

ANTI-MONEY LAUNDERING: THE BASICS

Installment 1: Introduction to Anti-Money Laundering for Professional Accountants



WHAT IS MONEY LAUNDERING?

Money laundering is the process that turns dirty money into funds that appear lawful and can therefore be spent as if they were from legal sources. Money laundering legitimizes the proceeds of crime and allows drug gangs, human traffickers and other criminals to expand and benefit from their operations. It is estimated that the potential annual scale of money laundering may exceed \$1 trillion USD globally*

* United Nations Office on Drugs and Crime

What is this guide?

This series is meant to help professional accountants enhance their understanding of how money laundering works, the risks they face, and what they can do to mitigate these risks and make a positive contribution to the public interest. It is meant to be accessible and easy-to-use. As a result, it cannot cover every issue or local requirement. Instead, it addresses key issues for professional accountants.

Why should accountants care?

The fight against money laundering is not just a compliance exercise. Economic crime, including money laundering, affects more citizens, more often than any other security threat. Money laundering corrodes wider society, whether from illicit investments in high-value property, drug-related violence in disadvantaged neighborhoods, or the trauma caused by human trafficking and modern slavery. The criminals responsible exploit some of the most vulnerable in our communities, and bring illegal drugs and violence to our streets, damaging the fabric of society.

As a public interest profession, we must play our part to keep our societies safe. As gatekeepers to the financial system, professional accountants are the first line of defense to prevent these illicit funds finding their way into the economy.

What is Money-Laundering risk?

Money laundering presents professional accountants with three key risks. Accountants may:

- Be used to launder money (e.g., by holding criminal proceeds in a bank account or taking a role in an arrangement that disguises the beneficial ownership of criminal proceeds)
- Be used to facilitate money laundering by another person (e.g., by creating a corporate vehicle to be used for money laundering or by introducing a money launderer to another professional adviser)
- Suffer consequential legal, regulatory or reputational damage because a client (or one of their associates) is involved in money laundering having failed to spot the red flags and report it

HOW DOES MONEY LAUNDERING WORK?

Money laundering works by taking proceeds of illegal activity and disassociating them from the underlying crime by placement, layering, and integration into the legitimate financial system.

PLACEMENT

The launderer introduces the illegal profits into the financial system. This might be done by breaking up large amounts of cash into less conspicuous smaller sums that are then deposited directly into a bank account, or by purchasing a series of monetary instruments (check, money orders, etc.) that are then collected and deposited into accounts at another location. Possible methods include:

- **Change currency & denomination**
- **Transport cash**
- **Cash deposits**

LAYERING

The launderer engages in a series of conversions or movements of the funds to distance them from their source. The funds might be channeled through the purchase and sales of investment instruments, or the launderer might simply wire the funds through a series of accounts at various banks across the globe. This use of widely scattered accounts for laundering is especially prevalent in those jurisdictions that do not cooperate in anti-money laundering investigations. In some instances, the launderer might disguise the transfers as payments for goods or services, thus giving them a legitimate appearance. Possible methods include:

- **Wire transfers**
- **Withdraw cash**
- **Split and Merge Accounts**

INTEGRATION

The illicit funds re-enter the legitimate economy. The funds may be invested in real estate, luxury goods, and businesses. Possible methods include:

- **Fictitious loans/turnover/contracts**
- **Disguise ownership of assets**
- **Use in third party transactions**

KEY CONCEPTS OF ANTI-MONEY LAUNDERING FOR PROFESSIONAL ACCOUNTANTS

Customer or Client Due Diligence

The purpose of Client Due Diligence (CDD) is to know and understand a client's identity and business activities and use this knowledge and understanding to assess the risk that the client might be involved in money laundering, or seek to use the accountant to assist them in this activity.

Politically Exposed Person

A Politically Exposed Person (PEP) is an individual entrusted with prominent public functions, such as a politician or leader of a state-owned organization. Additional due diligence may be needed for PEPs and their family members due to the risk of bribery and corruption.

Ongoing Monitoring

In addition to performing CDD for new clients, it is important to update these checks for ongoing clients, especially when ownership of the client or their activity changes. This is a regulatory requirement in many jurisdictions.

Suspicious Activity Reporting

In some countries there is a legal obligation for professional accountants to report suspicions of money laundering to the Financial Intelligence Unit. These are often called Suspicious Activity Reports.

