



ALL TOO FAMILIAR™

A FACILITATOR'S GUIDE
QUESTIONS AND DISCUSSION POINTS



HM Revenue
& Customs

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RUNNING A SESSION WITH *ALL TOO FAMILIAR*

NOTES FOR FACILITATOR

***All Too Familiar*[™] works on a number of levels and can therefore be used with a variety of audiences; from internal compliance teams to specialist or general practitioner client-facing staff.**

It examines the fortunes of an ailing restaurant business that secures investment from a distant family member. Two accountancy firms, one long-standing and one newly appointed, are witness to the changes that take place through the professional services they provide to the business, giving it particular relevance for accountants, auditors, and tax compliance staff. However, it also examines how relationships between client and adviser influence professional judgement, making it equally suitable for more generalist audiences.

The materials in this guide provide a framework that can be used to support an *All Too Familiar* training session. The relevant legislation and guidance listed for each topic provides the opportunity for an audience to delve deeper into a particular question topic if it is of interest to the group. This enables facilitators to pick and choose the questions they feel are most suitable for their audience, thereby tailoring the materials to their own circumstances.

The supporting resources include items that either appear in the film or are relevant to the storyline. Some of these provide a best practice version of the document - such as the customer due diligence checklist and professional clearance letters. This gives the opportunity for facilitators to encourage participants to draft their own version and compare with the best practice version provided.

We suggest facilitators adopt the following approach when using *All Too Familiar* with their group:

- Introduce the film using the short trailer video.
- Ask the audience to watch the film and take in what's happening. The running time for the film is just under 17 minutes.
- Distribute the questions. Either give all the questions to all groups or ask each group to focus on a different topic.
- Once the group/s have discussed the questions, ask them to feedback their thoughts. The guidance notes cover the main issues but you might identify additional points in the film that you wish to highlight.
- Each topic has additional resources, including examples of key documents.
- Each topic also has areas for reflection, which you could use to ask the audience to share what they will do differently in the future, or what their learning points from the film have been.
- Finally use the additional video resource featuring Riley (played by the actress Kasia Pelka) to consider what might have happened next and to close your training session.

ONLINE SCREENINGS

There are two ways to show the film online:

1. Via an online meeting platform which offers video optimisation within its screen sharing settings (eg, Zoom).
2. Share the Vimeo link with participants, ask them to play the film individually and then return to the call (or breakout room if participants will be discussing the film in groups) at a set time. The return time should include the duration of the film or relevant section, plus a few extra minutes. This will ensure everyone has had time to reach the end of the film or the right point before they return to the training session.

Due to the high-quality nature of the film (and the resulting file size), screen sharing *All Too Familiar* without video optimisation may result in a loss of video quality.

CUSTOMER DUE DILIGENCE AND RISK ASSESSMENT

DISCUSSION QUESTIONS

- What customer due diligence (CDD) was done by each of the firms to identify Mika? Was this sufficient to verify his identity?
- How should you determine what checks are necessary?
- Why is a risk assessment important?
- What questions should both firms have asked about the new investor?
- How did the tone-from-the-top impact both firms' completion of the due diligence? The timing of the checks were different for both firms — why does timing matter?
- Riley relies on the checks that Jack's firm 'should' have done - does reliance work in this scenario? What do you need if you want to rely on the CDD of a third party?

Points to consider

- The introduction of a new investor is a significant change in circumstances of the business so should prompt a review and update of the client risk assessment and additional CDD performed.
- A risk assessment is important because it prompts the firm to consider the risks that could be associated with Mika and his investment. It determines both the level of CDD required, and the potential extent of the evidence to be collected.
- Mika's identity needs to be verified – the claim that he is a family member doesn't remove this requirement.
- The evidence needed to verify Mika's identity will depend on the risk the firm assesses but at a minimum should include some form of documentary evidence issued by a reliable source.
- Questions the firms should have asked include:
 - What is the commercial rationale for the investment beyond the family connection?
 - What is Mika's source of wealth? Is this harder to establish given he is an overseas individual?
 - What is Mika's background?
- It isn't sufficient to take the explanation of where the money has come from at face value – the firms need to dig deeper into where the money is coming from.
- Open source research should be conducted on Mika to see what can be found about his general background and connections.
- Tone-from-the-top
 - Jack should have ensured that his team had conducted the full CDD checks before the firm completed any more work on the tax return (we've assumed it's the tax return for the business and not just Alex). His attitude, that there was plenty of time to sort it out, is incorrect – the firm had already completed work for the newly structured company. He didn't project the tone-from-the-top necessary to ensure that the firm was meeting its obligations.
 - Riley should have assisted Nicky in getting the information she needed to complete her checks before they started the payroll work. Instead, she overrides Nicky and says they have enough for now. Would staff override a partner in this scenario? Should the risk of management override be covered in the firm's anti-money laundering (AML) procedures?

- Riley then gets more checks done when her suspicion is raised – this is good practice and the regulations require you to do more work if you submit a suspicious activity report (SAR) – but Riley's firm should have done these at the outset. Riley relies on the work that Jack's firm 'should' have done. Reliance requires you to have a formal reliance agreement and you do still need to have copies of documents to be able to complete your own risk assessment. Reliance didn't work here and King, Hunt and Maxwell should have done its own checks.

