



March 2016

Central Bank publishes report on Anti-Money Laundering/Countering the Financing of Terrorism and Financial Sanctions Compliance in the Life Insurance Sector

Introduction

On 8 March 2016, the Central Bank of Ireland (the “**Central Bank**”) published a report on Anti-Money Laundering/Countering the Financing of Terrorism (“**AML/CTF**”) and Financial Sanctions Compliance in the Life Insurance Sector in Ireland (the “**Report**”) which was compiled from information obtained from on-site inspections and off-site desk top reviews carried out by the Central Bank over the course of 2014 and 2015.

The main conclusions of the Report involved an acknowledgement from the Central Bank that generally firms had satisfactory procedures and systems in place, however, the issues identified in the Report highlight that further enhancements could be made by firms to strengthen their existing AML/CTF and Financial Sanctions frameworks.

Report Findings

The findings in the Report were divided into a number of different areas, as follows:-

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Governance and Compliance

Within this category, the Central Bank looked at a number of different areas, namely:-

- *Business-Wide Assessment of Money Laundering/Terrorist Financing (“ML/TF”) Risk*
Whilst noting that the majority of firms had undertaken and documented a ML/TF risk assessment in their business, the Central Bank identified a number of inadequate practices such as insufficient evidence of an adequate ML/TF risk assessment of a firm’s legacy business and of meetings held/decisions taken in respect of drafting or reviewing the risk assessment. The Central Bank also noted that the conclusions outlined in the risk assessment did not have their rationale sufficiently documented.
- *Roles and Responsibilities*
The Central Bank pointed out that the Board of a firm is ultimately responsible for ensuring compliance with the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended by the Criminal Justice Act 2013) (the “CJA 2010”) so it is imperative that firms have appropriate governance structures in place. The Central Bank found a lack of detail as to how the Board kept informed of ML/TF matters on an ongoing basis and that the responsibilities of the Board were not clearly defined in policies of firms.
- *Policies and Procedures*
A number of inadequacies were found by the Central Bank in respect of the policies and procedures in place within firms, such as a lack of regular review, lack of adherence in certain cases, lack of connection between policies to actual operational practices and lack of adherence to the CJA 2010 requirements.
- *Outsourcing*
The Central Bank emphasised the point that, despite the fact firms can use various third party service providers, the ultimate compliance responsibility rests with the firm itself. With this in mind the Central Bank pointed out that there was insufficient Board oversight in the case where third parties were used and, in some cases, there were no written contracts or service level agreements in place in respect of the outsourcing.
- *Training*
Under the CJA 2010 there is a requirement on firms to ensure that all staff are aware of the law relating to ML/TF including an obligation to provide ongoing training. The Central Bank found inadequate evidence that staff in key roles relating to AML/CTF had received appropriate training and that the AML/CTF policy of firms did not have sufficient detail on the how the AML training was to be provided and its completion monitored.

- *Record-Keeping*

The CJA 2010 requires firms to keep records of procedures applied and information obtained to verify the identity of customers and beneficial owners, however the Central Bank found in some cases that the quality of customer due diligence files was poor which made it difficult to ascertain whether adequate checks were applied to verify the identity of customers.

The Report sets out the Central Bank's expectations in relation to each of the above headings which firms are required to consider and update their procedures accordingly.

 **Customer Due Diligence ("CDD")**

Section 33(2) or (4) (where relevant) of the CJA 2010 requires firms to identify and verify their customers and, where applicable, the beneficial owners prior to establishing a business relationship or carrying out a transaction/service.

The Central Bank found that, when on-boarding new customers, insufficient information was being taken to verify identities and policies did not clearly define the requirements for determining source of funds or source of wealth. In addition, when manual screening processes were employed there were limited audit trails maintained to evidence that screening for PEPs and financial sanctions had been conducted at on-boarding stage.

With respect to existing policyholders, the Central Bank noted that, in some cases, there was a failure to determine the justification for placing reliance on historic information held for legacy policyholders. In addition, the Central Bank set out that trigger events in place for the purposes of updating CDD varied in robustness and were considered too infrequent to ensure CDD was updated in a timely manner, often only captured at the claim stage of the policyholder relationship.