What does the *International Code of Ethics for Professional Accountants* say about money laundering?

The principle of professional behavior requires professional accountants to comply with relevant laws and regulations. The Non-Compliance with Laws and Regulations (NOCLAR) provision in the International Ethics Standards Board for Accountants (IESBA) Code creates an ethical obligation for professional accountants to speak out if they become aware of or suspect non-compliance with law and regulations, including in relation to money laundering. For more information, see the [IESBA NOCLAR Factsheet](#), as well as installments 8 and 9 of [Exploring the Code](#), an IFAC and IESBA series to promote understanding and awareness.

ADDITIONAL ASSISTANCE



For general anti-money laundering guidance, see the Financial Action Task Force's *Guidance for a Risk-Based Approach for the Accountancy Profession*. For ethics-related issues, see the *International Code of Ethics for Accountants*. For detailed local information, including applicable regulatory requirements, contact your professional accountancy organization.



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ANTI-MONEY LAUNDERING: THE BASICS

Installment 2: A Risk-Based Approach



As part of a public interest profession, professional accountants play an important role in the fight against money laundering. To do this effectively, accountants need to understand the risks of money laundering across the countries they work with, the services they provide and the clients they serve. This installment explores the key foundations of a risk-based approach to fighting money laundering for professional accountants.

National Rules vs. Global Standards

The compliance requirements that professional accountants must follow derive from national laws and regulations. Many countries base their anti-money laundering requirements on global standards set by an international organization called the [Financial Action Task Force](#) (FATF).

This series will use the FATF standards as a starting point. Your professional accountancy organization is in the best position to provide you with details about the local requirements.

Even where the FATF standards haven't been brought into local law, they still represent best practices for all professional accountants.

What is a "risk-based approach"?

Professional accountants should follow a "risk-based approach" to mitigate their money laundering risks. It means that accountants must identify, assess and understand the money laundering risks to which they are exposed, and effectively mitigate them. It's about understanding the client, services and jurisdictions involved.

How do you apply a risk-based approach?

The general principle of a risk-based approach is that where there are higher risks, enhanced measures should be taken to manage and mitigate those risks. The range, degree, frequency or intensity of preventive measures and controls conducted should be stronger in higher risk scenarios.

- STEP 1** | Identify the key money laundering risks your business faces from your clients, the services you provide, and the geographies you work with.
- STEP 2** | Assess each identified risk by considering the likelihood of it occurring and the resulting impact if it occurs.
- STEP 3** | Put in place appropriate processes and controls to mitigate the risks to an acceptable level. Ensure your staff are trained to apply these processes.
- STEP 4** | For each client engagement, apply effective client due diligence procedures that are proportionate to the level of risk you have identified. Enhanced due diligence may be needed for client engagements you assess to be higher risk.

UNDERSTANDING THE RISKS

Professional accountants should understand three key risk areas when establishing new business relationships or otherwise providing client services:

- **Geographic**
- **Client**
- **Service**

GEOGRAPHIC RISK

Geographic risk is the increased level of risk that a jurisdiction poses in relation to money laundering. Factors to consider may include:

- **the perceived level of corruption;**
- **criminal activity; and**
- **the effectiveness of the anti-money laundering regime within the country.**

Professional accountants should make use of publicly available information when assessing the levels of money laundering risk of a particular country, e.g., information published by civil society organizations or FATF mutual evaluation reviews.

You should ask: *Are our clients established in countries that are known to be used by money launderers?*

CLIENT RISK

Client risk is the overall money-laundering risk posed by a client.

The client's risk profile may affect the extent of checks needed on associated parties, such as the client's beneficial owners.

Undue client secrecy and unnecessarily complex ownership structures can indicate heightened risk because company structures that disguise ownership and control are particularly attractive to people involved in money laundering.

A client whose business is in a sector with a high risk of money laundering may require enhanced due diligence.

If a client or beneficial owner of a client is identified as a Politically Exposed Person, an enhanced level of due diligence may be needed.

You should ask: *Does the client or its beneficial owners have attributes known to be frequently used by money launderers?*

► Who is a beneficial owner?

The term beneficial ownership, along with similar terms such as control persons, has different legal definitions in different jurisdictions. A beneficial owner is a human being who ultimately has a controlling ownership interest in an entity or by other means. For more information, see [Approaches to Beneficial Ownership Transparency: The Global Framework and Views from the Accountancy Profession](#).

