



AML Controls

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Webinar content

- AML controls and how they work with a case study!
- Good practice v poor practice
- Trends in AML controls from our supervision work

Controls we will be discussing...

- Firm wide risk assessment (FWRA)
- AML policy
- Client due diligence
 - ID and verification
 - Source of funds
- Client and matter risk assessment (CMRA)

Case study

- Fictional property purchase
- With a potential politically exposed person (PEP)
- Funding from overseas

Remember – this is an illustrative example only and each case needs to be considered on its own facts.



The scenario.....

You are instructed by a mother and son on the purchase of a property for £250,000 in the local area.

The client advises you the property will be funded by sale proceeds from a property overseas.

The clients have been referred to the firm by a previous client who dealt with the probate department.

Let's start with the FWRA

- Product and service risk:
 - what does the FWRA say about conveyancing
 - property purchases are high risk / sales are generally considered low risk.
 - However, the firm isn't dealing with the sale.
- Transaction risk:
 - FWRA sets out it is normal for the firm to deal with purchases in this range
 - firm do not ordinarily deal with funding from overseas
 - mitigation - source of funds and wealth checks / overseas funding should be flagged to the firm's head of risk and compliance.
- Client risk:
 - firm do occasionally receive referrals from other clients.

What controls will help you mitigate this risk?

- ID and verification documents
- The e-verification report for the mother shows a 'pass'
- The e-verification report for the son shows the client 'is a potential PEP'
- Is this enough?
- What does the FWRA and AML Policy set out?

Scrutinising the transaction and assessing client risk

Things to think about....

- How can scrutinising the ID and verification help feed into the risk assessment at client and matter level?
- What about the PEP flag in the report?
- Would this be spotted?
- When is it appropriate to escalate the matter for approval?

What about the matter risk and funding from overseas?

- Sale of a property overseas
- What further enquiries will assist you?
- Is it a high risk third country?
- What does the geographical section of the FWRA set out?
- Is a bank statement enough?
- How will you identify if the funds are from the sale?

What about ongoing monitoring?

- Bank statement does not show availability of funds
- Would your controls pick this up?
- Make further enquiries?
- What about the risk rating of the matter?
- Will you still escalate?
- Culture

Breakdown – CMRA

Let's now break down the requirements of a CMRA:

- What was the purpose of the transaction?
- What did you understand about the assets?
- What about the regularity and duration of the client relationship?

What controls came into play?

- The FWRA set out the firms approach to:
 - service, client, geographic and transaction risk.
- Scrutiny of the due diligence:
 - identify the PEP match was a false positive
 - identify that the bank statement did not initially show availability of the funds.
- The above highlight the importance of collecting documents vs understanding them. Controls only work well if they are not used as a tick box exercise.
- The AML policy - set out the firms approach to HRTCs matters, PEPS and when matters should be escalated.
- Test your e-verification system - check fuzzy matches.

The not so good we see

- Comprehensive CMRAs but not completed adequately
- CMRA highlighting higher risk aspects but standard due diligence being applied
- CMRA marked as low risk, but standard due diligence is applied

The not so good we see

- Audits highlight an issue, but recommendations are not followed up
- File reviews show a trend, but not addressed
- Source of funds - pages of bank statements but no actual scrutinising
- E-Verification highlighting potential PEP, but not considered if this is your client

The not so good we see

- Excellent policies that detail procedures and processes but not followed in practice
- Client and matter risk assessments not reflecting the FWRA
- Training sessions put on, but not everyone attends
- Lack of senior management buy in

The good we see

- Consistent approach across the policy, FWRA and CMRA
- Fee earners understanding approach to due diligence, risk assessment and ongoing monitoring
- Clearly defined reporting lines
- Files reviews that highlight a trend, training is then provided
- Training
- Accessible procedures

What can you do

- Ensure consistent approach across policies / FWRA / files
- Complete CMRA adequately and with FWRA in mind
- Ensure policies / procedures read and understood
- Remember source of fund – not just about obtaining bank statements
- Ongoing training – particularly for MLCO / MLRO
- Top – down approach – consider the culture of your firm
- Follow up on audit findings
- Trend analysis – what queries are you getting / file review

Trends in AML controls - inspections and DBRs

- Over the last reporting year, we worked with 451 through engagement or compliance plans to better their controls
- Of the 451 firms:
 - 355 had feedback on FWRA
 - 323 had feedback on AML policy
 - 222 had feedback on CMRA
 - 193 had feedback on source of funds

When controls don't work...

- 151 FWRA were not tailored, would that assist fee earners in completing client and matter risk assessments? Don't forget it's there to guide your risk-based approach
- 82% firms referred for lack of client and matter risk assessments – had a process in place but firms did not know it was not being followed
- MLRO report: evidence was on files – had not been scrutinised

Final takeaways.....

- Keep an audit trail of line of enquiry
- Test your controls! How well do they work together?
- Ask yourself, would you pick up gaps in your controls?
- **Scrutinise:** Understand vs collecting