



September 2014

AML Themed Inspections

The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (the “**2010 Act**”) came into effect on 15 July 2010 and was amended by the Criminal Justice Act 2013 (the “**2013 Act**”) (together the “**Acts**”). The Acts transpose the Third Money Laundering Directive (2005/60/EC) and its Implementing Directive (2006/70/EC) into Irish Law. Designated persons under the Acts, including all credit and financial institutions (as defined in the Acts) are required to comply with their obligations under the Acts.

On 25 February 2014, the Central Bank of Ireland (the “**Central Bank**”) published its planned series of Themed Reviews and Inspections for 2014, as well as its 2014 Enforcement Priorities. It is clear from these publications that a key focus of the Central Bank is the area of anti-money laundering and counter terrorist financing (“**AML/CTF**”) and the controls which designated persons are required to put in place to mitigate against the risk of AML/CTF. It is also clear from these publications that the Central Bank expects regulated entities to have appropriate systems, controls and procedures in place to meet with their regulatory obligations.

Themed Reviews by the Central Bank

The Central Bank’s 2014 Programme of Themed Reviews and Inspections and Enforcement Priorities provide an opportunity for the Central Bank to assess compliance standards, where necessary, in “key risk areas” referred to on these lists.

It should be noted that themed reviews and inspections may form the basis for future regulatory or enforcement actions where breaches are identified. During 2013, the Central Bank entered into 16

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enforcement settlement agreements with regulated entities, with fines totalling €6,348,215 being imposed.

The inclusion of the following within the areas for review and inspection are of particular relevance to the Funds Industry:

- AML/CTF and Financial Sanctions; and
- Corporate governance of Investment Funds and Fund managers.

We understand that the Central Bank is currently conducting its themed AML/CTF inspections.

AML/CTF Policy Requirements

The following is a summary of the information which may be requested by the Central Bank as part of the themed AML/CTF inspections;

List of documentation to be submitted to the Central Bank in advance of inspection

1. An up-to-date organisation chart, which includes the names of directors and senior managers and the date of their respective appointments, together with a breakdown of those with day-to-day management of AML/CTF responsibilities of the entity;
2. A copy of the entity's current AML/CTF policy and procedures;
3. A copy of the entity's customer due diligence procedures if separate to the AML/CTF procedures requested at point 2 above;
4. A copy of the entity's current AML/CTF Risk Management Strategy, policies and procedures, including details of the risk based approach employed;
5. A copy of any relevant outsourcing or similar agreements;
6. Copies of all board minutes (where they relate to AML/CTF) from inception date to date of letter;
7. A copy of the entity's suspicious transaction reporting procedures.
8. An outline from end to end of the process which has been put in place to deal with suspicious transactions reporting.
9. An outline of the entity's transaction monitoring procedure/system;
10. Details and results of any AML/CTF testing and/or internal or external audits carried out between inception date and date of letter;

11. Details of number of suspicious transactions received by the MLRO together with details of how many suspicious transaction reports ("**STRs**") were submitted to An Garda Síochána and the Revenue Commissioners between inception date and date of letter;
12. Copies of AML/CTF training provided to persons involved in the conduct of the business from inception date to date of letter;
13. A list of all customers, in the form of a spread-sheet, categorised into natural and legal persons, since 15 July 2010, including date of entry and date of verification;
14. A list of any customers on which redemptions were placed prior to the identity of the customer having been verified; and
15. A list in the form of a spread-sheet of all transactions (including new subscriptions, additional subscriptions, transfers and partial or full redemptions) processed by the entity for one week as per the date specified in the notification letter.

List of documentation to be available to the Central Bank for inspection on the first day of the on-site visit

1. Access to AML/CTF training records for period from inception date to date of letter, including copies of training material and staff training records;
2. The current list of all Politically Exposed Persons and high risk customers in the entity;
3. Access to customer due diligence records and transaction/service records;
4. Access to STRs information, including sight of original information provided to An Garda Síochána and the Revenue Commissioners and details of suspicious transactions received by the MLRO but not reported; and
5. Access to the entity's transaction monitoring system (where applicable).

Conclusion

Investment Funds and their service providers should be aware that the Central Bank has recommenced its themed AML/CTF inspections. In this regard such entities should ensure that they have robust AML/CTF controls in place. In particular, in accordance with section 54 of the Acts, an entity which falls within the description of designated person is required to have its own standalone AML/CTF policy. This means that in the case on an Investment Fund, it is required to have its own AML/CTF policy, notwithstanding that it outsources the day to day AML/CTF responsibilities to a separately appointed Administrator.

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