SERVICE RISK

Service risk is the risk that certain products or services are more likely to be used for money laundering.

Professional accountants should consider carrying out additional checks when providing a product or service that has an increased level of money laundering vulnerability, or there is a serious risk that the professional accountant itself could commit a money laundering offence.

Before a professional accountant begins to offer a service significantly different from its existing range of products or services, the professional accountant should assess the associated money laundering risks and respond appropriately to any new or increased risks.

You should ask: *Do any of our products or services have attributes known to be used by money launderers? Does the nature and type of the engagements the business provides advice on have an inherently higher risk of money laundering?*

► Spotlight on Service Risk

Subsequent installments of this series will look at each service up close.

Company Formation | Asset Transfers | Tax Advice | Insolvency

ADDITIONAL ASSISTANCE



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Installment 3: Company Formation



Company (and Trust) formation is one of the services performed by professional accountants that is most susceptible to money laundering risk. This installment looks at how professional accountants can apply a risk-based approach in the company formation process, identify key red flags, and know when to walk away and/or file a suspicious activity report.

How do criminals use company formation services?

Company formation services can include:

- incorporating companies or other legal entities;
- acting or arranging for someone to act as company director, partner, or nominee shareholder; or
- providing a registered office or business address.

Criminals are attracted to anonymity and transience and use corporate vehicles to move and conceal illicit funds.

The use of companies—particularly offshore—to act as corporate directors can distance the criminal from the corporate structure and make it harder for law enforcement to identify the origin of funds.

Criminals may obscure association between corporate structures by using a company formation agent to form multiple companies with different registered addresses.

Criminals seeking a veneer of respectability may purchase shelf companies with established histories.

What does a “risk-based approach” look like in company formation?

Customer Due Diligence

It is important to perform Customer Due Diligence (CDD) on the individuals who will ultimately own, control or benefit from the company or trust being established. This will enable you to assess the risk that the client could be involved in illegal activity, or that you might help to facilitate such actions. If you have concerns about the identity of these individuals, perform more stringent verification of their identity by collecting a range of evidence.

Understand the Commercial Rationale

You should always seek to understand the commercial reasons that a client has asked you to form or help administer a company. Professional scepticism is particularly important to ensure you do not unwittingly enable illegal activity.

Source of Funds/Wealth Checks

If a client asks you to form a company to take part in a transaction, you should ensure you understand where the funds for this have come from. For example:

- General family wealth or inheritance
- Sale of an asset(s)
- Long-term investments
- Business ownership

Politically Exposed Person Check

As part of assessing the risks of forming a company for a client, you should ascertain whether they, or a family member, are a Politically Exposed Person (PEP). If they are, the risk of proceeds of bribery or corruption passing through the company should be considered. An enhanced level of CDD may be required if you establish that your client, or those they are doing business with, are politically exposed.

CASE STUDY ON COMPANY FORMATION*

Othello & Co was approached to set up a UK company. The individual who contacted Othello said that he represented the family office of the prospective shareholders. These shareholders were stated to be ultra-high net worth individuals, residing in Latin America. The company was required as the individuals wanted to use it to distribute perishable food to the UK market.

The shares in the company were to be held by a trust. This trust appeared to be formed under New Zealand law, but the trustees were a Trust company based in Bermuda. Othello & Co could find very little information about the Trust company. The funds to capitalize the company and pay fees and expenses were to be paid by a legal firm based in Miami. Identity documents were provided for the beneficiaries and settlors of the trust, who were apparently the ultra-high net worth individuals. However, they appeared to have an extremely low profile, with no public information about their business or social activities recorded anywhere. Othello could find no evidence of the source of their wealth. It inquired about the name of the business (which was to source and supply the food to the UK company) in Latin America, but although there was a website, there did not appear to be any details of how to purchase goods or even contact details for a sales agent.

Othello & Co politely declined the opportunity.

*Note: names have been changed to preserve confidentiality.

