

CHAPTER 7

STAFF AWARENESS, TRAINING AND ALERTNESS

<p>➤ Relevant law/regulation</p> <ul style="list-style-type: none">▪ Regulation 21, 24▪ POCA ss 327-329, 330 (6),(7), 333, 334(2)▪ Terrorism Act ss 18, 21A▪ SYSC 6.3.7 (1) G▪ TC, Chapter 1▪ Financial sanctions legislation
<p>➤ Core obligations</p> <ul style="list-style-type: none">▪ Relevant employees should be<ul style="list-style-type: none">• made aware of the risks of money laundering, terrorist financing and proliferation financing, the relevant legislation, and their obligations under that legislation• made aware of the identity and responsibilities of the firm's nominated officer and MLRO• trained in the firm's procedures and in how to recognise and deal with potential money laundering, terrorist financing or proliferation financing transactions or activity▪ Staff training should be given at regular intervals, and details recorded▪ MLRO is responsible for oversight of the firm's compliance with its requirements in respect of staff training▪ The relevant director or senior manager has overall responsibility for the establishment and maintenance of effective training arrangements
<p>➤ Actions required, to be kept under regular review</p> <ul style="list-style-type: none">▪ Provide appropriate training to make relevant employees aware of money laundering, terrorist financing and proliferation financing issues, including how these crimes operate and how they might take place through the firm▪ Ensure that relevant employees are provided with information on, and understand, the legal position of the firm and of individual members of staff, and of changes to these legal positions▪ Consider providing relevant employees with case studies and examples related to the firm's business▪ Train relevant employees in how to operate a risk-based approach to AML/CTF

Why focus on staff awareness and training?

- 7.1 One of the most important controls over the prevention and detection of money laundering is to have staff who are alert to the risks of money laundering/terrorist financing/proliferation financing and well trained in the identification of unusual activities or transactions which may prove to be suspicious.
- 7.2 The effective application of even the best designed control systems can be quickly compromised if the staff applying the systems are not adequately trained. The content and effectiveness of such training will therefore be important to the success of the firm's AML/CTF strategy.
- 7.3 It is essential that firms implement a clear and well-articulated policy to ensure that relevant employees are aware of their obligations in respect of the prevention of money laundering, terrorist financing and proliferation financing and for training them in the identification and

reporting of anything that gives grounds for suspicion. This is especially important for staff who directly handle customer transactions or instructions. Temporary and contract staff carrying out such functions should also be covered by these training programmes.

POCA ss 327-329, 334 (2) Terrorism Act ss 18, 21A	7.4	Under POCA and the Terrorism Act, individual members of staff face criminal penalties if they are involved in money laundering or terrorist financing, or if they do not report their knowledge or suspicion of money laundering or terrorist financing where there are reasonable grounds for their knowing or suspecting such activity. It is important, therefore, that staff are made aware of these obligations, and are given training in how to discharge them.
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General legal and regulatory obligations

SYSC 3.1.6 R SYSC 5.1.1 R	7.5	The FCA requires regulated firms to employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.
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TC 2.1 SYSC 3.1.9 G SYSC 5.1.4A G	7.6	<p>Firms carrying out retail activities that are subject to TC are responsible for ensuring that</p> <ul style="list-style-type: none"> ➤ its employees are competent; ➤ its employees remain competent for the work they do; ➤ its employees are appropriately supervised; ➤ its employees' competence is regularly reviewed; and ➤ the level of competence is appropriate to the nature of the business.
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Other firms may nevertheless wish to take TC into account in complying with the high-level training and competence requirement in SYSC.

