

Summary of feedback received

April 2015

Consultation title	Proposed guidance on financial crime systems and controls
Date of consultation	14 November 2014 – 6 February 2015
Summary of feedback received	<p>We received 20 responses to this consultation. We also met with four respondents to discuss specific concerns that they, or their members, had raised. Two respondents sent us additional drafting suggestions after our meeting.</p> <p>Almost all respondents welcomed our proposed amendments. They said that these would help them approach financial crime compliance in a more proportionate and risk-based way and implement more effective controls to identify, assess and mitigate financial crime risk.</p> <p>The comments we received related to:</p> <ul style="list-style-type: none"> • the timing of our guidance: two respondents asked that we delay the publication of our final guidance until the Fourth Money Laundering Directive has been transposed in the UK • the definition of 'Source of Funds': ten respondents were concerned that this was not in line with the Joint Money Laundering Steering Group's use of this term • the status of our examples of good practice: two respondents were concerned that these could be perceived as binding and • administrative burden: one respondent commented that our guidance on risk assessments was conducive only to greater bureaucracy, which they felt would drive business away from London towards other markets with less robust financial crime requirements

Response to feedback received

We thank all respondents for taking the time to reply and for the constructive and positive feedback we received. We have carefully considered all responses and have revised our guidance where appropriate.

Timing

Two respondents welcomed our proposed amendments but asked that we do not update our guidance until the Fourth Money Laundering Directive has been transposed and the associated Guidelines by the European Supervisory Authorities (ESA) have been adopted.

We believe that the amendments to our Guide will clarify our expectations in areas where significant weaknesses persist in all sectors. We believe that this will help firms adopt more proportionate and effective financial crime systems and controls and the feedback we received supports our view.

In light of this and our commitment to keeping the Guide up to date, we believe that it would not be appropriate to wait until the Fourth Money Laundering Directive has been transposed in mid-2017. We are confident that the principles set out in our Guide are consistent with those required by the Directive and the future ESA Guidelines.

Source of Funds

Ten respondents suggested that the Guide's Glossary definition of 'Source of Funds' was inconsistent with the Joint Money Laundering Steering Group (JMLSG) Guidance. The JMLSG Guidance provides that in situations where the money laundering or terrorist financing risk is very low, firms may assume that a payment drawn on an account in the customer's name with a UK, EEA or equivalent regulated credit institution satisfies the standard CDD requirements. This is sometimes referred to as the 'source of funds as evidence of identity'. Respondents were concerned that our proposed definition of 'Source of Funds' would make relying on the 'source of funds as evidence of identity' impossible.

Our use of the term 'Source of Funds' is consistent with the use of this term in the Money Laundering Regulations 2007, international AML standards and our own guidance. We are clear that 'Source of Funds' describes the activity that generated the funds used in a business relationship, whereas 'Source of Wealth' describes how a customer obtained their total wealth. Establishing the Source of Funds and the Source of Wealth can help firms satisfy themselves that they are not handling the proceeds from crime. It can also help a firm ascertain that the level and type of transaction is consistent with its knowledge of the customer. Establishing the customer's Source of Wealth and Source of Funds is a requirement where the customer is a Politically Exposed Person.

We do not believe that our definition of Source of Funds invalidates or contradicts the JMLSG's concept of 'source of funds as evidence of identity'. We have amended the relevant section of the Guide in consultation with the JMLSG to make that clear.

Status of examples of good practice

All respondents thought that our examples of good practice were useful to help illustrate what some firms have done to identify, assess and manage financial crime risk. But two respondents felt there was a risk that these examples might be seen as prescriptive, which would increase the cost of compliance.

We have always been clear that our guidance and examples of good practice are not binding and that firms can meet their legal and regulatory obligations in other ways. We have updated our Guide to further stress the non-binding nature of our guidance and explained our use of the terms 'must', 'should' and 'may' to more clearly distinguish between legal or regulatory requirements and examples of good practice.

Administrative burden

One respondent was concerned that our guidance on risk assessments was conducive only to greater bureaucracy, with no accompanying benefits. They felt this would drive business away from London towards other markets with less robust financial crime requirements.

We expect firms to identify and assess financial crime risk in a way that is proportionate to the nature, scale and complexity of their activities. A good risk assessment should enhance a firm's understanding of the financial crime risk to which it is exposed and enable it to design and implement effective risk management systems and controls. A good risk assessment need not be onerous or bureaucratic, but fit for purpose. We believe that our guidance makes this clear.

Changes made to the guidance as a result of feedback received

We have made several minor changes to our guidance as a result of the feedback we received.

In Part 1, we:

- clarified our use of the terms 'must', 'should' and 'may'
- specified, in Box 2.1A, that relevant MI can come from more than one source
- created a new Box 3.5.A on Source of Wealth and Source of Funds to clarify how we expect firms to establish these and to make clear that these are distinct from the

JMLSG's 'Source of funds as evidence of identity' which is an alternative form of CDD firms can use in low risk situations, subject to certain conditions (we have amended the Glossary entry on Source of Wealth and Source of Funds accordingly).

- introduced a Glossary definition of 'business-wide risk assessment' and
- throughout the text, added explanatory detail where respondents felt this would be helpful

In Part 2, we:

- included cross-references to other parts of the Guide where appropriate
- made clear, in Chapter 17, that as part of their governance arrangements, intermediaries should ensure that responsibility for oversight and management of third-party introducers and other intermediaries is clearly allocated
- merged the sections on MI and payment MI in Chapter 17 to avoid duplication and
- throughout the text, added explanatory detail where respondents felt this would be helpful

[You can access the full text of the guidance consulted on.](#)