Key Red Flags

Professional accountants should be aware of the key red flags for money laundering risk in the company formation process. While not dispositive, professional accountants should rely on their professional judgment and walk away and/or file a suspicious activity report if necessary. Red flags include:

- Being asked to form a company structure with no clear commercial purpose for the structure.
- Forming companies with complex ownership structures, in multiple jurisdictions, without commercial rationale.
- Prospective clients that are reluctant to provide client due diligence information that is needed in the client acceptance process.
- Prospective clients who are evasive about their source of wealth.
- Prospective clients who appear unnecessarily rushed to form a structure, especially in multiple jurisdictions.
- Prospective clients seeking to purchase a shelf company with banking and/or credit history.

When to Walk Away

- If doubts arise on the authenticity of the documents presented during the CDD process.
- If the client is seeking to falsify director or beneficial ownership details on official records.
- If inquiries into source of wealth identify suspicions that the funds may have a criminal origin.
- If background checks on the client fail to identify the substantive information you would expect for that type or size of client (see case study) and no satisfactory explanation is provided.

Filing a Suspicious Activity Report (SAR)

If you become suspicious that the client or potential client has committed a crime with proceeds, then you may have an obligation to report those suspicions to your local Financial Intelligence Unit.

- A SAR notifies law enforcement agencies of your suspicion of money laundering activity.
- In some countries there is a legal obligation on professional accountants to make SARs.
- A SAR adds to the intelligence picture of law enforcement and can be the missing piece of the puzzle in solving crimes.
- In some countries (such as the UK), SARs can alert authorities to concerns about vulnerable people who are victims of the underlying crime, such as human trafficking.

ADDITIONAL ASSISTANCE



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Installment 4: Asset Transfers



One of the primary ways in which criminals layer or integrate the proceeds of crime into the legitimate economy is via asset transfers, particularly of real estate and other high-value assets. The relationship with the client may be limited to that asset transfer only and be short lived. This makes it more important that accountants effectively apply a risk-based approach to not be unwittingly involved in illegal activity.

How do criminals use asset transfers?

Criminals often move value between people or jurisdictions by purchasing, selling or moving high value assets. Sometimes criminals will seek to layer their illegal proceeds by linked transactions where one asset is bought, and another is sold, in quick succession (e.g., selling an apartment and buying a boat). This can work to obscure the source of funds and hide the truth from people who can only see one of the transactions. Regardless of how the (series of) transaction(s) is structured, or which assets are involved, the ultimate purpose is to obscure the link to the underlying criminal activity.

Professional accountants can inadvertently help a criminal to move proceeds of crime by structuring an asset transfer or providing tax advice on transactions.

What does a Risk Based Approach look like?

When advising a client on an asset sale or purchase, professional accountants should consider the following:

- Do you know who the beneficial owner of the asset is? Is this different to the person in whose name the asset is held?
- Do you know who the beneficial owner of the asset will be after the transaction? Is this different to the person in whose name the asset will be held?
- What is the purchaser's source of wealth and source of funds for the purchase? Does this make sense based on what you know about the purchaser?
- Does the rationale for the asset transfer make sense? Where the transaction is commercial, does it make commercial sense? Where the transaction is charitable, does it make sense from the perspective of the charitable aims?
- Is this transaction part of a series of linked transactions that are being dealt with by other professionals?
- Does the transaction involve an asset transfer to or from a jurisdiction that is considered high risk for money laundering – FATF publishes a [list](#) of such countries.

The extent of due diligence you need to perform will be greater if the answers to the above questions suggest there is an elevated risk of money laundering. As always, accountants should take reasonable steps to document their risk assessments.

Case Study on Asset Transfers*

A senior government official in a Central Asian country, Shohrat Alperen, has awarded a state funded infrastructure contract worth \$2 billion to a large contractor company in their jurisdiction. In a seemingly unconnected event, a UK subsidiary of the overseas contractor company engages a UK lawyer and accountant to advise them on the purchase of a £5 million apartment in central London. They tell their professional advisers that this apartment is for one of their new senior executives to stay in when they are working in London – her name is Anna Ericsson.

As part of their client due diligence on the UK subsidiary company, the accountant identifies that the parent company is based in the Central Asian country. There are a lot of news stories about the company being awarded a high value government contract, to much criticism of cronyism.

The accountants conduct their own background research on Anna Ericsson and notice that things do not seem to add up. While sensitive to multi-cultural societies, the accountants repeatedly come up across small clues that indicate that Anna appears to be from that country (and not from Scandinavia as her surname would suggest) – and they notice in their open-source research that someone of that name is pictured at a society event with Shohrat Alperen. There is no mention of Anna having any background in infrastructure businesses, only as a personal stylist to the wealthy.

