

FINANCIAL INTELLIGENCE UNIT (UKFIU) BULLETIN

Compliance and the Consent Regime

This is a United Kingdom Financial Intelligence Unit (UKFIU) communications product, produced in line with the Serious Organised Crime Agency's (SOCA) commitment to sharing perspectives on the Suspicious Activity Reports (SARs) Regime.



SOCA is a Home Office Non-Departmental Governmental Body

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Suspicious Activity Reports (SARs)

Suspicious Activity Reports (SARs) provide information and intelligence to law enforcement agencies (LEAs), which help prevent, detect, investigate and prosecute crimes.

The information is predominantly used in relation to financial crime and money laundering, but can also be helpful in relation to many other types of criminal activity.

What makes a good disclosure?

Presentation

- SAR Online
- Electronic submission
- Typed, as opposed to hand written

Timing

- As soon as is practicable, if you 'know' or 'suspect' a person is engaged in money laundering or dealing in criminal property, you must submit a SAR
- Suspicion has been defined as 'requiring a degree of satisfaction not necessarily amounting to belief, but extending beyond speculation'
- It is important to note that 'suspicion' is a lower test than that of 'belief'

Knowledge

- What appears to be going on?
- What makes this particular activity suspicious and why?
- What does your experience tell you may be going on?

Judgement

Knowledge, experience, patience, determination and a clear focus on the common objective to protect the UK and your business from money launderers.

Content

The content and quality of a SAR can affect the ability of the UKFIU to prioritise and process the report and law enforcement's decision or ability to investigate. Frequently, a seemingly trivial piece of information can become a valuable piece of intelligence.

What information should a SAR contain?

In order to make SAR information as useful as possible to LEAs, reporters should always consider answering the following questions in their SARs when completing the form and keeping the details concise and to the point:

- Who?
- What?
- Where?
- When?
- How?
- Why?

The UKFIU appreciates you may not always have full details concerning the subjects of your reports, especially under circumstances where you may be reporting on subjects which are not your usual clients/customers/suppliers. These are all potential SAR subjects as well as everyday business means. However, the more identifying information and explanation of suspicions provided in a SAR, the greater the likelihood the UKFIU will be able to match the data to other intelligence and put it to active use.

Therefore, if possible, the following should be included:

- Subject's full name, date of birth and addresses (including postcode)
- Subject details (e.g. National Insurance numbers, vehicle registration, driving licence, passport, phone numbers, website addresses etc)
- Details of occupation/employer
- Details of any associates of the subject
- Company details, including full legal name, designation e.g. Limited, SA, GmbH, registration number (tax reference and VAT number if available), country of incorporation, addresses, phone numbers, email addresses, website addresses, etc
- If appropriate to your business, include the subject's account number(s)/policy number(s) and transaction details (including recipient account details)
- Subject type, e.g. subject, victim or unknown.

It is important the relevant information is completed within the appropriate fields, and is not merely placed within the 'Reasons for Suspicion' field. Please include a full reason for your suspicion providing a concise and focused explanation of why the activity is unusual or suspicious, including:

- Date of activity
- Type of product or service
- How activity will take or has taken place
- A reason for suspicion
- If consent is required, why, and any associated deadlines.

There is a glossary of terms available on the SOCA website www.soca.gov.uk. You should not speculate on the predicate offence as this often influences who will investigate the SAR, and can be misleading. It is important that plain English is used and legal, technical or sector specific terms should be avoided.

Submitting your report

Wherever possible, use SAR Online. This system has the advantage of secure transmission. For the UKFIU, it greatly reduces processing time, meaning quicker dissemination to law enforcement and less time tied up in administrative tasks.

Registering means you can use the SAR Online system to complete and submit SARs in electronic format. SAR Online is available through the SOCA website.

If you do not have the facilities to use the electronic system, then please use the SOCA standard forms and type your information. Non-standard formats or handwritten reports take a lot of processing time and provide potential for error in interpretation and input.

There is no need to send supporting documents with your SAR. SOCA will contact you in the event that further details are required.

The SOCA website now includes the legal basis for reporting, how to report, what happens to your reports, confidentiality, UKFIU publications, links to other sites, what makes a good SAR, as well as answers to frequently asked questions (FAQ).

Is the information I submit held securely?

All users of SARs adhere to specific guidelines to protect the confidentiality of SARs. Once a SAR is received by the UKFIU it is held on a secure database with strictly limited access to appropriate law enforcement and government agency staff. The information is always held in the strictest confidence.

SAR confidentiality

All SARs are confidential. The UKFIU adheres to and promotes the provisions of the Home Office circular regarding the confidentiality of SARs - No. 53/2005 (*Money Laundering: The Confidentiality And Sensitivity Of Suspicious Activity Reports [SARs] And The Identity Of Those Who Make Them*).

SOCA applies the same Code of Practice for the recording and disseminating of SARs as it does for all intelligence. In addition, all Financial Investigators are taught how to use SAR information in an anonymous form when referring to it in the course of an investigation. This is to ensure that the source of the information is protected.

