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# THE ROLE OF THE MONEY LAUNDERING REPORTING OFFICER

# Introduction



- The new regime and the MLRO.
- What is required of a good MLRO?
- The challenges of MLRO's going forward.

# **THE FSA's MONEY LAUNDERING RULES AND THE MLRO**

# The Act



- The Financial Services and Markets Act 2000 will come into force in the UK on 1 December 2001.
- The Act charges the FSA with reducing the extent to which regulated firms are used in connection with financial crime including money laundering.
- To fulfil this objective the Act gives us a range of powers:
  - including the power to make specific Rules on money laundering; and
  - the ability to prosecute firms for breaches of the UK criminal law.

# Purpose and scope of the Rules



- The FSA's Rules are intended to work alongside existing UK law in a separate but parallel approach.
- To make improvements by introducing additional requirements to strengthen regulated firms procedures.
- The application of the Rules is limited to the UK.
- A UK authorised firm that exercises control over a non-UK firm may find that the FSA will take the non-UK firm's controls into consideration because of the possible reputational, managerial and/or financial risks to the UK firm.
- The second EU Directive will provide that EU firms passported into the UK are subject to host state regulation. This formalises existing arrangements.

# The Rules and MLRO's



- An FSA regulated firm must appoint an MLRO.
- The MLRO must be an Approved Person as they are carrying out a controlled function.
- As an Approved Person there is a Fit and Proper Test for the MLROs.
- The FSA will have regard to the MLROs;
  - honesty, integrity and reputation; and
  - competence and capability.
- The FSA can withdraw its approval if it considers that the MLRO is not fit and proper to carry out a controlled function.

# The Rules and MLRO's



- The Rules provide for improved status of the MLRO.
- The MLRO must be free to act on his own authority and have sufficient resource, including time and support staff.
- Where anti-money laundering tasks are delegated by the MLRO, the FSA will expect the MLRO to take ultimate managerial responsibility for ensuring compliance with the Rules.
- The MLRO should be able to monitor the day-to-day operation of the firm's anti-money laundering policies to ensure compliance is maintained.

# The Rules



- At least once a year, a regulated firm must commission a report from the MLRO.
- The purpose of the report is to enable the firm's senior management to assess the firm's compliance with the Rules.
- The necessary action must be taken to remedy any deficiencies in compliance identified in the report.
- Such a tool empowers the MLRO and enhances his status within the firm.

# The Rules



- The Rules make clear that the MLRO is to be responsible for ensuring the adequacy of staff awareness and training.
- The MLRO must have access to “know your business” information which is necessary to determine suspicious transactions when deciding to make an external report to NCIS.
- Explicit importance is placed on the MLRO making proper use of national and international findings on those countries or jurisdictions found to have material deficiencies.

# SO WHAT SHOULD A GOOD MLRO BE DOING?

# Setting policy and standards



- A first step in preventing money laundering is to set out policies and procedures for the firm to follow.
- These should let staff know:
  - what the firm intends to do in order to prevent itself from being used for the purposes of laundering money.
  - What its legal and regulatory obligations are.
  - What due diligence procedures it expects staff to undertake when conducting business, particularly customer identification checks.
- These should be set out in a clear and accessible form.

# Review, Refresh, Test



- Review policies to make sure they are up to date.
- Keep policies up to date with regulatory and or legislative changes.
- Set out the firms objectives.
- What criteria is used to measure success in meeting these objectives.
- Identify which areas of the business are subject to the most risk.
- Maintain links with business areas.
- What concerns do managers/staff have.
- Set internal examinations to test the knowledge of staff on the firms policies and procedures.

# A shoulder to lean on and a wise head



- The role of the MLRO is to assist a firm's senior management to meet their legal and regulatory obligations.
- The MLRO should act as the focal point within the firm for the oversight of all activity relating to money laundering.
- This means ensuring the firm has robust systems and controls, including;
  - adequate processes for identifying customers;
  - clear procedures for internal and external reporting of suspicions; and
  - training of relevant staff.
- The role of the MLRO is key in preventing the firm from being used as a conduit for money laundering.