With so many suspicious details, and lack of clarifying information from the potential client, the accountant politely declines the engagement and submits an SAR to the financial intelligence unit. It turns out “Anna” is the official’s niece, and the property is a bribe in return for the award of the contract.

*Note: names and jurisdictions have been changed to preserve confidentiality.

Key Red Flags

- The client seeks to inject undue complexity into the structure of the deal
- Desired anonymity of parties with a beneficial ownership in the asset, especially if using nominee arrangements
- A purchaser or seller who is or is linked to a Politically Exposed Person
- Transactions that involve virtual assets (e.g., Bitcoin or other similar products) or involve other unusual means of payment (e.g., precious metals or stones)
- Transactions where it is readily apparent to the accountant that there is inadequate consideration (financial or otherwise)
- Territories involving secrecy
- Details that just don’t add up

When to Walk Away

- If you are not satisfied that the client is being honest with you about the current and proposed beneficial owner of the asset.
- If your source of wealth and source of funds enquiries suggest that the money being used to purchase the asset is of criminal origins or otherwise cannot be explained.
- If the seller, purchaser, or the country in which the asset is located is subject to financial sanctions by the government in your jurisdiction.
- If the transaction just doesn’t make sense.

Filing a Suspicious Activity Report (“SAR”)

If you become suspicious that there may be criminal activity or proceeds of crime involved in the asset transfer, then you may wish to report your suspicions to the local Financial Intelligence Unit. In some jurisdictions this is a legal obligation for professional accountants.

Tipping Off?

If you make a Suspicious Activity Report about suspected money laundering activity, then you must be careful not to tip off the person who you have reported by telling them about the report. The FATF Standards require that governments make “tipping off” prohibited by law. As a result, in many countries, it is a criminal offence to tip off the subject of a SAR because this can prejudice a criminal investigation. While this provision has not been enacted in all jurisdictions, it remains best practice for professional accountants not to disclose the filing of a SAR.

It is important to remember that there is also a risk of unintentionally tipping off a client while conducting Client Due Diligence (CDD). When in doubt, contact your Professional Accountancy Organization (PAO) or the local financial intelligence unit.

ADDITIONAL ASSISTANCE



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ANTI-MONEY LAUNDERING: THE BASICS

Installment 5: Tax Advice



Tax advice is one of the most common services that accountants provide, so they must be aware of and alert to the multiple ways in which tax services may be vulnerable to money laundering. Tax structuring could be used to hide criminal proceeds, or to evade tax on legitimate income. Accountants providing tax compliance services may become aware of clients seeking to misrepresent their true earnings or assets.

How do criminals use tax advice?

Structures that are set up for legal tax mitigation purposes can also enable the movement of assets or cash, which could include proceeds of crime.

Criminals may pose as individuals seeking tax advice to place assets out of reach in order to avoid future liabilities.

Legal tax minimisation work can also stray into illegal tax evasion. The proceeds of tax evasion are criminal and therefore a professional accountant's involvement with these funds could be a money laundering offence.

The tax system itself could be used to legitimize the proceeds of crime through the payment of tax on criminal profits, as if they were genuine trading income.

What does a Risk Based Approach look like?

In any provision of tax advice services, a professional accountant should consider:

- What is the commercial, family or personal rationale for the tax planning?
- Who will benefit?
- Does the client have a history of non-compliance with their tax affairs or have they been investigated by the tax authorities for fraud?
- Does the likely success of the planning rely on an unrealistic interpretation of the tax law such that it risks being seen as tax evasion?
- Will the tax services involve jurisdictions that are considered high risk for money laundering – FATF publishes a list of such countries.
- Will the tax services involve the creation of complex structures which may make it difficult to identify the ultimate beneficial owners.

Voluntary Tax Compliance Programs (sometimes called “tax amnesties”) raise unique money laundering concerns. Accountants engaged in providing services related to these should consider the FATF's [Managing the Anti-Money Laundering and Counter-Terrorist Financing Policy Implications of Voluntary Tax Compliance Programs](#) Best Practices Paper.

Case Study on Tax Evasion

An accountant is engaged in tax compliance work for a long-standing client who is a wealthy individual. The accountant asks the client for more detail on some income that arose in the year from a new investment. He puts the accountant in touch with his investment adviser.

