The following questions and answers have been prepared for illustrative purposes only and should not be relied upon or otherwise treated as constituting legal advice. Members who require clarification on their statutory obligations should obtain independent legal advice or otherwise contact ICAS on +44 (0)131 347 0271 (confidential line) regarding specific reporting instances or +44 (0)131 347 0246 regarding general procedural ones.

CUSTOMER DUE DILIGENCE

Query: Our firm has been doing all of its know your client/customer due diligence checks manually for a number of years now. A colleague at another firm has made us aware of some computerised checking programmes that may significantly reduce the level of work that is required. We were given the details of a number of providers who appear to offer a “start to finish” compliance solution that for example does checks through credit reference agencies, the voters roll and Companies House. Does this sort of offering satisfy the Anti-Money Laundering (AML) requirements of us as chartered accountants?

Answer: This sort of compliance solution is becoming more and more commonly found in the marketplace as technology moves forward. A number of providers are now offering solutions which check sanctions information, and whether or not an individual is a politically exposed person, as well as performing identity verification and the necessary client due diligence. The key to whether or not such a programme ticks all of the compliance boxes will hinge on a few different aspects.

Firstly, the data on which the compliance programme relies must come from at least two different sources. If, for example, the entire data checking and referencing was done via Companies House data and nothing else, this would give some cause for concern as it is unlikely that this as a source would address all of the AML risk aspects of clients. In these circumstances, you would probably need to do some extra checking of your own, which does defeat the object of using such a programme.

Secondly, the compliance programme needs to carry features that allow easy edition of client’s data, as and when the client’s circumstances change. Your “know your client” (KYC) information must be updated regularly, because this aspect of your client information should be “living” in the sense that it should be amended as and when changes occur that may affect the client and money laundering risk associated with it.

Finally, this sort of programme needs to offer a degree of flexibility. A product that is set-up on a tick-box basis is far less likely to capture the nuances associated with a specific client than one that has sections allowing free-form notes to be recorded. This is particularly relevant when it comes to KYC.

A recent internet search uncovered several providers of these types of services, all offering different types of service at different prices (some by subscription, based on a monthly fee; others charge per check performed). Our advice, if you are considering going down this route, would be to do your research thoroughly before committing to a particular provider, especially with regard to whether the programme can capture more nuanced aspects of client profiles, and enables regular update in order to maintain up-to-date client information and data.
**Query:** I have just taken on a new limited company client with three directors who are also the three shareholders, each owning 33% of the issued share capital. Do I need to perform verification procedures on all three directors or is this only a requirement for the principal contact?

**Answer:** You are required to verify the identity of all beneficial owners in accordance with section 6 of the Money Laundering Regulations 2007. A beneficial owner within a company situation is defined as either:
- Anyone who ultimately owns or controls more than 25% of the shares or voting rights in that entity; or
- Anyone who exercises control over the management of the entity.

Based on the ownership percentage threshold, therefore, you will need to perform verification for all three directors.

If you were in the situation where one director owned 60% of the shares, and the other two directors each owned 20%, you would need to look at the degree of involvement of the two minority shareholders in the running of the business and make a judgement based on the control the minority directors exercise over the management of the business. If it was apparent that the two minority shareholder directors had very little control in this regard, then an argument could be put forward for not verifying these two individuals. Under these circumstances, however, you would need to ensure that any matters that were considered before coming to such a decision were clearly recorded on the client’s file.

**Query:** I have been asked to perform some work for an existing client who is based in Poland and has received significant funding for a new project from Turkey. The client has expanded its electronics retailing operation to include information technology products such as computers, IT peripherals and software. Although I have never had any suspicions in relation to this client, I am slightly concerned at the prospect of carrying out this work due to the client's involvement with a Turkish financier. The recent involvement of the client in the sale of technology items is also a slight cause for concern given that it is often these types of companies which are used as fronts for committing carousel fraud. As I have said I have never had any concerns with this client in the past but would just like to know if there is anything extra I can do to protect myself from an engagement acceptance and due diligence perspective?

**Answer:** Firstly, you do not have to accept the engagement if you do not feel comfortable with the arrangements, although from what you have said it appears as though you would be happy to accept. As the business is an existing client you will have performed the usual client identification procedures and should be performing ongoing monitoring (OM) of the client, as is required under the 2007 Money Laundering Regulations.

Performing due diligence (DD) on the Turkish financier should be the main concern, as this individual may now have some influence over the client.

The CCAB anti money laundering guidance comments separately at 5.46 that DD should comprise “scrutiny of activity during the relationship, including enquiry into source of funds if needed, to ensure all is consistent with expected behaviour based on accumulated customer due diligence information”. You should therefore be considering what additional steps the firm can take to confirm the
identity of the financier (a new source of funds) and that they are a bona fide business operation.

You may wish to use electronic verification to assist in the identification of the financier, which may be used in conjunction with other forms of verification such as internet searches, a review of financial sanctions information or news reports. This verification would include the beneficial owner of the financier business.

As part of your “Know Your Client” (KYC) you may also want to obtain more detail on the clients' new operation and should consider how this operation fits in with the client’s existing business, the logic behind the new product lines and the impact which this may have on the client’s susceptibility to money laundering. This information should be readily available from the client themselves.

