

WEBINAR

AML compliance priorities for 2021

Ensuring your firm is
regulator ready



with **Amy Bell**
Teal Compliance



About Amy Bell

Amy Bell is a Compliance Consultant and director of Teal Compliance, where she helps firms adapt to the changing legal landscape by supporting everyone in a firm to understand compliance and how to apply risk management principles to improve client service and deliver efficiency.

Amy is also a current member and former chair of The Law Society's Money Laundering Task Force, and the author of The Law Society's Elearning and Toolkit on the Bribery Act.



Agenda

- The importance of matter risk assessments
- Demonstrating a risk-based approach when it comes to looking at source of funds and source of wealth
- What firms need to consider when deciding whether to have an independent audit
- Making sure you are regulator ready





Let's get started!

Enforcement

0%

2014

12%

2017

44%

2018

64%

2019

New guidance

- Expectations of Regulators
- Status of the Guidance
 - **Must** obligatory
 - **Should** good practice, explain if you don't follow
 - **Who** (might decide to deviate)
 - **May** suggestions

Matter risk assessment

Regulation 28(12)(a)(ii)

The ways in which a person complies with the requirements to take CDD measures must reflect:

- The firm's risk assessment
- Its assessment of the level of risk arising in any particular case



Matter risk assessment

MRA should **NOT** be a tick box

- Talk about risk rating
- Can have a template for similar cases but must not become tick box
- Should assess and have regard to negative news results
- Suggest review of MRA on long running matters – no interval given.
- Focus on recording reasoning for assessment
- Record why you've picked CDD approach

2019 regulation changes

(4) The policies, controls and procedures referred to in paragraph (1) must include policies, controls and procedures:

- (a) which provide for the identification and scrutiny of—
 - (i) any case where—
 - (aa) a transaction is complex or unusually large, **or** there is an unusual pattern of transactions, **or**
 - (bb) the transaction or transactions have no apparent economic or legal purpose, and
 - (ii) any other activity or situation which the relevant person regards as particularly likely by its nature to be related to money laundering or terrorist financing;

Due diligence – 5 requirements



Identify
your client



Verify your
client's identity



Identify and
verify the
beneficial owner
where the client is
not a person



Obtain
information on
the purpose and
intended nature
of the business
relationship



Carry out ongoing
monitoring

CDD - Timing

Timing

- Regulation 30(3)
- No permit funding into client account **except** for fees and disbursements
- If you use r30(3) must note reasons in C/MRA

Purpose and nature

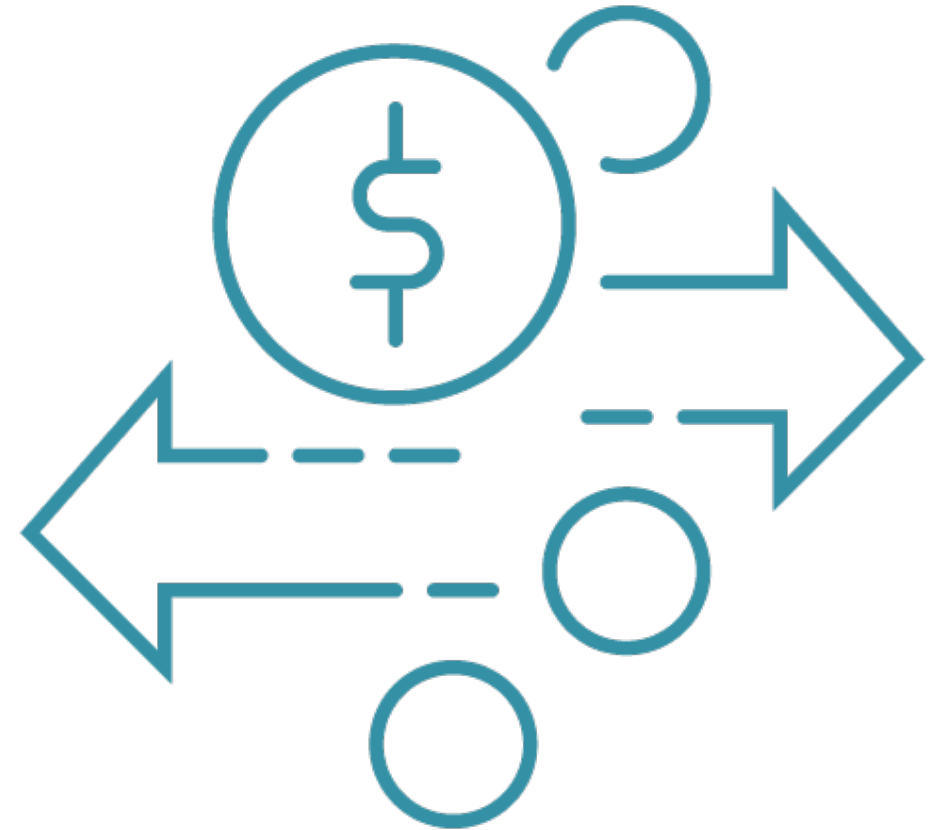
- What is the purpose of the transaction?
- Is that usual for this kind of client?
- Is it an unusually large or complex transaction?
- Does it lack economic or legal purpose?
- Where is the money coming from and how did they get it?
- Standard Due Diligence
- Enhanced Due Diligence



