

Insolvency Practitioners Association

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

September 2020

Introduction

1. The IPA is a membership organisation, which also operates as a regulator of Insolvency Practitioners (IPs). One of the regulatory functions of the IPA is dealing with complaints received against IPA licensed IPs, members and former members. Former members remain subject to having complaints raised for matters pertaining to when they were a member for a period of three years from the cessation of their membership (as per Article 22A-C of the IPA Articles of Association).
2. This policy provides guidance to IPA Secretariat staff on how to deal with complaints received which allege potential breaches of AML regulation as set-out in The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 – known as the ‘2017 Money Laundering Regulations’. 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 Nominated Officer ('NO') 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.
5. As further amended by the 2017 Money Laundering Regulation the IPA has been designated a Supervisory Authority (these are often referred to as 'Professional Body Supervisors' - 'PBS'). Part of the duties as a PBS is to consider complaints relating to breaches and alleged breaches by its 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 a member, or former member, leading to a

sanction to be levied and published.

7. A whistleblowing complaint (see 8c below) should still be treated as a complaint as defined above at para 6. If such a complaint is received, it is important that the upmost care must be taken to ensure that anonymity of the whistle-blower is kept confidential. The IPA has a separate policy on whistleblowing, which can be found on the IPA web-site, or by clicking on the link [found here](#).
8. Complaints relating to potential breaches of AML regulation will usually be received in one of the following circumstances:
 - Complaints arising from inspection visits undertaken by the IPA Inspectors to IPs and their firms, which result in an allegation being made against the IP as part of the inspection report.
 - Complaints arising from a known or established fraud or publicised money laundering or criminal matter where a member IP, member or former member is involved or has had alleged dealings
 - Information received from whistle-blowers via the IPA dedicated whistle-blowers email - 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, regarding an IPA licensed IP, an IPA member or former member being engaged in criminal activity and/or facilitating criminal activity – either as an individual or as part of a firm. For further details on whistle-blowers and how to deal with information received, please see the link at para 7 above.
 - Intelligence received from law enforcement agencies or another PBS
 - A complaint that is received by the Secretariat via the Insolvency Service Complaints Gateway
9. Consideration as to the policy on handling of complaints received in each of the circumstances above will be considered in turn.

AML Complaints from monitoring/inspection work or other internal referral

10. Allegations against IPA licensed IPs generated from inspection visits in relation to breaches of the 2017 Money Laundering Regulations and other regulatory breaches, should be processed as outlined in the IPA Conduct Rules. Any allegation is included as part of the inspection report and the papers from the visit and report, with the member's comments, will be considered by the Regulation & Conduct Committee ('R&CC').
11. It is anticipated that that such allegations will refer to breaches of the 2017 Money Laundering Regulations (i.e. lack of a case risk assessment, failure to carry out adequate client due diligence etc.) rather than any suspicion that money laundering has occurred at the instance of the IP or a member of their staff.

12. Accordingly, as the allegation is a breach of the 2017 Money Laundering Regulations, tipping-off will be low-risk. 'Tipping-off' is where a person suspected of an AML offence is informed that an investigation is taking place and/or a report to the NCA has been made and knowledge of that investigation or report may prejudice any possible investigation.
13. The NO should be informed that an allegation regarding a breach of the 2017 Money Laundering Regulations is being raised as part of the inspection report. This will help ensure that the allegation wording as well as information and details required for the R&CC to consider the allegation is consistent across the IPS supervised for AML matters.
14. The issue of conflict of interest in considering the allegation is a matter for the members of the R&CC who are obliged to advise the Chair of the R&CC at each meeting of the R&CC if they have an actual or perceived conflict and may have to recuse themselves from the meeting.
15. Allegations against unlicensed members or former members arising from inspection visits from related IP practices or other intelligence provided by Secretariat staff, should also proceed as outlined in the IPA Conduct Rules. However, in these instances, because there is no allegation outlined in an inspection report, the alleged breach should be subject to enquiry by an IPA Regulation Officer.

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

16. If a matter regarding a fraud, criminal matter or alleged AML activity involving an IPA member or former member, is founded on details in the public domain, the Secretariat will initially treat the information as intelligence. This may require a complaint file being opened against the member or former member as appropriate.
17. The NO and Single Point of Contact ('SPOC') will consider whether the member or former member took appropriate and reasonable action at the time of the alleged breach as required under AML regulation and issued guidance.
18. Where the NO and SPOC consider that the intelligence does indicate a potential breach that may lead to a disciplinary finding, the NO should lodge a report to the National Crime Agency ('NCA') and should take steps for a complaint to be opened.