The CCAB guidance for firms in the accountancy sector is available at: www.ccab.org.uk/PDFs/CCAB%20guidance%202008-8-26.pdf.

Query: I am about to take on an advisory client which is a charitable company limited by guarantee. It is one of the largest charities of its kind and has a large Scottish based Board of Directors. Can you please give me some direction/guidance on the money laundering procedures I need to implement in order to take on this client. This type of organisation appears to fall between two stools in the money laundering guidance notes and I cannot quite determine how much or little I need to do.

Answer: Regulation 7(3) of the Money Laundering Regulations requires customer due diligence measures to be carried out on a risk-sensitive basis. This means that firms need to consider how their risk assessment and management procedures flow through into their client acceptance and ID procedures, to give sufficient information and evidence, in the way most appropriate to the client concerned. Application of a risk-based approach is of considerable importance in verification, both to ensure a good depth of knowledge in higher risk cases, but also to avoid unnecessary effort in lower to normal risk cases.

Therefore, one of the first considerations should be the risk that the client business might be used to launder money or provide the means to launder money. In the situation given above, even though the risk of the charity being used by money laundering is low, it must nevertheless be considered.

You should then consider the risk that the client or its counterparties are involved in money laundering. In this situation, you therefore need to consider if any individuals operating within the client or any other entities which the client interacts with are likely to be involved in money laundering. In order to be able to consider this, and also the risk that the business itself is involved in money laundering, adequate know your client (KYC) procedures will need to have been completed at the outset.

Effective KYC involves understanding who the client is by acquiring sufficient client background information which could include:
- Full name and address
- Nature of body’s activities and objects
- Names of all trustees (or equivalent)
Names or classes of beneficiaries

You will then be able to perform your risk-based verification of the client. You should also consider whether or not the client qualifies for either simplified or enhanced due diligence (or perhaps neither).

Identification of the charity itself should be relatively straightforward, since it is relatively large. This could be done by reviewing its website or its entry on the Office for the Scottish Charity Regulator (OSCR) register. You should then identify the key executive or influencing directors (at central and non-central locations) and verify their identities. As the charity also has a large number of non-executive directors then you could also consider identifying some of these. If any of them are public figures (it would be expected that a number would be, with similar non-exec appointments at other organisations) who could be identified from other access points such as the OSCR or Companies house website, then this would be advised. You should also consider that, if the person is a Politically Exposed Person (PEP) then enhanced due diligence may be required.

Due to the size/profile of the charity, you may also wish to consider its structure from a geographical/locational perspective, especially if key staff members (ie those with authority or influence) are not included in the initial verification checks performed. Useful guidance may be obtained from CCAB (chapter 4) and also the JMLSG part 1 guidance (specifically at 5.3.226) at:

www.ccab.org.uk/PDFs/CCAB%20guidance%202008-8-26.pdf
www.jmlsg.org.uk/industry-guidance/article/guidance

Query: I am considering setting up a facility, within my firms’ website, which will allow existing or new clients to input year end information (income, expenses etc). The firm will then use this information to prepare those individuals’ tax returns. I am aware that this type of system has information security implications, and I am happy with the precautions taken in relation to this (encryption, registration with the information commissioner etc). What anti-money laundering procedures should I be considering putting in place if I am to provide this type of service?

Answer: The main issue you will have from the anti-money laundering perspective will be the identification of new clients when you are not going to meet them face to face. You do not want to expose your firm to the risk of dealing with individuals who may seek to gain from the proceeds of crime, for example, through the submission of fraudulent tax returns leading to large tax repayments.

Regulation 14 states that you must apply enhanced customer due diligence and enhanced monitoring, in addition to the standard measures, in situations which by their nature can present a higher risk of money laundering or terrorist financing. As usual, this should be applied on a risk sensitive basis.

Where the customer has not been physically present for identification purposes, they would be deemed high risk and you therefore should compensate for this by taking adequate measures.
Online clients should therefore be treated in the same way that existing remote or overseas clients are. You can ask third parties to obtain the evidence for you as long as you are happy that they are a reputable source of information. For example, you can use credit reference agencies, investigation and information service providers. However, the best approach may be to get a certified copy of the passport and other identification. This can be certified:

- by an embassy, consulate or high commission of the country of issue;
- by a lawyer or attorney;
- by an accountant (particularly if the firm is a member of a grouping of accountants);
- by a bank.

Certified copies of personal identity should be dated, and signed “Original seen”. Where the good reproduction of photographic evidence of identity cannot be achieved, the copy should be certified as providing a good likeness of the applicant.

The CCAB guidance (para 5.54) states that online customer due diligence measures can replace the paper-based approach for normal risk clients, but that it would need to be supplemented by additional paper-based checks for higher risk clients such as this. In case you are considering electronic verification, we have noted some interesting information below. The client’s permission to undertake an electronic identity check for money laundering purposes is not required, but they should be informed that this check is to take place.

As a reminder, where checks are made electronically, record the actual information obtained at the time and not just state that ID was obtained, as a new search if needed in the future may have different underlying data.