Source of funds

Regulation 28(11)(a)

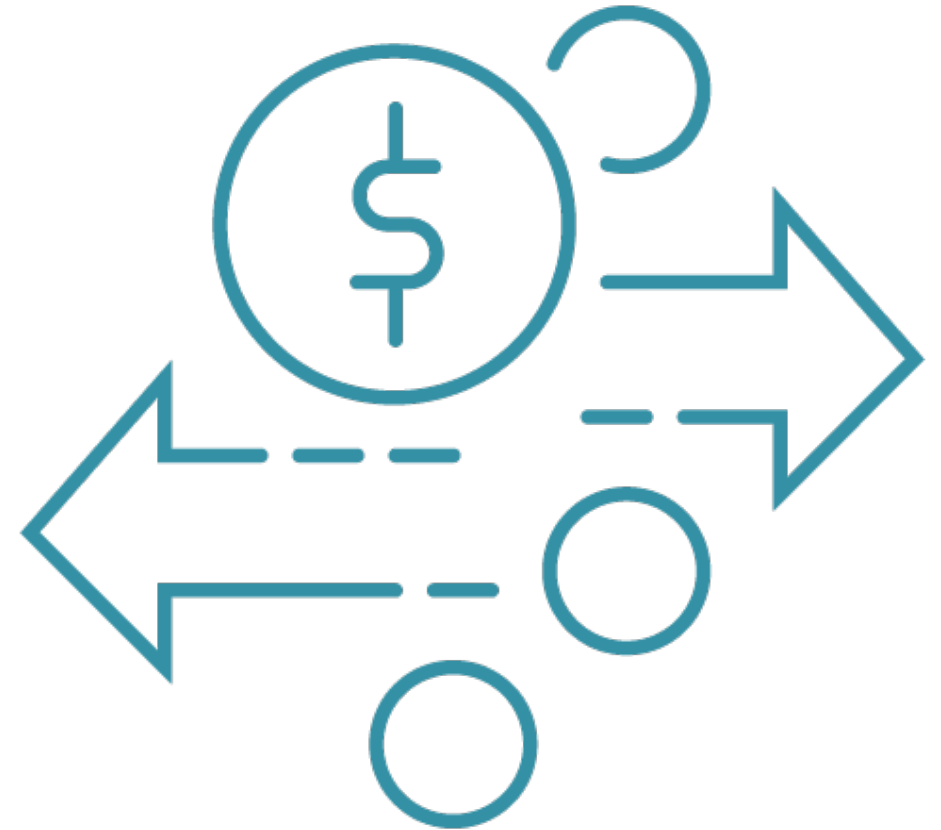
- “...scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person’s knowledge of the customer, the customer’s business and risk profile;”



