



NCA

National Crime Agency

Closure of cases requesting consent

This is a United Kingdom Financial Intelligence Unit (UKFIU) Guidance Note. It is produced in line with the National Crime Agency (NCA) commitment to share perspectives on the Suspicious Activity Reports (SARs) regime.

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Introduction

The average turnaround time for all Suspicious Activity Report (SAR) requests for consent has seen a significant increase on previous years, reflecting the increase in numbers and complexity of requests with a decline in basic quality.

The cause behind delays in the turnaround of consent requests is the non-inclusion of the five essential elements of a submission, namely:

- The information or other matter which gives the grounds for knowledge, suspicion or belief
- A description of the property that is known, suspected or believed to be criminal property
- A description of the prohibited act for which consent is sought
- The identity of the person or persons known or suspected to be involved in money laundering
- The whereabouts of the property that is known or suspected to be criminal property

The Consent Team in the UK Financial Intelligence Unit (UKFIU) routinely has to contact the reporter to establish whether the matter is a consent SAR and it is these phone calls which have been extending the time delays. The UKFIU has worked with the reporting sectors towards improving the quality of SARs. This has included: dissemination of guidance review products; working closely with some of the sectors to show the regulators and trade bodies actual instances of poor quality; and presentations to reporters and regulators.

Unfortunately, subsequent analysis of consent SARs has shown that the dissemination of these products and work with the sectors has not been successful. Consequently, the UKFIU has decided to bring in a new process which rejects those consents which are missing reasons for suspicion or a statement regarding criminal property. This in order to reduce the delays which impact on all areas of the SARs Regime. This procedure will come into effect on **15 September 2014**.

Caveat

This document is not legal advice. If you wish to obtain consent from the National Crime Agency (NCA), you should ensure that you are familiar with Part 7 of the Proceeds of Crime Act (POCA) 2002. If you are a business in the regulated sector, you should also consult any guidance that your supervisory body, professional body, or trade association has produced. If you are unsure, you should always seek your own legal advice. This document should be seen as an addendum to the published guidance 'Submitting a Suspicious Activity Report (SAR) within the Regulated Sector' and 'Obtaining consent from the NCA under Part 7 of the Proceeds of Crime Act (POCA) 2002 or under Part III of the Terrorism Act (TACT) 2000'.

Your responsibilities

The following guidance focuses on what will happen if your SAR is considered not to have met the criteria for consent because of missing information.

It is important to recognise that provided a matter has been appropriately reported, the decision to proceed or not to proceed with an act is yours and remains yours. Even if you obtain consent, you are not obliged to continue with the act. Consent only applies in relation to individual acts, therefore any subsequent activity will need separate consideration and, if necessary, separate consent.

If you wish to apply to the NCA for a consent decision you should submit a Suspicious Activity Report ("SAR") which sets out the following:

- I. the information or other matter which gives the grounds for your knowledge, suspicion or belief
- II. a description of the property that you know, suspect or believe is criminal property
- III. a description of the prohibited act that you want consent to carry out.

If your knowledge or suspicion has come to you in the course of a business in the regulated sector, your SAR should also provide the following:

- I. the identity of the person or persons you know or suspect is involved in money laundering
- II. the whereabouts of the property you know or suspect is: criminal property, or
- III. if you don't know (i) and/or (ii), any information you have which you believe or it is reasonable to expect you to believe may assist in identifying (i) or (ii) or both.

If you fail to provide sufficient information within your request for consent for the UK Financial Intelligence Unit (UKFIU) to assess your submission, the UKFIU may decide not to contact you for additional details and will close the case.

You will receive a letter which states that the UKFIU is not in a position to exercise its discretion to grant or refuse consent regarding the matter submitted to the NCA under Part 7 of POCA.

Once the letter is drafted and sent, the request will be closed without further correspondence.

Should you wish the UKFIU to consider your disclosure and provide a decision, you will have to provide a new SAR to the UKFIU. This must be able to stand as its own

document and provide all the required information. You will not be able to provide additional information to the closed case.

What information does the UKFIU need?

A SAR is a piece of information that alerts law enforcement agencies (LEAs) that certain client/customer activity is in some way suspicious and might indicate money laundering or terrorist financing.

Persons in the regulated sector are required under Part 7 of POCA to submit a SAR in respect of information that comes to them in the course of their business, if they know, or suspect or have reasonable grounds for knowing or suspecting, that a person is engaged in, or attempting, money laundering or terrorist financing. A SAR must be submitted as soon as is practicable.

However, in order to meet the requirements of the UKFIU, the SAR must provide a sufficiently detailed picture in order for the UKFIU and law enforcement to be able to consider if further action should be taken.

Making a quality report, structured in a logical format and including all relevant information, will significantly enhance LEAs' abilities to extract greater value from submitted SARs and speed up the process. Often a seemingly minor piece of information to you can become a valuable piece of intelligence to LEAs.