- There are a number of commercial organisations that provide online identification checks for money laundering purposes. They can access databases that provide both positive and negative information.
- Positive information (relating to full name, current address, date of birth) can prove that an individual exists, but some can offer a higher degree of confidence than others. Such information should include data from more robust sources - where an individual has to prove their identity, or address, in some way in order to be included, as opposed to others, where no such proof is required.
- Negative information includes lists of individuals known to have committed fraud, including identity fraud, and registers of deceased persons. Checking against such information may be necessary to mitigate against impersonation fraud.
- Paragraph 5.55 of the CCAB guidance states that the following points should be considered before deciding to use an electronic source:
  - Does the system draw on multiple sources? A single source, eg, the Electoral Roll, is usually not sufficient. A system which uses both negative and positive data sources is generally more robust than one that does not.
  - Are the sources checked across a period of time? Systems that do not regularly update their data are generally prone to more inaccuracies than those that do.
  - Are there control mechanisms to ensure the quality and reliability of data? Systems should have built-in checks that ensure the integrity of data and should ideally be
transparent enough to show the results of these checks and their bearing on the integrity of data.

- Is the information accessible? Systems need to allow a business either to download and store the results of searches in appropriate electronic form, or to print off a hardcopy record containing all necessary details as to name of provider, source, date etc.

The CCAB Guidance can be found on the Anti-money laundering area of the website at: http://icas.org.uk/home/regulation-and-ethics/anti-money-laundering/guidance/.

**Query:** I have been appointed to act for a charity. I am not sure what level of identification checking I should be performing?

**Answer:** The level of verification of the charity and its officers/trustees etc will, as with your other clients, depend on you taking a risk based approach. As with other clients you will need to consider the type of client, the proposed business relationship and the services to be provided. I shall assume that you are involved in the preparation of accounts for the charity and highlight some key issues you should consider.

Firstly, charities should be treated based on their status, be that company, trust or other form. Registered charities, for example, can be searched on the Office for the Scottish Charity Regulator (OSCR) in Scotland or on the Charity Commission website in England and Wales.

These sources will provide confirmation of the name, address, charity number and contact details for the charity. If your contact is not the official contact for the charity, then you may wish to obtain confirmation from the official contact for the activities you are about to undertake. Although this would be dependent on your risk assessment, you would generally ask for sight of the charity’s constitution or other document establishing the charity, as you will need this in any case to carry out the assignment.

You will also require to know the names of all the trustees (or equivalent) and the names and classes of beneficiaries. The extent to which you identify these individuals will again depend on your risk assessment. Many firms will identify all trustees for example, but this is not necessarily the case. In the first instance, you should identify those trustees who exercise significant influence and ensure these are identified and thereafter decide how many other trustees, if any you wish to verify.

It should be noted that alternative and perhaps adequate identification can be obtained for trustees. A common example would be a high profile public figure being a trustee of a charity, where you might choose not to seek formal identification as this can be easily verified.

As with other entities, you should use a risk-based approach to obtain any identification for those individuals who exercise significant control over the entity’s affairs.

Further guidance is available at:
OSCR website www.oscr.org.uk
Charity Commission website www.charity-commission.gov.uk/
Query: If we were to take on a new client who has at one time been in prison, would there be anything extra, money laundering wise, that we would need to do?

Answer: This comes down to the firm’s assessment of risk and its policy of due diligence across the risk categories.

You would have to consider the reason why the potential client had been in prison. If, for example, he simply got into a fight leaving a night club or whatever, it is unlikely this would cause any additional risk. However, if he was jailed for fraud, extortion, drug running, living off immoral earnings or similar that would certainly put him in a high risk category.

In the latter situation, the firm’s procedures for high risk category clients should be utilised. Of course, again dependent on the nature of the crime, the firm may wish to consider whether it wants such a person as a client at all, regardless of any money laundering obligation.

Query: I have recently taken on a new client which is a limited company. Its only director is another limited company. I have been able to identify the client company and the corporate director by way of a company search and obtaining copies of the Memorandum and Articles in each case but I am concerned that this is not enough. Is there anything else I need do?

Answer: You really need to be able to identify who the ‘real’ persons are who are directing your client company through the corporate veil. You therefore have to trace back to reach these actual persons, disregarding any other corporate interventions. So, if Client A Limited has as its sole director, B Limited, which in turn has a corporate director, C Limited, whose directors are Mr X and Mr Y and they are responsible for the day to day management of A Limited, then X and Y should be identified in accordance with your firm’s normal procedures. If there are other directors in C Limited who are not directly involved in the running and management of your client A Limited then it may not be necessary to identify them.

In addition, if X and Y (and any others) are not the shareholders in C Limited, then you are required to ascertain who the ultimate beneficial shareholders are. You are not required to identify these, although you may choose to do so.

This is a situation that may ease a little later in the year. Companies who only had corporate directors on or before 6 November 2006 have until 1 October 2010 to appoint a director who is an individual.

Query: My firm still can’t get to grips with how much proof that we have to hold that we have checked the identification of existing clients. For new clients we use the forms in the General Practice Procedures Manual but we are not clear what is expected for existing ones? One of my partners thinks we should use the same procedure ie fill in the forms and ask for a copy of a passport and utility bill for all clients. The rest of us think this is excessive. Can you help?

