

## **Current risks/threats facing Accountancy professionals and those providing TCSP services**

Criminals seeking to disguise the proceeds of their crimes may attempt to use the services of professionals like Bookkeepers in the money laundering process. ICB Bookkeepers are highly qualified and are held in high regard by their fellow Accountants, Solicitors, Financial services providers and others.

Criminals will look to use the services you offer in the money laundering process, they may also attempt to use your reputation to gain access and introductions to other professionals, financial institutions and use you as an introducer or intermediary.

The National Risk Assessment on Money Laundering which was published by HM Treasury and the Home Office in 2017, assesses that the services offered by accountancy professionals are a high risk of being exploited by criminals for money laundering. At the same time, they assessed that the services offered by accountants are a low risk of being exploited for terrorist financing.

As your supervisory authority, ICB is required to make available to its members any information it considers would assist them in carrying out their own AML risk assessments. The following paragraphs outline some of the functions performed by accountancy professionals that are the most susceptible for use by the potential money launderer:

### **Complicit or coerced professionals**

Criminals will seek to influence naïve or unwitting accountancy professionals to assist them to launder their proceeds of crime, there are many examples where accountants have succumbed to criminal advances and become involved in the money laundering process. Many accountants have been tempted by the financial rewards of becoming involved in money laundering on behalf of criminals who may also seek to coerce accountancy professionals into becoming involved.

### **Professionals not taking AML compliance seriously or being naïve in their AML compliance**

We realise that ICB members are busy managing their practices and their client's affairs and it's easy to overlook and neglect AML compliance when there are numerous other things to worry about. However, those who fail to fully comply with their AML requirements leave themselves open to prosecution or ICB disciplinary action for regulatory breaches, they are also vulnerable to being used by criminals in the money laundering process. Criminals are constantly looking to exploit weakness and expose vulnerabilities in AML compliance. ICB has noticed that some members aren't always on top of their AML compliance which leaves them exposed to criminal approaches. We are constantly monitoring members compliance activity and will take action where we find those who aren't taking the necessary steps.

### **Financial and tax advice**

There are many individuals and criminals hoping to minimise their tax liabilities or desiring to place assets out of reach in order to avoid future liabilities. Tax evasion could be facilitated through Self-assessment, VAT, Corporation Tax, Capital Gains or other tax

services. You have to be alive to the possibilities that your client might be committing tax evasion and ensure you do not facilitate this on their behalf.

### **Company and trust formation**

There are many legitimate reasons that someone in business would want to use Trust and Company services, there are however many instances whereby criminals may attempt to confuse or disguise the links between the proceeds of a crime and the perpetrator through the creation of corporate vehicles or other complex legal arrangements (trusts, for example).

They will also attempt to disguise and distance their ownership or control of criminal assets through the creation/use of shell and shelf companies, there are many examples where accountancy professionals have set up companies which had no commercial purpose other than to hold and disguise criminally derived assets from the authorities.

Criminals will also seek to use accountancy professionals as nominee directors/shareholders of their companies and use their premises as registered office. This has the effect of distancing and hiding their involvement in companies holding criminal assets as well as adding a layer of legitimacy to an otherwise criminal enterprise.

ICB members must be alive to this when providing these services, they must fully identify all clients/beneficial owners and fully understand their reasoning for requiring such services and evaluate the business sense for these requirements.

### **Buying or selling of property**

Criminals may use property transfers to serve as either the cover for transfers of illegal funds (layering stage) or else the final investment of these proceeds after their having passed through the laundering process (integration stage).

### **Performing financial transactions**

Criminals may use accountants to carry out various financial operations on their behalf (e.g. cash deposits or withdrawals on accounts, retail foreign exchange operations, issuing and cashing cheques, purchase and sale of stock, sending and receiving international funds transfers, etc

### **Gaining introductions to financial institutions**

Criminals may use the good name and reputation of ICB members as introducers or intermediaries to other professionals and financial service providers.

### **False accounting**

Accountancy services have also been exploited to provide a veneer of legitimacy to falsified accounts or documents used to conceal the source of funds. Accountants have been known to review and sign off accounts for businesses engaged in criminality, thereby facilitating the

laundering of the proceeds. In many cases accounts have been falsified by criminals and unwittingly signed off by accountants.

### **Misuse of client accounts**

The misuse of accountants' client accounts for money laundering. There is a risk posed by accountants performing high value financial transactions for clients with no clear business rationale to be involved, allowing criminals to transfer funds through bank accounts with little scrutiny as a means to complicate the audit trail. Most accountancy firms rarely hold client money, and to prevent members being caught up in such activity ICB has strict rules in place regarding members handling of client funds.

