

Updated CCAB AML Guidance – Explanatory notes

May 2022

HM Treasury has approved the Anti-Money Laundering guidance for the accountancy sector (AMLGAS). This summary identifies the key changes when compared with the draft published in September 2020.

HM Treasury has also approved the Tax Appendix and the Insolvency Appendix.

Changes to AMLGAS following HM Treasury review and approval

The main changes are as follows:

- The timeframe in which members must report discrepancies in the People with Significant Control (PSC) register to Companies House has been defined as being as soon as reasonably practicable after the discrepancy is discovered, which would normally be within 15 working days (previously 30 days). This means that a business has the opportunity to discuss the potential discrepancy with the client to establish whether an inadvertent error has been made and will be corrected without delay. The outcome of any such discussion with the client will allow the business to conclude whether a material discrepancy exists and is reportable (paragraph 5.6.7).
- A strengthening from 'should' to 'must' for the following requirements:
 - Firm-wide risk assessment - Business's must consider information from the business's AML supervisory authority when conducting the firm's risk assessment (paragraph 3.6.5).
 - New services or products - Business's must have procedures that require any new service or product, including its characteristics, to be assessed for MLTF vulnerability and included within the firm-wide risk assessment (paragraph 3.6.9). It must respond appropriately to any new or increased risks (paragraph 4.6.13)
 - New ways of working - Before introducing new ways of working, consideration must be given to whether new controls, policies or procedures are required to mitigate the MLTF risk, e.g. the introduction of additional monitoring or review controls (paragraph 3.6.10).
 - Employee screening - Businesses must consider the skills, knowledge, expertise, conduct and integrity of all relevant employees both before and during their appointment (paragraph 3.6.22).

- CDD (verification) - The original, or an acceptably certified copy, of a document must be seen, and a copy retained (Appendix B – client verification; paragraph B.1.2).
 - CDD - Where an individual is believed to be acting on behalf of another person, that person must also be identified (paragraph 5.1.9).
 - CDD (when delays occur) - The *business* must still gather enough information to form a general understanding of the *client's* identity so that it remains possible to assess the risk of *MLT* (paragraph 5.5.1).
 - SDD – additional circumstances for when SDD provisions must be set aside eg, veracity or accuracy of documents, suspicion of MLTF or where the business no longer considers there is a low risk of MLTF (paragraph 5.3.6).
 - PEPs - Appropriate risk management systems and procedures must be put in place to determine whether potential *clients* (or their *BOs*) are *PEPs*, or *family members/known close associates* of a *PEP* (paragraph 5.3.12).
- A review of law and regulations following the UK leaving the EU – particularly some requirements of the regulations relating to the EU lists. *Businesses* should refer to the list of high-risk third countries as per the *MLTF* (Amendment) (No. 2) (High-Risk Countries) Regulations 2021 and the HM Treasury Advisory Notice ‘MLTF controls in higher-risk jurisdictions’.
 - The guidance also clarifies the wording around enhanced due diligence where a client or any parties to an occasional transaction are established in a high-risk third country or where there is a business relationship with a client established in a high-risk third country (paragraph 5.3.7).

A reminder of the 5MLD changes and other changes made

The guidance was updated in September 2020 to reflect a number of amendments to the UK Money Laundering and Terrorist Financing Regulations 2017. These regulations were amended in January 2020 to reflect the Fifth Money Laundering Directive (5MLD) from the EU.

The main changes for 5MLD are as follows:

- The requirement for members to report discrepancies in the People with Significant Control (PSC) register to Companies House.
- The requirement for firms to train ‘agents’ on client due diligence and how to identify and report suspicions of money laundering and terrorist financing; the CCAB interpretation of who should be considered an ‘agent’ for these purposes has been approved by HM Treasury.
- The expansion of the scope of the regulations to include indirect provision of tax services;
- The enhanced due diligence that must be conducted when a client is connected to a high-risk third country;
- Clarification that electronic client due diligence systems **may** be considered a reliable method for client due diligence subject to meeting certain conditions;

Other changes

As part of the work to update the CCAB guidance for 5MLD, there was an overall review and refresh of the guidance. Some of these changes are to bring the accountancy sector guidance in line with other sectors such as the legal sector, and other changes are to expand and enhance the material within the guidance.

The main changes include:

- A new appendix of case studies that explain who the beneficial owners would be for a range of client types/structures, for the purposes of Client Due Diligence (Appendix E);
- Updated guidance on the identity verification required for a range of client types for Client Due Diligence purposes (Appendix B);
- Expanded list of red flags of money laundering or terrorist financing when identifying and risk assessing a client;
- Expansion of the 'reasonable excuse' defence for failing to make a Suspicious Activity Report. This now includes situations where all the relevant facts are in the public domain, or law enforcement are aware of all the relevant details. This is to bring the guidance in line with the legal sector.
- How to deal with the situation where a Defence Against Money Laundering request is neither granted nor refused by the National Crime Agency.