A brief summary to explain your suspicion and then also provide a chronological sequence of events is important. It helps if you try to keep the content clear, concise and simple. For example, describe the events, activities or transactions that led you to be suspicious, how and why you became suspicious, and where appropriate, the nature of the business activity you were engaged in and details of dates of any activities or transactions etc.

The SAR Glossary of Terms (available on the NCA website www.nationalcrimeagency.gov.uk) is used to identify specific categories of suspicious activity and is widely used by law enforcement enabling them to identify SARs in which they have a specific interest. The inclusion of the appropriate Glossary Term can be useful in ensuring the distribution of the SAR to a law enforcement or government agency which may be best placed to utilise or act on the information provided, particularly if you think the issue will be of interest to Her Majesty's Revenue & Customs (HMRC) or the Department for Work and Pensions (DWP).

Criminal property

For consent to be considered you must provide details of the criminal property involved. If you do not do so the UKFIU will be unable to assess your request for consent and the case will be closed.

If you are in the regulated sector this includes the whereabouts of the criminal property, i.e. the bank details or whether it is held in your client account.

If the criminal property relates to a financial transaction, the report should include the relevant details of the beneficiary/remitter of the funds and, if known, the destination/originating bank details e.g. sort code, correspondent bank details. It is important to accurately record the date on which the transaction has occurred or will occur. It is also useful to understand the type of transaction – for example online payment/receipt, debit or credit card, ATM withdrawal, cheque, electronic transfer (BACS/CHAPS), or cash.

If the beneficiary/remitter of the transaction is believed to be complicit in the suspicious activity then consideration should be given to providing their details as an associate subject. An associated subject is a person or entity that is linked to the main person/entity in some direct way and is involved in the suspicious activity.

The amount/value of the criminal property in question is very important to include, so that an informed decision can be made.

Identity details

The amount of information a reporter holds on the reported subject may be dependent on the nature of the relationship with the subject which may frequently be a client or customer, but may also for example be a prospective client, someone connected with or trading with a client/customer or other subject seen in the ordinary course of business. Accordingly, the information may be derived from Customer Due Diligence (CDD) obtained in line with guidance published by its firm and supervisory body or other information gathered in the ordinary course of business.

It is helpful to those who will use your SAR to be as comprehensive as possible; however, you are only required to provide information obtained within the ordinary course of your business. Where known, the information listed below should be provided, and in the case of addresses, wherever possible the status of the address (e.g. current, business, residential etc) should be provided together with postcodes or equivalent for overseas addresses. The inclusion of a postcode allows the SAR to be automatically allocated to law enforcement.

Individuals

Please provide all relevant details known about the individual reported. The amount of information you will have may well depend on the relationship to the reported subject. Please provide all identifying information. This should include, as far as possible, full name/s, date of birth, nationality and address.

It is important that the status of the address/es can be fully understood i.e. current, previous, home, business, and other known property, ensuring that postcodes are included.

If further information is held about the individual e.g.

identification document details (including relevant reference or document numbers) e.g. passport, driving licence, National Insurance number

car details (registration number)

telephone numbers (clearly marked home, business, mobile etc)

full details of bank accounts or other financial details (including account numbers etc)

occupation

then the information can be provided in context with your suspicion.

Businesses, trusts and other entities, incorporated and unincorporated

1) Incorporated

Please provide all relevant details known about the incorporated entity. The amount of information you will have may depend on the relationship to the reported subject. Please provide all identifying information such as:

full name

designation e.g. Limited, SA, GmbH

trading name

registered number

VAT and/or tax reference number

country of incorporation

business/trading address

registered office address.

Additionally, if relevant to your suspicion, please provide details of the individuals or entities that are the directors (or equivalent) and details of the individuals who own or control or exercise control over the management of the entity.

2) Unincorporated

Please provide all relevant details known about the unincorporated entity. The amount of information you will have may depend on the relationship to the reported subject. Please provide all identifying information such as:

full name

business/trading address

VAT and/or tax reference number.

Additionally, if relevant to your suspicion, please provide details of all partners/principals who own or control or exercise control over the management of the entity.

3) Trusts

Please provide all relevant details known about the trust. The amount of information you will have may depend on the relationship to the reported subject. Please provide all identifying information such as:

full name of the trust

address

nature and type of the trust.

Additionally, if relevant to your suspicion, please provide details of all trustees, settlors, protectors and known beneficiaries as appropriate.

UKFIU assistance

For information or assistance with submitting SARs, SAR Online enquiries and consent, please visit www.nationalcrimeagency.gov.uk or contact the UKFIU as follows:

Tel: 020 7238 8282

Press '2' – General SAR enquiries

Press '3' – SAR Online helpdesk

Press '4' – Consent SAR enquiries

When contacting the UKFIU please have available your SAR reference number if applicable.

If you wish to make a SAR by post you should address your SAR to UKFIU, PO Box 8000, London, SE11 5EN or by fax on 0207 283 8286.

You are reminded that post and fax are slower than SAR Online and therefore it will take longer for your SAR to be processed. You will not receive an acknowledgement if you use post or fax.

Disclaimer

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