

Money Laundering Compliance

Third edition

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Preface

Since completing the Second Edition in 2007, an increasing number of books and websites have appeared on the subject of Money Laundering Compliance. This book does not pretend to be a comprehensive AML-CFT textbook of the black-and-white letter laws on the topic, but rather to serve as a practical reference to technical compliance and procedural aspects, and how to deal with the difficulties of the contemporary AML-CFT environment.

AML rules are not new: they have been around for 30 years or more, but every year, AML-CFT procedures are having an increasing impact on business and private life issues for most people. AML-CFT compliance is no longer a minor inconvenience for 99.9% of the law-abiding population: it has become almost a full-time preoccupation, with armies of people spending all of their day-time on gathering, submitting, checking and updating compliance materials.

The Book is structured as follows:

- Chapter 1 introduces the Core Principles, and notes the trend towards a 'cashless society'.
- Chapters 2 – 6 describe the UK AML-CFT framework, the principal UK ML offences, the offences of 'failure to disclose' and 'tipping-off', the mechanisms of tracing, asset recovery and forfeiture, and the Money Laundering Regulations 2007 (and JMLSG Guidance).
- Chapter 7 examines technical issues, including the concept of 'suspicion'.
- Chapter 8 considers of dual criminality in relation to fiscal offences, foreign tax enforcement, 'legacy' issues, FATCA and Amnesty Programmes.
- Chapter 9 is on Tax Transparency, TIEAs and the workings of the new OECD Multilateral Automatic Exchange of Tax Information program and the Common Reporting Standard.
- Chapter 10 looks at EU Initiatives and the Money Laundering Directives, especially matters arising from new '4MLD'.
- Chapter 11 examines Customer Due Diligence, Compliance & Risk Management.
- Chapter 12 considers STR Reporting procedures and dealings with the Client.
- Chapters 13–16 are sector-specific, focussing on issues facing legal professionals and practitioners (Chapter 13), Trustees, Executors and TSPs (Chapter 14), CSPs (Chapter 15), and Banks and Investment Managers (Chapter 16).

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- Chapter 17 and Appendix 9 look in detail at the AML-CFT regimes in ten selected non-UK jurisdictions.
- Chapter 18 covers Bribery and Corruption in relation to AML and the proceeds of crime,

And finally, Chapter 19 summarises concerns and offers conclusions on where all this is leading.

The new OECD Multilateral Automatic Exchange of Tax Information program and the Common Reporting Standard comprise an entirely new area of enforcement since the previous edition, and Chapter 9 merits particularly careful study.

Those who will find this book most useful will be directly or indirectly involved in the financial services industry, be that as a professional; advisor, administrator of wealth-planning structures, private banker, trust or company service provider, regulator, or legislator.

Whilst every care has been taken to ensure the accuracy of the contents of this work, no responsibility for loss occasioned to any person acting or refraining from action as a result of any statement in it can be accepted by either the Author or the publisher.

Finally, the Author invites reader's feedback and (positive or negative) comments by email to tim@belgrave.ch are most welcome, as is feedback on errors/omissions, points of clarification, and ideas or suggestions for development in future editions. Your support is appreciated!

Tim Bennett
7 November 2014

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Abbreviations and References

