



NCA

National Crime Agency

Submitting A Suspicious Activity Report (SAR) within the Regulated Sector

This is a United Kingdom Financial Intelligence Unit (UKFIU) Guidance Note. It is produced in line with the National Crime Agency (NCA) commitment to share perspectives on the Suspicious Activity Reports (SARs) regime.

May 2019
V8.0

Overview

This document seeks to provide advice and relay best practice when making a Suspicious Activity Report (SAR). A SAR is a piece of information alerting law enforcement agencies (LEAs) that certain client/customer activity is in some way suspicious and might indicate money laundering or terrorist financing.

Persons in the regulated sector are required under Part 7 of the Proceeds of Crime Act 2002 (POCA) and the Terrorism Act 2000 (TACT) to submit a SAR in respect of information that comes to them in the course of their business if they know, or suspect or have reasonable grounds for knowing or suspecting, that a person is engaged in, or attempting, money laundering or terrorist financing. A SAR must be submitted as soon as is practicable.

This document seeks to complement the Money Laundering Regulations and HM Treasury approved guidance in this regard. When submitting a SAR to the National Crime Agency (NCA) reporters must refer to the published guidance from their own regulatory body and their own internal guidance.

By submitting a SAR to the NCA you will be providing LEAs with valuable information of potential criminality. You will be doing this whilst ensuring appropriate compliance with your legal obligations to report under POCA and TACT.

You are able to submit SARs in any format including by post, fax or via the NCA website (www.nationalcrimeagency.gov.uk) through the SAR Online system.

Once you have submitted your SAR you should remember your obligations not to make any disclosures which might constitute an offence of tipping off. This comes under section 333A of POCA or section 21D of TACT 2000.

The NCA does not provide or approve standard wording for you to use in such circumstances. It is therefore recommended that you give careful consideration to how you will handle your relationship with the subject once you have submitted the SAR. This is particularly if the subject is a client or customer of your business. You may wish to discuss with your supervisor or professional body if you are unsure.

SAR Online

SAR Online is a secure web based system by which you can submit SARs to the NCA. Registering with SAR Online is a very simple process and ensures SARs are delivered directly to the NCA. This includes an activation process to create the account for the submission of SARs.

SAR Online is the NCA's preferred means of SARs submission and provides a standardised approach to structuring SARs that reporters may find useful. It is important to provide as much comprehensive detail as possible when registering.

In order to register for SAR Online, new users require an active email account as this is used as your user identification. The registration is unique to the user so the email address needs to be designated to the appropriate person. It is recommended that the Money Laundering Reporting Officer (MLRO), Nominated Officer or designated officer responsible for the Anti-Money Laundering (AML) compliance within the organisation is the registered user.

Use of SAR Online is recommended as it will:

- provide you with an automated acknowledgement of receipt
- help you structure your SAR in the most helpful way, thereby improving processing time in the NCA
- give you the opportunity to flag the SAR as a request for a defence against money laundering (DAML)/consent issue.

Reporters that submit SARs via SAR Online will also receive an acknowledgement email containing a unique reference once the report has been submitted. The submission of DAML/consent SARs is particularly valuable to ensure a prompt response.

There is a dedicated support team available during office hours to deal with any SAR Online enquiries, contactable on 020 7238 8282, option 3.

Further support is available on the NCA website (www.nationalcrimeagency.gov.uk) or through your supervisor or professional body.

SAR Online does not retain a file copy for your future use and therefore you should ensure you retain your own record of your submission. SAR Online has an automatic timeout session of 20 minutes for each page. You should save your work at regular intervals to re-set the timeout clock before the session expires. However if you are not reporting electronically please use the NCA Preferred Forms for manual reporting which can be downloaded from the NCA website.

Reason for suspicion

Making a quality report:

- structured in a logical format
- including all relevant information

will significantly enhance LEAs' abilities to extract greater value from submitted SARs and speed up the process. Often a seemingly minor piece of information to you can become a valuable piece of intelligence to LEAs.

It is helpful to write a brief summary to explain your suspicion and then provide a chronological sequence of events. It helps if you try to keep the content clear, concise and simple.

For example, describe the:

- events
- activities
- transactions

that led you to be suspicious and:

- how
- why

you became suspicious.