Source of funds

Regulation 35(5)(b)

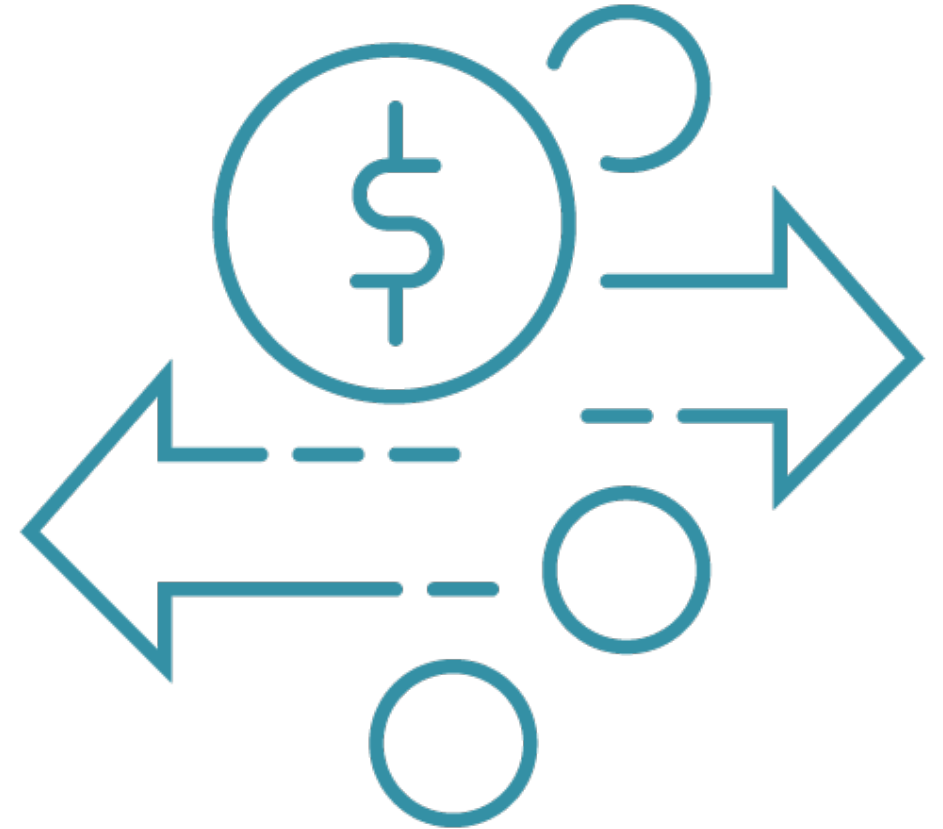
- “... take adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or transactions with that person;”



Source of funds

Where are the funds coming from?