Relevant legislation and guidance

- CCAB Anti-Money Laundering Guidance for the Accountancy Sector
 - Chapter 4 Risk based approach
 - Chapter 5 Customer due diligence
(<https://www.ccab.org.uk/wp-content/uploads/2023/08/AMLGAS-update-June-2023-APPROVED.pdf>)
- Money Laundering Regulations
 - Regulations 27 & 28 Customer due diligence
 - Regulation 33 Enhanced due diligence
 - Regulation 30A Reporting discrepancies in the register
(<https://www.legislation.gov.uk/uksi/2017/692>)

More guidance

- [Open source research skills video and helpsheet](#)
- [Anti-money laundering client due diligence helpsheet](#)

Resources

- Resource A: CDD checklist completed by Nickel Turner — if the risks had been properly considered.
- Resource B: Open source search results on Mika.

REFLECTIONS FOR PARTICIPANTS

To reflect on whether there is anything participants will do differently in their work with clients in relation to CDD and the risk-based approach to AML. In particular, the use of open source research to look into a client's background, and understanding the source of wealth.

FAMILIARITY AND LACK OF PROFESSIONAL SCEPTICISM

DISCUSSION QUESTIONS

- When has Jack allowed his familiarity with Alex and Trivena to cloud his judgement?
- What should have been noted as unusual facts and circumstances/red flags?
- Why did one firm reach the point of suspicion but the other didn't?
- Should either firm have been concerned about the reason Trivena wanted two firms acting for them? What impact does this have in terms of each firm's understanding and knowledge of the client activity?
- Given both firms were acting for Trivena should they have shared more information between them? What could the barriers to this have been?

Points to consider

- Although Jack hasn't intentionally turned a blind eye to the situation, he should have applied greater professional scepticism to:
 - a new investor wanting to put money into a business experiencing financial difficulties – family member or not;
 - the proposed investment coming from overseas and the complexity that brings;
 - the dramatic upturn in fortunes of the business; and
 - the inconsistencies between what he saw when at Trivena and what he should have been aware of in the financial statements.
- It is clear that Jack cares about Alex and wants the best for Trivena – however these good intentions have proven to be a weakness for him professionally.
- Jack's laissez-faire attitude to performing CDD on Mika appears to be due to his familiarity with Alex and the belief that Alex is honest with him, and he can trust a member of Alex's family.
- Unusual facts and circumstances that should have been red flags include:
 - significant improvement in trading results without a clear explanation of how this has been achieved;
 - no capital expenditure in the accounts to suggest a refurbishment of the restaurant to attract new customers;
 - reticence from Alex for Jack to meet Mika; and
 - the deserted restaurant when the figures tell a different story.
- Riley's observations and judgement weren't clouded by familiarity to Alex and Trivena. Her suspicions were aroused by what she saw at the restaurant – empty tables, apparent mistreatment of staff, an odd conversation with clientele of the private room.
- As with all aspects of a client relationship, you should always be asking yourself whether an arrangement makes sense, or what the reason for it could be. What reason could there be that a client wants more than one professional service firm involved in their affairs? While this could be for a genuine reason such as cost, relative specialisms of firms etc, it could also be a tactic to only give part of the picture to each firm, or even tell each firm contradictory information.
- Client confidentiality can make firms nervous about discussing details of client affairs between them, even when both are acting for the same client. To mitigate this issue, it should be possible to obtain client consent for mutual advisers to communicate openly on the details of their respective work for the client.
- If a client has more than one adviser and is resistant to the advisers communicating with each other, that should be a red flag to investigate further.

Relevant legislation and guidance

- International Code of Ethics for Professional Accountants:
 - Section 112 Objectivity
 - Section 114 Confidentiality
 - Sections R120.6 onwards on threats to compliance with the fundamental principles
 - Section 300 on identifying, evaluating and addressing threats to compliance with the fundamental principles (for accountants in practice)
 - Sections 320 onwards on changes to professional appointment including section R320.9 client and engagement continuance
 - Section 360 Responding to non-compliance with laws and regulations
(<https://www.ethicsboard.org/international-code-ethics-professional-accountants>)
- CCAB Anti-Money Laundering Guidance for the Accountancy Sector
 - Chapter 4 Risk based approach
 - Chapter 6 Suspicious activity reporting
(<https://www.ccab.org.uk/wp-content/uploads/2023/08/AMLGAS-update-June-2023-APPROVED.pdf>)
- Proceeds of Crime Act 2002
 - Suspicious activity reporting s330 (Failure to disclose)
 - Tipping off Part 7, 333 and 333A.
(<https://www.legislation.gov.uk/ukpga/2002/29/contents>)

Resources

- Resource A: CDD checklist completed by Nickel Turner LLP - if the risks had been properly considered.

REFLECTIONS FOR PARTICIPANTS

To think about how participants might safeguard against becoming too familiar with long-standing clients, for example, discussing issues with a colleague/getting a second partner review of an engagement.

TIPPING OFF

DISCUSSION QUESTIONS

- What is tipping off?
- What is the relevant legislation that covers tipping off?
- What is the possible penalty for tipping off?
- When Riley informs Jack that she has made a SAR, does she commit an offence?
- When should you consider making a SAR?
- Did Jack commit an offence of failure to disclose?
- Did Nicky fail to bring this to the attention of the nominated officer?
- What about Remi? Is he also potentially guilty of failing to report suspicions to the nominated officer, even though he reports to his manager Nicky?
- Does Riley pass condition four by submitting a SAR as soon as is practicable after the information comes to her?
- What should be included in the SAR sent by Riley?
- How does making a SAR alter your professional responsibility? Can you continue to represent the client?
- What are the possible repercussions of continuing to act?
- What happens after the film finishes?