# Communicate, Communicate



- Maintain communications with other members of the financial group.
- Share good compliance practices with other MLRO's in the group.
- Effective co-operation with compliance, internal audit and other firm control functions to ensure all are working towards the same goals.
- A firm should ensure that it has an effective group MLR structure, important with large international groups.
- Some areas of a group can have effective controls but if the MLRO's don't maintain standards across the group it allows "dirty money" to migrate from those with weak controls across the firms within a group.

# THE CHALLENGES GOING FORWARD

# FSA looking forward



- In January 2000 we explained our plans to carry out a Money Laundering Theme Project.
- The Theme was designed to help us develop our approach in the future to reducing money laundering.
- This work explains what we expect firms to do, as well as what we intend to do, to make sure the UK financial markets are as clean as possible; reducing the extent to which criminals are able to launder the proceeds of crime.
- The Theme found that some regulated firms will need to do more to meet their obligations to prevent and detect money laundering.

# Aims of the Money Laundering Theme Project



- assess the current level of industry compliance with UK law;
- identify which activities and sectors are most vulnerable to money laundering and therefore pose the greatest risk to our objectives;
- allocate regulatory resources and develop tools to deliver a response which is proportionate to the scale and nature of non-compliance;
- set out how we will be taking forward our money laundering responsibilities; and
- raise the profile of money laundering within the financial sector and emphasize the consequences of failing to comply with the Rules and the law.

# The Money Laundering Theme Project



- Those areas identified in the UK as the most vulnerable to money laundering and areas where compliance with the Regulations was perceived to be the weakest, were formed into a series of “clustered risks”.
- These represent areas for early regulatory attention.
- The top six clusters are as follows:
  - International banking;
  - Domestic banking;
  - IFA’s handling client money from abroad;
  - On-line broking;
  - Spread betting; and
  - Credit Unions.

# What the Theme means for MLRO's in the UK



- MLRO's operating in a high risk area can expect increased attention.
- Obtain a copy of the Theme report and ensure that those areas where compliance is identified as weak are picked up and improved upon.

# Who is responsible for compliance? Again!



- Responsibility for ensuring that the firm is compliant with the FSA's Rules and the UK law rests with the firm's senior management.
- The Role of the MLRO is to assist senior management in meeting their responsibilities.
- The MLRO should act as the focal point within the firm for the oversight of all activity relating to anti-money laundering.
- The MLRO is key in preventing the firm from being used as a conduit for money laundering.

# MLRO liability



- Failure to comply with the law constitutes an offence punishable by a maximum of 2 years' imprisonment, a fine or both.
- This is irrespective of whether money laundering has taken place.
- The FSA also has the ability to impose unlimited civil fines.
- The FSA recently fined a firm £350,000 for having deficient money laundering systems and controls.
- FSA has the ability to publicly censure firms.
- This has reputational issues for firms.

# MLRO liability



- The FSA can withdraw its approval if it considers that the MLRO is not fit and proper to carry out a controlled function.
- The FSA recognises that there can be no absolute guarantee that money laundering will not be present within a firm.
- If the MLRO can establish that the firm has complied with the Rules and the law, this will provide a strong defence against regulatory action or prosecution as a result of a single instance of money laundering occurring.

# How to avoid trouble? Again!



- Undertake frequent analysis of the money laundering risks to the business.
- Monitor the changes to the firms business practices and products to ensure that procedures and practices are adequate to reduce the risk of money laundering.
- Monitor staff compliance with the firms money laundering policies.
- Ensure staff are aware of current laundering issues.

# To finish



- The FSA believes that the most effective way of reducing money laundering is to concentrate its regulatory focus on ensuring firms have good systems and controls.
- We intend to maintain strong communications with industry, in order to ensure that the requirements are clear and to provide appropriate rules and guidance where it is necessary.
- The FSA will engage in dialogue to share examples of “good practice” in order to raise compliance standards across the industry.
- This is because to be successful in meeting the objective to reduce financial crime it will require effective co-operation with firms and MLRO’s as key figures within firms.
- The FSA will engage in dialogue to share examples of “good practice” in order to raise compliance standards across the industry.