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Briefing Doc

Responsibilities of the MLRO



Detailed Briefing Document

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Source: "Responsibilities of the MLRO JLG" by Compliance Consultant.

Main Themes: This document outlines the key responsibilities and legal obligations of an MLRO, particularly within the UK regulatory framework.

Important Ideas & Facts:

1. Role & Appointment:

Firms, except sole traders, must appoint an MLRO to oversee compliance with anti-money laundering (AML) regulations (FCA: SYSC 6.3.9R).

The MLRO requires sufficient authority, independence, access to resources, and backing from senior management.

2. Key Responsibilities:

Developing and implementing AML controls and procedures.

Creating and maintaining the money laundering risk-based approach.

Monitoring the effectiveness of the firm's AML policies.

Reporting any suspicious activity to the National Crime Agency (NCA) via a Suspicious Activity Report (SAR).

Training employees on AML and financial crime.

Remaining aware of relevant sanctions and advisory notices.

Reporting to the Board at least annually on AML and financial crime issues.

3. Suspicious Activity Reporting (SAR):

Staff should be trained to identify and report suspicious activity, such as unusual customer behaviour, inconsistencies in information, or lack of transparency.

The MLRO must evaluate internal reports and determine if an external SAR needs to be submitted to the NCA.

External SARs require specific elements including suspect details, involved parties, suspected activity, and a justification for suspicion.

Clear, concise language free of jargon is crucial for effective SARs.

4. Defence Against Money Laundering (DAML):

A DAML is required when a firm needs to proceed with an action that could otherwise be considered a money laundering offence.

The MLRO applies for a DAML from the NCA, disclosing the relevant details and justification for the action.

A response is typically received within 7 working days; otherwise, consent is implied.

Refusal of a DAML triggers a 31-day moratorium, extendable up to 186 days.

5. Legal Framework:

The Proceeds of Crime Act 2002 (POCA) forms the foundation for AML legislation.

Sections 327, 328, and 329 outline offences related to concealing, arranging, and acquiring/using/possessing criminal property respectively.

Failure to disclose knowledge or suspicion of money laundering is an offence under section 330 of POCA.

6. Consequences of Non-Compliance:

The case of Sonali Bank (UK) highlights the serious consequences of AML control failings, including significant fines and individual sanctions for the MLRO.

7. Record Keeping:

Thorough record-keeping of all SARs, decisions, and justifications is crucial for demonstrating compliance and managing legal risks.

Conclusion:

The MLRO plays a vital role in safeguarding firms and the financial system from money laundering and terrorist financing. A thorough understanding of their responsibilities, legal obligations, and the importance of effective reporting is essential for fulfilling this role effectively.

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