Chartered Accountants Ireland

Anti-Money Laundering

Kevin Kerrigan & Ben Cronin

in partnership with AML HQ

Trusted Business Leadership

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AML Overview

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What is Money Laundering?

Aspect	Ireland – CJA 2010 (as amended)	UK – Proceeds of Crime Act 2002 (POCA)
Core definition	**s.7 CJA 2010** – knowing or believing that property is or 'probably comprises' the proceeds of criminal conduct, or engages in any of the following acts in relation to the property: • Conceals or disguises the true nature, source, location, disposition, movement, ownership or rights with respect to property. • Converts, transfers, handles, acquires, possesses, or uses such property. • Removes it from, or brings it into, the State.	**ss.327–329 POCA** – A person commits an offence if they: • **s.327** – Conceal, disguise, convert, transfer or remove criminal property. • **s.328** – Enter into or become concerned in an arrangement that facilitates the acquisition, retention, use or control of criminal property. **s.329** – Acquire, use or possess criminal property.
Property covered	"Property" means all real, personal, movable, immovable, tangible and intangible property, wherever located.	"Property" includes money, all property and rights or interests in property, wherever situated (s.340 POCA).
Knowledge / suspicion test	Offence committed if the person **knows, believes or is reckless** as to whether the property is the proceeds of criminal conduct (s.7(3)).	Offence committed if the person **knows or suspects** that the property constitutes or represents a benefit from criminal conduct (s.340).
Extra-territorial scope	Applies to proceeds of criminal conduct **wherever the conduct occurred**, if also a criminal offence in Ireland (s.7(4)).	Applies to conduct overseas if it would be criminal both in the UK and the overseas jurisdiction (the "dual criminality" principle, with some exceptions).
Other related offences	• Failure to report (s.42). • Tipping off (s.49–52).	• Failure to disclose (s.330–331). • Tipping off (s.333A).

What is Money Laundering?

Handling or processing the proceeds of criminal conduct and can include:

1. Money or money’s worth
2. Saved costs
3. Tangible or intangible property
4. Offences committed in Ireland and overseas
5. Includes terrorist financing
6. There is no materiality or ‘de minimis’ exceptions

It may not always be an offence...

Knowledge

Recklessness

Reporting

Outside Jurisdiction (lawful action)

It is an offence...

- To not report a suspicion
- To tip off the client that you have raised a report

“I don’t take on bad clients…”

Ref. Majority of Accountants

5 Pillars of Compliance

- Awareness & Management of AML Obligations
- Firm-wide Risk Assessment
- AML Training
- Customer Due Diligence
- AML Reporting

