

Flag it up!

General Features

Professional standards



01 February 2016

Charlotte Ali explains what steps advisers should be taking to flag up potential money laundering

Key Points

What is the issue?

Not fully knowing our clients

What does it mean to me?

Loss of reputation and potentially worse

What can I take away?

Be vigilant and check for red flags

It is nothing new for criminals to use tax advisers and accountants to hide the source of their funds. However, the size and complexity of the UK financial and professional services sectors leave the nation more exposed to criminality than those in many other countries. That is why it is important to consider the steps tax advisers should be taking to avoid becoming unwittingly complicit in money laundering and fraud and why the government and the Accountancy Affinity Group (AAG) have launched Flag it Up, a campaign to help accountants spot the 'red flags' that could indicate criminal activity.

The AAG is a sub-committee of the Anti Money Laundering Supervisors' Forum. The accountancy professional body supervisors listed in Schedule 3 of the Money Laundering Regulations 2007 (as amended) are represented in the AAG. The AAG is a forum in which the professional bodies work collaboratively to develop accountancy sector supervisory policy to promote consistency in standards and best practice. It is an information sharing forum.

Whether consciously or not, involvement in criminal activity carries with it significant penalties for those who have not followed effective due diligence processes when handling funds or dealing with transactions on behalf of clients that are later implicated in wrongdoing. The risks include fines, the loss of professional membership and even criminal sanctions such as imprisonment. On top of this there is the threat of lasting reputational damage for you as an individual and your business, as well as wider societal impacts, such as contributing to the funding of organised crime or even terrorist activity. It is clear that vigilance towards the warning signs of money laundering is particularly important.

One of the greatest risks is from those criminals who operate what is, at first glance, a legitimate business. Tax advisory firms, both small and large, are at risk of falling

victim to enterprises such as these, so it is paramount to recognise the warning signs and deal with clients who raise even the slightest doubts.

Spotting red flags

The best way to remain compliant and spot red flags is to begin by considering whether there are any immediate reasons not to trust a client. By scrutinising inconsistencies in the information they provide, unusual amounts or sources of funds, or discrepancies in their transactions, tax advisers can begin to recognise whether they are in danger of becoming implicated in money laundering. They will need to decide then whether to make a suspicious activity report and work out the processes they can put in place to ward off potential threats.

For instance, tax professionals should always undertake due diligence in the early stages of a relationship to sweep for any preliminary risks. Conducting internet searches on a prospective client and all beneficial owners with a controlling interest (over 25%) in any entity can help to pick up any obvious red flags about their professional credibility. However, it is also important to periodically carry out these same checks on established clients. This is not just due to the fact that you have an obligation under the Money Laundering Regulations 2007 to keep your due diligence up to date, but also because clients' needs change over time. An existing relationship does not guarantee that these clients are exempt from any wrongdoing. If a change does not make sense seek clarification from your client to ensure there is no unlawful activity.

Asking direct questions

Another line of investigation should be to ask a question of a client in order to understand any perceived irregularities. Their response should be telling. An evasive disposition or an incomplete answer will serve to heighten suspicion.

Detailed guidance on what to do in the case of an irregularity is set out in the [Professional Conduct in Relation to Taxation \(PCRT\) rules](#).

Similarly, tax advisers must ask the question, 'why me?'. If a client is atypical of their usual client base, the adviser should consider why they may have approached their particular firm and ask the client directly as well. If possible, visit potential

clients in their own offices or home in order to explore whether their businesses operate and act as they say they do. Be wary of instructions outside your firm's area of expertise or in niche areas of tax work in which you or your firm have no background.

Undertake enhanced due diligence when dealing with funds or clients from a high-risk jurisdiction, such as one where corruption is prevalent. You can also check whether they are on the Treasury's consolidated [list of targets](#). As an illustration, consider a recent HMRC case in which a Berkshire couple, who ran a high-class chauffeuring service, were sentenced for VAT fraud. The couple provided car services for UK film studios but failed to pay HMRC almost £31,000 in VAT they had charged their clients. They also submitted fraudulent VAT repayment claims of nearly £179,000, but were caught out when officers grew suspicious and looked more closely into their business records. HMRC found that the pair had created fake invoices for leasing vehicles and general purchases, including a giant water tank.

Had this couple contacted you as a tax adviser and asked you to prepare their VAT returns, would you have spotted the warning signs? After all, they were a legitimate business. However, a more detailed examination of their documents might have indicated otherwise. Would all those transactions really have made sense? It is always easy to say with hindsight that the red flags are simple to spot. But, if a theoretical tax adviser had been in a position to undertake robust due diligence, one that included a visit to the couple's business premises, they may have been better equipped to assess the risks and notice that there were invoices for purchases that did not exist.

HMRC is under pressure from the government to increase prosecutions for tax-related offences. As tax advisers, we should be alert to any potential scams by our clients. If there are gaps in information, and clients' responses to direct question are less than convincing, this should raise suspicion.

Taking action

Another key point for advisers to consider is when to submit a suspicious activity report (SAR) about a client. Under the Proceeds of Crime Act 2002, tax practitioners have a legal obligation to report when they have knowledge or suspicion of money laundering. Examples of this would include if you knew or suspected that a client

intentionally claimed welfare benefits to which they were not entitled or evaded the due payment of tax. Submitting a SAR not only protects you and your business because you will be complying with your obligations, but it also helps law enforcement because it provides valuable information on potential criminality. However, be aware of professional privilege and the occasions when it may prevent you making a SAR. For further details, see the [CCAB guidance](#) and in particular the section 'Supplementary guidance for the tax practitioner'.

A closer look

It is not worth the risk to overlook discrepancies, no matter how minor they seem. Having the processes in place to enable continued scrutiny of all aspects of a client's operations is essential in order to deflect potential threats.

Further information

For more details of the 'Flag it Up' campaign go to www.accountancysupervisors.co/flagitup/