Points to consider

- It is an offence for a person who receives information in the course of business within the regulated sectors, to make a disclosure to a third party, informing them that:
 - a suspicious activity report has been submitted;
 - an investigation is being/may be carried out; and
 - such disclosure would prejudice that investigation.
- Anyone found to have committed the offence of tipping off can face a penalty of up to two years imprisonment, a fine or both
- The discussion between Riley and Jack needs to be considered closely. Some may say she knows that Jack has a long standing relationship with Alex so is it possible Jack may inform Alex to better prepare him for his defence of certain elements of the investigation? Riley is also hesitant about revealing the SAR submission to Jack, so this may infer suspicion on her part that Jack may advise Alex. Alternatively there is a defence against tipping off under S333D POCA 2002 where the person does not know or suspect that making the disclosure may prejudice an investigation. NOTE – There are other defences listed in S333D but none are likely to be relevant to this discussion.

- CCAB anti-money laundering guidance indicates what is not considered as tipping off.
 - When the relevant person did not know or suspect that their disclosure was likely to prejudice any subsequent investigation.
 - When the relevant professional adviser makes a disclosure to another within the same profession (eg, accountancy) but from a different business, who is of the same professional standing (including with respect to their duties of professional confidentiality and protection of personal data) when that disclosure:
 - relates to a single client or former client of both advisers; and
 - involves client activity or the provision of a service that involves both of them; and
 - is made only for the purpose of preventing a money laundering offence; and
 - is made to a person in an EU member state or a state imposing equivalent Money Laundering and Terrorist Financing requirements.

Despite these exceptions, the existence of a SAR or defence against money laundering should not be disclosed without good reason.

 - When the relevant employee attempts to dissuade their client from conduct amounting to an offence.
 - When enquiries are made of a client regarding something that properly falls within the normal scope of the engagement or business relationship.
- The POCA legislation on failure to disclose sets four conditions, which if met, result in an offence having been committed. These conditions are:
 1. A person knows or suspects or has reasonable grounds for knowing or suspecting, that another person is engaged in money laundering.
 2. The information or other matter must have come to the person in the course of business in the regulated sector.
 3. That he/she must be able to identify the other person or the laundered property, or he believes, or it is reasonable to expect him to believe, that the information provided will/may assist in identifying the other person or laundered property.
 4. He does not make the required disclosure to the nominated officer or the National Crime Agency (NCA), as soon as is practicable after the information comes to him.
- Jacks needs to consider the requirements placed upon him by the legislation relating to reporting suspicious activity. Some may say he didn't know money laundering was occurring but did he suspect it? If he never actually suspected it because he accepted everything from Alex at face value (based of their long standing relationship) and therefore had no suspicions of money laundering, or indeed just blatantly denied the possibility, he may be guilty of failing in other areas but not necessarily failing to disclose. Alternatively, some may argue his behaviour meets all four conditions and therefore he did breach legislation by not reporting his suspicions.
- The behaviour of Nicky can be debated. Did she fail to report suspicious activity to her nominated officer? She may have satisfied herself that there were no suspicious activities to warrant a report to the nominated officer, when she says, 'new management, new ideas'. Alternatively this could be viewed as the easy option.
- A SAR must be made 'as soon as is practicable' after the information comes to you. Riley would appear to have met this requirement when she made the SAR shortly after eating at the restaurant. It was that experience that convinced her something was wrong. The day after having the meal, Riley investigates details of Trivena's payroll with her team, discovers the upstairs room is not available for private dining etc and acts on her suspicions by submitting a SAR.

- A SAR should contain the following essential information (taken from CCAB AML Guidance 6.5.15):
 - Name of reporter.
 - Date of report.
 - The name of the suspect or information that may help identify them. This may simply be details of the victim if their identity is known. As many details as possible should be provided to the NCA to assist with the identification of the suspect.
 - Details of who else is involved, associated, and how.
 - The facts regarding what is suspected and why. The 'why' should be explained clearly so that it can be understood without professional or specialist knowledge.
 - The relevant NCA glossary code (if applicable). This helps the NCA to identify high risk priority cases, and to analyse emerging trends.
 - The whereabouts of any criminal property, or information that may help locate it, such as details of the victim.
 - The actions that the business is taking which require a defence against money laundering (DAML) (see 6.3 of this guidance).
- The SAR that Riley sends needs to report her suspicions. It is likely to contain information such as:
 - Mika's deliberate avoidance of providing identity documentation.
 - Mika's behaviour witnessed at the restaurant, shouting at the employee.
 - The use of the private dining room to explain the increase in takings and the discovery that the room is not available or used for private dining.
 - The restaurant was supposed to have been refurbished but this did not happen. Despite this, there was still an increase in takings.
 - Payroll irregularities — the same wages being paid to all staff regardless of role or length of shift and some salaries being paid into a shared bank account.
 - Suspicion of forced labour.
 - Details found about Mika ie, human trafficking allegations etc, identified in open source material.
- The Money Laundering Regulations only specify that you must stop work if a DAML request is made, rather than a normal SAR. However, if the SAR involves a client or their close associate, you may wish to consider whether the suspicion is such that for professional or commercial reasons you no longer wish to act for them.
- If a SAR is made and you continue to act, you must at the very minimum update your risk assessment and perform CDD as you have had knowledge or suspicion of money laundering/terrorist financing.
- Both firms will need to consider their legal and professional obligations in relation to their engagements with Trivena.
- It is highly likely that both firms would need to disengage. It is possible they could commit money laundering offences if they continued to act with the knowledge/suspicion that Trivena has been involved in criminal activity.
- As a minimum the AML risk assessment related to Trivena (see Resource A: CDD checklist) would need to be updated to assess whether there are sufficient steps the firm could take to mitigate the risk of remaining engaged with Trivena. This might be possible if, for example, someone unconnected with the criminal wrongdoing stepped in to run the business.
- If the firm continued to act, then the submission of a DAML report to the NCA may be needed to protect the firm from committing a money laundering offence by continuing to provide services.
- The firms should consider the reputational risk of remaining associated with Trivena, even if Alex/Mika were found not guilty of criminal conduct.
- It is plausible that there could be more than one investigation carried out – the first into Trivena, the second into the actions of Jack and whether he may have been complicit in any wrongdoing.