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Frequently Asked Questions

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Risk Based Approach

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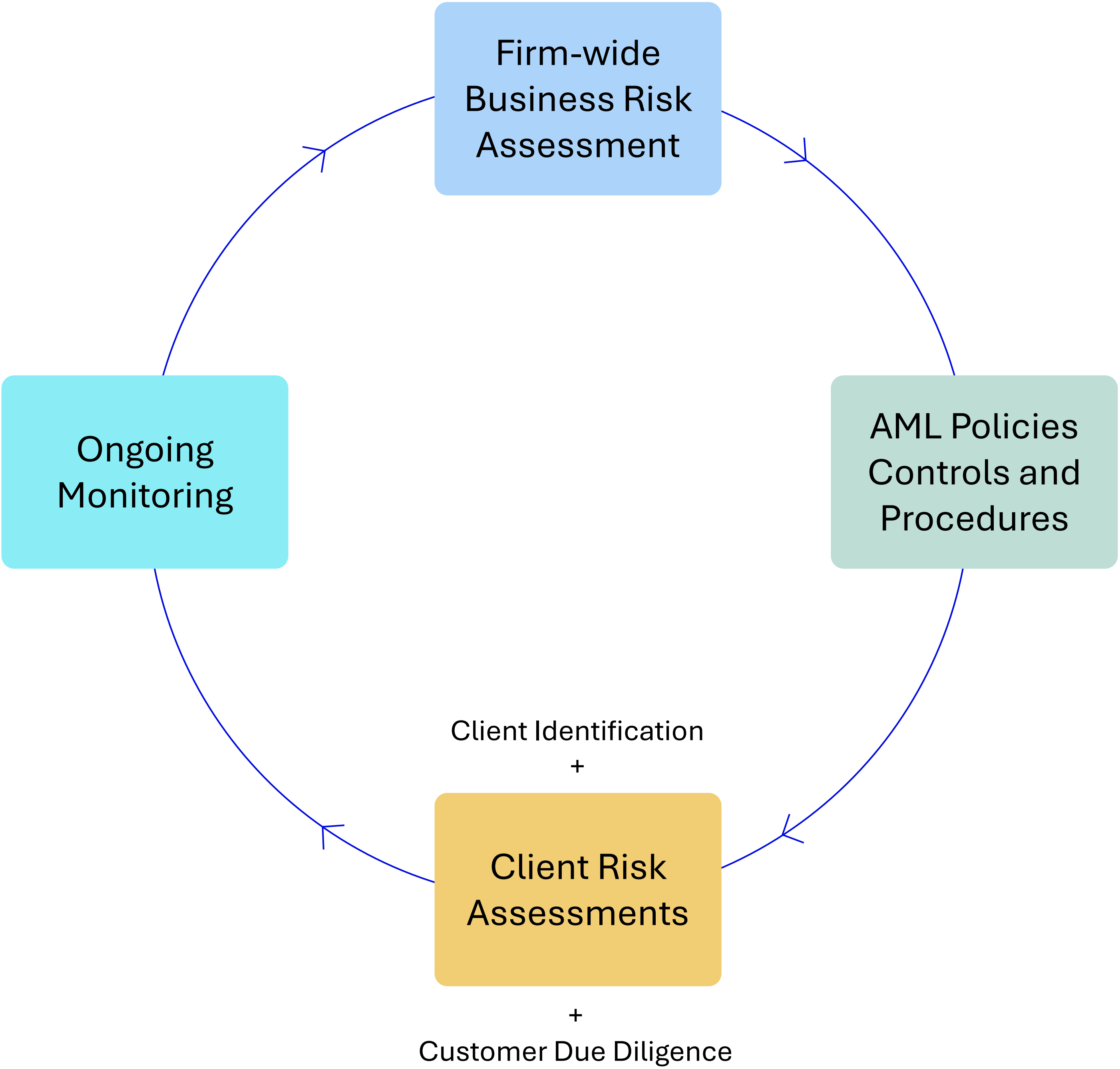
Risk Based Approach

Principle	Ireland – Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended)	UK – Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended)
Firm-wide business risk assessment	**Section 30A –** Designated persons must identify and assess the risks of ML/TF to their business. **Section 30B –** Must document, keep up to date, and make available the risk assessment.	**Regulation 18 –** Firms must carry out a *written* risk assessment considering risk factors (customers, countries, products/services, transactions, delivery channels). Must be kept up to date.
Policies, controls, and procedures	**Section 54 –** Designated persons must adopt internal policies, controls, and procedures to prevent and detect ML/TF, informed by their risk assessment.	**Regulation 19 –** Firms must establish and maintain policies, controls, and procedures to mitigate/manage ML/TF risk, proportionate to the size and nature of the business, informed by their Reg. 18 risk assessment.
Risk-sensitive CDD	**Section 33(1) –** The extent of CDD measures must be determined on a *risk-sensitive basis* having regard to type of customer, business relationship, product, or transaction.	**Regulation 28(12) –** The extent of CDD measures must reflect the level of risk identified in the firm's Reg. 18 risk assessment.
Enhanced Due Diligence (EDD)	**Section 35(3) –** Requires EDD where higher risk is identified, including specific triggers such as PEPs or high-risk countries.	**Regulation 33 –** Requires EDD in higher-risk situations (e.g., PEPs, high-risk third countries, unusual or complex transactions).
Simplified Due Diligence (SDD)	**Section 34(1) –** Permits SDD where lower risk is identified, consistent with firm's risk assessment.	**Regulation 37 –** Permits SDD where lower risk is identified, provided this is consistent with national and supranational risk assessments.
Ongoing monitoring	**Section 35(1) –** Ongoing monitoring must be applied throughout the business relationship, with intensity based on risk.	**Regulation 28(11) –** Requires ongoing monitoring, the extent of which must be determined on a risk-sensitive basis.

Key Risk Components



Key Terms

Client Identification	The initial step of establishing who the client is by obtaining their basic details (name, date of birth, address, company registration, beneficial ownership).
Risk Assessment	Determining risk level to decide how much checking and scrutiny is needed.
Customer Due Diligence	The process of verifying identity/ownership, obtaining and testing purpose/nature of relationship, and ongoing monitoring on a risk-sensitive basis.

