

Case study

25 November 2019

Money laundering - inadequate systems and controls over the transfer of money

Examples below should be read in conjunction with the Risk Outlook 2018/19 [\[risk/outlook/risk-outlook-2019-2020/\]](#)

Example 1: Compliance Officer detects inappropriate use of client money

Background

The following case illustrates the importance of having a consistent approach to compliance with the Money Laundering Regulations throughout the entire firm.

Mr A is a partner in a medium-sized law firm. A year ago, he started acting for XYZ Ltd ('XYZ'). XYZ specialises in purchasing high value properties and selling them on at a profit. The directors of the company advise that their funding comes from profits and bank loans. Their bank statements support this.

A few months after instructing Mr A, XYZ directors tell him they are having some difficulties with the company's bank account. They ask if the company could use the firm's client account as a temporary measure. XYZ is one of Mr A's most valued and lucrative clients, so he agrees.

Over the next two months, Mr A allows more than 100 deposits and withdrawals on the client account in relation to XYZ, for both personal and business expenses. None of the transactions relate to any legal matter in which Mr A is involved.

The transactions are discovered by the firm's Compliance Officer during a routine file review. The firm launches an internal investigation and reports the matter to us.

Outcome

Investigations reveal that XYZ used the firm's client account to accept substantial investment from a politically-exposed person. Mr A had not been aware of this.

Mr A had placed his firm at risk of becoming a professional enabler of money laundering and terrorist financing. The Compliance Officer had prevented the risk from escalating by spotting it and preventing the firm from continuing to act for XYZ. We are currently investigating Mr A's conduct, and the police are carrying out a separate investigation.

The red flags in this case are that the client asked to use the firm's client account improperly, they used corporate funds to fund personal expenses, and the client account was used to accept funds from unknown third parties.

Example 2: Solicitor fails to respond to money laundering warning signs

Background

The following case illustrates the importance of being aware of the money laundering warning signs and acting on them when dealing with clients.

Mr A is a fee earner in a small law firm. Mrs Z engages his services in buying a portfolio of buy-to-let properties.

The two meet often and become good friends. One day, Mrs Z mentions that she had found a suitable property but cannot proceed due to temporary cash flow difficulties. She asks if Mr A can provide a short-term loan on interest.

Mr A agrees and writes a cheque on his personal account to lend her the money. He does not advise Mrs Z to take independent legal advice, which could have resulted in a conflict of interest. The transaction goes ahead and, shortly afterwards, Mrs Z settles the loan in cash. Mrs Z explains that her tenants tend to pay rent in cash which she stores in her home.

Mrs Z purchases four more properties, each funded by a loan from Mr A or by payments into the client account from unconnected third parties. At around this time, the police contact the firm's partners to enquire about the firm's dealings with Mrs Z.

An inspection of Mrs Z's file reveals very little. There are no identification documents, nor any information about the source of funds. The improper transactions on the client account come to light, although no shortages are identified.

The firm suspends Mr A and reports him to us.

Outcome

It emerges that the police were investigating Mrs Z due to suspected involvement in organised crime. They suspect the properties were paid for with the proceeds of crime.

Mr A is referred to the SDT.

The red flags in this case are that the source of funds were unusual, the client made large cash payments, there were unexplained payments from third parties which were improperly received into the client account, the lack of information on the client and source of funds, and suspected criminal associations.

Example 3: Solicitor fails to review money laundering risk after police warning

Background

The following case illustrates the importance of solicitors carrying out their own due diligence on clients, and the very serious consequences of failing to do this.

Mrs A is a senior partner and the money laundering reporting officer (MLRO) of a medium-sized law firm. On a visit to a bank she is acting for, a director introduces her to Mr Z, saying he requires a solicitor's services.

Mrs A agrees to act for Mr Z. She decides to forgo the usual due diligence checks as she is informed that Mr Z has accounts with at least two major banks, and is recommended to her by a regulated professional. Over the next three years, Mrs A acts for Mr Z in straightforward commercial matters.

One day, Mrs A is contacted by the police. They advise they are investigating Mr Z for suspected involvement in a fraud ring. They also warn her about the criminal offence of tipping off.

Shortly afterwards, Mr Z calls to ask Mrs A to transfer a significant sum of money she is holding for him in the client account to an overseas bank. Mrs A feels uncomfortable doing this but feels she has no choice so she does as instructed.

Outcome

The police become aware of this and start criminal proceedings against Mrs A. Mrs A resigns from her position as senior partner of the firm. She is subsequently convicted for facilitating money laundering.

It emerges that the bank director who had referred Mr Z to Mrs A has also been convicted of money laundering. However, unlike Mrs A, the director had been actively involved in Mr Z's criminal activities and had profited personally from their dealings together.

The red flag in this case was that the client was suspected of having criminal associations.

Example 4: Solicitor's judgment clouded by longstanding client

Background

The following case illustrates how criminals can 'groom' solicitors by building their trust before involving them in money laundering.

Mrs A has practised as a sole practitioner for fifteen years. Mr Z, a longstanding client, asks her for help in selling his house.

Mr Z arranges to sell the house at half of its value. Mrs A finds this odd, but Mr Z explains he is in financial difficulties and can no longer keep up with mortgage payments.

Prior to this, Mrs A has only acted for Mr Z in commercial matters. The police had contacted Mrs A one year ago to advise that they suspected Mr Z of being involved in trading illicit drugs. They served her with a Production Order, requiring her to report certain information if Mr Z instructed her on any property transactions.

However, Mrs A is trusting and naive. She believes her client is genuinely in financial difficulties. She sympathises with his situation and wants to help, so she proceeds with the sale without alerting the police.

It later emerges that Mr Z has indeed been involved in selling drugs and is subsequently convicted. He had sold the house in a hurry as he was facing confiscation proceedings.

Outcome

Mrs A is convicted for failing to disclose that she had reasonable grounds to suspect her client was engaged in money laundering. She allowed her trust in her client to prevent her from carrying out due diligence on an unusual transaction.

When she appears before the SDT, the judge acknowledges Mrs A's unblemished regulatory history and the fact that she has not made any personal gain. However, her offence is of a serious nature so she is struck off and ordered to pay costs.

The red flags in this case are that the transaction instructed by the client was unusual – the price the house was being sold at was unusually low, the sale was potentially loss making, and the type of transaction did not fit the pattern of previous instructions from the client. The client was also suspected of having criminal associations.