Answer: There are two aspects to your question, the evidence required and the way it is recorded. There is an obligation to maintain adequate due diligence on all clients. This
needs to be reviewed regularly and updated as appropriate. However, it is probably unnecessary to request passports and utility bills for existing clients as in general you should already have sufficient evidence. For example, you may have visited your client’s home and you will almost certainly have seen tax statements/demands. The evidence you have will vary from client to client. In addition the amount of evidence required will of course depend on the firm’s risk policy, each client will have to be considered, even though the majority will be normal risk. Having the evidence is not sufficient, this needs to be documented and that is of course where the forms come in. You do not need to use a standard form but this does bring consistency to your approach. Where the firm does not use forms for all clients, it will be difficult to identify what clients have been reviewed and updated. We therefore recommend that you use these, annotating them for the information you do have.

Query: I was appointed as a partner of my firm last year. Since then, I have been appointed the Money Laundering Reporting Officer (MLRO). I am satisfied with the firm’s anti-money laundering policies and that appropriate training has been provided to all staff. However, two of the firm’s more “senior” partners frequently omit to carry out appropriate customer due diligence procedures for new clients. What more can I do to persuade these partners to treat this issue more seriously? Surely this is committing some sort of offence?

Answer: You are correct in that the failure of a firm to apply customer due diligence procedures when establishing a business relationship is an offence under Regulation 45 of the Money Laundering Regulations 2007 (“the Regulations”), which could lead to the individual’s imprisonment of up to two years and/or an unlimited fine. It is important to remember that all parties are jointly and severally liable, so the failure by one partner has implications for all.

I would also draw your attention to a case in October last year where both a firm, Sindicatum Holdings Limited (SHL), and its MLRO, were fined (£49,000 and £17,500 respectively) for not having adequate anti-money laundering systems and controls in place for verifying and recording clients’ identities.

As you are a registered ICAS firm, you will also be subject to visits from the Institute’s Quality Review team, which also closely looks at your firm’s anti-money laundering procedures. Poor procedures would undoubtedly be identified by the monitors and subsequent action taken.

Drawing the attention of your fellow partners to these facts should hopefully result in them treating the issue more seriously. In many cases, the extent of identification required from your clients will not be unreasonable, and most businesses now are accustomed to providing this information.

More details on applying customer due diligence procedures can be found in the anti-money laundering area of the ICAS website at: www.icas.org.uk/site/cms/contentCategoryView.asp?category=4424.

Query: I am about to undertake an accounts assignment for a small charity. The charity has a treasurer and two directors. Our risk assessment of this client is low. I have managed to obtain photocopies of the relevant customer due diligence information for the treasurer and one of the directors, but the second director is
adamant he does not want his driving licence to be photocopied. Is it acceptable to record the main details from the driving licence, or is a photocopy necessary?

Answer: There is no prescribed requirement to photocopy all customer due diligence documentation. In relation to customer due diligence, the Regulations require the customer (and beneficial owners, where appropriate) to be identified and verified “on the basis of documents, data or information obtained from a reliable or independent source”. Regulation 19 of the Regulations also require “copies of, or the references to, the evidence of the customer’s identify” to be retained.

It is therefore obviously preferable to obtain photocopies of all evidence used to verify customers’ identities to demonstrate the extent of this verification, and in many cases this will be easier than recording the details. However, in cases such as this, recording the details would be acceptable.

The key consideration in the customer due diligence process is to ensure that you are satisfied that the individual is who they say they are and that your documented evidence backs this up.

Query: I am a sole practitioner, with a reasonable client base. I have a number of clients who own companies and deal with the affairs of both the individuals and their company. Do I need to go through the customer due diligence procedures for them in both capacities? What type of information do I need to get?

Answer: The individual and his company are two separate legal personalities, so, if you are acting for both, this would constitute two separate engagements (for which you will presumably have two separate engagement letters) and you must ensure that customer due diligence procedures are undertaken in respect of both. However, information you have obtained for the individual for personal work could be used to verify his identity as a director and vice versa.

The extent of your customer due diligence measures will depend on your business’s money laundering policy, which should determine your assessment and management of risk for this client.

Section 5B of the Consultative Committee of Accountancy Bodies (CCAB) Anti-Money Laundering Guidance for the Accountancy Sector provides guidance on examples of risk-based verification for common client types.

Companies

Where your risk assessment of the company is normal and you have met a representative of the company in person, a company search should be undertaken (or alternatively certified incorporation documents, confirming the details of registered office, list of directors and shareholders, should be copied). Where appropriate, all shareholders holding more than 25% of the equity (or in the absence of any holding over 25%, the largest shareholder) should be identified on a risk-sensitive basis. Obviously, in the case of owner-managed businesses, this process will be relatively straightforward.
If no representatives of the company have been met, the identities of any individual or entity deemed capable of exerting a significant influence over the entity should be verified to confirm they are a legal or natural person. The same process should be undertaken for all shareholders holding over 25% of equity, or, in the absence of any holding over 25%, the largest shareholder.

**Individuals**

Where your risk assessment of the individual is low, and is a client you have met in person, obtaining photographic identification such as a passport or photographic driving license will generally be sufficient. Where photo ID is not available, the guidance suggests non-photographic identification is obtained (eg documents issued by HM Revenue & Customs) along with proof of address (eg council tax or utility bills) or date of birth. You may also consider using an on-line verification service to obtain evidence of identity, supplemented with paper verification for higher risk clients. In a situation where you have already undertaken these procedures for the company, you may already have the much of this information.