Section 54(3)(c) of the CJA 2010, requires that designated persons adopt measures to keep documents and information relating to customers up-to-date. The Central Bank expects firms to document and adopt a risk-based approach to defining refresh cycles to determine the frequency at which CDD information must be renewed.

In relation to third party reliance, the Central Bank found that there was a lack of adequate policies and procedures regarding third party reliance agreements and that not all of the conditions of Section 40 of the CJA 2010 were being adhered to.

The Report details the Central Bank's expectations in relation to CDD which firms are required to consider and update their procedures accordingly.

Identification and Escalation of Suspicious Transactions

Section 42(1) of the CJA 2010 requires designated persons to report suspicions or knowledge of ML/TF to the authorities. The Central Bank found there were insufficient suspicious transaction reporting processes in place within firms, that there were discrepancies between the policies of firms and what was actually carried out in practice, that there was a lack of assurance testing on the suspicious transaction reporting process and that there was no audit trail or on-going monitoring process in place where ML/TF concerns might have arisen with existing policyholders.

In this regard, the Central Bank expects firms to ensure that policies and procedures contain adequate information for employees outlining their obligations to report, as well as guidance on how to sufficiently complete and submit such reports; that all suspicious transaction reports (“STRs”) are reviewed and reported to the Authorities in a timely manner with evidence of any review retained on file and that firms maintain a record of all STRs including details of the investigation and any additional monitoring undertaken. Where a suspicion is not reported, the details of the assessment and reasons for not doing so should be documented and retained by the MLRO. In addition, the Central Bank expects firms to have an established assurance testing programme in place and to review and validate any monitoring systems and/or reports to ensure that they are meaningful and effective.

Testing of AML/CTF and Financial Sanctions IT Systems

The Central Bank undertook a high level review of firms’ IT systems which were being utilised in respect of ML/TF monitoring. Weaknesses identified by the Central Bank included; limited automation in monitoring conducted by firms; minimal periodic reviews of the accuracy and completeness of the system generated transaction monitoring reports; absence of system risk ratings in respect of products categorised as high, medium or low risk for customer due diligence purposes; and limited or no warning notices in place to recognise and monitor politically exposed persons.

The Central Bank expects firms to consider any system weaknesses identified as part of the refresh of future risk assessments; consider risks when reviewing future system requirements for screening and identification purposes and conduct regular IT assurance testing, as appropriate.

Terrorist Financing

The Central Bank expects firms to take measures to prevent the financing of terrorism such as carrying out customer due diligence, on-going monitoring, reporting of suspicious transactions, training and having in place effective policies and procedures. In the event that a policyholder, beneficial owner or beneficiary is matched to either the EU terrorist lists

or UN terrorist lists, the firm should file a STR immediately with the Financial Intelligence Unit in the Garda Bureau of Fraud Investigation and not carry out any service or transaction in respect of the policy until the report has been made. When the report is made, An Garda Síochána can then take steps and/or give directions to the firm in respect of the policy as appropriate under the CJA 2005 and/or CJA 2010. Where a person or entity is listed in an EU Council Regulation relating to terrorism, there is a legal obligation to immediately freeze that person or entity's account.

EU Financial Sanctions

Finally, the Central Bank set out in its Report that it expects firms to devise and implement policies, procedures, systems and controls to facilitate adherence to their obligations in relation to Financial Sanctions Regulations. Such procedures should set out the appropriate frequency of on-going screening required which is aligned to a documented risk assessment of potential financial sanctions exposure.

Next Steps

The Central Bank expects that firms review their systems and controls in light of the findings contained in the Report and take appropriate steps to ensure compliance with the Central Bank's recommendations.

The Regulatory and Compliance team in Dillon Eustace are available to assist in reviewing and updating a firm's AML/CTF Policy and Procedures as necessary. In addition, we deliver AML/CTF training to firms on a very regular basis.

Dillon Eustace March 2016

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