

QUESTIONNAIRE

ON AML/CTF TRAINING OF LAWYERS IN EU MEMBER STATES

This questionnaire has been produced within the framework of service contract JUST/2018/JACC/PR/CRIM/0185, awarded by the EU to the ELF-CCBE consortium

Introduction

The European Commission has assessed that the application of the EU anti-money laundering and counter terrorist financing (AML/CTF) legislation creates difficulties for lawyers at both national and cross-border level. To support lawyers in dealing with these difficulties, it published a tender in 2019 for developing a strategy, training needs assessment and model programme for lawyer training in AML/CTF rules. The tender was awarded to the European Lawyers Foundation (ELF) and the Council of Bars and Law Societies of Europe (CCBE). This questionnaire is the first step in the tender.

The following tasks will be carried during the two years of the tender's implementation:

- development of a strategy to offer training for lawyers on their legal obligations under the EU legal framework. This strategy will focus on Bars and Law Societies, lawyers' training schools and providers of training for lawyers. The strategy will be composed of three main parts:
 - the strategy itself, to ensure a consistent approach in future training to be undertaken in the Member States on this matter
 - facilities to exchange best practices between lawyers in Europe
 - a training needs assessment for EU lawyers on their obligations under the directives, which will include the identification (in each Member State) of the main relevant professional organisations that can perform the required training on the topic.
- production of an EU-level training programme in English to allow training of lawyers on AML-CTF to be replicated easily in various Member States in the future; it will be accompanied by two documents, a manual for trainers and a manual for users.
- organisation of pilot cross-border activities to test the training programme, one for training trainers, and three more on a regional basis across the EU for a selection of lawyers themselves.

This questionnaire aims to gather information from bars and law societies in Europe on which to build the rest of the deliverables under the tender. The tender requires us to obtain information from every Member State, which is why we are now sending it to you. Please be as full as you can in your responses. Please also note that your response may be included as an annex in the final report which will be sent to the Commission.

Please return the questionnaire by **17 February 2020**

Questionnaire

1. Name of bar/law society on behalf of which you are responding

2. In what capacity are you completing this questionnaire i.e. do you have a background or specialisation in training and/or anti-money laundering?

General

3. Is there currently training for lawyers in your Member State on AML/CTF? If so, please give an indication of how widespread such training is, and please indicate whether all lawyers attend such training, or only or mainly those who are responsible for AML/CTF compliance within their firms (the European Commission wants an idea of how much AML/CTF training for lawyers is currently taking place)?

4. By whom is this training carried out (e.g. bars, authorised training providers, commercial training providers, universities, or others (if others, please describe)?

5. Is it mandatory for lawyers in your Member State to undertake training on AML/CTF?

6. If it is mandatory, is it at the stage of qualifying as a lawyer? And/or as part of compulsory continuing legal education (CLE)? In either case, please describe the length and content of the training provided, and (if part of mandatory CLE) the regularity with which it must be undertaken.

7. Given that the law has changed and is changing, are you aware how frequently lawyers are updating themselves on changes in AML/CTF rules? (This question applies to non-mandatory training, since mandatory training is dealt with under 5 above.)

Content of training

8. Does the AML/CTF training in your Member State cover all aspects of lawyers' obligations or only particular parts? If particular parts, which?

9. As far as you are aware, has there been training to date for lawyers in your Member State on the changes brought about by the 5th AML directive (Directive (EU) 2018/843, which should have been implemented in your Member State on 10 January 2020)? Was it training on the changes from the 5th directive alone, or incorporated into more general training?

10. Does your training cover problems related to cross-border issues arising in the AML/CTF rules applicable to lawyers? If yes, on which cross-border issues does it focus?

11. Are there areas of lawyers' rules in AML/CTF which have not been covered in training to date, or have not been covered fully or adequately? If so, what are they? We ask this question to understand whether there are aspects on which we should concentrate in our own policy and programme.

12. Are there areas of the law relating to AML/CTF on which you would like in-depth analysis (i.e. are there legal points which need more analysis, explanation and clarification) for the purpose of passing on the analysis to lawyers undergoing training in your Member State? We ask because the European Commission has asked us to focus on certain areas in which further in-depth analysis is required, and so we would like your suggestions on which areas might be covered (see also question 13 below).

Here are some examples of such areas for this question:

- Information about AML/CTF risk and vulnerabilities of the legal sector

- Training on how to conduct AML/CTF risk assessments

- Training on how to use business risk assessments to shape AML/CTF policies

- Training on drafting AML/CTF policies

- Training on types of customer due diligence

- How to identify varying types of clients e.g. individuals, different types of corporates, trusts etc.

- Knowledge elements for the substantive offence, risk assessments and reporting obligation i.e. what level of knowledge is required

- Responding to enquiries from financial intelligence units following the making of a report

- Disengaging from clients

13. What further issues would be most helpful regarding training needs in AML/CTF? For example, in addition to the obligations within the AML Directive, would the following information be helpful:

- The interaction between the General Data Protection Regulation (GDPR) and AML rules;

- The question of how far lawyers have to go to find out where money has come from?

- How lawyers cope with the fact that there are different AML/CTF rules in different Member States?

- In general, lawyers would like to be told what to do under AML/CTF, because it is simpler, but the directive says that lawyers should assess their own risk, which places a burden on lawyers – would information on how the risk should be assessed be helpful?

- Specific issues with beneficial ownership?

- The question as to how far lawyers can rely on information received from other obliged entities?

- The question as to how to organise law firms, in particular if law firms are operating in more than one jurisdiction?

- Information on how smaller firms with limited resources can effectively discharge their AML/CTF obligations.

- Other (please give details)

14. Do you believe there is a need for tailoring training for lawyers based on the impact AML/CTF has on their role, for example, specific training for:

- sole practitioners developing policies and complying with AML/CTF customer due diligence in a narrow set of legal services

- fee earners who follow a firm's AML/CTF policies in a narrow set of legal services

- people who are responsible for AML/CTF compliance in a firm across a large variety of different legal services

- non-lawyer staff with AML/CTF training needs (e.g. AML red flag knowledge)

- any other situations?

15. Please send a sample programme or programmes from a recent AML course. If not in Word format (since Word format can be translated through Google Translate), please send the sample(s) in either English or French. As a guide to the type you should send, we are looking for best practices in such training that we can use in our own training strategy and eventual model programme, since the European Commission wants us to use the best of what is already available.

Training methodology

How is AML/CTF training carried out in your Member State: (In each case, please give a rough indication of what proportion of the training provided (either by courses given or lawyers trained) falls within each of the categories.)

- by external conference, seminar or course

- by in-house training within a law firm

- by webinar

- by podcast

- by on-line training

- by a mix of the above (please give details)

- by another method (please give details)

16. Is the exchange of best practices incorporated into the courses in your Member State? If so, how?

17. Do you have awareness-raising campaigns in your Member State about the importance of training for lawyers in AML/CTF rules? If so, please describe them.

18. Is there any other method of training not mentioned above that is used in your Member State for the purpose of AML/CTF training (for instance, published guides with information or other support)? If so, please give full details.

19. What in your opinion would be the most effective methodology for delivering AML/CTF training to lawyers?

Conclusion

20. Do you have any other comments that you would like to make or suggest on any aspect covered by this questionnaire, or indeed on a subject relating to AML/CTF training for lawyers not covered by the questionnaire?