If this person has not been met in person, or is considered to be high risk, the guidance suggests obtaining photographic identification, along with an additional piece of evidence. Alternatively, where photo ID is not available, non-photographic identification and proof of address or date of birth, should be obtained, along with an additional piece of evidence.

**Query:** I have been asked to prepare and submit the financial statements and corporation tax return for a new client. The deadline for filing their accounts is next week and I will not be able to obtain the appropriate customer due diligence information before then. Can I still carry out this engagement?

**Answer:** Customer due diligence procedures are generally required to be carried out before the firm establishes a business relationship or carries out an occasional transaction. However, Regulation 9(3) of the Money Laundering Regulations 2007 does permit certain circumstances where the verification of the identity of the customer (and beneficial owner(s)) can be completed during the establishment of a business relationship.

The customer due diligence procedures may be delayed where this is necessary not to interrupt the normal conduct of business, and where there is little risk of money laundering or terrorist financing occurring. It is therefore important that the firm gathers sufficient information about the client at this stage to be able to form a basic assessment of the client and money laundering risk. In these situations, these procedures should be completed as soon as practicable after contact is first established. It is not uncommon for these procedures to be neglected after the work has been carried out, so it is vital that these are followed up timeously.

Your firm should also consider the reasons why this information could not be obtained. For example, if it was possible for the client to deliver sufficient books and records to enable you to undertake the work, why could they not provide evidence of their identity, which is now so frequently requested? This delay may in itself be indicative of grounds for suspicion of money laundering. Training staff to request this information prior to any introductory meetings can help speed up the process; it may be too late to request this at the meeting itself. Where the prospective client refuses to provide evidence of identity or other
information requested as part of the customer due diligence procedures, the business relationship or occasional transaction should not proceed any further and any relationship with the client should be terminated.

The CCAB guidance also recommends that approval is obtained from a member of senior management or the money laundering reporting officer prior to any work being undertaken in these circumstances. This will ensure that the reasons for the delay are valid and do not give rise to concerns over the risk category of the client or the potential for money laundering suspicion.

Where there are delays in obtaining information, the CCAB guidance recommends businesses record:
• the credibility of the client’s explanations;
• the length of the delay;
• whether the delay is in itself reasonable grounds for suspicion of money laundering requiring a report to SOCA and/or a factor indicating against acceptance of the client and engagement; and
• documenting the reasons for the delay and steps taken

Query: We have been appointed as accountants to a local enterprise company. It is a non-profit making private company, limited by guarantee, with the majority of its income coming from a governmental organisation. Due to its high profile, the company has attracted 14 directors. What customer due diligence procedures do we need to undertake for this client? Do we need to identify all the directors, or only the key directors (eg financial director, chairman and company secretary)?

Answer: The procedures you undertake in relation to this engagement will depend on your firm’s risk assessment of this client. If the client is high profile, with a low turnover, and the directors are known to you, you may deem this client to be low risk. In this case, it is recommended that a full company search is undertaken to confirm the company’s name, registered number, registered office and business address. The names of all directors should also be confirmed.

With a low risk client, it may be appropriate just to identify the “beneficial owners” of the company. Loosely defined, this term covers any individual owning or controlling more than 25% of the company’s shares or voting rights, or who otherwise exerts a significant influence over the entity. It is generally relatively easy to identify a shareholder holding more than 25% of a company’s shares, but identifying beneficial owners may not be straightforward in the above example. The determination of the beneficial owners may include identifying the key directors (eg financial director, chairman and company secretary), as well as any directors with a close involvement in the day to day management of the company, or with an otherwise significant influence in the company. Other issues to consider are where the funding comes from. If there is a significant amount of government funding, this could amount to exerting a significant influence, and the identities of any representatives should also be confirmed. The relatives of these directors should be verified (ie confirmed to proof of identity) on a risk-sensitive basis.

If your risk assessment of the client is not low, it may be appropriate to verify the identity of all the directors.
It is also important to ensure that the customer due diligence is considered at appropriate times, and updated where appropriate, for any changes in directors etc.

**Query:** At my firm’s money laundering reporting officer, I understand we have to carry out continuing customer due diligence. In general, there are very few changes to our clients each year. What further procedures do we need to undertake for these clients?

**Answer:** The Money Laundering Regulations 2007 require customer due diligence procedures to be applied at appropriate times to existing clients on a risk-sensitive basis.

It may be worth considering reviewing the customer due diligence information on a periodic basis, or where the client has undergone significant changes. Examples of significant changes could be where there have been changes to a client’s senior management, shareholders or controlling parties or changes to the entity’s strategy or business profile. If you prepare the accounts for the client, this information could be reviewed each year as part of the accounts preparation process.

If there are no major changes and you still have a sound understanding of the client, the identity of its directors and its business activities, this conclusion should be documented, in order to demonstrate that this has been considered.

**Query:** My firm has been approached by a prospective client, who intends to start up a new business by investing an initial £50k. In addition to this initial investment, the client hopes to raise a further £100k in two tranches from their extended family in India. We have already undertaken customer due diligence procedures for the client, but are unsure of what we need to do to verify the identity of their overseas investors. What measures should we be undertaking for the additional investors, if any?