Firm-wide Business Risk Assessment

Assessment of Money Laundering risks that the business is exposed to factoring internal and external factors

SCOPE

- Across the full practice and complete portfolio of clients

Objectives

- Identifying risks and establishing mitigating measures
- Consider the operating context of your business
- Ensure your PCPs remain relevant and effective
- Ensure management and staff are aware of current and emerging risks

Firm-wide Business Risk Assessment Structure

Practice Profile

Risk Categories

Client | Geographic | Service | Transaction / Industry | Delivery

Q&A
Client specific detail
Mitigating Actions

Required Actions

Conclusion

Firm-wide Business Risk Assessment

Format and sources

- Templates available from Chartered Accountants Ireland or a number of service providers
- Templates are absolutely ok, but they have to be tailored and you have to provide context and detail for your business / clients
- Excel spreadsheets / digital services available

Client Risk Assessment

Assessment of money laundering and terrorist financing risks associated with an individual client, taking into account their specific characteristics, behaviour, and circumstances, as well as relevant internal and external risk factors.

Client Risk Assessment Categories

Client risk

Geographic risk

Service risk

Industry risk

Delivery channel risk

Client Risk Assessment Structure

Client Profile

Risk Categories

- Client
- Geographic
- Service
- Transaction / Industry
- Delivery

Q&A
Client specific detail
Mitigating Actions

Mitigating Actions

Risk Rating & Due Diligence Level

Ongoing Monitoring

Client Risk Assessment / Risk Reviews

Client identity
(corporate / individual)

