

Insolvency Practitioners Association

Policy for dealing with Anti-Money Laundering ('AML') complaints

February 2019

Introduction

1. The IPA is a membership organisation, which as part of its articles regulates Insolvency Practitioners (IPs). One of the means by which the regulatory function of the IPA is carried out is by means of dealing with complaints against IPs and other members of the IPA.
2. This policy provides guidance to IPA Secretariat staff on how to deal with complaints received that are alleged or potential breaches AML guidance as set-out in The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 – known as the 'Money Laundering Regulations 2017'. A copy of the Regulations can be found using this link: [2017 Money Laundering Regulations](#)
3. The Policy will be the responsibility of the IPA Money Laundering Reporting Officer ('MLRO') (currently Dave Holland) and the policy will be reviewed at least annually.
4. How the IPA deals with insolvency complaints received against members is subject to a separate policy and guidance, please [click here](#) to view the general guidance on complaints. This policy is purely in relation and refers to complaints regarding AML matters.
5. The IPA is a Professional Body Supervisor ('PBS') and part of the duties that attach to a PBS is to consider complaints relating to breaches and alleged breaches by IPs and members in relation to AML statute, regulation and guidance.
6. A complaint is an allegation that is received by the Secretariat regarding a breach of any statute, regulation or guidance where there is a potential for a finding of misconduct against the member leading to a sanction to be levied and published.

7. A whistleblowing complaint (see 8c below) is to be treated as a complaint as defined above at para 6, but the details are likely to be anonymous and care must be taken to ensure that anonymity of the whistleblower is kept. The IPA has a separate whistleblowers policy on the IPA web-site, or by clicking on the link [found here](#).
8. AML related complaints will be received in one of four circumstances:
 - a. Complaints arising from the IPA monitoring of IPs and their firms
 - b. Complaints arising from a known or established fraud or publicised money laundering or criminal matter where a member IP or member is involved or has had dealings
 - c. Information received from whistleblowers via the IPA dedicated whistleblowers - amlcomplaints@ipa.co.uk - or via a call to the Secretariat – this could be an anonymous tip-off regarding an issue regarding an internal issue at an IP’s firm or regarding an IP, member of firm being engaged in criminal activity and/or facilitating criminal activity – for the policy see link at para 7 above.
 - d. Intelligence received from law enforcement agencies or via another PBS
9. Consideration as to the policy on handling of complaints received on each of the four circumstances above will be considered in turn.

AML Complaints from monitoring/inspection work or other internal referral

10. Complaints generated from inspection/internal referrals are envisaged to be in relation to breaches of Money Laundering Regulations 2017 and other regulatory breaches.
11. The inspector or other member of the Secretariat who makes such a referral should consider whether a Subject Access Request (‘SAR’) should be made via the IPA AML reporting officer. The IPA AML reporting officer will lodge the SAR via the National Crime Agency (‘NCA’) on-line SAR system.
12. A SAR is a formal notice issued to the law enforcement agencies of a suspicion regarding potential AML activity by an individual. The current AML reporting officer (known as the ‘MLRO’) for the IPA is Dave Holland. Contact should be by phone where possible. Any email should be headed ‘STRICTLY PRIVATE & CONFIDENTIAL’ and ask for a time to discuss any concerns with the MLRO.

13. A defence against money laundering ('DAML') will be requested by the MLRO to enable the Secretariat to proceed with processing the complaint under the IPA rules relating to the IPA Investigation Committee ('IC') - see link at para 3 above. A DAML is requested from the NCA and is usually provided within 7 working days.
14. If a DAML is provided, the complaint will be processed in the usual manner and the relevant guidance should be followed. If a DAML is not provided, then action in relation to the received complaint cannot proceed and can only continue when permission is granted by the appropriate law enforcement authority.

AML Complaints from a known/established fraud/AML activity/criminal matter

15. If a matter regarding a fraud, AML issue or criminal matter which involves an IPA member and the details are already in the public domain and the Secretariat will treat the information as intelligence which may require a complaint file being opened against the IP/member as appropriate.
16. It is envisaged that these types of complaints will require consideration as to whether the IP/member took appropriate action at the time as required under AML regulation/guidance and other guidance as appropriate.
17. Whilst the matter will be in the public domain, any risks regarding 'tipping-off' would appear to be minimal. 'Tipping-off' is where a person suspected of an AML offence is informed that an investigation is taking place and/or a SAR has been made and which prejudices any possible investigation.
18. However, the Regulation Officer reviewing the matter, should keep such matters in mind and immediately report any concerns to the IPA's MLRO to consider if a SAR and a request for a DAML need to be lodged before proceeding further.

AML Complaints from Whistleblowers

19. There are two potential scenarios envisaged – a tip-off regarding an internal policy at an IPA licensed IP's firm and a complaint regarding alleged criminal/illegal behaviour. Please review the IPA whistleblowers policy on the web-site and linked at para 7 above.

20. In both cases, contact should be made with the IPA MLRO and consideration given to lodging a SAR and requesting a DAML.
21. Where the tip-off is in relation to an internal procedure, an urgent, targeted AML visit should be conducted by an IPA inspection officer to review AML policies and adherence to the policies by the IP and their firm and any findings communicated via a formal report for consideration of sanction to the relevant Committee.
22. Where the tip-off is in relation to criminal/fraudulent activity, the risk of tipping-off needs to be paramount and the member cannot be initially notified.
23. In this instance, it is envisaged that a SAR would have to be lodged as the tip-off will be in relation to criminal activity and contact with the IPA MLRO must be made.
24. Consideration of the complaint will be held until a DAML is granted by the relevant authorities that action by the IPA – via the relevant Committee can be undertaken.
25. In relation to complaints received from whistleblowers, anonymity should be maintained and their details should not be disclosed. Whilst it is not a criminal offence to disclose a whistleblowers identity, it is recommended and best practice to maintain that anonymity unless required to disclose by law. Any disclosure to an unauthorised party will be considered a disciplinary offence.

AML complaints originating from Law Enforcement or other PBS regulators

26. The risk of tipping-off (see para 16) is again paramount. If the complaint arose from law enforcement agencies, it will be necessary to liaise with the authority to confirm actions that could be taken against the IP/member.
27. If the complaint originated from another PBS, a SAR would need to be lodged and a DAML requested. As per the policy on whistleblower complaints (see paras 18-24 above), consideration of the complaint will be held until permission is granted by the relevant authority that regulatory action by the IPA could be undertaken.



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