

AML update: What every business needs to know

8 MAY 2019

The webinar will begin shortly...



Webinar

Anti-money laundering update: What every business needs to know

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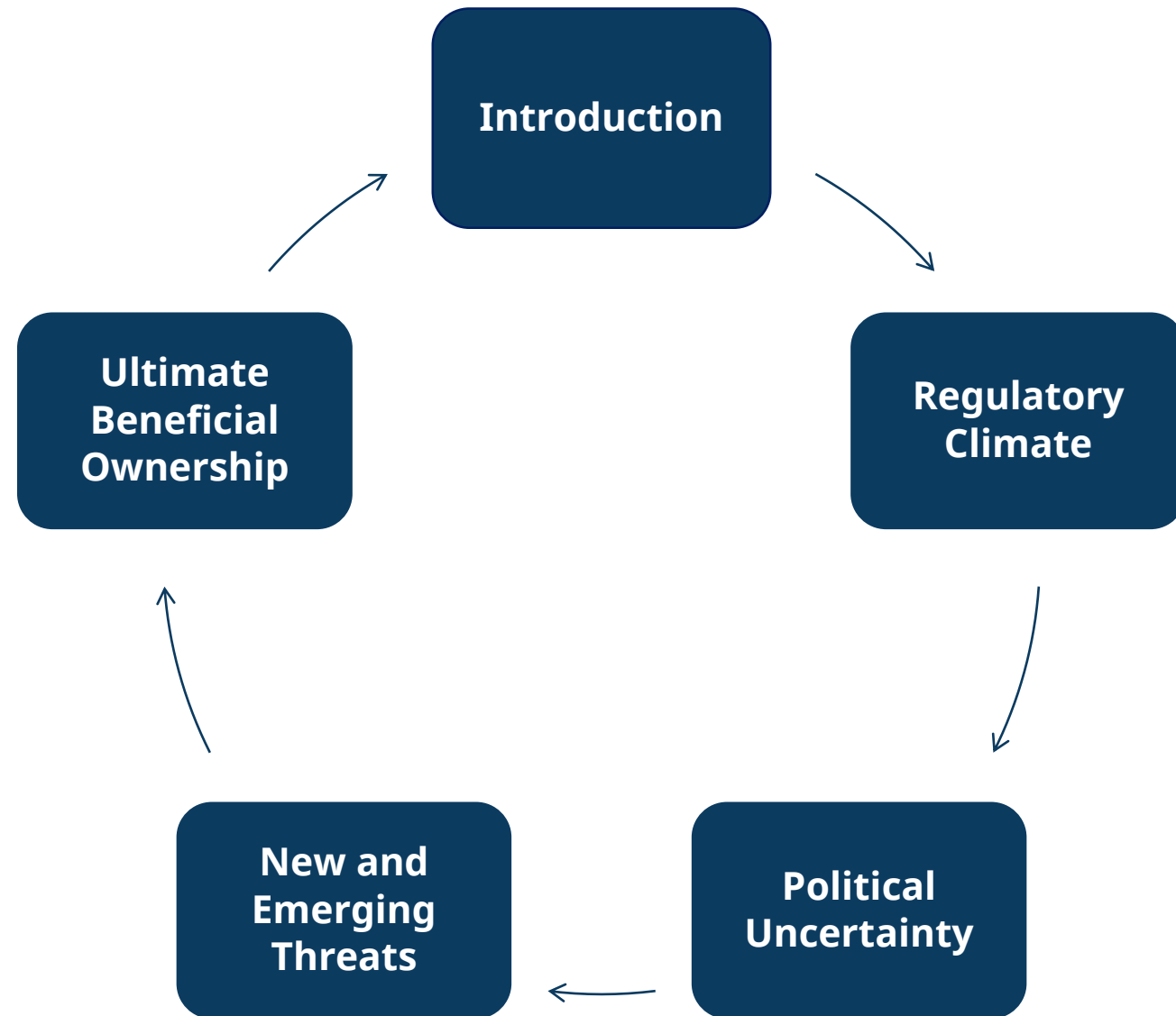


AML – Key Themes for 2019



James Rickett

AML/Financial Crime Course Director



Regulatory Climate

- The need for heightened regulatory overhaul and scrutiny across industries is leading regulators to take a tougher stance on financial crime
- This is evidenced by the number of skilled persons being required in the UK
- Financial Action Task Force (FATF) have set out recommendations around the prospect of increased information sharing between financial institutions to combat money laundering and terrorist financing.

Political Uncertainty

- Uncertainty regarding legislative and regulatory change in the run up to Brexit, particularly cross border data sharing
- UK has enacted the sanctions and AML Bill in 2018 which will give the UK power to introduce its own AML and Sanctions legislation following Brexit
- Increasing political tensions through 2019 between the US, EU, Iran, China and Russia.

New and Emerging Threats

- 2019 is the year that firms need to get serious about AML compliance in regards to Cryptocurrencies and Virtual Assets
- Far East and notably Australia have passed amendments to include digital currencies in their AML act. Time for the UK to act?
- Firms in 2019 appear to be having a growing reliance on RegTech and AI to monitor financial crime particularly screening and transaction monitoring, but
- The world has already seen a number of major terrorist attacks, notably multiple co-ordinated suicide bombers in Sri Lanka during April 2019.