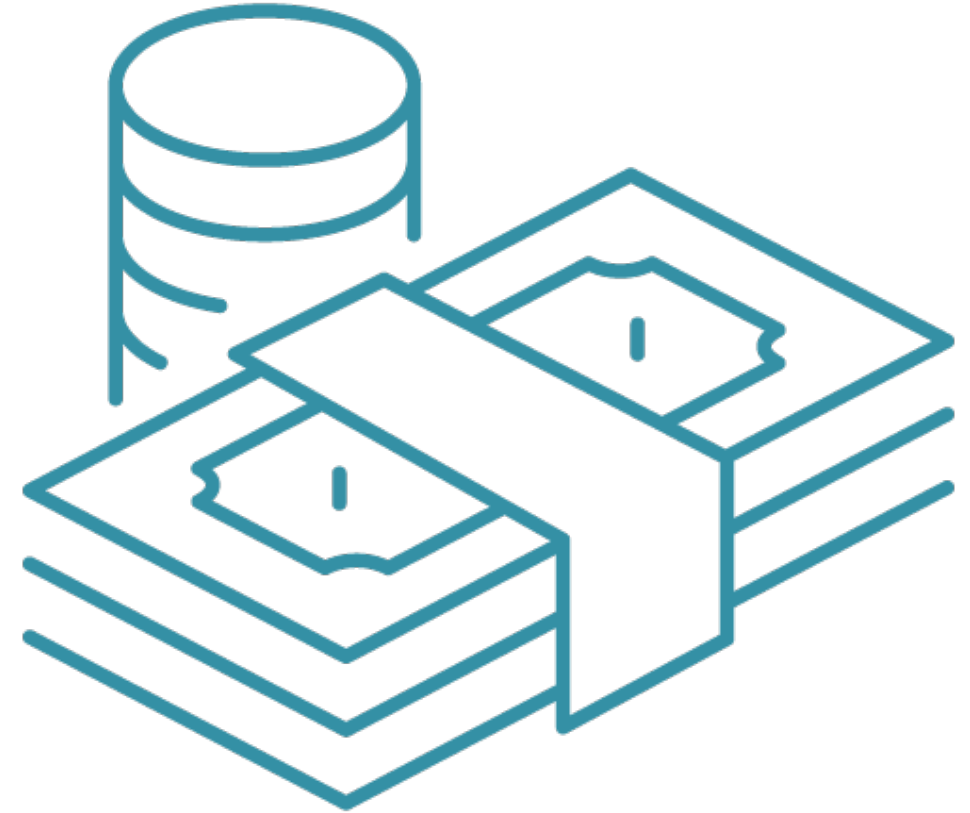
- A UK bank account does not mean that everything is okay
- All clients must be asked at an early stage where funds are coming from
- Some may need to produce evidence such as bank statements for the account
- Is the paperwork consistent with their verbal explanation, is it complete?
- Remind people to read it and record their assessment at the time



