

AML Solutions Group

Impact of Brexit on Anti Money Laundering/Counter Terrorist Financing (“AML/CTF”) arrangements for Irish Funds when dealing with UK based investors and intermediaries

While Brexit may result in some significant changes within financial services in both Ireland and the UK, in the short term at least it is unlikely to have any major impact on AML arrangements for Irish funds when dealing with UK investors or intermediaries. From an AML/CTF perspective the main issue is likely to be whether the UK will be classed as an equivalent jurisdiction for AML purposes once it has left the EU and whether it would be a jurisdiction designated by the Minister for Justice and Equality as equivalent under s31 of the Act. If the UK is designated under s31 it would make the AML obligations less onerous for an Irish fund when it is dealing with UK based investors or intermediaries.

In the short term the UK is unlikely to exit the EU before the 4th Money Laundering Directive comes into force in June 2017 and thus the UK will have obligations to implement the directive. Additionally the UK has historically “gold plated” its domestic AML/CTF legislation to go beyond the requirements of the EU. So political considerations aside, it is likely that the UK post Brexit would satisfy the requirements to be considered as having equivalent AML/CTF procedures as Ireland albeit any determination under s31 would be taken by the Minister in place at the time of Brexit.

AML/CTF tips for UK fund managers setting up Irish fund structures

Should a UK fund manager determine it wishes to establish Irish fund structures (whether as a result of Brexit or otherwise) it should be reassuring to know that the Irish and UK AML/CTF regimes are broadly similar. That said there are some differences between the two regimes. One key difference is the requirement for an Irish fund to have an MLRO. Another difference relates to the suspicious transaction reporting obligations as there are two agencies in Ireland that need to be informed as opposed to one in the UK.

These differences need to be understood to ensure effective and efficient processes can be established, particularly if there is a desire to make use of common processes and/or leverage information and resources between the two jurisdictions.

We would suggest attention is paid to the following key matters:

- ensure there are specific AML policies in place for your Irish fund structures. These policies can leverage existing group policies but need to reference and comply with specific Irish legislation and guidance;
- while the MLRO for a fund does not have to be resident in Ireland, they do need to be registered with the Central Bank of Ireland and should possess adequate knowledge of the relevant Irish legislation; and
- there are some subtle differences in the content and status of the guidance notes issued in both jurisdictions. Understanding those differences (and some of the other documentation requirements driven by tax regulation) can help in making the take on process more efficient for your clients.

How AML Solutions can help

Craig Josephson and Sam Stewart have both held MLRO positions in Ireland and the UK and can advise UK based clients on the differences between the AML/CTF regimes in the two jurisdictions. We can assist clients by:

- providing a MLRO service for fund structures;
- drafting or reviewing AML/CTF policies and procedures;
- benchmarking AML/CTF processes at fund administrators; and
- outlining changes to existing UK AML/CTF processes that need to be made to comply with Irish requirements.

About AML Solutions

AML Solutions is one of the leading providers of AML services and MLRO individuals to investment funds in Ireland. We have developed our own unique, detailed methodologies to assist fund boards assess AML/CTF risk and to oversee relevant processes delegated to third parties. Should you require additional information or have any questions regarding this article or our services please contact us as follows:

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