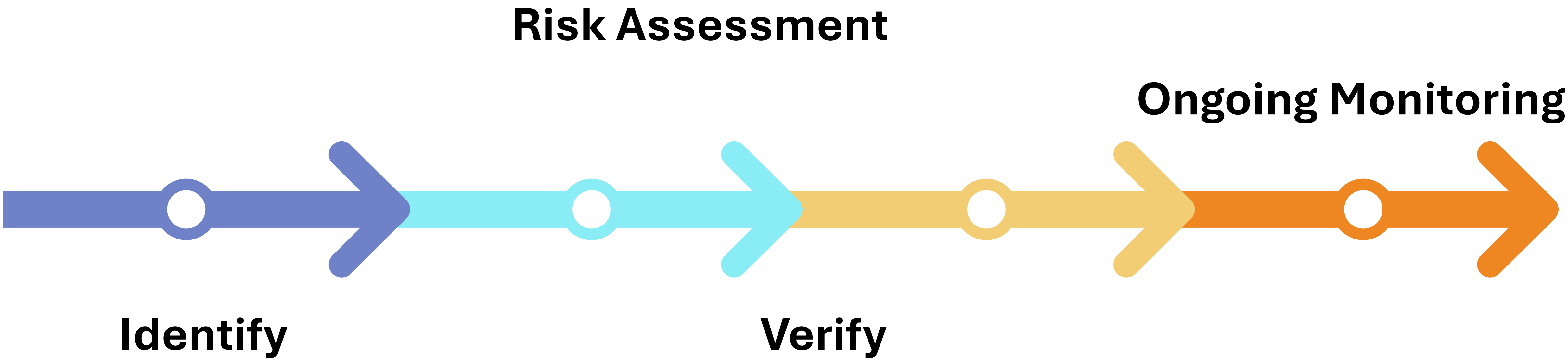
PEP / sanction screening

Transactions

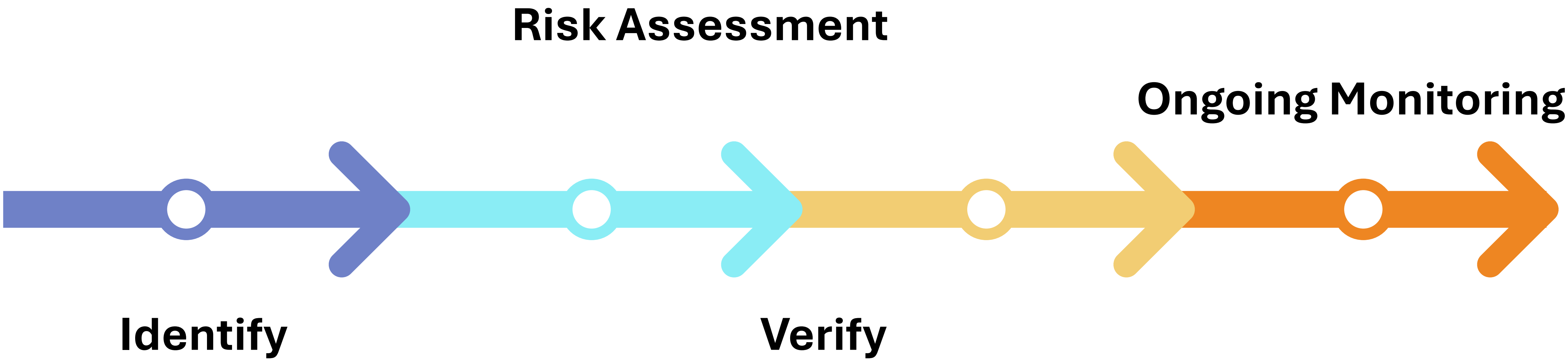
Client behaviour

Business activities / financial situation

Customer Due Diligence



What does this look like in practice?



MLRO Duties & AML Inspections

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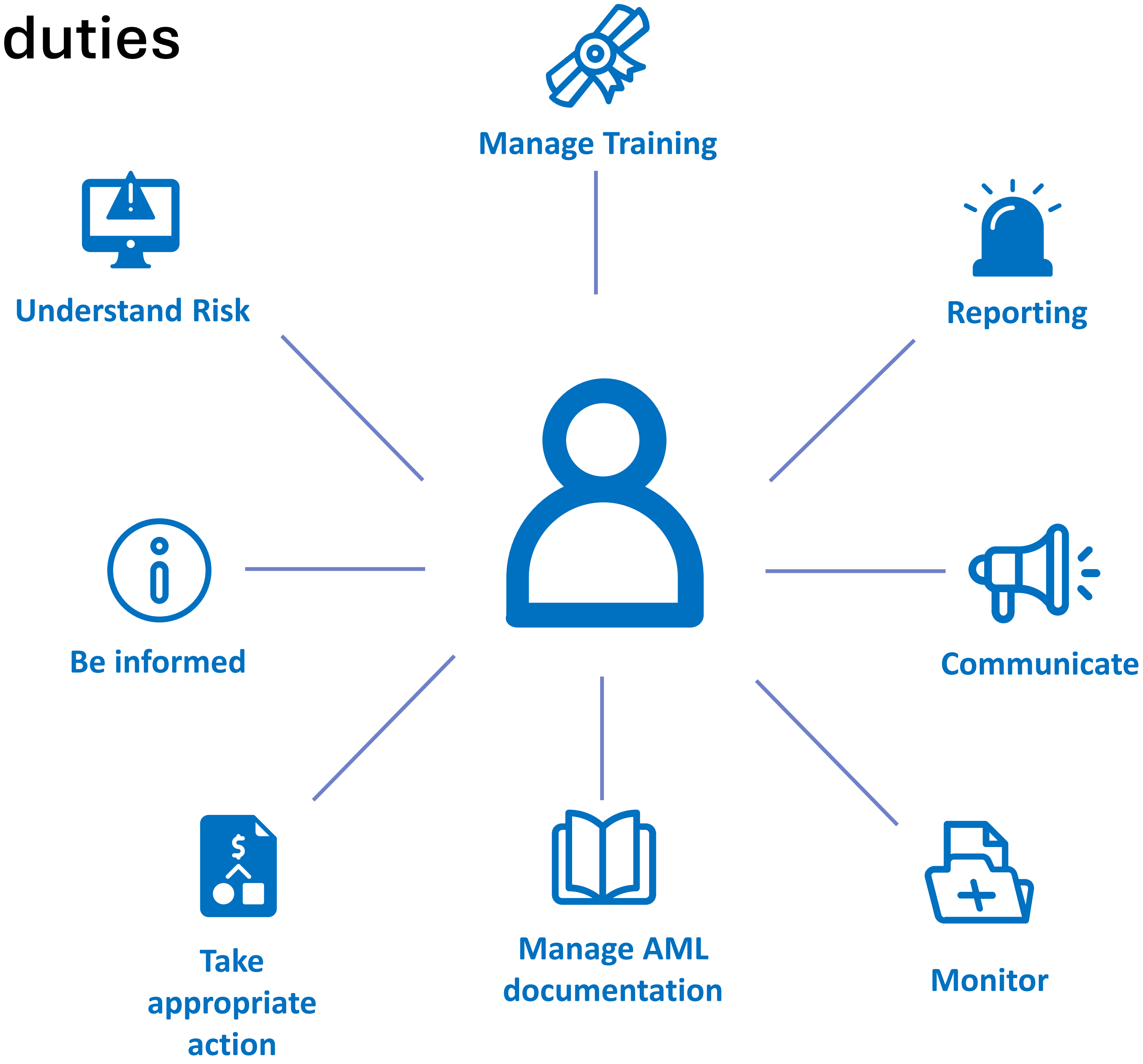
MLRO/MLCO duties



