



National Crime Agency



Amber ALERT

The MSB Sector and Reporting Suspicious Activity

Date **February 2020**

Reference **0569 - NECC**

This Amber Alert is issued by the United Kingdom's National Crime Agency (NCA) on behalf of the National Economic Crime Centre (NECC). It is based on assessed intelligence and recent cases identified within the NECC. The purpose of this Alert is to warn you of dangers and threats you face from serious organised criminals who may try and access the services which you offer as a Money Service Business (MSB). It is devised with the aim of bringing about preventative measures when trying to identify risk and help prevent the criminal abuse of MSBs.

We recommend that you use this Alert to complement existing knowledge and already available guidance to support ongoing improvements to your business processes and procedures in the reporting of suspicious activity.

The MSB Sector and Reporting Suspicious Activity.

Overview

When an MSB is registered or applies to be registered, a senior manager is accountable for the oversight of compliance in relation to Money Laundering regulations. Guidance was released by HMRC to those operating MSBs in March 2018 in connection to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. These came into effect on the 26 June 2017.

Section 2.1 of those regulations state "it is the responsibility of senior managers to identify assess and manage effectively, the risks that their business may be exploited to launder money". Effectively this means they must "prepare, maintain and approve a written policy statement, controls and procedures to show how the business will manage the risks of money laundering and terrorist financing identified in risk assessments". As a Senior Manager within an MSB you should be aware of your book keeping requirements. If you require further information on your bookkeeping requirements please contact HMRC or visit their [website](#).

What we would like you to do

The National Economic Crime Centre would like to ensure that those operating MSBs are fully aware of high risk indicators in relation to Money Laundering. We have included some of those high risk indicators in this Alert, some of which are detailed within regulatory guidance. If suspicious activity is identified of any kind by an MSB we would like that business to report it the UK Financial Intelligence Unit (UKFIU) as per the guidance contained within this Alert.

The National Crime Agency (NCA) is a national law enforcement agency which leads the UK's fight to cut serious and organised crime. The NCA Alerts process is the way in which we provide information to non-law enforcement bodies including the private sector to combat and disrupt serious crime. To help us to improve this service, we would welcome any feedback you have on both the Alert itself and the information provided to you. Please email all feedback to alerts@nca.gov.uk and include the reference 0569-NECC in the subject line.

Information Report

How will you know if you are transferring the proceeds from illicit activity or “Criminal Property” to or on behalf of a criminal group? Are the risk based systems you have in place able to identify and manage the risks of criminal abuse and money laundering? Are these systems working? As stated, current guidance issued by regulatory authorities details these risk indicators¹ Please ensure you are aware of them.

This Alert, produced by the National Economic Crime Command (NECC), provides an overview of some of those high risk indicators. If in the course of your business you have identified or experienced the following, or suspicious activity of any nature, then please complete a Suspicious Activity Report

- Are transactions just below the threshold for due diligence checks? A customer may use a significant period of time to exchange or transfer smaller amounts to gain your trust.
- Does identification information accompanying a transaction appear false or contradictory? Has an individual complied with your request to supply this documentation? Has there been a delay in the supply of the required identification documentation and do those details differ from those supplied at the start of your business relationship?
- Is the identification false? When establishing a business relationship with a customer if you suspect that information obtained for due diligence checks is not reliable or adequate you should not transact with that customer. The customer's identity, and where applicable the identity of a beneficial owner, must be verified before entering into a business relationship or undertaking an occasional transaction where customer due diligence is required. In these instances a Suspicious Activity Report should be completed.
- Does the size and frequency of the transaction differ from the customer's normal pattern? Has the pattern changed since the business relationship was established? Is the customer asking you to transfer or exchange ever larger amounts or is the customer asking to exchange a large amount suddenly and without warning?