Regulation 21(1)	7.7	Where appropriate with regard to the size and nature of its business, a firm must carry out screening of relevant employees and agents appointed by the firm, both before the appointment is made, and at regular intervals during the course of the appointment.
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Regulation 21(2)(a)	7.8	<p>Screening of relevant employees means an assessment of:</p> <ul style="list-style-type: none"> ➤ the skills, knowledge and expertise of the individual to carry out their functions effectively; and ➤ the conduct and integrity of the individual.
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Regulation 21(2)(b)	7.9	<p>A relevant employee is one whose work is –</p> <ul style="list-style-type: none"> ➤ relevant to the firm's compliance with any requirement in the ML Regulations; or ➤ otherwise capable of contributing to the <ul style="list-style-type: none"> ○ identification or mitigation of the risks of ML/TF to which the firm's business is subject; or ○ prevention or detection of ML/TF in relation to the firm's business.
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	7.10	Where an employee is found to have breached the firm's internal rules, or requirements imposed by the FCA, there may be an obligation on the firm to report such a breach to the FCA, rather than only dealing with the matter internally.
Regulation 24(1)	7.11	The obligations on senior management and the firm in relation to staff awareness and staff training address each requirement separately. The ML Regulations require firms to take appropriate measures to ensure that relevant employees and agents are made aware of the law relating to money laundering, terrorist financing and proliferation financing (and to data protection, insofar as relevant to the implementation of the ML Regulations), and that they are regularly given training in how to recognise and deal with transactions and other activities or situations which may be related to money laundering, terrorist financing and proliferation financing.
Regulation 24(1)(b), (3)(a)	7.12	In determining the nature and extent of such training measures, firms must take account of the nature and size of their businesses, and the nature and extent of the risks of money laundering, terrorist financing and proliferation financing to which their businesses is subject. Records of the training measures taken must be kept.
SYSC 6.3.9 (1) R SYSC 6.3.7 (1) G	7.13	The FCA specifically requires the MLRO to have responsibility for oversight of the firm's AML systems and controls, which include appropriate training for the firm's employees in relation to money laundering.
POCA, s 330 (6) and (7)	7.14	Where a staff member is found to have had reasonable grounds for knowing or suspecting money laundering, but failed to make a disclosure, he will have a defence under POCA if he does not know or suspect, and has not been provided with AML training by his employer. No such defence is available under the Terrorism Act.
Regulation 24	7.15	A successful defence by a staff member under POCA may leave the firm open to prosecution or regulatory sanction for not having adequate training and awareness arrangements. Firms should therefore not only obtain acknowledgement from the individual that they have received the necessary training, but should also take steps to assess its effectiveness.

Responsibilities of the firm, and its staff

Responsibilities of senior management

Regulation 19, 19A	7.16	Senior management must be aware of their obligations under the ML Regulations to establish appropriate policies, controls and procedures to mitigate and manage effectively the risks of money laundering, terrorist financing and proliferation financing identified in the firm's risk assessment. It is an offence not to have appropriate policies, controls and procedures in place, whether or not money laundering, terrorist financing and proliferation financing has taken place.
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Regulation 21(1)(a)	7.17	Where appropriate with regard to the size and nature of its business, a firm must appoint a member of its board of directors (or equivalent management body) or of its senior management as the officer responsible for the firm's compliance with the ML Regulations.
SYSC 6.3.8 R SYSC 6.3.9 R	7.18	For firms within scope of the Senior Managers Regime, a senior manager must be allocated the prescribed responsibility for the firm's policies and procedures for countering the risk that the firm might be used to further financial crime. An MLRO must be appointed for oversight of the firm's compliance with its requirements in respect of training in relation to money laundering and terrorist financing. Awareness and training arrangements specifically for senior management, the MLRO and the nominated officer should therefore also be considered.
	7.19	As noted in paragraph 1.41, the relationship between the MLRO and the SMF manager(s) allocated the prescribed responsibility for the firm's policies and procedures for countering the risk that the firm might be used to further financial crime is one of the keys to an effective AML/CTF regime. It is important that this relationship is clearly defined and documented, so that each knows the extent of his, and the other's, role and day to day responsibilities. It is permitted, but not required, for the relevant SMF manager(s) also to be appointed as MLRO.
Regulation 21(1)(a)	7.20	Where the firm is required to appoint a board member or a member of its senior management as the officer responsible for the firm's compliance with the ML Regulations, it is important that this individual, the MLRO and the SMF Manager allocated the prescribed responsibility for the firm's policies and procedures are all clear as to the responsibilities of each. Firms should ensure, in consultation with their normal regulatory contact, that the FCA understands how particular responsibilities in this area are allocated or shared.
	7.21	Firms should take reasonable steps to ensure that relevant employees are aware of: <ul style="list-style-type: none"> ➤ their responsibilities under the firm's arrangements for the prevention of money laundering and terrorist financing, including those for obtaining sufficient evidence of identity, recognising and reporting knowledge or suspicion of money laundering or terrorist financing; ➤ the identity and responsibilities of the nominated officer and the MLRO; and ➤ the potential effect on the firm, on its employees personally and on its clients, of any breach of that law.
	7.22	The firm's approach to training should be built around ensuring that the content and frequency of training reflects the risk assessment of the products and services of the firm and the specific role of the individual.