Policy, Controls and Procedures

Risk Assessment & Management	Customer Due Diligence	Record keeping
Internal Controls	Ongoing Monitoring	Reporting Procedures
Compliance Management	Communication	Training & Awareness

AML Training

1. Induction / new joiners
2. Annual refresher course
3. MLRO specific training

Training Logs

Annual Staff Declaration

Importance of Training

1. Legal Obligation
2. Obligation for all staff members to report
3. Offences come with serious penalties
4. Risk is contextual to the business / practice profile
5. Annual training / breakfast / lunch briefings
6. Devil in the detail

Red Flags

Do not ignore

Do more research

Document your findings

Ask more questions

Report your suspicions

Source of Red Flags

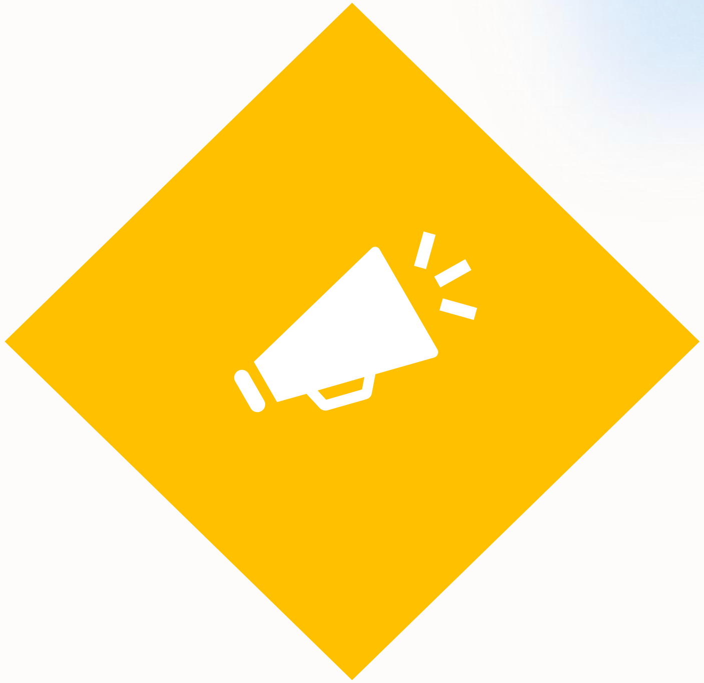
1. Client behaviour
2. Client information (CDD)
3. AML screening (PEP / Sanctions / adverse media)
4. Bookkeeping / transaction level
5. Real world observations

What to look out for...

- Businesses that are cash intensive
- Margins too high/low
- Payment received from unknown third parties
- Payments outside country
- Observed trading levels don’t match recorded sales
- Staff levels (wages) don’t match trading levels
- Insufficient profit to support the business owner’s lifestyle
- Disproportionate expenses to director’s account
- Accepting “Cash Only”
- Purchase and sale of assets above/below market value
- Construction: Lack of/inconsistent receipts for materials
- Trading in crypto currency
- Loans being written off
- Transactions involving multiple or high-risk jurisdictions
- No material / tangible business activity

Further consideration and professional review required

AML Reporting Obligations



1. Internal Reporting
2. External Reporting – Suspicious Activity / Transaction Reports
3. RBO/PSC Discrepancies

“Tipping Off”

Tipping off occurs when a person informs a client (or a third party) that:

- a suspicious activity / transaction report has been, or will be, made to the authorities, or
- an investigation into money laundering/terrorist financing is underway or may be carried out.

What is allowed?