Relevant legislation and guidance

- CCAB Anti-Money Laundering Guidance for the Accountancy Sector
 - Chapter 4 Risk based approach
 - Chapter 6 Suspicious activity reporting
 - 9.4 When to submit an internal or external SAR.
 - 6.3.3 to 6.3.6 When no offence of tipping off occurs
(<https://www.ccab.org.uk/wp-content/uploads/2023/08/AMLGAS-update-June-2023-APPROVED.pdf>)
- S333A Proceeds of Crime Act (POCA) 2002
(<https://www.legislation.gov.uk/ukpga/2002/29/contents>)
- Open source research skills video and helpsheet ([icaew.com/knowyourclient](https://www.icaew.com/knowyourclient))
- Money Laundering Regulations
 - Regulations 27 & 28 Customer due diligence
 - Regulation 33 Enhanced due diligence
 - Regulation 30A Reporting discrepancies in the register
(<https://www.legislation.gov.uk/uksi/2017/692>)

More guidance

- [Suspicious Activity Reporting Helpsheet](#)
- [Tipping off helpsheet](#)

Resources

- Resource A: CDD checklist completed by Nickel Turner LLP - if the risks had been properly considered.
- Resource B: Open source search results on Mika.

REFLECTIONS FOR PARTICIPANTS

To reflect on whether there is anything participants will do differently in their work with clients in relation to customer due diligence and the risk-based approach to AML. In particular, how would you act if you had suspicions and would you report them to your manager or nominated officer?

INTERACTION WITH LAW ENFORCEMENT

DISCUSSION QUESTIONS

- What are your professional responsibilities when it comes to co-operating with law enforcement?
- What about confidentiality?
- Do you need client permission to share copies of client files with law enforcement?
- Do law enforcement have the right to enter accountancy firm offices and seize files?

Points to consider

- Requests for information from law enforcement agencies can be difficult to handle.
- The principles that apply to interaction with the police would also apply to other enforcement agencies such as HM Revenue & Customs and the NCA.
- Under the International Code of Ethics for Professional Accountants there is a duty of confidentiality not to disclose confidential information without proper and specific authority unless there is a legal or professional duty or right to disclose. Such circumstances would normally include:
 - where disclosure is required by law;
 - where disclosure is permitted by law and authorised by the client or employing organisation; and
 - where there is a professional duty or right to disclose and it is not prohibited by law.
- The police have no automatic rights to confidential information. It is therefore inappropriate to disclose information in response to such a request without first considering the implications.
- Care must be taken not to tell the client about the police request unless the police confirm this is appropriate.
- Information may be disclosed to the police with the consent of a client/employer. On receipt of a request for information from the police, a firm should first explain that they have a duty of confidentiality (referring to the Code of Ethics as appropriate) and should be prepared to take a firm stance if necessary.
- Under the Proceeds of Crime Act, accountants in practice have a legal obligation to report knowledge or suspicion of money laundering to the NCA.
- If a SAR has been made, the firm must take care not to tip off the subject of the report.
- Where there is a legal requirement to disclose confidential information, that overrides the duty of confidentiality. In some circumstances, a requirement to disclose confidential information is set out in the legislation itself. In other circumstances, a legal requirement to disclose information may arise from a court order.
- It is possible that the police may obtain a Production Order (UK wide) or a Disclosure Order (England, Wales and Northern Ireland only) to access confidential information that a firm holds.
 - Production Orders (and Disclosure Orders) are a legal order signed by a Sheriff (in Scotland) or a Crown Court Judge (in England, Wales, or Northern Ireland) and are a lawful means for law enforcement to obtain information you hold which is needed for a criminal investigation into money laundering offences.
 - If an order is served on you or your firm, it does not necessarily follow that you are a suspect in the investigation but that there are concerns about one of your clients. Law enforcement believe that you hold information that will help them understand what has happened. For example, your firm may receive an order for information you hold about a client for who you prepare annual accounts. They may wish to view your working papers to identify how particular transactions were reported. If the police do not have a court order you can decline to provide material and ask them to obtain one.