ABA	American Bar Association; American Bankers Association
ABCO	Association of Bermuda Compliance Officers
ACAMS	Association of Certified Anti-Money Laundering Specialists
ACPO	Association of Chief Police Officers (UK)
AIBT	Association of International Banks and Trustees (Bahamas)
AML	Anti-Money Laundering
AMLO	Asian Money Laundering Office
AnCorR	Anti-Corruption Ring Online (OECD)
APT	Asset Protection Trust
ARA	Assets Recovery Agency
ATF	Anti Terrorist Financing
AUM	'Assets under Management'
BALT	Bermuda Association of Licensed Trustees
BBA	British Bankers' Association
BEE	Bahamas Executive Entity
BFSB	Bahamas Financial Services Board
BIBA	Bermuda International Business Association
BIAC	Business and Industry Advisory Committee (OECD)
BMA	Bermuda Monetary Authority
BOI	British Offshore Islands (Jersey, Guernsey, Alderney, Isle of Man)
BOT	British Overseas Territories (Anguilla, Ascension St Helena and Tristan da Cunha, Bermuda, British Antarctic Territory, BVI, Cayman Islands, Chagos Archipelago (British Indian Ocean Territory), Falkland Islands and South Georgia, Gibraltar, Montserrat, Pitcairn Islands, South Sandwich Islands, Turks and Caicos, plus the Sovereign base area in Cyprus)
BPI	Bribe Payers Index (Transparency International)
BSA	Bank Secrecy Act (US)
BVI	The British Virgin Islands
CAA	Competent Authority Agreement (OECD)
CARA	Criminal Assets Recovery Agency (UK)
CATA	Commonwealth Association of Tax Administrators
CARICOM	The Caribbean Community
CBI	Confederation of British Industry
CCAB	Consultative Committee of Accountancy Bodies (UK)
CCBE	Council of Bars and Law Societies of Europe
CDCFFI	Certified Deemed Compliant FFI
CDs	Crown Dependencies (Jersey, Guernsey & Alderney, and Isle of Man)
CDD	Customer Due Diligence
CED	Customs & Excise Department (Hong Kong)
CFA	Committee on Fiscal Affairs (OECD Directorate)
CFA	Court of Final Appeal (Hong Kong)

Abbreviations and References

CFATF	Caribbean Financial Action Task Force
CFC	Controlled Foreign Corporation (US); Controlled Foreign Company (UK)
CFT	Countering Terrorist Finances (sometimes also shown as “CTF”)
CIAT	Inter-American Centre of Tax Administrators
CICAD	Inter-American Drug Abuse Control Commission (OAS)
CICFA	Concerted Inter-Agency Criminal Finances Action Group (UK)
CIMA	Cayman Islands Monetary Authority
CIS	Commonwealth of Independent States
CJA	Criminal Justice Act (UK)
CLASS	Consular Lookout and Support System
CMIR	[International Transportation of] Currency or Monetary Instruments Report (US)
CoE	Council of Europe
CoI	Certificate of Incorporation
CoI	Certificate of Incumbency
COTA	Cariant Organisation of Tax Administrators
CPI	Corruption Perceptions Index (Transparency International)
CRE-DAF	Centre des Rencontres et d’Etudes des Dirigeants des Administrations Fiscales
CRS	Common Reporting Standard (OECD)
CSE	Child Sexual Exploitation
CSSF	Commission de Surveillance du Secteur Financier
CSPs	Corporate Service Providers
CTC	Certified True Copy
CTF	variant of Countering Terrorist Finances
CTR	Cash Transaction Report
DEA	Drug Enforcement Agency
DFNBP	Designated Non-Financial Businesses and Professions (FATF)
DFS	Department of Financial Services (New York)
DFSA	Dubai Financial Services Authority
DoJ	Department of Justice (US)
DTA	Double Taxation Agreement
DTI	Department of Trade and Industry (UK)
DLR	Dominion Law Reports
DNFBP	Designated Non-Financial Business or Profession
DPP	Director of Public Prosecutions
EoI	Exchange of Information
EBRD	European Bank for Reconstruction and Development (est 1991)
EC	European Commission
ECOFIN	Economic and Finance Ministers (EU Council)
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe, 4 November 1950)
ECJ	European Court of Justice (EU)
ECtHR	European Court of Human Rights
EESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
EFF	European Financial Forum