Ultimate Beneficial Ownership

- Since the release of Panama Papers, ways in which criminals have used shell companies have become public domain
- In 2018, EU published the 5th money laundering directive which will make ownership registers public domain
- Following the UK FATF 2018 review, despite the glowing reports of the UK's work to combat ML and TF, the use of UK property has provided a perception that the UK is the 'Money Laundering capital of the world'.

Property Acquired by Overseas Companies 2005 - 2014





Thank you

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Please note that the workshops will broadly follow the structure of the relevant units in the Study Text. It is not, of course, possible to cover all of the course text within the classroom so therefore focuses on key elements of these through a variety of different approaches. The information that is provided during this classroom, and in any supporting documents, is provided in confidence and may not be disclosed to any third party or used for any other purpose without the express written permission of the International Compliance Association. Whilst every effort has been made to ensure accuracy regarding the content of these slides/notes International Compliance Association cannot be held responsible in any way for consequences arising from the information given. No decisions should be taken on the basis of information included in the slides/notes without reference to specialist advice.

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www.fraudadvisorypanel.org

UK anti-money laundering legislation is complex and wide-ranging, and has implications for many professions and sectors. This guide provides a general overview of the legislation for those who are new to the subject.

INTRO
AN INTRODUCTION TO UK LEGISLATION | DECEMBER 2017

Money laundering and the proceeds of crime 2ND EDITION

WHAT IS MONEY LAUNDERING?

The term 'money laundering' refers to the process by which money or other assets acquired through criminal activity are exchanged for, or disguised as, legitimate (or 'clean') money or other assets.

Money laundering is traditionally associated with serious criminality, for example the proceeds of fraud or drug dealing. However, money or property obtained through any form of criminality (including tax fraud and corruption) can still be considered to have been laundered.

OVERVIEW OF THE LEGISLATION

The requirements of the UK anti-money laundering regime are set out in the **Proceeds of Crime Act 2002 (POCA 2002)**, the **Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017** (the regulations), and the **Terrorism Act 2006**.

POCA 2002 sets out the main money laundering offences and provides for the confiscation and civil recovery of the proceeds of crime. The Act has effect in England, Northern Ireland, Scotland and Wales.

The regulations require legal, accountancy, financial and other specified professions and sectors to take appropriate steps to prevent their services from being used for money laundering or terrorist financing.

The regulations cover:

- risk assessment;
- internal controls;
- client due diligence procedures (including those relating to beneficial ownership);
- monitoring and audit;
- recognition of suspicious transactions and reporting procedures;
- education, training and assessment of partners and staff; and
- record-keeping procedures.

A nominated officer (NO) (see 'reporting concerns' overleaf), and a board member or member of senior management responsible for compliance with the anti-money laundering regime (including those policies and procedures set out above), must be appointed. It is possible to combine the role of NO and senior manager responsible for compliance as long as the individual is sufficiently senior.

It is a criminal offence to be in breach of some regulations. There are also a number of civil sanctions including fines, prohibitions on senior managers and suspensions of authorisation.

WHO DOES IT APPLY TO?

The principal offences in POCA 2002 (ss327 - 329 and 342) apply to conduct committed by any person (individuals or corporates) in the UK. It also provides for confiscation orders and civil recovery of the proceeds of crime, which can apply to anyone in possession of criminal property or benefits obtained from criminal activity.

The remainder of the legislation applies to a number of professions and sectors which are collectively known as 'relevant persons' or the 'regulated sector'. These include:

- credit institutions;
- financial institutions (including internet banks);
- auditors;
- insolvency practitioners;
- external accountants;
- tax advisers;
- independent legal professionals (including solicitors and barristers);
- trust or company service providers;
- estate agents;
- high value dealers (defined as a firm or trader dealing in any transaction of €10,000 or more);
- casinos.

These individuals and businesses should follow the anti-money laundering guidance issued by their trade or professional body and/or regulator.

WHEN IS AN OFFENCE COMMITTED?

A money laundering offence is committed in the following circumstances:

- When a person conceals, disguises, converts, transfers or removes from the jurisdiction any criminal property. This includes the actions of an individual carrying out transactions in the course of their employment or business (s327, POCA 2002).
- When a person becomes concerned about an arrangement that they know or suspect facilitates the acquisition, retention, use, or control of criminal property by, or on behalf of, another person (s328, POCA 2002).
- When a person acquires, uses, or has possession of, criminal property without adequate consideration (s329, POCA 2002).

All of the above offences require the individual to have either knowledge or suspicion that the property being laundered is criminal property.

Criminal property includes property obtained as a result of criminal conduct committed anywhere in the world, provided that the criminal conduct would also be an offence if it were committed in the UK (subject to certain exemptions).

There is a further offence that can be committed when a person prejudices an investigation into money laundering by telling someone else that they know or suspect that an investigation has, or will be, started, or by interfering with material likely to be relevant to the investigation (s342, POCA 2002).

If you are ever in doubt about whether conduct falls within the scope of the legislation, always seek appropriate legal advice.

INTERNATIONAL CONSIDERATIONS

The Financial Action Task Force on Money Laundering (FATF) is an intergovernmental body.

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24 June

Dealing with difficult conversations

3 July

What does your gender pay gap tell you?

11 September

Conflict resolution

9 October

Online e-learning – 9.30am

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15 May

How accountants can become digital leaders

19 June

Marketing for finance – Top tips and shortcuts

10 July

Five key questions all boards should ask about fraud

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