



FCA's Review of Financial Crime Controls

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Contents

- General lessons learnt, 2020-22
- The nature of the recent FCA review
- Why it matters to all firms
- FCA's findings
- Key action points

Commerzbank

- some parts of the bank's operations failed to verify beneficial ownership details, including in relation to high risk clients, from a reliable source
- processes for identifying risks with politically exposed persons were inadequate
- there was no clear process or criteria for terminating a relationship with a customer based on financial crime risks; and
- there were substantial and unjustifiable backlogs in conducting refreshed know your client checks. In October 2016, 1,720 new clients were in a 'huge backlog' awaiting to be onboarded. At this point the bank had only three staff engaged in this task. By February 2017, the backlogs had increased, and 2,226 existing clients were overdue refreshed KYC checks.

National Westminster Bank Plc	13/12/2021	£264,772,619.95	For 3 offences of failing to comply with the Money Laundering Regulations 2007. Note: This is not a fine that will appear in the FCA's statutory accounts as it is not levied by, or paid to, the FCA.
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Is there anything more to say on this?

Some Background

FCA fines Sunrise Brokers LLP £642,400 for serious financial crime control failings in relation to cum-ex trading

Press Releases | First published: 12/11/2021 | Last updated: 12/11/2021

Sunrise Brokers LLP has been fined over £600,000 for deficient anti money laundering systems and controls.

This is the second case brought by the FCA in relation to cum-ex trading, dividend arbitrage and withholding tax (WHT) reclaim schemes. The first FCA case relating to cum-ex trading [concluded in May 2021](#).

The FCA found that Sunrise had deficient systems and controls to identify and mitigate the risk of facilitating fraudulent trading and money laundering in relation to business introduced by the Solo Group, between 17 February 2015 and 4 November 2015.

On review it was found that the Solo trading throughout the period was characterised by a circular pattern of purported trades – characteristics which are highly suggestive of financial crime. The trading appears to have been carried out to allow the arranging of withholding tax reclaims in Denmark and Belgium.

Some Background

FCA fines Sapien Capital Ltd for serious financial crime control failings in relation to cum/ex trading

Press Releases | First published: 06/05/2021 | Last updated: 06/05/2021



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The FCA has fined [Sapien Capital Ltd](#) £178,000 for failings which led to the risk of facilitating fraudulent trading and money laundering. The fine was reduced due to serious financial hardship.

This is the first FCA case in relation to cum/ex trading, dividend arbitrage and withholding tax (WHT) reclaim schemes. There are currently a number of ongoing and overlapping investigations.

Between 10 February 2015 and 10 November 2015 Sapien failed to have in place adequate systems and controls to identify and mitigate the risk of being used to facilitate fraudulent trading and money laundering in relation to business introduced by the Solo Group.

The Solo trading was characterised by what appeared to be a circular pattern of extremely high value trades undertaken to avoid the normal need for payments and delivery of securities in the settlement process. The trading pattern involved the use of Over the Counter (OTC) equity trading, securities lending and forward transactions, involving EU equities, on or around the last day securities were cum dividend.

The FCA investigation found no evidence of change of ownership of the shares traded by the Solo clients, or custody of the shares and settlement of the trades by the Solo Group.

The way these trades were conducted by the Solo Group and their clients, in combination with their scale and volume, were highly suggestive of financial crime, and appear to have been undertaken to create an audit trail to support withholding tax reclaims in Denmark and Belgium.

Sapien executed purported OTC equity trades to the value of approximately £2.5 billion in Danish equities and £3.8 billion in Belgian equities.

The Nature of the FCA Review

- The UK's 2020 National Risk Assessment of money laundering and terrorist financing
- Highlighted the risk that criminals may be attracted to the fast onboarding process that challenger banks advertise
- The focus was on the use of money mules in challenger banks, but....
- How many RMs, salespeople, brokers, investment managers DO NOT WANT FAST ONBOARDING OF CUSTOMERS?
- The NRA and FCA also highlighted the risk that information gathered at the account opening stage might be insufficient to identify higher risk customers
- What has this got to do with you if you do not work for a challenger bank?

“We are targeting this review at Money Laundering Reporting Officers and industry practitioners working in financial crime roles.”