- Once you have been made aware of an investigation, you may commit a criminal offence if you disclose to someone that they are under investigation. Therefore, once you receive a 'pre-order enquiry' or a court order you must not make any reference of this to your client. You should also re-consider the risk score for the client, in light of the obvious connection to an ongoing criminal investigation.
- You are compelled to provide the material within the time frame specified. If you don't comply with the order, you may be in contempt of court. This would be punishable with a fine or two years' imprisonment or both.
- Firms may disclose confidential information to the proper authorities to defend themselves against a criminal charge or clear themselves of suspicion.
- The Code of Ethics has an override to confidentiality in relation to non-compliance or suspected non-compliance with laws and regulations if that disclosure can be justified.
- With any request for information from law enforcement it is advisable to seek legal advice.

Relevant legislation and guidance

- International Code of Ethics for Professional Accountants:
 - Section 114 Confidentiality
 - Section 360 Responding to non-compliance with laws and regulations (NOCLAR) (<https://www.ethicsboard.org/international-code-ethics-professional-accountants>)
- CCAB Anti-Money Laundering Guidance for the Accountancy Sector
 - Chapter 6 Suspicious activity reporting. (<https://www.ccab.org.uk/wp-content/uploads/2023/08/AMLGAS-update-June-2023-APPROVED.pdf>)
- Proceeds of Crime Act 2002
 - Section 337 Protected disclosure
 - Section 333A Tipping off (<https://www.legislation.gov.uk/ukpga/2002/29/contents>)

More guidance

- [Documents and file access rights](#) (includes requests by law enforcement agencies)
- [Helpsheet on Production and Disclosure Orders](#) (England, Wales, and Northern Ireland only)

Resources

- Resource C: Court production order (England, Wales, and Northern Ireland only)
- Resource D: Police search warrant (England, Wales, and Northern Ireland only)

REFLECTIONS FOR PARTICIPANTS

To reflect on whether participants would know how to respond to an approach from law enforcement seeking information in relation to a client or former client, and where to seek help.

DISENGAGING AND PROFESSIONAL HANDOVER

DISCUSSION QUESTIONS

- At the end of the story should either firm have disengaged from acting for Trivena?
- Would you have disengaged?
- What if the ending had been different and there were no police raids?
- What would you say in response to a professional enquiry letter from a new adviser to Trivena?

Points to consider

- Both firms will need to consider their legal and professional obligations in relation to their engagements with Trivena.
- It is highly likely that both firms would need to disengage, as with the knowledge/suspicion that Trivena has been involved in criminal activity, it is possible that the firms could commit money laundering offences if they continued to act.
- As a minimum the AML risk assessment related to Trivena (see Resource A: CDD checklist) would need to be updated to assess whether there are sufficient steps the firm could take to mitigate the risk of remaining engaged with Trivena. This might be possible if, for example, someone unconnected with the criminal wrongdoing stepped in to run the business.
- If the firm continued to act, then a DAML report may be needed to the NCA to protect the firm from committing a money laundering offence by continuing to provide services.
- The firms should consider the reputational risk of remaining associated with Trivena, even if Alex/Mika were found not guilty of criminal conduct.
- If no police raids had taken place, Riley likely had sufficient cause for concern that she should have considered disengaging from Trivena.
- Riley could then consider whether there is a way she could explain her concerns to Alex without breaching the law on tipping off. There are specific provisions for AML regulated professionals to communicate facts relating to a mutual client, but extreme care would be needed nonetheless.
- Client consent is usually needed to allow a firm to respond to a professional enquiry letter from a prospective accountant.
- If you have made a SAR about a former client, you must not disclose that fact to the prospective accountant. You should therefore avoid answering queries that relate specifically to suspicions of money laundering.
- In responding to the professional enquiry, you should nevertheless include relevant statements of fact (not opinions) that allow the incoming practitioner to form their own conclusion, or that may prompt them to make their own enquiries. Examples include:
 - we disagreed over the tax liability or VAT position;
 - the relationship of trust and confidence has broken down; or
 - we were unhappy submitting the accounts as instructed.
- In the case illustrated in *All Too Familiar* it is likely that Riley would have had to discuss with Alex why the salaries were round sums. This could be done very simply by asking 'Could you explain your wage structure as staff are paid similar amounts regardless of the hours they have worked?'. In a professional clearance letter, Riley could make a statement of fact that 'We had concerns over the explanations given in respect of the amounts paid to staff'.

Relevant legislation and guidance

- International Code of Ethics for Professional Accountants:
 - Section 112 Objectivity
 - Section 114 Confidentiality
 - Sections R120.6 onwards on threats to compliance with the fundamental principles
 - Section 300 on identifying, evaluating and addressing threats to compliance with the fundamental principles (for accountants in practice)
 - Sections 320 onwards on changes to professional appointment including section R320.9 client and engagement continuance
(<https://www.ethicsboard.org/international-code-ethics-professional-accountants>)
- CCAB Anti-Money Laundering Guidance for the Accountancy Sector
 - Chapter 6 Suspicious activity reporting (including tipping off)
(<https://www.ccab.org.uk/wp-content/uploads/2023/08/AMLGAS-update-June-2023-APPROVED.pdf>)
- Money Laundering Regulations
 - Regulation 30A on Reporting discrepancies in the register
(<https://www.legislation.gov.uk/uksi/2017/692>)

More guidance

- [Helpsheet on tipping off](#)
- [Helpsheet on ethical matters in relation to engagement and disengagement procedures](#)

Resources

- Resource E: Professional clearance letter from incoming adviser to outgoing adviser (ie new adviser to Trivena).
- Resource F: Professional clearance letter from outgoing adviser to incoming adviser.