Where appropriate, include the nature of the business activity you were engaged in and details of dates of any activities or transactions etc.

The SAR glossary codes are used to identify specific categories of suspicious activity and are widely used by law enforcement. The codes enable LEAs to identify SARs in which they have a specific interest. The inclusion of the appropriate glossary code can be useful in ensuring the distribution of the SAR to a law enforcement or government agency which may be best placed to utilise or act on the information provided. Although use of the SAR glossary codes is not mandatory, their inclusion is considered good practice. The codes were revised on 1 September 2016 and are available on the NCA website www.nationalcrimeagency.gov.uk

If the reported subject (for example client/customer) has been the subject of a previous SAR submitted by your organisation, it is valuable to include the previous SAR reference number. However, please also remember that under POCA and TACT, **each** SAR you submit on the same individual must contain a suspicion and all the relevant details. This is even if you have included the reference number for a previously submitted SAR.

As a basic guide, wherever you can, try to answer the following six basic questions to make the SAR as useful as possible:

- Who?
- What?
- Where?
- When?
- Why?
- How?

Remember to include:

- the date of activity
- the type of product or service
- how the activity will take place or has taken place

when documenting the reason for suspicion.

If you are suspicious because the activity deviates from the normal activity for that customer/business sector, it would be helpful to briefly explain how the activity that gave rise to your suspicion differs.

Avoid the use of acronyms or jargon within SARs as they may not be understood by the recipient and may be open to misinterpretation.

If you are describing a service provided or technical aspect of your work, it would be beneficial to provide a brief synopsis in your SAR. This will aid the financial investigator.

We recommend you do not send attachments with your SAR – all the relevant information should be within the SAR. If further information is available which you are willing to share with an LEA then reference to this and who to contact may be recorded in the SAR.

Subject information

The amount of information a reporter holds on the reported subject may be dependent on the nature of the relationship with the subject. This may frequently be a client or customer, but may also for example be:

- a prospective client
- someone connected with or trading with a client/customer
- another subject seen in the ordinary course of business.

Accordingly, the information may be derived from Customer Due Diligence (CDD). This would be obtained in line with guidance published by its firm and supervisory body or other information gathered in the ordinary course of business.

It is helpful to those who will use your SAR to be as comprehensive as possible. However you are only required to provide information obtained within the ordinary

course of your business. Where known, the information listed below should be provided. In the case of addresses, wherever possible the status of the address (current, business, residential etc) should be provided with postcodes or equivalent for overseas addresses. The inclusion of postcode allows the SAR to be automatically allocated to law enforcement.

Please note: If you are submitting a SAR using SAR Online you are requested to fill in the subject information within the fixed fields provided for the purpose.

Individuals

Please provide all relevant details known about the individual reported. The amount of information you will have may well depend on the relationship to the reported subject. Please provide all identifying information. This should include, as far as possible:

- full name/s
- date of birth
- nationality
- address.

It is important that the status of the address/es can be fully understood i.e. current, previous, home, business, and other known property. Please ensure that postcodes are included.

If further information is held about the individual – for example:

- identification document details (including relevant reference or document numbers) e.g. passport, driving licence, National Insurance number
- car details (registration number)
- telephone numbers (clearly marked home, business, mobile etc)
- full details of bank accounts or other financial details (including account numbers etc)
- occupation.

then the information can be provided in context with your suspicion.

Businesses, trusts and other entities, incorporated and unincorporated

1) Incorporated

Please provide all relevant details known about the incorporated entity. The amount of information you will have may depend on the relationship to the reported subject. Please provide all identifying information such as:

- full name
- designation e.g. Limited, SA, GmbH
- trading name
- registered number
- VAT and/or tax reference number
- country of incorporation

- business/trading address
- registered office address.

Additionally if relevant to your suspicion, please provide details of the individuals or entities that are the directors (or equivalent). Please also provide details of the individuals who own or control or exercise control over the management of the entity.

2) Unincorporated

Please provide all relevant details known about the unincorporated entity. The amount of information you will have may depend on the relationship to the reported subject. Please provide all identifying information such as:

- full name
- business/trading address
- VAT and/or tax reference number.

Additionally, if relevant to your suspicion, please provide details of all partners/principals who own or control or exercise control over the management of the entity.