There are many reporters that share similar or identical names with others throughout the country. Therefore it is important that source registration forms are completed with as many details as possible and, in the case of hard copy reporting, that they are sent with the first SAR. If any of the details change, a subsequent source registration form should be sent as soon as possible to the UKFIU marked as an update to the original record.

If reporters have concerns about the inappropriate use of SARs by end users, or breaches of SAR confidentiality, they should call the SAR Confidentiality Breach Line on freephone 0800 234 6657 (9am-5pm, UK time, Monday to Friday). This number is for reporting breaches of confidentiality only. All other SAR enquiries or consent issues should be directed to 020 7238 8282.

May I inform a client/customer/supplier I have made a report?

You must not say anything to your client/customer/supplier which leads to an investigation being prejudiced. Actually doing so constitutes a specific offence. If that provides you with particular difficulties you can discuss this with SOCA.

What is consent in relation to SARs?

Persons and businesses generally, and not just those in the regulated sector, may avail themselves of a defence against money laundering charges by seeking, via a SAR, the consent of the UKFIU to conduct a transaction or undertake other activity about which they have concerns. The legislation gives SOCA UKFIU seven working days to respond. Where the UKFIU refuses consent, the transaction or activity must not proceed for up to a further 31 calendar days, or, if earlier, until notified by the UKFIU.

Further information is available at www.soca.gov.uk or the UKFIU Consent Team (telephone 020 7238 8282 and select option '4').

How do I know if I need Consent?

The Proceeds of Crime Act 2002 (POCA) requires the regulated sector to seek consent to carry out a prohibited act if you have a suspicion that you may be dealing with the proceeds of crime (in whole or in part) and the instructions from your client/customer/supplier requires you to commit one of the three principal money laundering offences as defined under sections 327, 328 and 329 of POCA (concealing, disguising, converting, transferring, removing, arranging, facilitating and/or acquiring use or possession of criminal property) by completing the transaction.

Quality issues

These issues are widespread across the reporting sector and affect SOCA's ability to prioritise and process the report promptly and law enforcement's decision or ability to investigate and/or grant consent. Ultimately, this affects the reporting sector, because consent can be delayed causing face-to-face problems with your client/customer/supplier and the possibility of a civil suit.

The SAR Consent Team

The SAR Consent Team manages the receipt, analysis and resolution of SARs seeking consent to perform what may be a 'prohibited act' under POCA.

The decision to refuse or grant consent is made by the Consent Team in consultation with the appropriate LEA.

The Consent Regime

The governance around what happens to your SARs seeking consent is covered by the following public document:

Home Office Circular 029/2008 'Proceeds of Crime Act 2002: Obligations to Report Money Laundering – The Consent Regime'.

The guidance, released on 5 December 2008, is intended to ensure sound decisions in line with the three principles of the government's anti-money laundering strategy, which are:

- Effectiveness – making maximum impact on the criminal threat
- Proportionality – ensuring the approach is balanced as far as possible in respect of the costs and benefits
- Engagement – collaborative working amongst regime participants to ensure success.

The Home Office guidance recommends police and other law enforcement should reflect these principles in their internal guidance or in their consent procedures.

We need your help

UKFIU Bulletins are the way in which SOCA provides information regarding SARs to the regulated sector. In order to assist the UKFIU in improving this service we welcome any comments especially with regard to the following questions:

- Was this document useful to you or not, and why?
- As a result of reading this document are you more likely to submit a SAR in the future?
- If you are not currently registered with SAR Online, are you now likely to register within the next two months?

Please email the UKFIU at ukfiusars@soca.x.gsi.gov.uk quoting the code "FF327FF". This code can also be quoted in any SARs that are subsequently submitted to SOCA as a result of reading this document.

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UKFIU Dialogue and Special Projects Team

The aim of the Dialogue and Special Projects Team is to drive the UK Financial Intelligence Unit (UKFIU) agenda on interfacing with stakeholders on Suspicious Activity Reports (SARs) activity. The team strives to improve communication and understanding between the SARs Regime participants, to increase the value extracted from the SARs Regime, to provide, facilitate and contribute to various forums to share perspectives on the operation of the Regime as a whole. In essence the Dialogue Team seeks to improve the quality of SARs intelligence, and promote the value and greater use of this intelligence in mainstream law enforcement activity.

For further information, please contact SOCA UKFIU Dialogue and Special Projects Team by email at ukfiusars@soca.x.gsi.gov.uk. For more information about the Serious Organised Crime Agency go to www.soca.gov.uk

Reducing harm – Providing information back to SOCA

We would like to remind you of the provisions contained in Section 34 of the Serious Organised Crime and Police Act 2005. These provisions say that any information provided by you to SOCA, in order to assist SOCA to discharge its functions which include the prevention and detection of crime, will not breach any obligation of confidence which you may owe to any third party or any other restriction on the disclosure of information.

S34 requires that disclosures of personal information about living individuals by you to SOCA must still comply with the provisions of the Data Protection Act 1998 (DPA), but you may be satisfied that disclosure by you of such personal information to SOCA in order to assist SOCA to prevent and detect crime is permitted by the DPA. Please, therefore, submit all S34 information to ukfiusars@soca.x.gsi.gov.uk