REFLECTIONS FOR PARTICIPANTS

To reflect on the triggers that would cause you to consider disengaging from a client. What would cross the line for you? To consider what could be said to the client by way of an explanation, or to a new adviser as explanation for disengaging (without tipping off where relevant).

MODERN SLAVERY

DISCUSSION QUESTIONS

- What are the signs in the film that Trivena's staff are victims of modern slavery?
- Did you realise that these were indicators of modern slavery, or did you think something else was going on?
- What legislation sets out the offences, penalties and sentencing relating to modern slavery?
- What are your professional obligations if you suspect modern slavery?
- Do you know what a 'first responder' is? Are you considered as a first responder in your professional capacity? What is the situation for Scotland & Northern Ireland?
- Who is obliged to report modern slavery under the Modern Slavery Act?

Points to consider

- Huge staff turnover – almost all staff have started in the last couple of months so whole payroll has changed.
- All employees are being paid the same no matter what shifts are being worked or their role in the business – again a big change from before.
- Why are some salaries being paid into the shared bank account?
- Riley witnesses what appears to be unacceptable behaviour from Mika towards an employee?
- Suspicion that the 'private room' is being used for illicit activities. This may suggest people trafficking and modern slavery.
- Modern slavery can be a predicate offence for money laundering. If there are proceeds of the slavery, which could include higher profits due to reduced staff costs, then the test may be met for making a SAR to the NCA or the firm's money laundering reporting officer. There is a glossary code to include in the SAR which highlights suspicions of modern slavery.
- It is possible to make a vulnerable persons SAR in which the concerns about modern slavery can be flagged to the NCA and allow them to escalate the report for urgent intervention.
- If there is a client relationship with the entity or individual that you suspect of being complicit in the modern slavery it is highly likely that you should disengage from the client. It is possible that you could commit a money laundering offence if you continued to act for the client.
- The reputational risk of remaining associated with the client should also be considered.
- From an ethical perspective, professionals who are subject to the International Code of Ethics for Professional Accountants would need to consider whether they had obligations under the provisions on Non-Compliance with Laws and Regulations under section 360. These provisions require disclosure to be made in the public interest in certain circumstances and override the fundamental principle of confidentiality.
- First responder organisations are police, Border Force, NCA, local authorities etc.
- Only staff designated as first responder organisations can make a referral via the National Referral Mechanism.
- Individuals can report suspicions of modern slavery on the Modern Slavery Helpline 0800 0121 700 or report it online modernslaveryhelpline.org/report

- Indicators of modern slavery can be found in these areas within the accountancy sector:
 - Business profile indicators
 - Workforce profile
 - The jurisdictions of risk for victims
 - Victim profiles
 - The jurisdictions of risk for offenders
 - The difference between modern slavery/human trafficking (MSHT) and smuggling

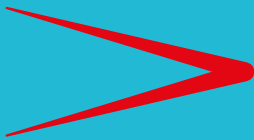
Relevant legislation and guidance

- Modern Slavery Act 2015 (<https://www.legislation.gov.uk/ukpga/2015/30/contents>)
- National Referral Mechanism (England & Wales) (<https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales>)
- National Referral Mechanism (Scotland & Northern Ireland) (<https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/national-referral-mechanism-guidance-adult-northern-ireland-and-scotland>)
- NCA: Indicators of Modern Slavery and Human Trafficking in the Accountancy Sector (<https://nationalcrimeagency.gov.uk/who-we-are/publications/434-indicators-of-msht-in-the-accountancy-sector/file>)

REFLECTIONS FOR PARTICIPANTS

Whether there is anything participants will do differently in their work with clients in relation to identifying potential modern slavery. In particular, watching for the signs evident in this film and having the confidence to act on any suspicions.

RESOURCES



RESOURCE A: CDD CHECKLIST



KYC FORM AND AML RISK ASSESSMENT

| | | |
|---|---|-------------------------|
| Client Trivena Limited | File No. NTL 2516359 | Ref. |
| | Prepared by Ash Cooper | Date 10/07/21 |
| | Client relationship partner Jack Andrews (JA) | |
| Name of beneficial owners Mika Murati (MM) – 30% Alex Murati (AM) – 70% | | |
| Directors Alex Murati (AM) and Mika Murati (MM). See separate CDD on directors for addresses/DOB etc. | | |
| Does the PSC information we hold agree with Companies House? Yes | | |
| Main sources of finance / capital Turnover/cashflows - revenues from restaurant business. Capital – cash injection from MM. Funds generated from restaurant business in Fermanio | | |
| Geographical connections (including likely other countries to which or from which money is transferred) Fermanio – normal risk | | |
| Reason for carrying out CDD Ongoing client but new beneficial owner introduced to business to provide cash injection. Restaurant businesses experienced overall drop in revenue in past year, two restaurants in group are operating at a loss. High finance costs and fixed costs (100 staff). Potential planned refurbishment, and new dining area, to boost sales. | | |

RISK ASSESSMENT

| | | |
|--|---------------------|--|
| Matters arising from the firm level risk assessment | Yes / No | Geog – normal Services – mgmt. a/c and financial statements. Payroll transferred to another firm so no risk. No clients money expected. Have met AM. Plan to meet MM. |
| Connections with individuals / businesses in high risk third countries or those with weak AML regimes? | Yes / No | |
| Cash business? | Yes / No | Although trend is towards card payments, still significant cash receipts |
| Adverse media / open source checks? | Yes / No | Simple google checks identified articles referencing trafficking cases in Fermanio re MM. |

