and other activities which may be related to AML/CTF;
 - (c) appropriate internal reporting procedures;
 - (d) management and retention of records of **CDD** and information about, suspicion reports received by the business;
 - (e) appropriate measures to ensure that AML/CTF is taken into account in the day to day operation, including the application of appropriate **CDD** for:-
 - (i) dealing with existing **clients**;
 - (ii) the taking on of new **clients**;
 - (iii) dealing with **Beneficial Owners**;
 - (iv) incorporating changes in the services provided;
 - (f) appropriate **CDD** measures to ensure that procedures for identifying and verifying new **clients** and **Beneficial Owners** do not unreasonably deny access to the services to potential **clients** who can not reasonably be expected to produce detailed evidence of identity.
10. You :-
 - (a) appoint a Nominated Officer with responsibility to receive suspicion reports and make reports to SOCA;
 - (b) appoint a **manager** (who may or may not be the Nominated Officer) with responsibility for ensuring the business complies with these;

(c) ensure that the Nominated Officer or **manager** has an appropriate level of authority and independence , and access to resources and information sufficient to enable them to carry out that responsibility.

11. Records must be stored on **Durable Medium**.
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Anti-Money Laundering and Combating Terrorist Financing *Guidance*

Introduction

1. **Overriding Principle 2** of the **CLC Code of Conduct** requires you to Maintain High standards of Work. The approach set out below aims to help you comply with that principle. You are not obliged to adopt this approach, but it offers you an example of the minimum commitment that the **CLC** considers is likely to be needed for compliance. Should you use the provided example as your starting point, it is likely that you would need to make amendments to ensure that it matches your particular circumstances. The procedures you adopt should apply a risk-based approach, taking into account the nature of your work, **clients**, and the number of **employees**.
2. For more detailed **guidance** on this please see the **CLC's Guidance** on prevention of Money Laundering and Combating Terrorist Financing.

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3. **AML/CTF Example Policy**

'IMPORTANT

It is essential that that the business and its **employees** comply with the letter and spirit of this policy since failure to do so may amount to a criminal offence for which it is possible to be sentenced to a term of imprisonment.

1. As a business, we are committed to complying with the **anti money laundering legislation**, in particular the Proceeds of Crime Act 2002, the Terrorism Act 2000 (each as amended) and the Money Laundering Regulations 2007.
2. We must at all times take steps to ensure that our business is not used to launder the proceeds of crime or to assist terrorist financing.
3. We must explain to **clients** the need to obtain proof of identity and the limitations on our duty of confidentiality to them either in our **terms of engagement** or otherwise in writing.
4. We accept that the Nominated Officer has full autonomy in carrying out their duties.
5. We will ensure that you are given appropriate and regular training to help you comply with AML/CTF, this policy and the procedures of the business.
6. We will communicate to you details of any types of business we have decided not to accept.
7. We will regularly monitor and review our policies, procedures and training.
8. We require all of the business's members to follow carefully the procedures set out in the Procedures Manual.

4. **AML/CTF Example Procedure**

'IMPORTANT

It is essential that that the business and its **employees** comply with the letter and spirit of these procedures since failure to do so may amount to a criminal offence for which it is possible to be sentenced to a term of imprisonment.

Procedures

1. You must not act or continue to act for a **client** until all requirements for **Customer Due Diligence (CDD)** or Enhanced **Customer Due Diligence (EDD)** have been met. If these cannot be met, you must
 - not establish a new business relationship; or
 - terminate any existing business relationship.You must then consider whether to make an internal report to the Nominated Officer.
2. The purpose of **CDD** and EDD is to help you decide whether your **clients** are the persons they say they are and that you can:
 - know with some certainty whether your **clients** are acting on behalf of another (called a **beneficial owner**)
 - establish there is nothing to prevent you providing the service requested
 - assess whether the purpose of the instruction is consistent with the lifestyle and economic means of your **clients**
 - establish there are no obvious elements which suggest that any transaction is unusual or over complex in the context of those instructions.
3. Whenever instructed by any **client** you must obtain evidence as early as possible that:
 - the **client** is the person he or she claims to be, for example, by a current signed passport or current UK photo driving licence; and
 - a person of that name lives at the address given, for example, by a utility bill less than 3 months old or mortgage statement;unless we already hold evidence of that **client's** identity which is both relevant and up-to-date and there are no reasons to believe that any of the details have changed.
4. You should find out whether there is a **beneficial owner** in which case you must be satisfied who that person is. A **beneficial owner** is the person who ultimately owns and controls the **client** on whose behalf a transaction is being conducted (see further paragraphs 6.14 – 6.19 of the **CLC's Guidance** for the Prevention of Money Laundering and Combating Terrorist Financing). There may be more than one. If the **client** is a **company** you must identify who owns 25% or more of the structure and who exercises effective management and control.
5. Further examples of acceptable ID evidence are set out in the Acting for Lenders and Mortgage Fraud Code and **Guidance**. Photocopies should always be certified as being true copies of the original and signed and dated by the person making the copies.
6. EDD checks must be made in any situation which by its nature can present a higher risk of money laundering or terrorist financing. The 2007 Regulations identify two specific examples where EDD must be carried out:

- where the **client** has not been physically present for identification purposes; or
 - where the **client** is a Politically Exposed Person
7. The most frequent circumstance in which you must carry out EDD is likely to be when you do not meet your **client** at the time you establish and verify identity. In addition to the usual steps taken to verify identity for **CDD**, you should obtain at least one additional document of identity or verify identity electronically through [state specific source the business uses].
 8. Further **CDD guidance** can be found in the Acting for Lenders and Prevention & Detection of Mortgage Fraud Code and **Guidance**.
 9. You keep a record and take copies of all relevant documentation about the **client's** identity and address and we must keep them for at least 5 years.
 10. You make reasonable enquires and take copies of all relevant documentation relating to the source of funds and we must keep them for at least 5 years.
 11. If you are not satisfied with the documentation or explanation you are given you should consider whether to make further enquires (either orally or in writing), where appropriate, seeking **guidance** from a supervisor or someone with more experience within the business.
 12. Examples of Warning Signs which you should take into account in deciding whether to make an internal suspicion report are set out in the Acting for Lenders and Prevention & Detection of Mortgage Fraud Code and **Guidance**, paragraph 15, and include:
 - secretive **clients**;
 - involvement of unconnected third parties
 - unusual instructions
 - overpayments of money.