FCA website summary of the review

The Nature of the FCA Review

➤ Scope of the review:

- governance and management information
- policies and procedures
- risk assessments
- identification of high risk / sanctioned individuals or entities
- due diligence and ongoing monitoring
- communication, training and awareness

FCA's Findings

- Good practice: innovative use of technology to identify and verify customers at speed
- Effective financial crime policies and procedures which firms regularly updated, tailored to the firm's financial crime risks
- Fraud mitigation by incorporating additional monitoring for known fraud typologies at onboarding and as part of account monitoring

FCA's Findings

- Poor practice: financial crime control resources, processes and technology were not commensurate with expansion
- CRA frameworks were not well developed and lacked sufficient detail
- Some firms reviewed did not practice CRA (!)
- Weaknesses in CDD
- Many firms reviewed failed to obtain details about customer income and occupation
- How can you assess the purpose and intended nature of a customer's relationship?
- How can you monitor effectively and recognise a suspicion if you do not have the basic CDD?
- Inconsistent application of EDD procedures
- In one firm EDD only covered PEPs and no other high risk customers
- Where used, EDD was not always documented, e.g. with PEPs

FCA's Findings

- Ineffective management of transaction monitoring alerts
- Inconsistent or inadequate rationale used for discounting alerts or lack of resource
- Increase in SARs reported to the NCA upon exiting customers hinted at poor initial onboarding
- Poor quality SARs submitted (lots of transaction details, but no indication of the reason for suspicion)
- Change programmes:
- FCA expects clear project plans for control enhancements outlining key milestones, accountable executives and delivery dates
- Senior management should track projects and ensure that key deadlines are met
- Risk Committee, Audit Committee and CEO should be involved in overseeing material developments to these programmes, offering governance and challenge
- Lack of or insufficient notifications to FCA under Principle 11 (e.g. Internal Audit)

Key Action Points Identified by the FCA

- Review the Treasury's NRA to ensure your firm has appropriately considered all relevant typologies as part of the BRA
- Ensure that the BRA is regularly updated and subject to challenge
- Continue developing defences against financial crime associated with business expansion and/or customer growth
- Read the FCA's Financial Crime Guide, SYSC 6.3 and the JMLSG
- Review and enhance your firm's financial crime frameworks
- Ensure that CRA and EDD measures adapt to the heightened risk of sanctions evasion
- This includes but is not limited to the identification of ultimate beneficial ownership in higher risk corporate structures (NB Russia – more next month)

The Seven Key FCC Compliance Things You Must Do

- Financial Crime Risk Assessment (BRA) – focus on high risk businesses, regular updating and challenge
- Customer Risk Assessment (CRA) – particular focus on high risk clients
- Policies and Procedures
- Training
- Suspicious Transaction Reporting
- Monitoring
- Get Senior Management Involved

Closing Thoughts

AML investigations are often complex because they are rarely transactional and require a systemic understanding of how a firm operates, its governance controls, its cultural habits, and the nuts and bolts of sometimes opaque systems.

Mark Steward, March 2021

If you agree with this statement.....

.....then why would your Financial Crime control structure not involve such a systemic understanding?

Why Are We Doing This?

➤ In 2019 Financial Crime News issued a Global Threat Assessment report. This identified the total proceeds of global organised crime.

- a) USD 87 bn
- b) USD 1.75 tn
- c) USD 5.8 tn
- d) USD 6.3 tn

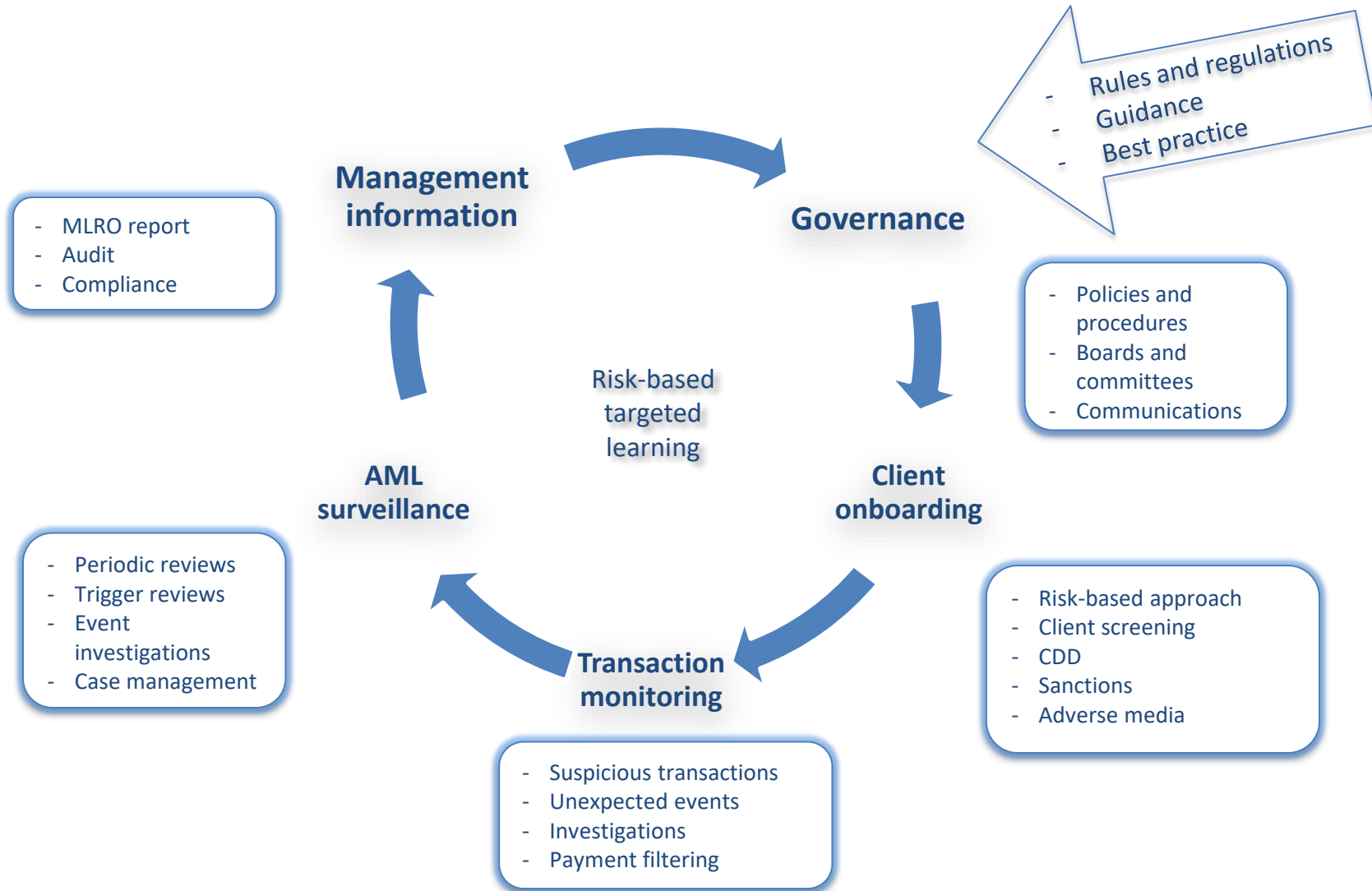
How much of this was actually laundered?