CONCLUSION

| | |
|---|--|
| Overall risk? (circle as appropriate) | Normal / High |
| Standard procedures acceptable? | Yes / No |
| Where enhanced due diligence is required (high risk third country, involvement of a PEP or other higher risk flags) specify the additional procedures | Comments |
| 1. Examination of the background and purpose of any transactions the client is involved with | Trivena and AM ongoing client of firm. New BO injected new cash – to check source of funds and perform more detailed review for adverse media. |
| 2. Increase in the degree and nature of monitoring of the business relationship | Heightened review of financial statements to understand significant changes in business that do not fit with our knowledge of trade and profitability. |
| 3. Seeking additional independent, reliable evidence for CDD | No suggestion that identity, or evidence, is unreliable. However, seek additional information re source of funds from MM. |
| 4. Taking additional measures to understand better the background and financial situation of the client | Heightened review of financial statements to understand significant changes in business that do not fit with our knowledge of trade and profitability. |
| 5. Obtaining further information on the source of wealth and source of funds of the customer and the customer's beneficial owner | Seek additional confirmation re source of funds from MM. |
| 6. Other (Specify) | Perform additional checks to confirm veracity of google articles. |

ANNUAL REVIEW OF RISK ASSESSMENT AND ADEQUACY OF CDD

| | | |
|--|---|---|
| Any change in the purpose or intended nature of the business relationship with the client? | Y | New BO. Reduction in services – payroll moved to KHM. Be aware of spreading services between different professional advisers. |
| Any involvement in any transactions not consistent with our understanding of the client? | N | |
| Any concerns about the client's identity? | N | |
| Any other matters that may affect the risk assessment? | Y | Significant adverse media. |

| Completed by: | Date | Risk / CDD / KYC all up to date / appropriate? ⁶ | Comments |
|---------------|----------|---|----------|
| Ash Cooper | 10/07/21 | Additional work to perform. Raise issues with JA. | |



DISCUSSION POINTS

- This CDD presents an example of what Ash/Nickel Turner should have performed at the beginning of the film, when Nickel Turner first became aware of Mika's involvement.
- The firm should have considered:
 - What is the commercial rationale for the investment beyond the family connection?
 - What is Mika's source of wealth?
 - What is Mika's background?
- It isn't sufficient to take the explanation of where the money has come from at face value – the firms need to dig deeper into where the money is coming from.
- Open-source research should be conducted on Mika to see what can be found about his general background and connections.
- Client due diligence checks can be free form if they address all of the key risk areas and are appropriately concluded with a risk rating. Many firms choose a checklist style to prompt staff completing the forms to consider the risks identified by the firm. Firms may wish to extend the section on 'risk assessment' to include a fuller list of risk factors but they should ensure that a checklist style doesn't promote a 'tick-box' attitude.
- The EDD actions in this example are designed to address the risks involved. The firm isn't seeking more client ID because there isn't any concern that Mika is not who he says he is. The risk arises from the source of funds and the google searches. The firm has designed additional procedures to deal with that risk.

RESOURCE B: OPEN SOURCE SEARCH RESULTS

FERMANIO POST
SUBSCRIBE | EN IN


HOME WORLD BUSINESS OPINION AUTO LIFE LEARNING VIDEO MORE
SEARCH

Charges dropped in Fermanio trafficking case

Police appear powerless to act

Published: 2 JULY 2019 07:00
By S. Dinesh

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The trafficking ring allegedly operated out of closed bars and restaurants across the city

Maria was only 16 years old. She was promised a wonderful new life, so different from her boring existence in her village in the North West region of Fermanio. "They told me that a well-paid job was already lined up for me and that I would be earning good money and be able to afford to rent my own flat and that the standard of living was so much better than in Fermanio" Maria recalls.


Unfortunately for Maria, 'they' were not representatives of a reputable employment agency but instead sophisticated, charming operatives in a human trafficking gang. While it was true that she would earn good money, Maria had no idea that she would be earning good money for 'them' by being forced to work as a prostitute. She would live in a flat but one shared with a lot of other girls deceived into leaving Fermanio and other countries with false promises of better lives.

"Criminal gangs are moving out of drugs and into trafficking"

The money which can be made now from human trafficking is better than the money which criminal gangs have traditionally made out of the peddling of drugs and the police are noticing a distinct change in the nature of their activity. One of the most prominent criminal gangs, the Velutis, are now believed to be heading the largest trafficking operation.



Murati released without charge



They are responsible for a steady flow of young girls out of Fermanio, all believing that their lives would be improved beyond all measure. The Velutis are believed now to be led by two 'ring-masters' including Mika Murati, a 48 year old, former Fermanio army veteran. Murati is believed to run an operation consisting of over 100 operatives, many former army veterans like him with a particular focus on identifying and grooming young girls in the North of the country.

One of the most concerning aspects of this new 'trade' in vulnerable young girls is that the activity of the criminal gangs appears to be well known to the local police but yet no charges have been brought against anyone and very few arrests.

MOST RECENT

Major trade passage blocked by foreign sanctions

Government have advised that consumer goods may take up to 10 days to arrive in some areas, and businesses should expect further disruption.

Average life expectancy up 5 years, say doctors

Health officials have observed a steady increase in the life expectancy of citizens. Positive lifestyle trends have also contributed to a 12% drop in hospital admissions over the last 3 months, shows one study.