When contacting the adviser, she says “I’ve got a breakdown of that I can send you, did you also want the details of the Swiss bank accounts?” This is the first time the accountant has heard of these accounts, and the income from them has never been featured on the tax returns the accountant has prepared for the client. The accountant asks the adviser if these are new accounts – she replies “oh no he’s had these for ages, he opened the accounts when his father died about 10 years ago and he received the proceeds of the Italian estate.”

The accountant raises the existence of the Swiss accounts with the client, who says they didn’t think they needed to include any of the income from those. And anyway, they had thought it best to keep the money out of sight of the tax authorities so they wouldn’t come asking for death duties.

The accountant explains to the client that they need to correct the position – both for the underdeclared income and the death duties. The client says they will get around to it, but several months later nothing has been done despite the request, and the tax return the accountant drafted is missing the Swiss income.

The accountant determines that they can no longer serve the client, as the accountant would then knowingly be helping the client commit tax evasion. The accountant filed a Suspicious Activities Report (SAR) with their local Financial Intelligence Unit.

Key Red Flags

- A suggestion from the client or their other advisers that some of the pertinent facts are hidden from the tax authorities, or a suggestion that inaccurate or misleading information is provided.
- Undue secrecy of the arrangements, beyond a normal level of confidentiality or unusual contractual arrangements.
- The key beneficial owners of the assets or entities involved is unclear.
- Links to politically exposed persons.
- Adverse media on the client or their associates.



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Case Study on Tax Structuring

A new client is introduced to an accountant by a lawyer whom the accountant has met a few times. The lawyer says Mr Xavier is a successful businessman from South America who wants advice on structuring his assets before he becomes tax resident in the accountant’s jurisdiction.

The accountant has an introductory meeting with Mr Xavier and asks about his background and financial success. Mr Xavier is very vague and says most of the money is from some successful deals to which his brother introduced him that involved commodity brokering.

Mr Xavier says it is very important that the structure set up is private and that nobody could trace that he is the owner of the assets, especially in his current home country, where a former business associate of his brother is trying to cause trouble by alleging he is involved in some nonsense about forced labour in mines. Mr Xavier also says the work is very urgent as he has a visa application in progress.

Considering the lack of details that Mr Xavier was willing to provide regarding the source of wealth, his insistence on secrecy, and his pressure to rush the service, the accountant decided that there was an unacceptable money laundering risk in serving the client.

The accountant filed a Suspicious Activities Report (SAR) with their local Financial Intelligence Unit.

**Note: names and jurisdictions have been changed to preserve confidentiality.*

When to Walk Away

- If it is clear that the client intends to evade tax, or to lie to or mislead the tax authorities. Professional Accountants must comply with all relevant laws and regulations, and not be associated with misleading information.
- If you are concerned that the client is using a facade of tax mitigation as cover for their true intention of passing criminal proceeds through a corporate or other structure.

Filing a Suspicious Activity Report (“SAR”)

If you become suspicious that the client has evaded tax, or may hold proceeds of crime, then you may wish to report your suspicions to the local Financial Intelligence Unit. In some jurisdictions this is a legal obligation for professional accountants.

ADDITIONAL ASSISTANCE



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ANTI-MONEY LAUNDERING: THE BASICS

Installment 6: Businesses in difficulty



Businesses experiencing financial difficulties may have fallen victim to financial crime and can also become a target for criminals. The complexity of these situations increases the risk that an accountant could inadvertently facilitate money laundering. It is important that accountants who provide services to businesses in difficulty be aware of—and effectively mitigate through a risk-based approach—the relevant vulnerabilities.

How can proceeds of crime arise in businesses in difficulty?

Businesses in financial difficulty are vulnerable to exploitation by criminals due to the financial pressures their owners or management may be facing. A criminal could convince a business owner to allow an investment into the business using proceeds of crime. The criminal could later receive payments from the business, which would appear to be legitimate income. Moving funds through the business in this way could mask the trail of criminal proceeds.

In particular, criminals may seek to purchase a cash-based business as a vehicle to clean their dirty money. Owning a cash-intensive business is often a goal for money launderers, as these provide an opportunity to integrate large volumes of cash into the financial system. Disguising proceeds from illegal drugs or other crimes as trading income of a business is one method to achieve the integration.