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/686152/Money_Service_Businesses_Guidance.pdf

- Have you been asked to obtain high denomination notes? Have you been asked for the €500 note or a significant amount of €200 notes ?
- Are you a foreign exchange trader? A risk indicator for a Forex trader is when "currency exchange businesses are exploited to change small denomination notes into large denominations in another currency to enable easier and cheaper handling of large quantities of illegal cash - once the money has been exchanged, it's difficult to trace its origin". Is a customer trying to do this in your business? Have you reported it?
- Does the customer hold the source and recipient details of a transaction and the origin of the funds?
- Has an individual or company offered to invest in your business or is an individual trying to exert control over your business? It is a legal requirement for a Money Service Business to register with HMRC or the FCA. Under the regulations, the responsible persons must apply for a fit and proper test as part of the registration process. A business cannot register if it fails to pass that test. This includes anyone appointed as a director or a person who is not appointed as a director but still acts as if they were a director. HMRC for example will test the honesty and integrity; competence and capability; and financial soundness including tax affairs when undertaking its fit and proper test. If an individual offers to invest in your company, is the individual looking to avoid this fit & proper test? If the offer is too good to be true, it usually is.

This list is by no means exhaustive. However, if you notice anything suspicious you must report it on a Suspicious Activity Report to the Financial Intelligence Unit situated within the National Crime Agency. When you report any suspicious activity please ensure the following guidance is followed.

Suspicious Activity Reporting Aide Memoir.

Be clear and concise

The explicit rationale behind the reason for suspicion and the context of why the SAR is being submitted should be clearly communicated in simple English.

- Structure your report in a logical format including all relevant information.
- Briefly summarise your suspicion.
- Provide a chronological sequence of events.
- Keep the content clear, concise and simple.
- Avoid acronyms and jargon – they may not be understood by the recipient and are open to misinterpretation.
- If describing a service provided or technical aspect of your work, please provide a brief synopsis in your SAR to aid the reader.
- Do not write the SAR in capital letters – this makes it very difficult to read.
- If including a large amount of information/text, break it up into more manageable – and readable – paragraphs.
- Very long SARs which are text heavy are difficult to digest.
- Use punctuation.
- Separate bank account/transaction information and use the standard sort code account and format as 012345 12345678.

Reason for suspicion

The suspicion element is the rationale behind why a SAR was submitted and therefore should be explicit. In the 'reason for suspicion' field (limited to 8,000 characters on SAR Online and 30,000 using email bulk encryption) try to answer:

- **Who** is involved?
- **How are they involved?**
- **What** is the criminal/terrorist property? Criminal property is the property obtained from illicit activity.
- **What** is the value of the criminal/terrorist property (estimated as necessary)?
- **Where** is the criminal/terrorist property? (e.g. a casino in London, a property in Hampshire etc.)
- **When** did the circumstances arise?
- **When** are the circumstances planned to happen?
- **How** did the circumstances arise?
- **Why** you are suspicious or have knowledge.

Completing all SAR information fields.

Alongside completing the 'reason for suspicion' you should complete as fully as possible all the information known from your due diligence into the other SAR fields. The amount of information you have may depend on your relationship with the reported subject. If you do not know the information please populate the field with 'UNKNOWN'.

- Individuals
- Businesses, trusts and other entities, incorporated and unincorporated
- Addresses
- Financial Institutions

Subject of a previous SAR

- Include the previous SAR reference number provided to you by the UKFIU
- Do not include any internal reference numbers which you may use yourselves
- 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.

SAR glossary codes/NCA Alerts.

- When submitting a SAR, the relevant glossary code/Alert reference should be included in the 'reason for suspicion' text space.
- It is acceptable to have a SAR with several codes; if in doubt as to whether a particular code applies, always work on the basis that it is better to include one than not.
- It is possible that a glossary code does not match the set of circumstances faced by the reporter, so in some cases it is acceptable **that no codes** are populated into the 'reason for suspicion' text space.

Court orders and law enforcement enquiries

In some instances, you may be served with/have notice of a court order (such as a production order) made in respect of a particular individual/entity.

