

Consultation text - JMLSG Board approved January 2025

Outsourcing and non-UK processing

- 2.16 Many firms outsource ~~certain activities, including some~~ of their systems and controls and/or processing to ~~an agent or outsourcing service provider~~ elsewhere within the UK and to other jurisdictions, and/or to other group companies. Involving other entities in the operation of a firm's systems ~~may give rise to additional risk which must be actively managed.~~ Firms ~~should~~ obtain assurance that outsourcing providers meet the standards ~~set out in this~~ Guidance.
- Regulation 39(7), (8) 2.17 Nothing in the ML Regulations prevents a firm applying CDD measures by means of an agent or an outsourcing service provider (but see paragraphs 5.3.51 to 5.3.53 in Part I, Chapter 5), provided that the arrangements between the firm and the agent or outsourcing service provider provide for the firm to remain liable for any failure to apply such measures.
- SYSC 3.2.4 G
SYSC 13.9 2.18 FCA-regulated firms cannot contract out of their regulatory responsibilities, and therefore remain responsible for systems and controls in relation to the activities outsourced, whether within the UK or to another jurisdiction. In all instances of outsourcing, it is the delegating firm that bears the ultimate responsibility for the duties undertaken in its name. This will include the requirement to ensure that the provider of the outsourced services has in place satisfactory AML/CTF systems, controls and procedures, and that those policies and procedures are kept up to date to reflect changes in UK requirements.
- 2.19 Where UK ~~AML/CTF~~ operational activities are undertaken by ~~an outsourced service provider or group companies in other jurisdictions (e.g. call centres abroad, transaction monitoring or CDD processing)~~, those activities are subject to ~~equivalent~~ AML/CTF policies and procedures that are applicable to ~~the UK firm~~. ~~Internal~~ reporting procedures ~~must be~~ implemented to ensure that all suspicions relating to UK-related accounts, transactions or activities are reported to the nominated officer in the UK.
- 2.20 Firms should also be aware of local obligations, in all jurisdictions to which they outsource functions, for the detection and prevention of financial crime. Procedures should be in place to meet local AML/CTF regulations and reporting requirements. Any conflicts between the UK and local AML/CTF requirements, where meeting local requirements would result in a lower standard than in the UK, should be resolved in favour of the UK.
- 2.21 In some circumstances, the outsourcing of functions can actually lead to increased risk - for example, outsourcing to businesses in jurisdictions with less stringent AML/CTF requirements than in the UK. All financial services businesses that outsource functions and activities should therefore assess any possible AML/CTF risk associated with the outsourced functions, record the assessment and monitor the risk on an ongoing basis.

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Intra-group and group companies

2.22 UK firms must ensure that all UK AML/CTF and sanctions obligations are complied with where there are UK branch establishments or UK subsidiaries that may have intra-group and external outsourcing arrangements that are relevant to the UK firm's financial crime systems and controls.

2.23 The MLRO/SMF 17 must have due authority to take action where material AML/CTF risks arise with intra-group or group company outsourcing arrangements.

2.24 Where there are intra-group outsourced activities to other group companies or to headquarters (in cases of a UK branch) firms should have risk-based mechanisms, such as service level agreements to cover, for example:

- Reporting of AML/CTF management information, which could take the form of key performance indicators (KPIs) that may indicate certain ML/TF risks, to monitor compliance with AML/CTF policies and procedures;
- Reporting of AML/CTF management information, which could take the form of key risk indicators (KRIs), that may include details of preventative mitigating controls or the results of defective quality assurance controls;
- Provision of information on AML/CTF training completed by staff of the outsourcing service providers, within or outside the UK;
- Provision of information on the results of compliance monitoring/testing or relevant audits where risk issues have been identified;
- Escalation protocols to communicate relevant operational events having an impact on the performance of the outsourced activity.