19. As any alleged breach would commence with information that is already in the public domain the risks of tipping-off are reduced. However, the Regulation Officer ('RO') asked by the NO to review and process the complaint should keep the issue of tipping-off in mind and immediately report any concerns to the NO.

AML Complaints from Whistle-blowers

20. There are two potential scenarios envisaged – a tip-off regarding a breach of an internal policy in relation to money laundering at an IPA licensed IP's firm or a complaint regarding alleged criminal/illegal behaviour. Please review the IPA Whistle-blowers Policy on the website and linked at para 7 above.
21. In both cases, the NO must be immediately contacted so that the NO can consider lodging a report with the NCA. Please refer to the IPA internal guidance regarding the detail to be provided to the NO in relation to potential reports for the NCA.
22. Where the tip-off is in relation to an alleged breach of an internal money laundering procedure at an IP's firm, an urgent, targeted AML visit should be conducted by an IPA Inspection Officer to review the IP firm's AML policies and their adherence to said policies. Any findings from the targeted visit should be processed as per para 10 above.
23. Where the information provided is in relation to criminal/fraudulent activity, the risk of tipping-off is high and the member or former members must not be notified directly or indirectly of the investigations surrounding the allegation.
24. As advised in para 21 above, the NO should be immediately contacted so the NO can lodge a report with the NCA. Please refer to the internal guidance regarding the detail to be provided to the NO.
25. Consideration of the complaint by the IPA will be held until the NCA confirm that the complaint may proceed, or do not reply within 7 working days of initial notification. In either of these scenarios apply, then the complaint can proceed as per the IPA's Conduct Rules.
26. As the complaint originated from a whistle-blower, anonymity of the whistle-blower must be protected and their details must not be disclosed to any other party. Whilst it is not a criminal offence to disclose a whistle-blowers identity, it is recommended best practice to maintain that anonymity unless disclosure is required by law.

27. The protection of the anonymity of the whistleblower must be kept under review and contact must be maintained between the RO and the NO whilst the complaint is progressed to ensure that anonymity is protected.

AML complaints originating from Law Enforcement or other PBS regulators

28. Any complaint arising from law enforcement agencies (for example, the police, Department of Public Prosecutions, etc) or other PSB regulators means that the risk of tipping-off is high. If the complaint arose from law enforcement agencies, the NO must be contacted prior to any communication with the IP or member. The NO will liaise with the relevant authority to confirm what action can be taken against the member or former member to progress the information provided as a complaint under the IPA Conduct Rules.
29. If the complaint originated from another PBS, similarly the NO must be contacted prior to any communication with the IP or member. A report to the NCA may need to be lodged and the NO may want to confirm the action to be undertaken with the other PBS prior to any action being undertaken by the IPA. If the NO advises that a report to the NCA is required, consideration of the complaint will be held until the NCA confirm the complaint can proceed or do not advise that action cannot be undertaken. (see para 25)

AML complaints originating from the Insolvency Service Gateway

30. A complaint received via the Gateway has been subject to an initial sift by the Insolvency Service and the IPA is obliged to consider the complaint and make contact with the IP regarding the concerns raised in the complaint. It is noted that this may create an issue with tipping-off. If the complaint as received is on an alleged breach of the 2017 Money Laundering Regulations the risk is low and the complaint should be able to proceed. Any concerns should be raised with the NO who can advise.
31. If the complaint as received is on a suspicion of money laundering by a member of the IPA, the RO must immediately notify the NO of the complaint. The passing of such a complaint by the Insolvency Service may well be tipping-off by the Insolvency Service to the IPA and the complaint must not be proceeded with. The NO will proceed to contact the Insolvency Service and report to the NCA.
32. Whilst the complainant has raised concerns via the Gateway, it cannot be assumed that the complainant is not a whistleblower. The complainant may have raised the concern via the Gateway without initially seeking resolution

with the IP due to legitimate concerns about having their identity protected. If the Gateway advise that the complainant wishes to remain anonymous, the RO should contact the NO immediately, and the matter proceed as if it were a whistleblowing notification. If the RO has concerns about protecting the identity of the complainant, they must immediately contact the NO to discuss their concerns. The NO will be able to advise if the complaint should proceed as a whistleblowing matter.

33. For all complaints received via the Gateway which indicate a breach of AML regulation, the NO should be advised of the receipt and copy details of the complaint. This may lead to a targeted AML inspection visit being required.
34. Whilst the Insolvency Service should have lodged a report with the NCA, this should not be assumed, nor does it prevent or preclude a further notification being lodged by the NO.
35. Any complaint received via the Gateway should progress as per the process outlined in the IPA Conduct Rules.

Policy updated by: Stuart Jary

Date: 02 September 2020

Policy review date: XX September 2021