



AML/CFT Regulatory Developments

AML/CFT Compliance continues to be identified as an area of strategic priority by the Central Bank of Ireland (CBI), with its recently published annual report for 2021 showing that 34 inspections and 87 review meetings were completed, while 630 Risk Evaluation Questionnaires were issued.

In addition to the increasing levels of supervisory engagements we are seeing, the roles and responsibilities of those charged with AML/CFT compliance is also evolving and there have been significant developments recently at the EBA and the CBI.

This article should be of interest to MLROs, Heads of Compliance/AML, as well as the Board and the Executive.

New EBA Guidelines

On 14 June 2022, the EBA published

Guidelines (the Guidelines) on the role and responsibilities of the AML/CFT compliance officer and of the management body of credit and financial institutions. The Guidelines:

- specify that credit and financial institutions should appoint one member of their management body who will ultimately be responsible for the implementation of the AML/CFT obligations and clarify the tasks and functions of that person;
- set clear expectations on the role, tasks and responsibilities of the AML/CFT compliance officer;
- prescribe that a group AML/CFT compliance officer should be appointed when the credit or financial institution is part of a group, and clarify this person's tasks and responsibilities.

While the Guidelines are detailed and prescriptive, and should be read in full, set out below are some of the key highlights.

Role of the Management Body

The Guidelines outline that the management body, who would be the Board in this situation, is ultimately responsible for overseeing and monitoring implementation of the internal governance and control framework to ensure compliance with AML/CFT requirements. In this regard, the Guidelines set out a number of functions of the management body acting in its supervisory capacity, including reviewing the activity report (more commonly referred to as the MLRO report in Ireland) at least once a year, being informed of the results of the business wide ML/TF risk assessment, and making sure that the AML/CFT compliance function is operating effectively and the AML/CFT



compliance officer has enough resources. These functions of the Board as set out in the Guidelines are broadly in line with the role and responsibilities of the Board outlined by the CBI in its AML/CFT industry guidelines.

The Guidelines also include a number of functions of the management body acting in its management function, which would be the Executive Management in this situation. Notwithstanding the collective responsibility of the management body, the Guidelines outline that a member of the management body is identified as being responsible for AML/CFT compliance. However, the Guidelines do not prescribe whether this individual should come from the Executive Management or the Board. In making this determination, firms should note that the CBI has outlined in its AML/CFT industry guidelines, that where there is a significant amount of inherent ML/TF risk, firms should consider if it is appropriate for this individual to be a member of the Board.

This individual should have sufficient knowledge, skills and experience regarding ML/TF risks, and the implementation of AML/CFT policies, controls and procedures. This individual should also commit sufficient time and have sufficient resources to perform his/her AML/CFT duties effectively.

The Guidelines set out a number of specific tasks for this individual, including:

- ensuring that the AML/CFT policies, procedures, and internal control measures are adequate and proportionate, taking into account the ML/TF risk exposure;
- informing the management body of any serious or significant AML/CFT issues and breaches, and recommending remedial actions;
- ensuring that the AML/CFT compliance officer has direct access to all information to perform their duties, and has sufficient resources and tools to adequately perform their role;
- ensuring that there is periodical reporting to the management body on the activities carried out by the AML/CFT compliance officer, and that the management body is provided with sufficiently comprehensive and timely information and data on ML/TF risks and AML/CFT compliance;
- being the main point of contact for the AML/CFT compliance officer within the management body.

The Guidelines also allow for the identification of a Senior Manager to perform these tasks, where there is no management body in place.

Role of the AML/CFT Compliance Officer

The AML/CFT compliance officer should be at management level, sit in the second line of defence, and have unrestricted and direct access to all information that is necessary to perform his/her role.