Responsibilities of staff

7.23	Staff should be made aware of their personal responsibilities and those of the firm at the start of their employment. These responsibilities
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should be documented in such a way as to enable staff to refer to them as and when appropriate throughout their employment. In addition, selected or relevant employees should be given regular appropriate training in order to be aware of:

- the criminal law relating to money laundering and terrorist financing;
- the ML Regulations;
- the FCA Rules;
- industry guidance;
- the risks money laundering and terrorist financing pose to the business;
- the vulnerabilities of the firm's products and services; and
- the firm's policies and procedures in relation to the prevention of money laundering and terrorist financing.

7.24 Where staff move between jobs, or change responsibilities, their training needs may change. Ongoing training should be given at appropriate intervals to all relevant employees.

Legal obligations on staff

POCA, ss327 – 329, 330-332
Terrorism Act ss18, 21A

7.25 There are several sets of offences under POCA and the Terrorism Act which directly affect staff – the various offences of money laundering or terrorist financing, failure to report possible money laundering or terrorist financing, tipping off, and prejudicing an investigation.

POCA, ss327 – 329
Terrorism Act s18

7.26 The offences of involvement in money laundering or terrorist financing apply to all staff, whether or not the firm is in the regulated sector. This would include staff of general insurance firms and mortgage intermediaries. The offences have no particular application to those engaged in specific customer-related activities – that is, they also apply to back office staff and contractors.

POCA ss330-332
Terrorism Act s21A

7.27 The offence under POCA and the Terrorism Act of failing to report applies to staff in the regulated sector, and to all nominated officers, whether in the regulated sector or not. Although general insurance firms and mortgage intermediaries are not in the regulated sector, if they have opted to appoint a nominated officer, the obligations on nominated officers apply to these appointees.

POCA s333

7.28 Once a report has been made to the firm's nominated officer, it is an offence to make any further disclosure that is likely to prejudice an investigation.

Training in the firm's procedures

7.29 The firm should train staff, in particular, on how its products and services may be used as a vehicle for money laundering, terrorist financing and proliferation financing, and in the firm's procedures for managing this risk. They will also need information on how the firm may itself be at risk of prosecution if it processes transactions without the consent of the NCA where a SAR has been made.

- 7.30 Relevant employees should be trained in what they need to know in order to carry out their particular role. Staff involved in customer acceptance, in customer servicing, or in settlement functions will need different training, tailored to their particular function. This may involve making them aware of the importance of the “know your customer” requirements for money laundering prevention purposes, and of the respective importance of customer ID procedures, obtaining additional information and monitoring customer activity. The awareness raising and training in this respect should cover the need to verify the identity of the customer, and circumstances when it should be necessary to obtain appropriate additional customer information in the context of the nature of the transaction or business relationship concerned.
- 7.31 Relevant employees should also be made aware of the particular circumstances of customers who present a higher risk of money laundering, terrorist financing, proliferation financing, or who are financially excluded, and how best to identify these. Training should include how identity should be verified in such cases, what additional steps should be taken, and/or what local checks can be made.

Staff alertness to specific situations

- 7.32 Sufficient training will need to be given to all relevant employees to enable them to recognise when a transaction is unusual or suspicious, or when they should have reasonable grounds to know or suspect that money laundering, terrorist financing or proliferation financing is taking place.
- 7.33 The set of circumstances giving rise to an unusual transaction or arrangement, and which may provide reasonable grounds for concluding that it is suspicious (see paragraph 6.11), will depend on the customer and the product or service in question. Illustrations of the type of situation that may be unusual, and which in certain circumstances might give rise to reasonable grounds for suspicion, are:
- transactions which have no apparent purpose, or which make no obvious economic sense (including where a person makes a loss), or which involve apparently unnecessary complexity;
 - the use of non-resident accounts, companies or structures in circumstances where the customer’s needs do not appear to support such economic requirements;
 - where the transaction being requested by the customer, or the size or pattern of transactions, is, without reasonable explanation, out of the ordinary range of services normally requested or is inconsistent with the experience of the firm in relation to the particular customer;
 - dealing with customers not normally expected in that part of the business;
 - transfers to and from high-risk jurisdictions, without reasonable explanation, which are not consistent with the customer’s declared foreign business dealings or interests;

- where a series of transactions are structured just below a regulatory threshold;
- where a customer who has entered into a business relationship with the firm uses the relationship for a single transaction or for only a very short period of time;
- unnecessary routing of funds through third party accounts;
- unusual investment transactions without an apparently discernible profitable motive.