EIN	Employee Identification Number (US)
EoI	Exchange of Information
EU	European Union
EUROPOL	European Police Office
EUDTOSI	EU Directive on Taxation of Savings Income
F&PP	Fit and Proper Person
FATCA	Foreign Account Tax Compliance Act
FATF	Financial Action Task Force
FBC	'No Longer Business as Usual – Fighting Bribery and Corruption' (The FBC Report), OECD, June 2000
FCA	Financial Conduct Authority (UK)
FCO	Foreign and Commonwealth Office (UK)
FCPA	Foreign Corrupt Practices Act (US)
FDAP	Fixed, Determinable, Annual, Periodical (US)
FFI	Foreign Financial Institution (US)
FIAMLA	Financial Intelligence and Anti Money Laundering Act 2002 (Mauritius)
FIC	Foreign Investment Corporation (US)
FinCEN	Financial Crimes Enforcement Network (US Department of the Treasury)
FINTRAC	Financial Transactions and Reports Analysis Centre (Canada)
FIS	Financial Intelligence Service (Guernsey)
FIU	Financial Intelligence Unit
FOPAC	Bureau des Fonds Provenant d'Activités Criminelles (Interpol)
FPHC	Foreign Personal Holding Corporation (US)
FR	Fully Reportable (UK)
FSA	former Financial Services Authority (UK)
FSAP	Financial Sector Assessment Program (IMF, WB)
FSB	Financial Service Business
FSB	Federal Security Bureau (Russia) (previously the KGB)
FCS	Financial Services Commission
FSE	Foreign Sanctions Evaders (OFAC) (US)
FSMA	Financial Services and Markets Act 2000 (UK)
FSI	Financial Secrecy Index
FT	Financial Times
G7	'Group of Seven' most industrialised nations (Britain, Canada, France, Germany, Italy, Japan and the United States)
G8	'Group of Eight' (the 'G7' countries plus Russia)
G15	'Group of 15 developing countries' (Algeria, Argentina, Brazil, Chile, Egypt, Indonesia, Jamaica, Kenya, Malaysia, Mexico, Nigeria, Peru, Senegal, Venezuela and Zimbabwe)
G20	'Group of Twenty' (Argentina, Australia, Brazil, Britain, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, the United States, the EU)
GAFI	Groupement d'Action Financière (FATF's French initials)
GAFISUD	FATF regional grouping for South America
GAO	General Accounting Office
GATS	General Agreement on Trade in Services (part of GATT)

Abbreviations and References

GATT	General Agreement on Tariffs and Trade (now the WTO)
GCC	Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE)
GFSC	Guernsey Financial Services Commission
GIFSA	Grenada International Financial Services Authority
GIIN	Global Intermediary Identification Number (US)
GPML	Global Program against Money Laundering (UN)
GRID	Global Regulatory Information Database
GRO	General Register Office
HAM	"Hold All Mail"
HKICS	Hong Kong Institute of Chartered Secretaries
HKMA	Hong Kong Monetary Authority
HKTA	Hong Kong Association of Licensed Trustees
HMRC	Her Majesty's Revenue & Customs (UK)
HNWI	High-Net-Worth Individual
HMSO	Her Majesty's Stationery Office (UK) (old term)
HRA	Human Rights Act 1998 (UK)
IACC	International Anti-Corruption Conference (TI)
IAM	Independent Asset Manager
IBA	International Bar Association
IBC	International Business Corporation
ICA	International Compliance Association
ICC	International Chamber of Commerce
ICIJ	International Consortium of Investigative Journalists
IFA	International Fiscal Association
IFC	International Financial Centre
IFLR	International Financial Law Review
IFS	Institute of Fiscal Studies (London)
IGA	Inter-Governmental Agreement
IJGDF	Isle of Man Guernsey Jersey Disclosure Facility (UK)
IMF	International Monetary Fund
IMLPO	Institute of Money Laundering Prevention Officers
IOFC	International Offshore Financial Centre
IOTA	Intra-European Organisation of Tax Administrators
IPB	International Private Banking
IRS	Internal Revenue Service (US)
ISP	Internet Service Provider
ITLR	International Tax Law Reports
ITELR	International Trust & Estate Law Reports
ITCA	International Trust Companies Association
ITIO	International Tax and Investment Organisation
ITO	International Tax Organisation
ITPA	International Tax Planning Association
JCESA	Joint Committee of European Supervisory Authorities (EU)
JCFU	Joint Police and Customs Financial Crime Unit
JFCU	Joint Financial Crime Unit (Jersey)
JFSC	Jersey Financial Services Commission
JFIU	Joint Police and Customs Financial Investigation Unit (Guernsey)
JFIU	Joint Financial Intelligence Unit (Hong Kong)
JIBFL	Journal of International Banking & Finance Law
JITCP	Journal of International Trust and Corporate Planning
JLR	Jersey Law Reports