

arcarta

Online AML Training

Art Market Anti-Money Laundering &
Financial Crime Prevention Training

Section 4:

Practical Application

- Practical Application
- Request
- Verify
- Analyse
- Store and Document

Practical Application

Let's use some practical examples to look at how due diligence can be conducted.

Over the following pages we will explore what it means to create a record of your due diligence and author reports.

We will cover a workflow that can be used for carrying out due diligence - including ***enhanced due diligence*** - for a variety of different clients.

Customer Due Diligence Record Keeping And Reporting

Each and every time you carry out Customer Due Diligence, you're required to maintain records demonstrating the customer due diligence undertaken and the basis for the decisions reached.

Each record should accurately reflect and support the decisions you've reached.

The depth and breadth of the information you've considered, the questions you've asked and the time you've invested should be proportional to the level of risk you've identified.

The act of due diligence could be viewed as taking what you know or believe to be true and **proving** this by following a specific series of steps, reviewing information, saving and updating this information for at least five years following the end of the business relationship or the completion of the occasional transaction.

Wherever an ***increased risk*** is apparent, any subsequent decisions to proceed with the relationship must be determined by someone in the gallery, auction house or agent/advisory firm with the appropriate level of seniority.

For example - the ***Nominated Officer***, or in their absence - the ***Deputy***.

As a general rule, a Customer Due Diligence report should include everything you have considered prior to reaching your decision, this will include:

- **Identification Documents** of the client and those of the Ultimate Beneficial Owner(s), if this applies.
- **Proof of Address** e.g. a bank statement or a utility bill.
- If dealing with a company, the **company verification documents**.
- Any other relevant documents and if documents are being certified, for example by a solicitor or accountant, a check should be undertaken that they are registered appropriately, e.g, checking to ensure a solicitor is registered with the SRA.
- Screenshots of any additional material or information e.g. Google search results.

And will also include:

- A range of ***Positive, Open-source Information*** from reliable independent sources.
- A range of ***Negative Information*** from reliable independent sources
- Country risk level.
- A written client risk assessment evidencing ***what*** has been done and ***why***.
- A log or ***audit trail*** showing a history of the actions taken by the AMP over a 5 year period.
- Notes of any periodic checks performed and notes on any updates to customer's details/documents if there has been a change of circumstance.

Customer due diligence should be reviewed where circumstances change, the level of risk changes, or ongoing monitoring identifies a need to refresh the information held.

For example, if the client wishes to pay from a source different to the one shown on any prior invoices raised.

Other changes to circumstances would include a change of profession or a change to their residential address.

You will need to monitor your active client relationships in all cases.

Your business' risk assessment and policies will determine when and how often you will revisit the Customer Due Diligence exercise for all active clients.

Some AMPs may decide to review their high-risk clients every 12 months, whereas some may feel it appropriate to instigate the process on ***all*** clients every 12 months.

This will be reflected in the businesses ***Policies, Controls and Procedures***.

Frequently asked question:

Is there a Customer Due Diligence process an Art Market Participant can follow that's appropriate for the business and its clients?



Answer:

At its most simplistic, the Due Diligence process can be broken down into 4 steps:

- 1. Request:** Asking the client for information and documentation.
- 2. Verify:** Establishing and confirming the client's identity.
- 3. Analyse:** Assessing the information received to determine the level of risk the client presents.
- 4. Document & Store:** The evidence and documentation supporting your decision must be documented and retained for at least five years in accordance with the Money Laundering Regulations.



Part One ‘Request’

How to approach this step

The due diligence process starts with requesting information from the client

For a private client, paying from a personal source in their name, you will require:

- A Driving License, Passport or National Identity Card.
- Proof of Address e.g. bank statement or utility bill.

Many clients will be nervous about the safety and security of their information. Therefore, it is **not** recommended to accept such sensitive and personal information by open email.

Email is a vulnerable and weak channel of communication and the art world is routinely targeted by cybercriminals who intercept invoices, data and other valuable information.

Failure to comply with the UK GDPR and the Data Protection Act 2018 may result in regulatory action, including enforcement action or financial penalties.

With this in mind, reassure your clients with an appropriate policy, terms and conditions.

It is also advisable to send a newsletter to your client mailing list, introducing them to the regulations and how this will introduce subtle changes to the way they buy from you.

Update or create a ***Privacy Policy*** that will provide your clients with an explanation as to ***why*** their information is required, ***how*** you will process it and ***what*** will happen to it once you have used it.

Part Two **‘Verify’**

Who are you dealing with?

Accurate verification of identification is not only a requirement, it is the foundation upon which your following customer due diligence rests - therefore this is a vital and important step.

While there are multiple ways you can correctly verify identity, the most simple method for you and your clients is through ***document collection***.

Document collection could include ID documents and proof of address:



To correctly ***Verify Identity***, you will compare the information given to you by your customer with that present on the ID document and proof of address.

In the event the information is consistent you have taken reasonable steps to verify the customer's identity.

More often than not, you'll be receiving ID documents remotely. Where this is the case you need to ensure that the person sending them is not someone presenting stolen ID documents.

Asking for ***Proof of Address*** is a simple and effective way to mitigate this risk.