Businesses experiencing financial problems may also have fallen victim to fraudulent conduct by those within the business. This means that the business could contain proceeds of crime. Professional accountants must take care to approach the situation appropriately.

What does a Risk Based Approach look like?

Professional accountants should consider the following:

- If involved in payments or distributions being made by the company, to whom are they being paid?
- Who are the owners and managers of the business? Will they be receiving monies out of the business?
- Are the trading activities of the entity ones where there is a high risk of money laundering? Or are they at risk of tax or invoice discounting fraud?
- Is the business, its beneficial owners, or the location of the trading activities, in jurisdictions that are considered high risk for money laundering?
- If a third party is seeking to purchase the business, or your client is the purchaser, is there a clear commercial rationale for the proposed acquisition? Who is the third party?
- Can the professional accountant withdraw from the engagement once they have been appointed?

As always, accountants should take reasonable steps to document their risk assessments.

CASE STUDIES

Fraud Within the Business

Mr Smith has been running a company for some years. (Omega Fuelling Stations Ltd, “Omega”) which owns fuel stations and adjacent convenience stores. Most of Omega’s sales are cash based. Sales have been declining for a period of time and the business is on the verge of failing.

Mr Smith appoints an accountant who specialises in business recovery services to advise on Omega’s options for restructuring. The accountant undertakes a review of Omega’s financial position and identifies that \$50,000 of cash is missing from Omega’s accounts. After further investigation a staff member admits that she took the cash to settle personal gambling debts from online poker games.

Mr Smith doesn’t want to report the staff member to the police because he doubts the stolen money will be recovered. Regardless of this, having consulted internally and with his professional body, the accountant files a Suspicious Activity Report detailing the employee theft.

All-cash Offer

In normal times, the famous city center of Metropolis was teeming with tourists from all over the world. Dozens of small souvenir shops lined the streets, plying a robust trade in knick-knacks, t-shirts, and other trinkets. A long-standing client of the professional accountant owns one of these shops and has built a successful career out of it. Then in March 2020, COVID-19 changed everything. Tourists stopped coming, and the client’s business came to a standstill. Months went by and hope for a quick recovery turned into mounting losses, with all the other souvenir shops in central Metropolis facing the same situation. The professional accountant watched as the client’s financial situation became more and more dire, with closure of the business looking like the only way forward.

One day in the autumn of 2020, the client was speaking with a friend, also a souvenir shop owner. The friend mentioned that he has sold his shop and retired. The client was stunned how quickly this had happened. The friend explained that days ago someone came to his shop offering to buy it for an unbelievable price, all in cash, effective immediately. The friend couldn’t say no – the offer was too good to pass up. Sure enough days later the client was approached by an individual representing a company making a similar cash offer, with no interest in due diligence.

The client approaches the professional accountant for advice on the sale. The professional accountant finds that the company making the offer is based in an offshore jurisdiction and it is difficult to identify who the beneficial owners are. Alarmed by the red flags in the client’s story and the lack of information about the company, the professional accountant says he cannot be involved in advising on the sale of the client’s business. The professional accountant files a Suspicious Activity Report to their local Financial Intelligence Unit.

Key Red Flags

- There are ongoing criminal investigations or civil recovery proceedings involving the company’s management or beneficial owners.
- There have been employee whistleblowing reports that suggest wrongdoing has taken place.
- A third party makes a very generous offer to purchase a struggling business that has a cash-based activity.

When to Walk Away

- You establish that by paying out funds or assets you would be helping a criminal to pass the proceeds of crime through the entity.
- You uncover fraudulent activity within the business in which the current management are complicit.
- You have concerns over the true identity or background of a third-party purchaser for the business.
- In some cases, the legal regime may mean that a professional accountant is unable to disengage from their insolvency related appointment. Great care must be taken in these cases to obtain all relevant legal protections from committing subsequent money laundering offences.

Filing a Suspicious Activity Report (“SAR”)

If you become suspicious that there may be proceeds of crime within the business in difficulty, then you may wish to report your suspicions to the local Financial Intelligence Unit. In some jurisdictions this is a legal obligation for professional accountants.

ADDITIONAL ASSISTANCE



For general guidance, see the FATF’s *Guidance for a Risk-Based Approach for the Accountancy Profession*. For detailed local information, including applicable regulatory requirements, contact your Professional Accountancy Organization.



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