Source of wealth

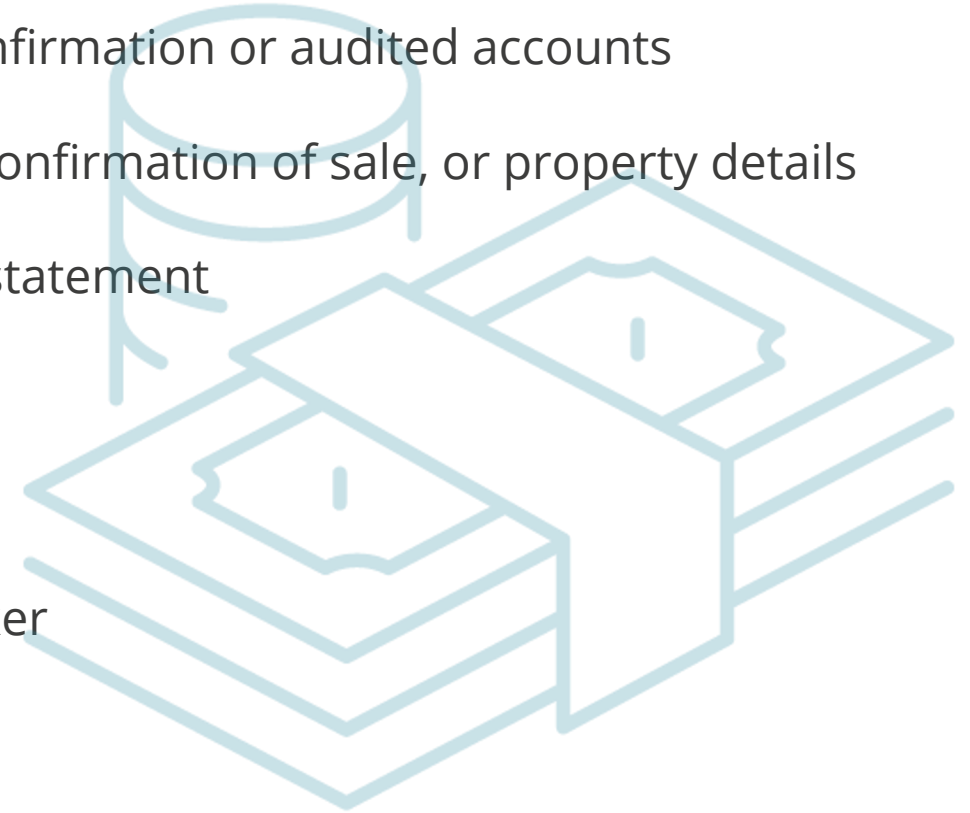
Check the source if wealth

- Need to consider
- May need to ask
- Are the client's funds from an inheritance, a remortgage, regular savings, or a gifted deposit from parents/other family?
- May need to prove it – what are the documents that back this up?
- Gifts and donors – what evidence is required and what checks should be done?



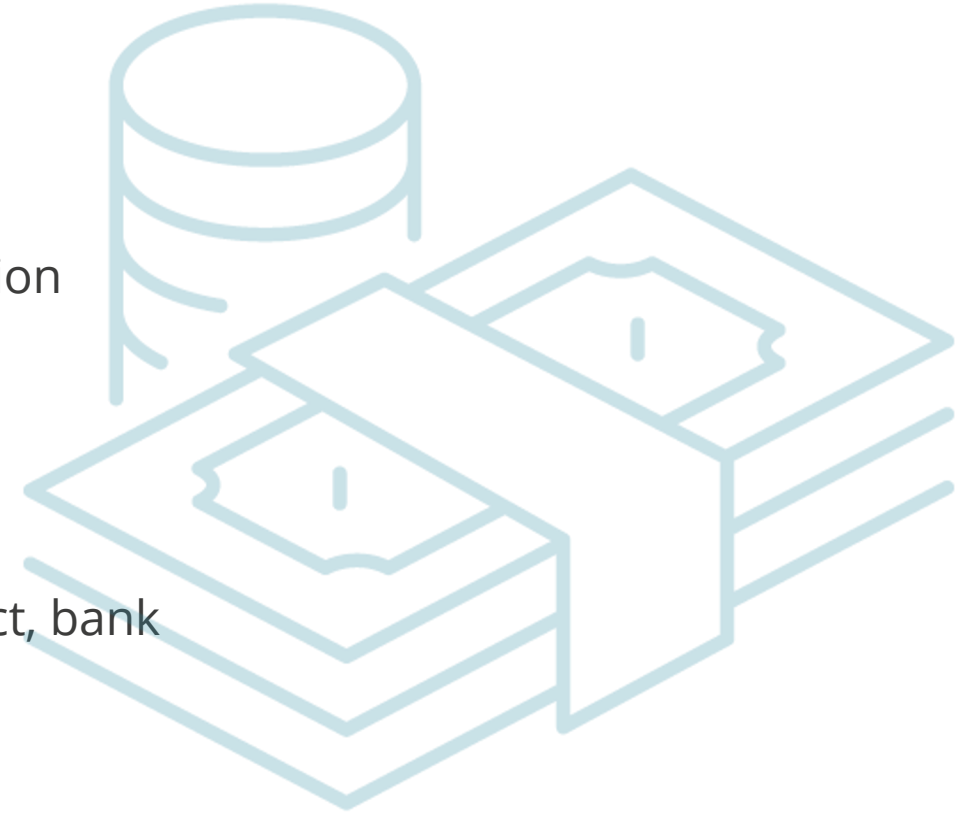
Source of wealth

- **Salary** – Employer details and wages slips, employer confirmation or audited accounts
- **Sale of a property** – Completion Statement, Contract, Confirmation of sale, or property details
- **Company profits** – tax return, board minute and bank statement
- **Partnership profits** – bank statements, accounts
- **Pension** – proof of release or statement
- **Sale of investments** – contract, confirmation from broker
- **Inheritance** – Estate account, grant of probate
- **Divorce Settlement** – Settlement or order



