

## **Changes to the 'Consent' Approach; Requesting A Defence Under POCA & TACT from 18<sup>th</sup> July 2016**

1. The UKFIU have recently undertaken a review of the policy and operating procedures relating to requests for 'consent' under the Proceeds of Crime Act 2002 (POCA) and the Terrorism Act 2000 (TACT).
2. The objective of this review was to address a number of issues both we and reporters have encountered in the operation of the 'consent' regime. We have sought to remedy these through the implementation of a number of practical and process changes. These changes are of course pending any that may be made in light of the HM Government's Action Plan for anti-money laundering and counter-terrorist finance (published on 21 April 2016) and the planned Criminal Finances Bill.
3. The new approach seeks to address a number of issues, including those detailed below:

<b>Issue</b>	<b>Changes made</b>
Frequent misinterpretation of the effect of 'consent' (e.g. assuming that it results in permission to proceed, or is a statement that the money is 'clean' or that the NCA condoned the activity going ahead).	Removal of the term consent from granted letters, replacing it with 'defence against a principal money laundering offence' and 'defence against terrorist financing offence'. and providing additional clarity on what a granted response does and does not provide.
Continued receipt of poor quality SARs, missing significant information (following the issuing of the closure approach in 2014). Effort is wasted, distracting the NCA and law enforcement from focusing on quality SARs where there is more likely to be actions arising.	Identification of clearer timeframes for the established approach of closing requests where there are information deficiencies. Following requests for further information this is two working days.
Confusion arising where reporters receive no reply from the NCA	Clarification in the communications document on the effect of provisions in POCA and TACT in these circumstances.

4. We have started to contact reporters to request that they check their registered email addresses on SAR Online are up-to-date and where they are not we will need reporters to re-register with their correct details. This is so we can move to a position where we will be communicating with all reporters in writing as a default to ensure clarity and speed of communication, moving away from phone calls and posted letters.
5. We anticipate this approach will result in quicker response times for most requests, as we are also introducing a prioritisation approach in line with the National Strategic Assessment (NSA) of Serious & Organised Crime, the National Risk Assessment (NRA) of Money Laundering & Terrorist Financing, the NCA Economic Crime Command priorities, and other relevant assessments of threat, vulnerability or risk.
6. An NCA communications document setting out the new approach and providing further detail, is titled 'Requesting a Defence under POCA and TACT' and is available on the NCA website.