3) Trusts

Please provide all relevant details known about the trust. The amount of information you will have may depend on the relationship to the reported subject. Please provide all identifying information such as:

- full name of the trust
- address
- nature and type of the trust.

Additionally, if relevant to your suspicion, please provide details of all trustees, settlors, protectors and known beneficiaries as appropriate.

Subject information

When the suspicion being reported relates to a financial transaction, the report should include the relevant details of the beneficiary/remitter of the funds. It should also include, if known, the destination/originating bank details e.g. sort code, correspondent bank details. It is important to accurately record the date on which the transaction has occurred or will occur. It is also useful to understand the type of transaction – for example:

- online payment/receipt
- debit or credit card
- ATM withdrawal
- cheque
- electronic transfer (BACS/CHAPS)
- cash.

If the beneficiary/remitter of the transaction is believed to be complicit in the suspicious activity then consideration should be given to providing their details as an associate subject. An associated subject is a person or entity that is linked to the main person/entity in some direct way and is involved in the suspicious activity.

If the activity does not involve a financial transaction then an explanation of the suspicious activity that has occurred or will occur should be given.

When submitting a SAR using SAR Online there are fields for documenting specific financial transactions. Equally, transactions or activity can be documented within the 'reason for suspicion' field provided.

Obtaining a defence against money laundering or terrorist financing

The NCA can provide a reporter with a defence against the principal money laundering or terrorist financing offences for a specified future activity. The relevant power is contained in s335 of POCA (seeking 'appropriate consent') and s21ZA of TACT (seeking 'prior consent').

Should you wish to avail yourself of a defence, you should refer to a separate document published on the NCA website (www.nationalcrimeagency.gov.uk). This is entitled 'Requesting a Defence Under POCA or TACT' and provides information on the process to be followed and what to expect if you wish to apply to the NCA for a defence.

For a defence under either Act, when using SAR Online you are reminded to ensure that you tick the box marked 'consent' when completing your SAR. In all cases it is important to specify clearly the activity for which a defence is required.

The NCA has a separate team to deal with these requests under POCA or TACT called the Defence Against Money Laundering Team (DAML) Team – formerly known as the Consent Desk. Should you have any queries, please email DAML@nca.gov.uk

Please note: the DAML Team do not accept queries by phone.

Threshold Variation requests – POCA only

Section 339A of POCA makes provision for deposit taking institutions only to process individual transactions or activity on an account that does not exceed £250 and where there is a suspicion of money laundering – without the need to request a defence under s335 to a principal money laundering offence. The £250 is known as a 'threshold' amount.

The reporter should still consider making a disclosure in respect of the initial opening of an account. Or, if different, the time when the deposit-taking body first suspects that the property is criminal property.

If the proposed activity exceeds £250, permission to vary the 'threshold' amount can be requested from the NCA.

If you are submitting a SAR with a Threshold Variation request, please submit the SAR in the normal way with the usual information, but additionally specify:

- the threshold amount sought
- the account it relates to
- details of the frequency, nature and value of the activity to which the threshold will relate.

If a threshold is already in place and you wish to seek a further variation to the amounts and/or accounts to which it refers, then the reasons for the variation will need to be set out in an additional SAR and submitted to the NCA.

Please note: a Threshold Variation request is not the same thing as a request for a defence to a principal money laundering offence, and there are no statutory timescales for dealing with them.

The NCA uses the DAML Team to progress these responses and they are processed alongside, but do not take priority over, requests for a defence. In order to facilitate a threshold request, and to ensure it reaches the right destination in the UKFIU, it is helpful if the 'consent' box is ticked on the SAR, but make sure the report contains the word threshold in the reasons for suspicion.

Court orders and law enforcement enquiries

In some instances, you may be served with or have notice of a court order such as a production order, made in respect of a particular individual or entity. This may act as a catalyst for you to review the activity which you conduct or have conducted in relation to that individual or entity.

If, following such a review, you feel that there is an obligation to submit a SAR or to seek a request for a defence against money laundering, then the SAR/DAML request should reflect your suspicions in the context of your engagement with the subject.

Acquisitive or fraud related crime

When you have knowledge or suspicion of an acquisitive or fraud related crime, you will be faced with a parallel decision making process. Firstly, you will have to decide whether or not you wish the offence to be investigated. In cases of all fraud (confirmed fraud, attempted fraud or where information relating to fraud can be provided), reports should be made to Action Fraud. This can be done via www.actionfraud.police.uk or telephone 0300 123 2040.