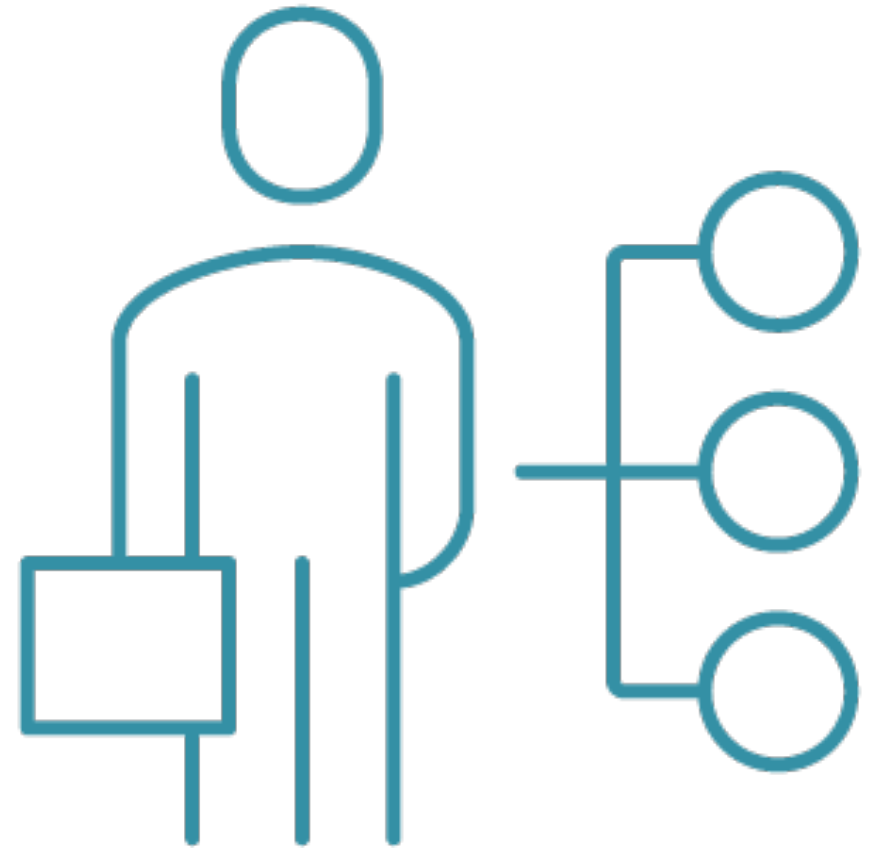
Source of wealth

- **Gambling win** – Evidence
- **Gift** – donor's source of wealth
- **Working Capital** – Accounts, credit report, or confirmation
- **Loan/overdraft** – Proof of Facility
- **Group funding** – Funding arrangement
- **Sale proceeds from assets** – proof of sale, copy contract, bank statements showing proceeds
- **Private Equity funding** - agreement



Third party funders

- Risk?
- Used to launder money intentionally
- Client misled into money laundering
- Client cancelling instructions



Risk assessments

- “Can I see on your file that you have considered the risk of money laundering after you have investigated the purpose and nature of the business relationship, and that you have carried out ongoing monitoring?”
- If it's not written down it didn't happen!



Internal controls

- Size and Nature – if you don't think you are, need to say why you wouldn't benefit from having them
- Audit
 - See risk outlook
 - Annually
 - Not the original team
 - Sample size must be sufficient based on offices and client/matter types

Regulator ready – MLRO report

- Changes to the AML/CTF risks of the practice
- Advised improvements to be made in the coming year
- Progress on any past improvements
- The results of any internal auditing
- Resourcing concerns/considerations



Regulator ready – MLRO report

- Any interactions with their supervisor
- AML staff training undertaken
- Key information, for example regulatory changes or notable publications/guidance from AML authorities; and
- Other information, for example, trends, deficiencies, lessons relating to SARs made by the practice



A person in silhouette stands on a high-rise balcony, looking out over a city skyline. The image is overlaid with a semi-transparent blue filter. The text "any questions?" is written in white, bold, sans-serif font on the left side of the image.

any questions?



thank you!



encompasscorporation.com
tealcompliance.com