- Normal customer service exchanges
- Disclosures to colleagues within the firm or to legal advisers, where necessary for compliance

AML Compliance Review

1. Completed independent of the MLRO
2. Covers all elements of the 5 pillars
3. Includes cold file reviews

AML Inspections

Risk category	Visit Cycle and Visit Type
High	2 year onsite
High/Medium	3 year onsite
Medium	4 year hybrid
Medium/Low	8 year hybrid
Low	8 year desk-based review

* hybrid means a mix of onsite visits and desk-based reviews

Monitoring Desk-based Review Process

PRE-VISIT QUESTIONAIRE ISSUED

↓

DOCUMENTS AND PRE-VISIT QUESTIONNAIRE UPLOADED TO SECURE PORTAL AND NON-RESPONSE REFERRED TO QUALITY ASSURANCE COMMITTEE

↓

FILE SETUP

↓

REVIEW OF SUBMITTED DOCUMENTATION AND COMPLETION OF CHECKLISTS

↓

CLOSE DOWN LETTER AND FILE FINDINGS ISSUED TO FIRM

↓

NON COMPLIANT FIRMS ARE REFERRED FOR SCHEDULING OF AN ON-SITE MONITORING VISIT

Monitoring Onsite Visit Process

Most Common Findings

- Inadequately documented policies and procedures
- No / inadequate periodic review of compliance
- Inadequate / no training
- Inadequate firm-wide risk assessment

Nature of Breach	No of UK Firms	No of RoI firms
No documented policies & procedures	3	3
Inadequately documented policies & procedures	19	12
Inadequate documentation of customer due diligence (CDD)	0	0
No CDD procedures	0	0
Inadequate CDD procedures	1	1
No ongoing CDD monitoring	0	0
No client risk assessment/record missing	1	1
Inadequate client risk assessment/record missing	3	1
No periodic review of compliance with AML regs	19	10
No training	1	8
Inadequate training	12	3
No firm-wide risk assessment	4	2
Inadequate firm-wide risk assessment	6	6
Inadequate ongoing CDD procedures	0	1
Inadequate record keeping	1	1
Inadequate periodic review of compliance with AML regs	12	18

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Resources

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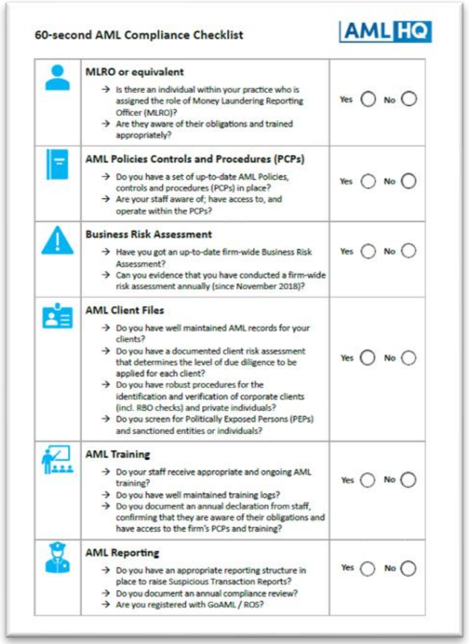
Resources

1. 60-second AML health check
2. Red Flags Training Material
3. CCAB-I Guidance
4. CCAB Guidance
5. Chartered Accountants Ireland (AML HUB)
6. Chartered Accountants Ireland (Practice toolkits)



60-second AML Compliance Checklist

AML HQ

MLRO or equivalent → Is there an individual within your practice who is assigned the role of Money Laundering Reporting Officer (MLRO)? → Are they aware of their obligations and trained appropriately?	Yes ◯ No ◯
AML Policies Controls and Procedures (PCPs) → Do you have a set of up-to-date AML Policies, controls and procedures (PCPs) in place? → Are your staff aware of; have access to, and operate within the PCPs?	Yes ◯ No ◯
Business Risk Assessment → Have you got an up-to-date firm-wide Business Risk Assessment? → Can you evidence that you have conducted a firm-wide risk assessment annually (since November 2018)?	Yes ◯ No ◯
AML Client Files → Do you have well maintained AML records for your clients? → Do you have a documented client risk assessment that determines the level of due diligence to be applied for each client? → Do you have robust procedures for the identification and verification of corporate clients (incl. RBO checks) and private individuals? → Do you screen for Politically Exposed Persons (PEPs) and sanctioned entities or individuals?	Yes ◯ No ◯
AML Training → Do your staff receive appropriate and ongoing AML training? → Do you have well maintained training logs? → Do you document an annual declaration from staff, confirming that they are aware of their obligations and have access to the firm's PCPs and training?	Yes ◯ No ◯
AML Reporting → Do you have an appropriate reporting structure in place to raise Suspicious Transaction Reports? → Do you document an annual compliance review? → Are you registered with GoAML / ROS?	Yes ◯ No ◯

Anti-money Laundering and Counter Terrorism Financing

Example Red Flag Training Material

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Revision 2-September 2022

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Q&A

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Thank you

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60-second AML Compliance Checklist

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