



An Roinn Dlí agus Cirt
Department of Justice

Inspection Process

Traders in high value art

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Legislation



- Criminal Justice (Money Laundering & Terrorist Financing) Act 2010 as amended

Compliance Inspection Process

- Risk based approach to supervision
- Length and format of compliance inspection
- Outcome of inspection

Risk Assessment



Section 30A - Business risk assessment

- At a minimum, include risk factors specified under this section
- Honest appraisal and recognition that risk exists
- Carried out on an annual basis and signed off by senior management

Section 30B – Customer risk assessment

- At a minimum, include risk factors specified under this section
- Risk based approach to the application of customer due diligence (CDD)
- Assign individual client risk rating and document the rationale behind the rating assigned

Customer Due Diligence (CDD)



Section 33-40 - Customer Due Diligence

- Simplified, standard, enhanced CDD
- Identification and verification of customers and all relevant parties
- Have regard to the source or customer's explanation of the source of funds
- Record of checking the Register of Beneficial Ownership (RBO)
- Level of CDD applied must be appropriate to the level of risk
- Section 40 – Reliance on third parties to carry out customer due diligence
- Third party reliance arrangements must be tested and reliance letters must be of a high standard

Business Relationship



Section 35 – Measures applying to business relationships

- Nature and purpose of business relationship, risk based approach, prior to establishment of relationship
- Ongoing monitoring of business relationships with customers to the extent reasonably warranted by the associated risk

Section 36A - Examination of background and purpose of complex transactions, unusually large transactions and or unusual patterns of transactions which have no apparent economic or lawful purpose

- Must be considered in light of the nature of the business, relationship and customer in determining what is “complex or unusually large” or what is an “unusual pattern”.
- Know your customer

Politically Exposed Persons (PEP)



Section 37 - definition expanded to include domestic PEPS

- Determine if customers or beneficial owners are politically exposed persons or an immediate family member or close associate of a PEP
- Evidence additional searches and checks have been carried out
- Senior management approval required prior to commencing business relationship
- Determine the source of wealth and source of funds
- Evidence that enhanced due diligence has been carried out
- PEP register

Suspicious Transaction Reporting (STR)



Section 42 – requirement to report knowledge, suspicion or reasonable grounds for suspicion

- Internal policies, controls and procedures should document the procedure to follow from detection to reporting
- Registration on GoAML and ROS
- Dual reporting to both the Financial Intelligence Unit (FIU) and the Revenue Commissioners
- Documented explanation as to why a STR was not submitted if suspicion detected
- Tipping off

Staff Instruction & Training



Section 54(6) – all persons involved in the conduct of the designated persons business are –

- (a) Instructed on the law and
 - (b) That appropriate ongoing training is provided
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- Provide copies of training material, training attendance records and information relating to the method of delivery and how often training is delivered

Internal Policies & Procedures



Section 54 – Internal policies, controls and procedures in relation to the business to prevent and detect ML/TF

- CDD, Risk, Monitoring, STRs, Training, Records
- Documented, signed and dated
- Evidence of approval at senior management level
- Reviewed as and when required and on an annual basis
- Section 54(6A) – Internal protected disclosure policy

Record Keeping



Section 55 – Keeping of records by designated persons

- Keep records of procedures applied and information obtained in relation to each customer
- Keep records evidencing the history of services and transactions carried out in relation to each customer
- Records shall be retained for a period of not less than five years
- Orderly presentation of files and records allows for ease of review
- Information provided after inspection may not be taken into consideration

Questions?



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