

Q: When checking bank statements, how many months should we ask for?

Practices should adopt a risk based approach to AML and complete appropriate due diligence as required by the CLC Anti-Money Laundering & Combating Terrorist Financing Code and Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017).

The key points to consider when checking banks statements are:

- Are the funds in the bank account consistent with the lifestyle and economic means of the client?
- Can the client explain, verify and provide evidence for any unusual activity or transactions?
- Do I have enough information to be satisfied that the funds are legitimate?
- Does the name and address contained on the bank statement correspond with the information provided by the client?

Q: We usually ask them to order statements from their bank at the outset or get the bank to print out statements and stamp them with the branch stamp. Is this sufficient. If we then ask of updates do they have to be the original statements?

Obtaining information from other regulated persons is an acceptable method of verifying a client's identity. The documentation should be obtained from a reliable source which is independent of the client. Bank statements which have been stamped by the bank can be used as evidence to confirm a client's address and can also demonstrate earnings, savings and gifted deposits. Money Laundering Regulation 27 requires that CDD is applied when the veracity of documents is in doubt. Viewing original documents is considered best practice when applying AML/CTF procedures.

A CLC practice would remain liable for any non-compliance with CDD requirements when you rely on another person. It is advisable to make enquiries about the CDD checks the other person has undertaken in order to comply with the Money Laundering Regulations and the risk-based approach.

Q: What is your advice on clients that only do online banking.

You should ask the client whether the bank can post original bank statements. If the client is unable to provide statements then you could ask for payslips as confirmation of earnings and evidence of payment to the client's bank account. You should consider alternative methods of due diligence in order to be satisfied that your client is the person they say they are and that the instructions are consistent with the lifestyle and economic means of your client.

Q: How in depth do you do source of wealth checks for gifted deposits/donors?

Source of wealth is the process by which the client came to have the funds in question and practices should take adequate measures to establish the source of wealth. The evidence required to verify the source of wealth should be considered on a case by case basis as what is sufficient in one case may not be sufficient in another. It is important that as much information as necessary is obtained in order to be satisfied that the gifted deposit is from a legitimate source. You will need to decide whether, and to what extent, you need to undertake any CDD measures in relation to the donor.

Q: If we have a client that instructs every few months to buy low value properties – e.g. £100k or less – generally for HMOs, how often do we have to ask for source of funds? He has been with the firm for many years.

Practices should adopt a risk based approach to AML and complete appropriate due diligence as required by the CLC Anti-Money Laundering & Combating Terrorist Financing Code and Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017).

You should be satisfied that the client's source of funds are from a credible source and consistent with the due diligence you have completed prior to instruction. The value of the property should not be considered as an indicator of the potential risk of money laundering. You should consider requesting further evidence if there is any change in the nature of the instructions or any other factors that would cause the practice to be suspicious.

Q: Is it sufficient to obtain a company's bank account statements for a commercial purchase where they are not having a mortgage, where they are based in the UK? Should any further steps be taken?

When acting for a company practices should remain alert to the potential risks of money laundering. You should consider the complexity of the transaction and whether the nature of the instruction is outside the usual remit of the business. Mortgage free transactions are potentially a higher risk of being fraudulent and appropriate due diligence should be completed.

When a client is a company you must identify who owns 25% or more of the structure and who exercises effective management and control. In order to confirm that information provided by a company is correct, a practice should adopt a risk-based approach and could consider using public records or company searches. The following are considered appropriate means of verifying the identity of a beneficial owner:-

- a certificate from your client confirming the identity of the beneficial owner;
- a copy of the trust deed, partnership agreement or other such document;
- shareholder details from an online registry;
- the passport of, or electronic verification on, the individual;
- other reliable, publicly available information.

Q: Hi, we ask for proof of funds at the initial stage. Is it appropriate to ask for further statements when receiving deposit funds?

It is appropriate to ask for further statements when receiving deposit funds if the amount deposited is larger than the expected deposit. If you are satisfied that the initial documentation obtained meets the AML requirements then further evidence may not be necessary.

Q: Can you give some examples of home based PEPs?

A Politically Exposed Person (PEP) is someone who holds a prominent position in public life. The following are a list of PEPs:

- Head of state/government, minister, assistant minister or MP;
- Member of judiciary;
- Member of court or auditors, or boards of banks;
- Ambassador, high ranking officer in the armed forces;
- Member of administrative, management or supervisory bodies of state owned enterprises;
- Governing body of a political party;
- Board of an international organisation.

The definition of a PEP also applies to their immediate family (spouse, civil partner, children, their spouses or partners, and parents) and known close associates (persons with whom joint beneficial ownership of a legal entity or legal arrangement is held, with whom there are close business relationships, or who is a sole beneficial owner of a legal entity or arrangement set up by the primary PEP).

Due to the risks involved in acting for a PEP, Money Laundering Regulations 2017 paragraph 33 requires enhanced due diligence. CLC practices must have the approval of senior management for establishing or continuing the business relationship with a PEP, a family member of a PEP or a known close associate of a PEP.

Q: How would you suggest picking up on family members of PEPs if they don't declare it?

You may wish to consider asking clients whether they meet the definition of a PEP or fall within any of the PEP categories. A record of the clients response retained on the file would demonstrate that this has been considered. In addition, the use of internet based searches would demonstrate that further due diligence has been completed.

Q: I am acting for a buyer of a property but the seller's lawyer is struggling to verify ID of their client, who is a Saudi National. They have not yet met their client or obtained any certified copy from a reputable Saudi law firm.

You should check with the other side that they have completed appropriate AML checks on their client and ask for confirmation that they have complied with AML legislation. Additional information following the Court of Appeal judgement in the P&P and Dreamvar cases is available on the CLC website.

In addition, you should consider whether this is normally the type of work undertaken by the seller's practice.

Q: In view of Dreamvar, how "stern" should I be. I am not acting for the Saudi national but I believe I am justified in ensuring they undertake comprehensive checks.

You should check with the other side that they have completed appropriate AML checks on their client and ask for confirmation that they have complied with AML legislation. Additional information following the Court of Appeal judgement in the P&P and Dreamvar cases is available on the CLC website.

Q: Can we get copies of the presentation slides please for our records?

The slides from the webinar are available on the CLC website or can be accessed using the following link: <https://www.clc-uk.org/wp-content/uploads/2018/09/AML-CLC-webinar-Sept-2018-1.pdf>

We have created an 'AML Toolkit' which contains additional resources and guidance and is available on the CLC website.