Fintech alliance spells good news for financial quarter

A new international alliance have changed forecasts for the end of the financial quarter. Experts predict that the markets will rise to unprecedented highs when trading begins next week.

RESOURCE C: COURT PRODUCTION ORDER

IN THE SHERIFF COURT OF «sherrifdom»

THE PETITION OF THE PROCURATOR FISCAL

Date: «date»

From information received by the Petitioner, there are reasonable grounds for suspecting that Alex MURATI, [date of birth], last known address at [insert address] has committed a money laundering offence under the Proceeds of Crime Act 2002. That the said Alex MURATI is subject to a money laundering investigation and this warrant is sought for the purposes of said investigation. That **Trivena Restaurants** is directed by the said Alex MURATI. There is reasonable ground for suspecting **Nikel Turner LLP**, [ADDRESS] appears to be in possession of material relevant to said investigation, namely copies of statements, ledgers, vouchers, copy cheques, credit slips, mandates, notes, internal memoranda, correspondence and information relating to the above and their business.

The Petitioner therefore craves the Court to take the oath or solemn affirmation of **Danny Hill, Detective Sergeant of Police Service of Scotland** to the effect aforesaid and to grant warrant, in terms of Section 387 of the said Act, authorising any Constable of the Police Service of Scotland with such assistance as they deem necessary from any officer of Law, any officer of the National Crime Agency and / or any civilian employees of the Scottish Police Authority at any time within one month from the date of said warrant, to enter, if need be by force, and search said premises and any persons found therein and if there is reasonable ground for suspecting that an offence under said Act has been committed in relation to any said money laundering offence and that any document so found is such a document as is mentioned in Section 387(4) of said Act, to seize and detain those documents, as the case may be.

ACCORDING TO JUSTICE

Procurator Fiscal Depute

At _____ on _____

in the presence of _____

Sheriff of _____ COMPEARED the said , who being examined on oath or solemn affirmation depones that what is contained in the foregoing Petition is true.

_____ Deponent

_____ Sheriff

At _____ on _____ the Sheriff having considered the foregoing Petition and relative oath or solemn affirmation grants Warrant as craved.

_____ Sheriff

RESOURCE D: POLICE SEARCH WARRANT

IN THE SHERIFF COURT OF «sherrifdom»

THE PETITION OF THE PROCURATOR FISCAL

Date: «date»

From information received by the Petitioner, there are reasonable grounds for suspecting that Alex MURATI, [date of birth], last known address at [insert address] has committed a money laundering offence under the Proceeds of Crime Act 2002. That the said Alex MURATI is subject to a money laundering investigation and this warrant is sought for the purposes of said investigation. That Trivena Restaurants is directed by the said Alex MURATI. There is reasonable ground for suspecting Nikel Turner LLP, [ADDRESS] appears to be in possession of material relevant to said investigation, namely copies of statements, ledgers, vouchers, copy cheques, credit slips, mandates, notes, internal memoranda, correspondence and information relating to the above and their business.

The Petitioner therefore craves the Court to take the oath or solemn affirmation of **Danny Hill, Detective Sergeant of Police Service of Scotland** to the effect aforesaid and to grant warrant, in terms of Section 387 of the said Act, authorising any Constable of the Police Service of Scotland with such assistance as they deem necessary from any officer of Law, any officer of the National Crime Agency and / or any civilian employees of the Scottish Police Authority at any time within one month from the date of said warrant, to enter, if need be by force, and search said premises and any persons found therein and if there is reasonable ground for suspecting that an offence under said Act has been committed in relation to any said money laundering offence and that any document so found is such a document as is mentioned in Section 387(4) of said Act, to seize and detain those documents, as the case may be.

ACCORDING TO JUSTICE

Procurator Fiscal Depute

At _____ on _____

in the presence of _____

Sheriff of _____ COMPEARED the said , who being examined on oath or solemn affirmation depones that what is contained in the foregoing Petition is true.

_____ Deponent

_____ Sheriff

At _____ on _____ the Sheriff having considered the foregoing Petition and relative oath or solemn affirmation grants Warrant as craved.

_____ Sheriff

RESOURCE E: PROFESSIONAL CLEARANCE LETTER FROM INCOMING ADVISER TO OUTGOING ADVISER



Dear Ms King

I have been approached by Trivena Limited to provide payroll services for the year ended 5 April 2022.

I would be grateful if you would provide me with details of any circumstances or information which I need to consider when deciding whether or not to formally accept this appointment.

If there are no circumstances that I need to be aware of please confirm this to me and in addition, would you please supply the following information:

- [insert relevant documents]

I enclose a letter from your (previous) client authorising you to release the above information to me.

Thank you for your assistance in these matters.

Yours faithfully

N. Middleton

Neve Middleton
New Firm LLP

RESOURCE F: PROFESSIONAL CLEARANCE LETTER FROM OUTGOING ADVISER TO INCOMING ADVISER



King, Hunt & Maxwell

Dear Ms Middleton

Thank you for your letter requesting details of any circumstances or information relevant to you accepting the appointment to Trivena Limited.

The only matter to bring to your attention is:

- we had concerns over the explanations given in respect of the amounts paid to staff.

I also enclose the latest summary calculations and schedules you have requested.

Yours sincerely


RKing


Riley King
King, Hunt & Maxwell




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