### **False information**

You must always be alive to the fact that your client might provide false or misleading information to facilitate money laundering through your practice. You must have full and proper understanding of your client's business so you can determine if their activity is in line with your knowledge of the business. Without scrutiny, it's possible, they could introduce criminal proceeds into the business without your knowledge.

The existence of suspicions regarding fraudulent transactions, or ones which are improperly accounted for might include:

- Over and under invoicing of goods/services.
- Multiple invoicing of the same goods/services.
- Falsely described goods/services – over and under shipments (e.g. false entries on bills of lading).
- Multiple trading of goods/services.

ICB provides its members with a thorough risk assessment process relating to each of its clients through the AML Online system. The below paragraphs provide further advice and assistance on the risks and mitigation that accountancy professionals can take to avoid becoming involved in money laundering.

A practical starting point for accountancy professionals (especially smaller firms) and (especially sole practitioners) would be to take the following approach to every transaction; many of these elements are critical to satisfying other obligations owed to clients, such as fiduciary duties, and as part of their general regulatory obligations:

- Know your client: identify the client (and its beneficial owners where relevant) and the true "beneficiaries" of the transaction. Obtain an understanding of the source of funds and source of wealth of the client, where required, its owners and the purpose of the transaction.
- Understand the nature of the work: you must know the exact nature of the service that you are providing and have an understanding of how that work could facilitate the movement or obscuring of the proceeds of crime. Where you don't have the requisite expertise, you shouldn't undertake the work.

- Understand the commercial or personal rationale for the work: you need to be reasonably satisfied that there is a commercial or personal rationale for the work undertaken. You're not obliged to objectively assess the commercial or personal rationale if it appears reasonable and genuine.
- Be attentive to red flag indicators: exercise vigilance in identifying and then carefully reviewing aspects of the transaction if there are reasonable grounds to suspect that funds are the proceeds of a criminal activity or related to terrorist financing. Documenting the thought process by having an action plan may be a viable option to assist in interpreting red flags/indicators of suspicion.

Then consider what action, if any, needs to be taken.

The outcomes of the above action (i.e. the comprehensive risk assessment of a particular client/transaction) will dictate the level and nature of the evidence/documentation collated under a firm's CDD/EDD procedures (including evidence of source of wealth or funds). You should adequately document and record all steps taken.

### **Geographical Risk.**

A client may be higher risk when features of their business are connected to a higher risk country as regards:

- the origin, or current location of the source of wealth or funds;
- where the services are provided;
- the client's country of incorporation;
- the location of the client's major operations;
- the beneficial owner's country of domicile; or
- a target company's country of incorporation (for potential acquisitions).

There is no universally agreed definition of a higher risk country or geographic area, but you should pay attention to those countries that are:

- Countries/areas identified by credible sources as providing funding or support for terrorist activities or that have designated terrorist organisations operating within them.
- Countries identified by credible sources as having significant levels of organized crime, corruption, or other criminal activity, including source or transit countries for illegal drugs, human trafficking and smuggling and illegal gambling.
- Countries subject to sanctions, embargoes or similar measures issued by international organisations such as the United Nations.
- Countries identified by credible sources as having weak governance, law enforcement, and regulatory regimes, including countries identified by FATF statements as having weak AML/CFT regimes, and for which accountancy professionals should give special attention to business relationships and transactions.
- Countries identified by credible sources to be uncooperative in providing beneficial ownership information, a determination of which may be established from reviewing

FATF mutual evaluation reports or reports by organisations that also consider various co-operation levels such as the OECD Global Forum reports on compliance with international tax transparency standards.

- Countries that permit the use of nominee shareholders and bearer shares, thereby allowing the obfuscation of beneficial ownership.