**Answer:** Your approach to customer due diligence procedures for this client will depend on your anti-money laundering policy and procedures. However, given the level of investment from overseas, it is likely these investors would be able to exert a significant influence over the business, due to the business being reliant on these funds. The CCAB guidance requires customer due diligence procedures to be undertaken to verify the identity of the client and the beneficial owners. The definition of a beneficial owner extends to include any individual who “otherwise exercises control” over the management of an entity.

The Money Laundering Regulations 2007 require enhanced due diligence procedures to be undertaken where a customer (or beneficial owner) is not present for identification purposes. Specific and adequate procedures need to be undertaken to compensate for the higher risk. For example, the customer’s identity should be confirmed to additional documents, data or information, which should be certified by a credit or financial institution. Accountants, solicitors, or even an embassy in that country could all be used to certify their documentation. If relying on an overseas professional, you should ensure that the individual firm is registered with the appropriate professional body. In addition, the Regulations also recommend ensuring that the first payment is paid through a bank account in each customer’s name.
It is also important that, given the risk of this customer, the business relationship is subject to ongoing monitoring. Close scrutiny of the source of funds may be required in future, to ensure that this is consistent with expected behaviour.

Query: I have received a professional clearance letter from another accountant asking if I have carried out identification procedures for my former client. This seems to be a good idea. If I do a similar letter when taking on new clients can I rely on the other accountant and not have to carry out other identification procedures?

Answer: The Money Laundering Regulations 2007 permit businesses to rely on regulated credit or financial institutions (excluding money service businesses) and professional lawyers, auditors, external accountants, insolvency practitioners or tax advisers to complete all, or part of the required customer due diligence procedures. However, firms should be cautious about relying on third parties, as they will remain liable for any failure to comply or omissions. The checks made by other firms may differ from your own standards, and it is advisable that copies of all relevant documents and information are requested, to satisfy yourself that the information is sufficient.

Query: Our firm offers potential new clients a free initial consultation. Do we have to carry out client identification procedures at this stage?

Answer: No. As the individual concerned is not yet a client there is no requirement to carry out client identification procedures. However, appropriate customer due diligence measures would need to be carried out, on a risk-sensitive basis, with this client prior to the commencement of the engagement.

It is worth noting, however, that if you were to become aware of a suspicious transaction during the meeting then the firm should prepare a suspicious activity report (SAR) and report this to the Serious Organised Crime Agency (SOCA) online at: www.ukciu.gov.uk/saronline.aspx or by downloading the form and posting it to UK FIU, PO Box 8000, London SE11 5EN.

Query: I have been approached by a client who resides in the United States to provide some tax advice. He does not plan to visit this country until the summer. When asked for proof of identity he has sent me some utilities bills and a copy of his passport. Am I correct in assuming that this is not sufficient to fulfil the requirements under the new money laundering system?

Answer: You are correct in your assumption. The Money Laundering Regulations 2007 specifically mentions the need that where a client has not been physically present for identification purposes, enhanced due diligence procedures must be applied, with additional documents, data or information obtained or additional steps undertaken to verify documents, to compensate for this higher risk. It is therefore suggested that you ask your client to take his passport a lawyer who will notarise a copy of it. This will provide more meaningful evidence of identity.

Query: I have been asked to carry out an assignment for a local authority. I have retained a copy of my council tax bill as proof of its address but do I have to confirm identity?
**Answer:** The Money Laundering Regulations 2007 do not require the usual customer due diligence procedures to be undertaken for public authorities, and instead permit simplified due diligence. It is suggested that businesses should obtain and annotate evidence to confirm the entity’s main place of operation and the government department controlling it. You should also take steps to provide assurance that the individual you are dealing with is an authorised employee of that agency. In light of this, this information should be adequate.

**Query:** A number of products in the marketplace suggest that identification of individuals can be verified in a number of ways several of which do not have photo identification. I have always thought that we should always obtain photo identification. Is this not the case?

**Answer:** Strictly speaking photo identification is not essential and indeed there are cases where this will not exist. However, the Institute recommends that photo identification is obtained to verify identity where at all possible. If this is not available then you should obtain sufficient other evidence to satisfy yourself of the identity of the new client. For example a combination of such items as a current UK driving licence, a birth certificate, national insurance card, HMRC notification, may suffice. If you are in any doubt then you should contact ICAS for advice.

**Query:** We have been asked by another accountant to do some of his clients work while he is ill. Do we have to identify all the clients?

**Answer:** You will have to deal with the other accountants as you would any other professional adviser. This means that you would have to undertake appropriate customer due diligence and retain sufficient identification evidence for the accountant himself and take reasonable measures to identify his clients. It would perhaps be easiest if you ask the accountant to supply you with copies of his identification evidence. However, the checks made by the other firm may differ from your own standards, and it is advisable that any further information you require is requested, to satisfy yourself that the information is sufficient.

**Query:** I have a new client who is very elderly and keeps extremely poorly (I have to visit her at home). Every time I have asked for a copy of her passport or similar identification she panics and says she does not know where anything is in her house. This client has not submitted tax returns for several years and is being pressed by the HMRC for information. How can I resolve the identification issue?