7.34 Issues around the customer identification process that may raise concerns include such matters as the following:

- Has the customer refused, or appeared particularly reluctant, to provide the information requested without reasonable explanation?
- Do you understand the legal and corporate structure of the client entity, and its ownership and control, and does the structure appear to make sense in view of the purpose of the transaction/business relationship?
- Is the staff member aware of any inconsistencies between the information provided and what would be expected, given the location of the customer?
- Is the area of residence given consistent with other profile details, such as employment?
- Does an address appear vague or unusual – e.g., an accommodation agency, a professional ‘registered office’ or a trading address?
- Does it make sense for the customer to be opening the account or relationship in the jurisdiction that he is asking for?
- Is the information that the customer has provided consistent with the banking or other services or facilities that he is seeking?
- Does the supporting documentation add validity to the other information provided by the customer?
- Does the customer have other banking or financial relationships with the firm, and does the collected information on all these relationships appear consistent?
- Does the client want to conclude arrangements unusually urgently, against a promise to provide information at a later stage, which is not satisfactorily explained?
- Has the customer suggested changes to a proposed arrangement in order to avoid providing certain information?

7.35 Staff should also be on the lookout for such things as:

- sudden, substantial increases in cash deposits or levels of investment, without adequate explanation;
- transactions made through other banks or financial firms;
- regular large, or unexplained, transfers to and from countries known for money laundering, terrorism, corruption or drug trafficking;
- large numbers of electronic transfers into and out of the account;
- significant/unusual/inconsistent deposits by third parties; and
- reactivation of dormant account(s).

- 7.36 Staff awareness and training programmes may also include the nature of terrorism funding and terrorist activity, in order that staff are alert to customer transactions or activities that might be terrorist-related.
- 7.37 Examples of activity that might suggest to staff, when assessed in the context of the overall risk presented by the customer, that there could be potential terrorist activity include:
- round sum deposits, followed by like-amount wire transfers;
 - frequent international ATM activity;
 - no known source of income;
 - use of wire transfers and the internet to move funds to and from high-risk countries and geographic locations;
 - frequent address changes;
 - purchases of military items or technology; and
 - media reports on suspected, arrested terrorists or groups.
- 7.38 It is important that staff are appropriately made aware of changing behaviour and practices amongst money launderers and those financing terrorism. As well as their regular series of publications on the typologies of financial crime, FATF's Guidance for Financial Institutions in Detecting Terrorist Financing issued in April 2002 contains an in-depth analysis of the methods used in the financing of terrorism and the types of financial activities constituting potential indicators of such activities. These documents are available at www.fatf-gafi.org.
- 7.39 Illustrations, based on real cases, of how individuals and organisations might raise funds and use financial sector products and services for money laundering or to finance terrorism, are also available on the FATF website at www.fatf-gafi.org.
- 7.40 The NCA publishes a range of material at www.nationalcrimeagency.gov.uk, such as threat assessments and risk profiles, of which firms may wish to make their staff aware. The information on this website could usefully be incorporated into firms' training materials.

Staff based outside the UK

- 7.41 Where activities relating to UK business operations are undertaken by processing staff outside the UK, those staff must be made aware of and trained to follow the AML/CTF policies and procedures applicable to the UK operations. It is important that any local training and awareness obligations are also met, where relevant.

Training methods and assessment

- 7.42 There is no single solution when determining how to deliver training; a mix of training techniques may be appropriate. On-line learning systems can often provide an adequate solution for many employees, but there will be classes of employees for whom such an approach is not suitable. Focused classroom training for higher risk or minority areas

can be more effective. Relevant videos always stimulate interest, but continually re-showing the same video may produce diminishing returns.

7.43 Procedures manuals, whether paper or intranet based, are useful in raising staff awareness and in supplementing more dedicated forms of training, but their main purpose is to provide ongoing reference and they are not generally written as training material.

7.44 Ongoing training should be given at appropriate intervals to all relevant employees. Particularly in larger firms, this may take the form of a rolling programme.

Regulation 24(1)(b) 7.45 Whatever the approach to training, it is vital to establish comprehensive records (see paragraph 8.24) to monitor who has been trained, when they received the training, the nature of the training given and its effectiveness.