

POOLED CLIENT ACCOUNTS

Note: This guidance is confined to Pooled Client Accounts.

1.1 Definition

A Pooled Client Account (PCA) is a bank account opened with the firm by a customer, for example a legal practitioner or letting/estate agent, to administer funds that belong to their own clients. Their clients' money will be co-mingled but the customer's clients will not be able to directly instruct the firm to carry out transactions.

Suspense accounts held by respondent institutions are not PCAs (refer to Part II Sector 16 on Correspondent Relationships).

There are two primary vectors of risk:

- The customer's clients misuse a PCA for ML/TF purposes without the knowledge of the customer; and
- The customer is complicit in using its PCAs for ML/TF purposes, either willingly or under duress.

1.2 Purpose

Firms should take reasonable measures to establish and document the purpose of PCAs. Although possible self-evident given the nature and purpose of the business relationship, firms may need to establish information such as: the types of clients whose funds are held in the PCAs, the level of assets deposited and the size of the transactions undertaken, and the exposure to industries and geographies recognised as vulnerable to money laundering, corruption or terrorist financing.

1.3 Risk Assessment

As part of the documented customer risk assessment (see 4.33ff), firms should consider whether the provision of PCAs impacts the customer's ML/TF risk, including whether:

- The funds in the PCA are backed by government schemes with enforcement powers through a judicial body (e.g. letting/property/estate agents and property management agents (known as 'property factors' in Scotland) in the UK);
- The PCA serves a limited, domestic, purpose;
- The customer is subject to the ML Regulations, or equivalent (e.g. UK legal professionals and accountancy practitioners that are subject to professional body AML supervision);
- The customer is subject to other regulatory or professional conduct obligations (e.g. client identification rules, professional conduct rules relating to dealing with funds in PCAs or client money protection regulations);
- The PCA is used for activity that is low risk and not within the scope of the ML Regulations (e.g. managing assets of individuals in care, litigation in the UK, or property management agents);
- The firm has taken reasonable measures to satisfy itself that the customer applies robust and risk-sensitive CDD measures (where relevant to regulated activity) to their own clients and its clients' beneficial owners (e.g. by obtaining copies of external or internal audit reports,

appropriate representations from the customer, or reviewing the customer's relevant procedures);

- The customer is unnecessarily and/or unreasonably reluctant to provide information on the PCAs.

1.4 **Written Agreement**

The firm must enter into a written agreement with the customer, in which the customer agrees to provide, upon request, information on the identity (including verification documents/data where the customer undertakes CDD per the ML Regulations) of the owners of the funds held in the PCAs. Firms may decide to obtain this agreement through, for example, the inclusion of an appropriate clause in the product terms and conditions, through an attestation letter or similar.

The timescale agreed with the customer should be proportionate to the ML/TF risk, be reasonable within the context of the business relationship, and be sufficient to meet the needs of a court order should one be issued to the firm in relation to the PCAs.

1.5 **Due Diligence**

Where the firm concludes that the customer and its use of the PCA poses a low risk of ML/TF, it may apply simplified due diligence measures on the PCA. This means that the firm need not identify or verify the owners of the funds in the PCA.

Where the firm concludes that the customer presents a degree of ML/TF risk other than low (i.e. simplified due diligence cannot be applied), the firm must either take reasonable measures to identify and verify the identity of the owners of the funds held in the PCA (e.g. by entering into a formal reliance agreement as per 5.6.4), or take measures to decrease the ML/TF risk until simplified due diligence measures can be applied. Examples of such measures include:

- Subjecting the PCAs and/or wider business relationship to enhanced ongoing monitoring;
- Requesting that the customer sufficiently enhances their practices so that the firm is satisfied that the customer can provide, upon request, information regarding the identity of the owners of funds held in the PCA (including those customers that are not subject to the ML Regulations). Firms should take reasonable measures to confirm that the customer has done so (for example, sample testing the customer's ability to provide CDD or client identity information upon request);
- Restricting the type of customer's clients whose funds are held in the PCAs to those that pose a lower risk;

Firms should allow the customer a reasonable period to implement any such measures, taking into consideration factors such as: the level of ML/TF risk; the complexity of the business relationship; whether the customer is sufficiently low risk not to be subject to the ML Regulations; where the customer is otherwise low risk but not subject to CDD obligations; whether the customer understands the identity of its clients and the purpose of their transactions; whether the customer is complying with their own local legal/regulatory AML/CTF obligations; the level of cooperation provided by the customer, and the existence of legitimate privacy challenges.