The role and responsibilities of the AML/CFT compliance officer should be clearly documented and defined, and includes:

- Developing and maintaining a business wide ML/TF risk assessment framework and reporting on the results to the management body;
- Developing AML/CFT policies and procedures and ensuring they are kept up-to-date;
- Monitoring compliance with AML/CFT obligations and recommending corrective measures to be taken to address any weaknesses identified;
- Providing advice on the onboarding of new high-risk customers or maintaining business relationships with high-risk customers;
- Producing an activity report and reporting on same to the management body. The Guidelines outline in detail the type of information that should be included in the activity report, such as:

- A summary of the main findings of the business wide ML/TF risk assessment;
- Information and statistical data on the number of:
 - unusual transactions detected, analysed, and STRs filed with the FIU;
 - customer relationships ceased due to AML/CFT concerns;
 - requests for information received from the FIU, courts and law enforcement agencies;
- Details on resourcing allocated to AML/CFT compliance, and where applicable, a description of the oversight performed on AML/CFT processes outsourced;
- A description of the AML/CFT training completed and of the training plan for next year;
- Details of findings of internal and external audits relevant to AML/CFT and of supervisory activities carried out by the competent authority, including any breaches identified and sanctions imposed.

The activity report should be produced on at least an annual basis and should be available to share with the competent authority upon request.

Overall, the Guidelines are more prescriptive on the role and responsibilities of the AML/CFT compliance officer than the CBI's AML/CFT industry guidelines, for example, on what should be included in the activity report, and on the role of the AML/CFT compliance officer in relation to taking on/retaining relationships with high-risk customers.

The Guidelines also cover outsourcing of operational functions of the AML/CFT compliance officer, specifying that strategic AML/CFT decisions such as the approval of the business wide ML/TF risk assessment or the adoption of AML/CFT policies and procedures, should not be outsourced. Where the parent of a credit or financial institution is itself a credit or financial institution, the parent should appoint a group AML/CFT compliance officer. The group AML/CFT compliance officer should fully co-operate with the AML/CFT compliance officer of each group entity, with the Guidelines outlining a detailed list



of tasks for this individual, including:

- Co-ordinate the business wide assessment of ML/TF risks carried out by group entities and draft a group wide ML/TF risk assessment;
- Define group level AML/CFT standards and ensure that local, entity level policies and procedures comply with AML/CFT legislation applicable to each entity;
- Set group-wide policies and procedures, including on data protection and the sharing of information within the group for the purposes of AML/CFT;
- Produce an activity report on at least an annual basis, to include:
 - Details on supervisory reviews, internal and external audits that identify AML/CFT weaknesses, and the corrective measures required;
 - Statistics consolidated at group level, especially on risk exposure and suspicious activities.

The Guidelines will apply from 01 December 2022. Depending on current AML/CFT governance structures, the Guidelines have the potential to impact on the role and responsibilities of PCF role holders 12 and 52, MLRO/Compliance Officer, Executive Management, and the Board. AML/CFT policies and procedures may also need to be updated. When assessing the impact of the Guidelines, firms should refer to the CBI's AML/CFT

industry guidelines, in particular Section 6 – Governance.

Download the EBA [Guidelines here](#).
[Guidelines on AML/CFT compliance officers.pdf \(europa.eu\)](#)

Changes to PCF roles under the CBI's Fitness and Probity Regime

Effective from 5 April 2022, the CBI introduced the stand-alone role PCF-52 (Head of AML/CFT), discontinuing the PCF-15 role (Head of Compliance with Responsibility for AML/CFT). There are no changes to the PCF-12 role (Head of Compliance) and an individual can occupy more than one PCF role e.g. an individual could be listed as PCF-12 and PCF-52. All individuals previously designated as PCF-15 will have this designation end-dated, and firms were required to notify the CBI of the appropriate PCF designation(s) i.e. either or both PCF-12 and PCF-52, by 3 June 2022.

Contact



Sean Smith
Partner
Risk Advisory

Tel: +353 1 417 2306
Email: seansmith1@deloitte.ie

Dublin

29 Earlsfort Terrace
Dublin 2
T: +353 1 417 2200
F: +353 1 417 2300

Cork

No.6 Lapp's Quay
Cork
T: +353 21 490 7000
F: +353 21 490 7001

Limerick

Deloitte and Touche House
Charlotte Quay
Limerick
T: +353 61 435500
F: +353 61 418310

Galway

Galway Financial Services Centre
Moneenageisha Road
Galway
T: +353 91 706000
F: +353 91 706099

Belfast

19 Bedford Street
Belfast BT2 7EJ
Northern Ireland
T: +44 (0)28 9032 2861
F: +44 (0)28 9023 4786

Deloitte.ie



Brendan Lawlor
Director
Risk Advisory

Tel: +353 1 417 3279
Email: blawlor@deloitte.ie

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