This may act as a catalyst for you to review the activity which you conduct/have conducted in relation to that individual/entity.

If, following such a review, you feel there is an obligation to submit a SAR or request a DAML, then the SAR/DAML request should reflect your suspicions in the context of your engagement with the subject

Seeking a defence against a principle money laundering offence (DAML)

If one or more of the below criteria is missing from a SAR the UKFIU will be unable to assess your request and the case will be closed:

1. The information or other matter which gives the basis for the reporter's knowledge or **suspicion**
2. A description of the **property** that the reporter knows, suspects or believes is criminal property
3. A description of the **prohibited act** that the reporter wants a DAML to carry out
4. The **identity of the person(s)** the reporter knows or suspects is involved in money laundering*
5. The **whereabouts of the property** that the reporter knows or suspects is criminal property*
6. If (d) and/or (e) are missing, any **information** the reporter has which they believe or it is reasonable to expect them to believe may assist in identifying (d) and/or (e).

*d), (e) and (f) are mandatory if the knowledge or suspicion has come to the reporter in the course of business in the regulated sector

Data Protection Act

The NCA reminds you of your legal obligations in respect of the management of this information, including under the Data Protection Act 2018

Article 5(1) requires that personal data shall be:

1. Processed lawfully, fairly and in a transparent manner;
2. Collected for a specified, explicit and legitimate purpose and not further processed in a manner that's incompatible with these purposes;
3. Adequate, relevant and limited to what's necessary in relation to the purpose for which they are processed;
4. Accurate and where necessary kept up to date;
5. Kept in a form which permits identification of data subjects for no longer than is necessary for the purpose for which the personal data are processed;
6. Processed in a manner that ensures appropriate security of the personal data.

Suspicious Activity Reporting [SARs]

If you know or suspect that there has been money laundering or terrorist financing activity (including as a result of information provided to you by the NCA) and your business falls within the regulated sector, then you are reminded of the obligations to make reports to the NCA under Part 7 Proceeds of Crime Act 2002 and the Terrorism Act 2000. If you decide to make a report in this way you should adopt the usual mechanism for doing so, and it will help our analysis if you would include the reference **0569-NECC** within the text. This reference is specific to the Alerts process; where appropriate, we would ask that this is used in addition to the on-going use of the Glossary of Terms. Guidance on making suspicious activity reports is available at www.nationalcrimeagency.gov.uk

Disclaimer

While every effort is made to ensure the accuracy of any information or other material contained in or associated with 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 such information or material.

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Alert Markings

NCA Alerts are marked either Red or Amber. This is designed to indicate the urgency of the warning. Red may indicate a more immediate or specific threat, whilst those marked Amber will provide more general information that may complement existing knowledge.

NCA Alerts Team

Recognising that the private sector is often the victim of serious organised crime and is engaged in its own efforts to prevent, deter and frustrate criminal activity, the NCA seeks to forge new relationships with business and commerce that will be to our mutual benefit – and to the criminals' cost. By issuing Alerts that warn of criminal dangers and threats, NCA seeks to arm the private sector with information and advice it can use to protect itself and the public. For further information about this NCA Alert, please contact the NCA Alerts team by email alerts@nca.gov.uk or by telephoning 020 7238 8624. For more information about the National Crime Agency 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 2018 (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 Schedule 2, Part 1 of the DPA 2018. This allows a data controller to be exempt (by means of a restriction or adaptation) from provisions of the GDPR, if the personal data is processed for the following purposes:

- a) the prevention or detection of crime,*
- b) the apprehension or prosecution of offenders, or*
- c) the assessment or collection of a tax or duty or an imposition of a similar nature,*

to the extent that the application of those provisions of the GDPR would be likely to prejudice any of the matters mentioned in paragraphs (a) to (c).

(DPA 2018, Schedule 2, Part 1).

Any Section 7(1) information should be submitted to alerts@nca.gov.uk

The NCA's Information Charter is published on our external website at www.nca.gov.uk