No list of examples provided at any one time can ever be exhaustive and you will need to exercise your skill and judgment to assess any circumstances involved in a transaction which may seem to you or to an ordinary member of the public to be unusual or out of the ordinary.
 13. You should not accept payments of cash in excess of [£100] either made directly to you or into the firm's **bank** account.
 14. If the nature of the transaction, the documentation or information you have been given would have aroused suspicions for a reasonable and honest **Authorised Person**, then you must immediately make an internal suspicion report in writing using our prescribed form to [name] who is our Nominated Officer (or in his absence [name]). [The business should suggest a procedure to support its **employees** when dealing with customer enquiries once a report has been made.]

15. Once you have made a report to the Nominated Officer, no further action should be taken regarding the transaction without the specific authority of the Nominated Officer.
16. You must not disclose your suspicions or the fact that you have made a report to the Nominated Officer to any other person, in particular the person who is the subject of such a report, since this may amount to “tipping off”, which is also serious criminal offence for which you could be imprisoned.
17. You must respond **promptly** to requests from the Nominated Officer for any further information.

5. AML/CTF Example Policy for the body’s appointed Nominated Officer

1. The business requires you as its Nominated Officer to comply with this policy in addition to complying with the business’s AML/CTF policy.
2. Failure to carry out your duties may cause you to commit a criminal offence.
3. You will have access to all files, records and information and be given sufficient resources and authority to fulfil the role and be allowed to carry out your duties without fetter, influence or interference.
4. Upon receipt of each internal suspicion report from any of the business’s members , you must acknowledge receipt in writing to the person making the report. You must then consider carefully whether a report should be made to the **Serious Organised Crime Agency (SOCA)**.
5. You must make a report to SOCA in the prescribed form where you have actual knowledge or suspicion, or where (based on what an ordinary member of the public might think) there are reasonable grounds to know or suspect a money laundering offence has been committed. You will need Consent from SOCA for an ongoing transaction to proceed.
6. If you do make a report to SOCA then you must ensure that you maintain regular telephone contact with them where Consent is required.
7. You must maintain a record of each decision you have made and keep it for at least 5 years whether or not you send a report to SOCA.
8. You must support and advise members of staff who make internal suspicion reports to you, emphasising the implications for them of “tipping off”. In particular you must do this where you are waiting for Consent to proceed from SOCA.

6. Example of AML/CTF Training Record

Date	Details of training	Name of attendee	Attendee's signature	Trainer's signature

The signature of the attendee acknowledges that training has been received to satisfy the current requirements of the body's AML/CTF policy.

7. Example of Internal Reporting Form and Record of Decision

'Neither this form nor any copy is to be kept on the *client* file

PART 1

Name of Person making report	
Name of Nominated Officer	
Name(s) of client	
File Reference Number	
Address of Property involved	
Reasons for making the report	
Additional Information	
Signature of person making the report:	

Date:	
PART 2	
(To be completed by the Nominated Officer)	
Date received	
Additional information requested	
External report: Yes / No	Ref
Reason for decision	
Signature of Nominated Officer	Date

8. Example of wording to be incorporated into the *Terms of Engagement*

8.1. Proof of Identity

We must by law obtain satisfactory evidence of your identity and address. Please help us to do so by giving us the information and documentation we ask for. We are unable to proceed with your transaction and will not be able to exchange contracts until this has been provided.

8.2. Confidentiality

As lawyers, we are under a general professional and legal obligation to keep your affairs private. However, we are required, by current legislation, to make a report to the Serious Organised Crime Agency (SOCA) where we know or suspect that a transaction involves Money Laundering or Terrorist Financing. By instructing us to act on your behalf in accordance with these ***terms of engagement*** you give us irrevocable authority to make a disclosure to SOCA if we consider it appropriate.

- 8.3. You agree that this authority overrides any confidentiality or entitlement to legal professional privilege. We shall be unable to tell you if we have made a report.

-----End of Examples -----

9. External Reporting Form

- 9.1. A copy of the current Suspicious Activity Report (SAR) may be accessed on the website for the **Serious Organised Crime Agency** by following the links at www.soca.gov.uk and downloading the form. Alternatively, a SAR may be filed electronically by registering for and activating the On-line service on the Reporting SARs” button.
- 9.2. For information or assistance with submitting SARs, SARs online queries, consent issues or general Financial Intelligence Unit matters telephone the UK Financial Intelligence Helpdesk on 020 7238 8282 and select the appropriate option. The UKFIU Dialogue Team can be contacted 24/7 by email on fiudialogue@socax.gsi.gov.uk. Any messages on SAR-related issues will be dealt with through the Proceeds of Crime Dialogue Office. This is not to be used for SAR reporting – it is a means of addressing concerns via e-mail. Urgent disclosures (e.g. those requiring consent) can be transmitted electronically or by fax on 020 7238 8256.

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