What percentage of this was actually recovered?

Why Are We Doing This?



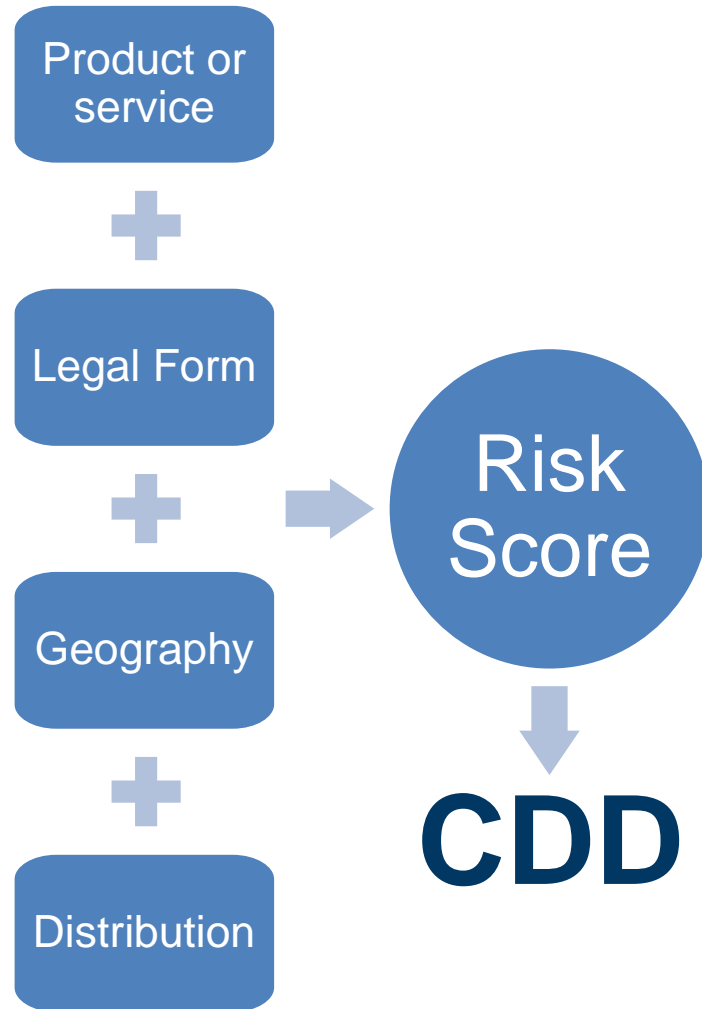
The AML Programme



The AML Risk-Based Approach



Customer Risk Assessment



- Understand Product or Services required, and any idiosyncrasies
- Identify the legal form of the customer, and where appropriate, the ownership structure, including UBOs
- For individuals, is the customer acting on their own behalf?
- Where is the customer domiciled?
- Where do they carry out their business?
- Links to other geographies
- How will they interface with the firm?

Thank you for attending

Any questions:

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