
Ten Major Financial Institutions Sign Up to Share Information on Suspicious Activity with UK Authorities

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Keith Bristow, Director General of the UK's National Crime Agency (NCA), has announced a far-reaching information sharing agreement between 10 major financial institutions and the NCA aimed at tackling money laundering within the UK financial services industry.

The 10 financial institutions have agreed to pass on information that they hold on a customer whenever the NCA informs them that it has received a Suspicious Activity Report ("SAR") on that customer from another institution within the group. This means that financial institutions may have to amend certain customer and counterparty agreements to reflect the new circumstances under which they will disclose customer information. These institutions must also ensure that they know the precise scope of any information request received from the NCA.

In a strongly worded interview with the [Evening Standard](#), Bristow said that "hundreds of billions of criminal assets are laundered through UK financial institutions" and that this could damage their reputation or even pose "a significant threat to our [UK] national security". The agreement follows a meeting last year between the UK's Home Secretary Theresa May, the British Banker's Association, the FCA and the NCA on how to improve information sharing and build trust between the public and private sector.

The aim of the agreement is to prevent a person or corporate suspected of laundering money at one institution from carrying out similar activity undetected elsewhere. Previously, the NCA would have to wait for the other institution to make its own SAR or obtain a court order to access that information, even though it may be crucial to its investigation. The NCA will now be able to proactively approach banks to ascertain whether a suspicion reported at one institution, can be confirmed through information held at another.

The agreement will come into force in February 2015 and will initially last one year. If it is deemed to be successful, the NCA hope that additional institutions will join the group. The identities of the 10 financial institutions that are currently signed up to the agreement have not been disclosed, as it would identify them to those looking to launder money and there are concerns that identifying them may put them at a commercial disadvantage. The agreement itself is also confidential.

Practically, it means the institutions that have signed up to the agreement are going to be approached by the NCA a lot more often for customer information. Section 7 of [Crime and Courts Act 2013](#) gives those institutions the legal right to disclose information to the NCA without breaching any duties of confidentiality, if the disclosure is made for the purpose of the exercise of an NCA function. However, the NCA anticipates that the changes may result in legal challenges by customers who are unhappy that their details have been given to the authorities on the basis of a SAR being filed at a different institution (and which may relate to an account held for entirely different purposes).

Although the agreement is designed to combat money laundering, it is going to further muddy the waters as to when a bank is required by law to disclose customer information. As the agreement is voluntary and only between a certain number of financial institutions, it is difficult to equate information sharing under the agreement with a legal requirement to do so (for example a court order). The exact process through which the NCA will request disclosure has not been specified, but banks and other financial institutions must ensure that they know the exact scope of any request from the NCA in order to avoid under/over disclosure. If a bank discloses customer information in any circumstance other than those permitted by law, it may be liable to pay damages for any losses suffered by that customer as a result of the disclosure.

As such, institutions which have entered into the agreement should update customer and counterparty agreements so as to reflect the new circumstances under which information may be disclosed.