The NCA is not a crime reporting agency.

Also, regardless of whether or not a crime has been reported, you will wish to consider your legal obligations under POCA. If you have knowledge or suspicion that a money laundering offence has taken place then **you must** submit a SAR to the NCA.

Where a reporter wishes the content of a SAR to be formally recorded as a crime report, they should report this directly to their local police force. This is the NCA's advice from its police partners. Where the reporter has reported a crime and, in addition, has submitted a SAR, it would be helpful if the crime reference number could be included in the top line of the text in the SAR. This is so that it can immediately be cross-referenced by law enforcement.

Alerts and keywords

The Alerts process is a recognised and established way by which the NCA communicates with the UK's private sector. These are written communications that warn of a specific risk, threat or problem. All Alerts contain a keyword or a glossary code. If you submit a SAR as a result of the information contained in an Alert please include the keyword within the free text field.

SAR confidentiality

The confidentiality of SARs is the cornerstone of the reporting regime. SARs are held on a secure central database within the NCA and access to the database by law enforcement is strictly controlled by the NCA.

The use of SARs is governed by Home Office Circular No. 53/2005 ('Money Laundering: The Confidentiality And Sensitivity of Suspicious Activity Reports [SARs] And The Identity Of Those Who Make Them'). All law enforcement agencies using SARs are required to follow the guidance outlined.

If reporters have concerns about:

- the inappropriate use of SARs by law enforcement agencies (LEAs), or
- breaches of SAR confidentiality

they should call the SAR Confidentiality Breach Line on freephone 0800 234 6657 (9am-5pm, UK time, Monday to Friday). This number is for reporting breaches of confidentiality only.

Contacting the UKFIU

SARs should not be used as a communication channel e.g. as a means of gaining advice. SARs are only for the reporting of suspicious activity to the NCA. If you need to seek general guidance relating to money laundering or the SARs Regime in particular, contact your designated Money Laundering Reporting Officer (MLRO) or your regulatory body.

For information or assistance with submitting SARs or SAR Online enquiries, please visit www.nationalcrimeagency.gov.uk or contact the UKFIU as follows:

UKFIU: 020 7238 8282

Press '2' - general SAR enquiries

Press '3' - SAR Online helpdesk

When contacting the UKFIU please have available your SAR reference number if applicable.

General UKFIU matters may be emailed to ukfiusars@nca.gov.uk

If you wish to make a SAR by post you should address your SAR to UKFIU, PO Box 8000, London, SE11 5EN or by fax on 0207 238 8286. You are reminded that post and fax are slower than SAR Online and therefore it will take longer for your SAR to be processed. You will not receive an acknowledgement if you use post or fax.

All DAML request queries are only dealt with via email. Should you have any queries email DAML@nca.gov.uk

Disclaimer

Whilst every effort is made to ensure the accuracy of any information or other material contained in this document, it is provided on the basis that the NCA and its staff, either individually or collectively, accept no responsibility for any loss, damage, cost or expense of whatever kind arising directly or indirectly from or in connection with the use by any person whomsoever, of any information or other material contained therein. Any use of the information or other material contained in this document by you signifies agreement by you to these conditions.

Feedback

We would appreciate your feedback on the effectiveness and format of this document. Please send any comments to ukfiufeedback@nca.gov.uk

For more information about the NCA please go to www.nationalcrimeagency.gov.uk

Protecting the Public – Providing information back to the NCA

Section 7(1) of the Crime and Courts Act 2013 allows you to disclose information to the NCA, provided the disclosure is made for the purposes of discharging the NCA's functions of combating serious, organised and other kinds of crime. The disclosure of such information to the NCA will not breach any obligation of confidence you may owe to a third party or any other restrictions (however imposed) on the disclosure of this information. The disclosure of personal information about a living individual by you to the NCA must still comply with the provisions of the Data Protection Act 1998 (DPA). However, you may be satisfied that the disclosure by you of such personal information to the NCA in order to assist the NCA in carrying out its functions may be permitted by s29 of the DPA. Any Section 7(1) information should be submitted to ukfiusars@nca.gov.uk