

AML Solutions Group

Report on Anti-Money Laundering/Countering the Financing of Terrorism and Financial Sanctions Compliance in the Irish Fund Sector

The Central Bank on 18 November published the long awaited results of its AML Inspections of Funds carried out in 2015. There are no real surprises in the report but we do have the benefit of a set of “expectations” the Central Bank has for each of its findings.

We at AML Solutions have analysed these expectations for our growing list of clients. We have lined up our set of tools and procedures against these expectations to aid the Directors of our client funds in fulfilling their oversight responsibilities.

Some Highlights of the Report:

Risk Assessments

It is evident that the Central Bank has found that fund AML Risk Assessments are not generally fit for purpose. They do not reflect the Risk Appetite of the fund and are often a one-off production soon left to gather dust. AML Solutions has created a Risk Assessment Tool which provides a set of questions which analyzes Inherent Risk in all the risk categories, evidences appropriateness of Risk Controls and measures Residual Risk. From this gap analysis come Corrective Actions or Action Plans to be agreed with Delegates in order to bring Residual Risk within the Risk Appetite. The Risk Assessment, along with updates on Actions will be part of the Quarterly Board Report. Thus the Risk Assessment will be up dated in line with changes in risk and business developments.

Roles and Responsibilities

The Central Bank, in its reviews of Board Minutes and other documentation, found insufficient evidence of director engagement in the oversight of the AML/CTF program. We believe that the Risk Assessment process mentioned above will already go a long way to addressing this issue. There are other ways that we can help. One is a thorough review of Policy and Procedures for the Board to be reviewed and approved annually.

Another is ensuring that appropriate MI is presented in the Quarterly Board Report and that it leads, when appropriate, to documented challenge of the underlying factors in the MI (PEP approvals, aging of blocked investors, etc.)

Customer Due Diligence

Several points were made by the Central Bank but let's focus on the one area that is probably the most debated in town. The Central Bank expects funds to do something about investors whose CDD documentation is incomplete. Do something means more than receive MI from the Delegate saying that an investor's account has been blocked against redemptions pending receipt of documentation. The first step is to make sure that Policy and Procedures address the issue appropriately. The Central Bank focuses here on three matters: discontinuance, blocking of additional subscriptions and programmes of contact with the investors. It further adds that it expects that a robust process to obtain the required documentation will utilize all available sources. We at AML Solutions believe that the majority of cases can be solved by active support of the Delegate's follow-up process. Therefore this is a key element of the Quarterly Board Report we have devised.

On-Going Monitoring of Customers

Though the Central Bank mentions the use of trigger events to spur the refreshing of CDD documentation and other information our understanding of the CJA 2013 is that a risk-based approach to making sure documentation is up-to-date is required. This can take a variety of forms but it must be agreed and documented.

Identification and Escalation of Suspicious Transactions

The obvious question is whether or not procedures are sufficiently robust and whether or not that can be evidenced. Our On-Site Reviews will incorporate testing of internal record-keeping, documentation of the rationale for discounting suspicions or for submitting an STR and the length of time to investigate suspicions.

There are many more points in the Report which a Board of Directors should consider. Whether or not these points are already addressed is perhaps not the point in every case. Frequently the point is that insufficient effort has gone into documenting what is being done so that a third party, such as the

Central Bank or fund auditors, can find evidence that effective oversight is in place. We at AML Solutions believe we can help evidence and, where necessary, improve that oversight and the effectiveness of the AML/CTF Programme.

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