### **Client Risk**

- The key risk factors that you should consider are:
- The firm's client base includes industries or sectors where opportunities for ML/TF are particularly prevalent.
- The firm's clients involve PEPs and persons closely associated with or related to PEPs, are considered as higher risk clients (Please refer to the FATF Guidance (2013) on politically-exposed persons for further guidance on how to identify PEPs).
- Clients conducting their business relationship or requesting services in unusual or unconventional circumstances (as evaluated in all the circumstances of the representation).
- Clients where the structure or nature of the entity or relationship makes it difficult to identify in a timely manner the true beneficial owner or controlling interests or clients attempting to obscure understanding of their business, ownership or the nature of their transactions, such as:
- Unexplained use of shell and shelf companies, front company, legal entities with ownership through nominee shares or bearer shares, control through nominee and corporate directors, legal persons or legal arrangements, splitting company incorporation and asset administration over different countries, all without any apparent legal or legitimate tax, business, economic or other reason.
- Unexplained use of informal arrangements such as family or close associates acting as nominee shareholders or directors.
- Unusual complexity in control or ownership structures without a clear explanation.
- Client companies that operate a considerable part of their business in or have major subsidiaries in countries that may pose higher geographic risk.
- Clients that are cash (and/or cash equivalent) intensive businesses. These may include, for example: Money or Value Transfer Services (MVTs) businesses (e.g. remittance houses, currency exchange houses, casas de cambio, centros cambiarios, remisores de fondos, bureaux de change, money transfer agents and bank note traders or other businesses offering money transfer facilities). Where such clients (e.g. MVTs providers) are themselves subject to and regulated for a full range of AML/CFT requirements consistent with the FATF Recommendations, this will aid to mitigate the risks.
- Operators, brokers and others providing services in virtual assets.
- Casinos, betting houses and other gambling related institutions and activities.
- Businesses that while not normally cash intensive appear to have substantial amounts of cash.
- Businesses that rely heavily on new technologies (e.g. online trading platform) that may have inherent vulnerabilities to exploitation by criminals, especially those not regulated for AML/CFT.

- Charities and other “not for profit” organisations (NPOs) that are not subject to monitoring or supervision (especially those operating on a “cross-border” basis).
- Clients who appear to be acting on somebody else’s instructions without disclosure.
- Clients who appear to actively and inexplicably avoid face-to-face meetings or who provide instructions intermittently without legitimate reasons and are otherwise evasive or very difficult to reach, when this would normally be expected.
- Clients who request that transactions be completed in unusually tight or accelerated timeframes without a reasonable explanation for accelerating the transaction, which would make it difficult or impossible for the accountants to perform a proper risk assessment.
- Clients having convictions for proceeds generating crimes who instruct the accountant (who has actual knowledge of such convictions) to undertake specified activities on their behalf.
- Clients who have no address, or multiple addresses without legitimate reasons.
- Clients who have funds that are obviously and inexplicably disproportionate to their circumstances (e.g. their age, income, occupation or wealth).
- Clients who change their settlement or execution instructions without appropriate explanation.
- Clients who change their means of payment for a transaction at the last minute and without justification (or with suspect justification), or where there is an unexplained lack of information or transparency in the transaction. This risk extends to situations where last minute changes are made to enable funds to be paid in from/out to a third party.
- Clients who insist, without adequate justification or explanation, that transactions be affected exclusively or mainly through the use of virtual assets for the purpose of preserving their anonymity.
- Clients who offer to pay unusually high levels of fees for services that would not ordinarily warrant such a premium. However, bona fide and appropriate contingency fee arrangements, where an accountant may receive a significant premium for a successful provision of their services, should not be considered a risk factor.
- Unusually high levels of assets or unusually large transactions compared to what might reasonably be expected of clients with a similar profile may indicate that a client not otherwise seen as higher risk should be treated as such. Conversely, low levels of assets or low value transactions involving a client that would otherwise appear to be higher risk might allow for an accountant to treat the client as lower risk.
- Where certain transactions, structures, geographical location, international activities or other factors that are not consistent with the accountants’ understanding of the client’s business or economic situation.
- The accountants’ client base includes industries or sectors where opportunities for ML/TF are particularly prevalent.
- Clients who are suspected to be engaged in falsifying activities through the use of false loans, false invoices, and misleading naming conventions.

- The transfer of the seat of a company to another jurisdiction without any genuine economic activity in the country of destination poses a risk of creation of shell companies which might be used to obscure beneficial ownership.
- The relationship between employee numbers/structure and nature of the business is divergent from the industry norm (e.g. the turnover of a company is unreasonably high considering the number of employees and assets used compared to similar businesses).
- Sudden activity from a previously dormant client without clear explanation.
- Client starts or develops an enterprise with unexpected profile or abnormal business cycles or client is entrant into new/emerging markets. Organised criminality generally does not have to raise capital/debt, often making them first into a new market, especially where this market may be retail/cash intensive.
- Indicators that client does not wish to obtain necessary governmental approvals/filings, etc.
- Reason for client choosing the firm is unclear, given the firm's size, location or specialisation.
- Frequent or unexplained change of professional adviser(s) or members of management.
- The client is reluctant to provide all the relevant information or accountants have reasonable doubt that the provided information is correct or sufficient.
- The clients referred above may be individuals that is, for example, trying to obscure their own business interests and assets or the client may be representatives of a company's senior management who are, for example, trying to obscure the ownership structure.