**Answer:** You have not made clear what information you may already have. It is not essential to have photographic evidence. Perhaps you have the client’s benefits book, original state pension notification letter, OAP travel pass or even a HMRC tax notification. A combination of some of these would suffice.

**Query:** When carrying out money laundering identification procedures, it is necessary to be satisfied that the documents provided by your clients are genuine. What happens if a document that has been accepted as genuine later transpires to be a forgery?

**Answer:** Obviously you should be aware that documents could be forged. If they look genuine and no suspicion has been raised by other matters, they may be accepted at face
value. Where you do not know what a particular document should look like, or doubt its authenticity, you should check with the issuing authority. Foreign documents, for example, can be checked with the appropriate embassy.

So long as you act in good faith, there should be no problem unless the forgery is an obvious one.

Query: My husband is a solicitor who works on his own account. He has asked me to carry out work for him. We have been married for 20 years surely I do not have to carry out identification procedures to prove who he is?

Answer: As a practicing accountant you are required to verify the identity of new clients and maintain records of identification. However, given the emphasis placed on adopting a risk-based approach by the Money Laundering Regulations 2007, it would be appropriate to classify this client as low risk, and carry out your firm’s procedures for a client of that risk category.

In this case and it would be sufficient to note on your file the relationship with your client and the length of time you have known him. Alternatively you could follow your normal identification procedures which would probably mean that you would obtain a copy of his passport and a utility bill. Either option would do, although you might like to stick to the office procedures for consistency purposes.

Query: An accountant in England wants me to check and certify the identity of new clients he has obtained who live locally to my firm. Can I do this?

Answer: Yes. It is possible for an agent to carry out client identification procedures. Regulated credit or financial institutions (excluding money service businesses), professional lawyers, auditors, external accountants, insolvency practitioners and tax advisers are all permitted to carry out this work. The responsibility for identification remains, however, with the other accountant and he must be satisfied that the identification procedures have been adequately executed.

Query: I have a client who has a newsagent business. Despite the fact that the business has a relatively modest profit, our client has a very extravagant lifestyle and we suspect that he had undeclared income. We have reported the client to the Serious Organised Crime Agency (SOCA) and informed him that we no longer wish to act for him.

We expect to receive a letter from the new accountants requesting professional clearance. How much can we tell the new accountants without tipping off?

Answer: As you have indicated, you must take care not to tip off and it is essential that you do not make any mention of the report to SOCA. As you have suspicions rather than any actual knowledge that your client was defrauding HMRC, you could simply send a routine clearance letter. Another possibility would be to reply to the letter sending any information requested, but to ignore the question about professional clearance.
**Query:** I have been asked to carry out some work for a government department and I am unsure what evidence that I should obtain to confirm identity. Can you help me?

**Answer:** The Money Laundering Regulations 2007 do not require the usual customer due diligence procedures to be undertaken for public authorities, and instead permit simplified due diligence. You will however need to establish that the individual with whom you are dealing works for the body concerned and has the authority to instruct you. The purpose here is to ensure that the individual concerned is not using the department as a front for criminal activity.

The following information should be obtained:

- Full name of the body
- Nature and status of the entity
- Address of the entity
- Name of the home state authority
- Name of the directors or equivalent

In other words, you need to understand the ownership and of the body and the nature of its relationship with its home state authority.

**Query:** I have a client who lives in the South of France. He has recently got married and we have been asked to act for his wife. She has sent us a photocopy of her passport to us. Can I accept this as proof of identification as I don’t want to go back and ask her for the original?

**Answer:** Unfortunately photocopies are not acceptable. The Money Laundering Regulations 2007 require enhanced due diligence procedures to be undertaken where the client is not present for identification purposes. This could involve gathering additional documents, data or information, or taking additional steps to verify documents. Your alternatives are to ask to see the original or to ask your new client to get a solicitor or accountant in France to endorse on the copy that they have seen the original document.

**Query:** I have heard that I shall have to carry out customer due diligence. What is this?

**Answer:** Customer due diligence is basically the ‘Know Your Clients’ checks. These include the following:

- Identifying the customer and verifying the customer on the basis of documents, data or information obtained from a reliable, independent source
- Identifying, where applicable, the beneficial owner (the person who ultimately has ownership and control of the customer or person on whose behalf the activity or transaction is being conducted) and taking risk-based and adequate measures to verify his identity so that the firm is satisfied that it knows who the beneficial owner is
- Obtaining information on the purpose and intended nature of the business relationship
- Conducting ongoing monitoring, on a risk-sensitive basis, of the business relationship
It is important to note that in specific circumstances, such as prospective clients which are listed companies, regulated persons are allowed to carry out 'simplified due diligence' (i.e. the standard procedures can be eased). However, ‘enhanced due diligence’ must be carried out when your customer is not present, the transaction is with a politically exposed person (the definition of this needs further consideration) or where there is a higher risk of money laundering.

Reliance can be placed on third parties such as banks, solicitors and other accountants, to perform customer due diligence checks, although the ultimate responsibility for meeting customer due diligence requirements remains with the firm. However, firms should be cautious about relying on third parties, as they will remain liable for any failure to comply or omissions. The checks made by other firms may differ from your own standards, and it is advisable that copies of all relevant documents and information are requested, to satisfy yourself that the information is sufficient.

