



HM Treasury's Amendments to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 Statutory Instrument 2022

Introduction

The Finance & Leasing Association (FLA) is the leading trade association for the UK consumer credit, motor finance and asset finance sectors. FLA member companies include banks, the finance subsidiaries of major manufacturers and independent finance firms. They offer credit services to customers from all social groups, via credit and store cards, personal loans, point of sale finance, motor finance, mortgages and a number of other consumer credit products, as well as a wide range of leasing and hire purchase services to businesses of all sizes.

FLA welcomes the opportunity to comment on these amendments. Our current focus and particular interest is in the future roll out of Digital Identity, so our efforts have been concentrated on responding to your Call for Evidence. Here we just address a few issues around Suspicious Activities Reporting (SARs).

Suspicious Activity Reports (SARs)

We're in broad agreement with the notions laid out in sections 3.4 to 3.14. However, whilst in some circumstances it will be useful for a supervisor to review the SARs made by those it supervises, a supervisor's view on the AML/CTF risks run by those it supervises should not be solely guided by the content of the SARs. The supervisor should also form its own view as to likely AML/CTF risks the supervised entity faces. This is because the biggest risks are created not by those supervised firms that comply with the regulations, but rather by those firms that ignore their AML/CTF risks.

Q13. In your view, is access by AML/CTF supervisors to the content of the SARs of their supervised population necessary for the performance of their supervisory functions? If so, which functions and why?

It may be useful in some circumstances but we don't think it is necessary.

Q14. In your view, is regulation 66 sufficient to allow supervisors to access the contents of SARs to the extent they find useful for the performance of their functions?

This depends on the definition of 'specified description' as to what is covered. Much depends on why they think they need to see the content to perform their duties. If part

of their duty is to ensure a report met the 'suspicion' factor, then we agree that they would need to see the content. But a disclosure is quite subjective based on 'level of suspicion', which may vary for a variety of factors but is down to the individual making the disclosure or submission.

Q15. In your view, would allowing AML CTF supervisors access to the content of SARS help support their supervisory functions? If so, which functions and why?

This appears to be a similar question to 13 above. It may be useful but not always necessary.

Q16. Do you agree with the proposed approach of introducing an explicit legal power in the MLRs to allow supervisors to access and view the content of the SARs submitted by their supervised population where it supports the performance of their supervisory functions under the MLRs (in the event a view is taken that a power doesn't currently exist)?

It's clearly important that AML Supervisors have the powers and the means to carry out their duties diligently. Therefore, the supervisors should have the explicit powers they need.

However, as alluded to above, much will depend on what reason they are reviewing a SAR for. For example, quality. The number of SARs reported should not form part of the analysis. Firms are unlikely to have an issue sharing SARs if it is to improve the quality of SARs reporting.

Q17. In your view, what impacts would the proposed change present for both supervisors and their supervised populations, in terms of costs and wider impacts? Please provide evidence where possible.

We think more information sharing could lead to data breaches and increased risk of 'tipping off' if information got out as this material is sensitive. The best approach would be to obtain SARs directly from the NCA portal.

Q18. Are there any concerns you have regarding AML/CTF supervisors accessing and viewing the content of their supervised populations SARs? If so, what mitigations might be put in place to address these? Please provide suggestions of potential mitigations if applicable.

Again, it depends on why they are looking at them. We would suggest the material is anonymised, which would come at a cost.

**FLA
October 2021**