### **Transaction/Service Risk**

Services which may be provided by accountants and which (in some circumstances) risk being used to assist money launderers may include:

- Unexplained (where explanation is warranted) use of pooled client accounts or safe custody of client money or assets.
- Situations where advice on the setting up of legal arrangements may be misused to obscure ownership or real economic purpose (including setting up of trusts, companies or change of name/corporate seat or on establishing complex group structures). This might include advising in relation to a discretionary trust that gives the trustee discretionary power to name a class of beneficiaries that does not include the real beneficiary (e.g. naming a charity as the sole discretionary beneficiary initially with a view to adding the real beneficiaries at a later stage). It might also include situations where a trust is set up for the purpose of managing shares in a company with the intention of making it more difficult to determine the beneficiaries of assets managed by the trust.
- In the case of an express trust, an unexplained (where explanation is warranted) nature of classes of beneficiaries and classes within an expression of wishes.
- Acting or providing trustees or directors of such trust, company or other legal entity.



- Services where accountants may in practice represent or assure the client's standing, reputation and credibility to third parties, without a commensurate knowledge of the client's affairs.
- Services that improperly conceal beneficial ownership from competent authorities, or that have the effect of improperly concealing beneficial ownership without any clear legitimate purpose.
- Services requested by the client for which the accountant does not have expertise except where the accountant is referring the request to an appropriately trained professional for advice.
- Services that rely heavily on new technologies (e.g. online trading platform) that may have inherent vulnerabilities to exploitation by criminals.
- Transfer of real estate or other high value goods or assets between parties in a time period that is unusually short for similar transactions with no apparent legal, tax, business, economic or other legitimate reason.
- Transactions where it is readily apparent to the accountant that there is inadequate consideration, especially where the client does not identify legitimate reasons for the amount of the consideration.
- Administrative arrangements concerning estates where the deceased was known to the accountant as being a person who had been convicted of proceeds generating crimes.
- Services that deliberately have provided or depend upon more anonymity in the client identity or participants than is normal under the circumstances and experience of the accounting professional.
- Use of virtual assets and other anonymous means of payment and wealth transfer within the transaction without apparent legal, tax, business, economic or other legitimate reason.
- Transactions using unusual means of payment (e.g. precious metals or stones).
- The postponement of a payment for an asset or service delivered immediately to a date far from the moment at which payment would normally be expected to occur, without appropriate assurances that payment will be made.
- Unexplained establishment of unusual conditions/clauses in credit arrangements that do not reflect the commercial position between the parties. Arrangements that may be abused in this way might include unusually short/long amortisation periods, interest rates materially above/below market rates, or unexplained repeated cancellations of promissory notes/mortgages or other security instruments substantially ahead of the maturity date initially agreed.
- Contributions or transfers of goods that are inherently difficult to value (e.g. jewels, precious stones, objects of art or antiques, virtual assets), where this is not common for the type of clients, transaction, or with accountant's normal course of business such as a transfer to a corporate entity, or generally without any appropriate explanation.
- Successive capital or other contributions in a short period of time to the same company with no apparent legal, tax, business, economic or other legitimate reason.
- Acquisitions of businesses in liquidation with no apparent legal, tax, business, economic or other legitimate reason.



- Power of representation given in unusual conditions (e.g. when it is granted irrevocably or in relation to specific assets) and the stated reasons for these conditions are unclear or illogical.
- Transactions involving closely connected persons and for which the client and/or its financial advisors provide inconsistent or irrational explanations and are subsequently unwilling or unable to explain by reference to legal, tax, business, economic or other legitimate reason.
- Situations where a nominee is being used (e.g. friend or family member is named as owner of property/assets where it is clear that the family member/friend is receiving instructions from the beneficial owner) with no apparent legal, tax, business, economic or other legitimate reason.
- Payments received from un-associated or unknown third parties and payments for fees in cash where this would not be a typical method of payment.
- Commercial, private, or real property transactions or services to be carried out by the client with no apparent legitimate business, economic, tax, family governance, or legal reasons.
- Existence of suspicions regarding fraudulent transactions, or ones which are improperly accounted for. These might include:
  - Over and under invoicing of goods/services.
  - Multiple invoicing of the same goods/services.
  - Falsely described goods/services – over and under shipments (e.g. false entries on bills of lading).
  - Multiple trading of goods/services.