Query: Am I correct in thinking that we have to monitor clients on an ongoing basis?

Answer: Yes. The Money Laundering Regulations 2007 require ongoing monitoring of business relationships. The need to update customer due diligence information should be considered at appropriate times, following a risk based approach, according to the firm’s knowledge of the client and changes in the circumstances or nature of the services provided by the firm. It may also be appropriate to update this information for any changes in control or ownership of the client.

Query: I note that the Money Laundering Regulations became effective on 15 December 2007. Could you clarify when we should carry out due diligence checks?

Answer: Regulation 7(1) requires firms to apply customer due diligence procedures for any client where the firm:

- establishes a business relationship (a business, professional or commercial relationship between a relevant person and a customer, which is expected by the relevant person, at the time when contact is established, to have an element of duration);
- carries out an occasional transaction (a transaction carried out other than as a part of a business relationship amounting to €15,000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked);
- suspects money laundering or terrorist financing; or
- doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification.

Regulation 7(2) also requires firms to apply customer due diligence measures at other appropriate times to existing customers on a risk-sensitive basis.

Examples of when customer due diligence may be applied to existing clients include:

- changes such as the appointment of new senior managers or shareholders and/or controlling parties;
• changes in the client’s strategy; or
• changes of business profile.

The procedures may differ from those adopted for a new client, and although there may be a change in focus, the objective remains the same: to have a sound understanding of the client’s identity and activities in order to assess risks of money laundering and to have accurate underlying records.

Finally, Regulation 7(3) requires firms to:

• determine the extent of customer due diligence measures on a risk-sensitive basis depending on the type of customer, business relationship, product or transaction; and
• be able to demonstrate to its supervisory authority that the extent of the measures is appropriate in view of the risks of money laundering and terrorist financing.

Query: When should client identifications be undertaken? I have insisted that checks on new clients are carried out before any work is started. Is this the case?

Answer: Yes. This is generally the case. Firms do need to verify the identity of the customer (and any beneficial owner) before the establishment of a business relationship or the carrying out of an occasional transaction. Regulation 9(3) Money Laundering Regulations 2007 does allow the verification of the identity of the customer and the beneficial owner to be completed during the establishment of a business relationship if this is necessary not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist financing occurring. In such situations these procedures must be completed as soon as practicable after the initial contact and therefore can be more difficult to control.

This situation is covered in the CCAB Anti-Money Laundering Guidance for the Accountancy Sector, which recommends approval by the Money Laundering Reporting Officer or senior management before starting work without full customer due diligence information. Where the information is delayed (as opposed to refused) the CCAB suggests firms should consider:

• the credibility of the client’s explanation,
• the length of delay,
• whether the delay is in itself reasonable grounds for suspicion of money laundering requiring a report to SOCA and/or a factor indicating against acceptance of the client and engagement, and
• documenting the reasons for delay and steps taken.

It is up to individual firms to decide whether they wish to take advantage of Regulation 9(3). One option would be to ask prospective clients to bring the information to the initial meeting. The other might be to obtain satisfactory evidence of identification electronically, which can significantly speed up the process.

Query: Can you explain to what extent our firm can rely on third party verification?

Answer: You can rely on the customer due diligence of a third party that is:
• an authorised credit or financial institution (excluding money service businesses); or
• an auditor, insolvency practitioner, external accountant, tax adviser or independent legal professional who is supervised for the purposes of the Regulations by one of the bodies listed in Part 1 of Schedule 3. These are listed in Table 1.

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<td>• Council for Licensed Conveyancers</td>
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<td>• Faculty of Advocates</td>
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As the third parties must consent to being relied on and need to keep the relevant identification for at least five years beginning on the date on which they are relied on, in practice, they may not be that keen to do so. In addition, your firm remain liable for any failure to apply such measures, so you may wish to consider the risk before relying on this option.

Firms can also rely on a third party who carries on business in another EEA State and is:

• a credit or financial institution (excluding a money service business), an auditor, external accountant, insolvency practitioner, tax adviser, notary or other independent legal professional;
• subject to mandatory professional registration recognised by law; and
• supervised for compliance with the requirements laid down in the Money Laundering Directive in accordance with section 2 of Chapter V of that directive.

Reliance can also be placed on a third party carrying on business in a non-EEA State who meets the same criteria but is also subject to requirements equivalent to those laid down in the Money Laundering Directive.

Whether you wish to rely on a third party will be part of the firm’s risk-based assessment,
which, in addition to confirming the third party’s regulated status, may include consideration of matters such as the public disciplinary record of the third party, the nature of the customer, the product/service sought and the sums involved, or an adverse experience of the third party’s general efficiency in business dealings.

If you request this information or indeed are asked to provide it, then please note that there is no requirement to do so. If firms decide to provide the information, then it should not release confidential information without the client’s consent. In addition they should avoid providing information about suspicious activity reports in view of the potential for tipping off.

Where a firm places reliance on the customer due diligence work of a third party, it need not apply its own standard due diligence procedures as well. However, it must still carry out ongoing monitoring and appropriate ‘know your client’ information should still be obtained.