You may also wish to request that documents are certified to ensure they are true copies

Depending on the potential risk - e.g. the size of the transaction, the jurisdiction or whether the client is known to you - you could also set up a video/facetime call with the customer or request the client provide a '**selfie**' when they send their documents to you.

The Home Office provides guidance on how to identify fraudulent documents, you can view the information [here](#).

Frequently asked question:

What types of proof of address are acceptable?

Answer:

Both ***utility bills*** and ***bank statements*** are examples of acceptable forms of proof of address.



Other forms of Verification:

Although useful for helping you spot fraudulent documents, the coverage for ***Electronic ID verification services*** isn't international.

Nor do they help you confirm that the person submitting the ID document to you is the legitimate document owner.

Consider criminals who present stolen cards, while the ***card*** is legitimate, the ***person*** presenting the card is not.

Credit Checks can also be used to verify identity, however, they are intrusive. These checks will appear on the client's credit history and often use the Electoral Roll.

Due to this, you would be required to ensure there is an appropriate lawful basis to undertake a credit check.

Furthermore, if the client is outside the UK, you will find it difficult to verify accurately.

Another point to remember - it is not appropriate to access someone's credit file, unless you are in the market of credit lending.

Part Three 'Analyse'

Look at information to establish the level of risk

With all relevant identification and verification documents collected securely, the ***analysis*** process begins by using the information gathered during customer due diligence.

Armed with this information, you will be presented with ***positive*** and ***negative*** information relating to the client.

Your duty will be to determine risk and correctly spot '***Red Flags***' or things that are deemed ***risky***.

At this point you are gaining a greater deal of insight than you would have had previously, in regards to both positive **AND** negative information.

In some cases, you may supplement the information in your reports with a Google search and attach screenshots of anything relevant to your reports.

Reviewing possible matches

Any due diligence service will aim to return '**matches**' that are deemed relevant to your client.

Names and DOB's included in these potential **match** profiles can be subject to false positives or negatives. If these match profiles are not considered it may mean an important profile is overlooked or missed altogether. For this reason, you may find a number of potential PEP and Sanctions matches appearing.

As part of your analysis of information, it will be necessary to review **all** of the potential matches to see if any of them are relevant to your client.

The following information should be considered when cross referencing the information contained within a potential match profile with that of your client:

- Full name
- Date/Year of birth
- Country of residence or address
- Image (if provided)
- If they are deceased
- Media sources

Working with limited data

In some instances a potential match profile may be ***'light'*** in information, meaning the profile does not contain a lot of data. This can be due to a profile's age or jurisdictions such as China where a date of birth and residential address are private or not available.

In any case, the next step with ***any*** matches that are inconclusive is to consider whether ***Enhanced Due Diligence*** or additional enquiries are appropriate based on the level of risk.

Let's use an example to explore this:

When we create a due diligence report for our client, a PEP profile is returned.

We can see the PEP profile has a political position displayed, meaning we can ask our client to provide some detail on their current employment and/or if they have any affiliation to individuals in political positions.

Knowing this allows us to rule out this profile based on the client's response.

In addition, when dealing with light profiles, a search for information via a public service such as Google will also aid in providing additional information which may help you determine if a profile is a match.

Legitimate sources can be used to triangulate the likelihood of the match being accurate. Any information provided or discovered at this point may form part of your ***Enhanced Due Diligence***.

If this the information you've discovered aligns with the information on the PEP profile, you have undertaken what is necessary to match the profile to your client.

If the information does ***not*** align with the PEP profile, you can disregard it and mark it as inconclusive and reflect your decision in your ***client risk assessment***.

Part Four

‘Store and Document’

‘Show your workings’

Whatever exams you took at school, we’re all familiar with the expression to ‘***show your workings***’.

This is how it’s best to think of your duty to author the required ***Client Risk Assessments*** as part of your ***Reporting & Record Keeping*** obligations.

It's all well and good standing by your decision, however you need to be able to substantiate your decision.

After reviewing the information and determining whether you believe it safe or not to proceed with the transaction, the business should document the rationale behind its decision.

As this process could quickly become a bottleneck for Art Market Participants dealing with large volumes of clients, ensuring staff other than the Nominated Officer or Deputy have received formal training will make this process more manageable at scale.

Suspicious Activity Report

If you believe the client with whom you are dealing presents a significant risk, or if you suspect Money-Laundering, you should report your concerns internally to your MLRO or Nominated Officer in accordance with your reporting procedures.

The MLRO/NO will determine if there is cause to file a ***Suspicious Activity Report***.

Frequently asked question:

How is it best to store all of the information we have gathered?

Answer:

Owing to GDPR and Data Protection, storing information of this kind for the required 5 years, or more, presents a significant challenge. As a minimum you should ensure information is submitted, reviewed and stored in an **encrypted** environment.

You should also utilise **2 Factor Authentication**.



In addition to storing the information securely, you should also be able to monitor and control **who** within your business is able to access customer records.

In most cases, it will not be necessary for **all** members of staff to have access to information obtained for due diligence purposes.

It is important to note that password protected folders do not offer sufficient protection.

Consider that email accounts requiring a username and password are routinely compromised.

2 Factor Authentication, is the process employed by the banking sector.

Perhaps you will recall your bank sending you unique PIN codes to your mobile phone when you are logging on to your banking facility online?

This is 2 Factor Authentication.

Frequently asked question:

What do we need to store?

Answer:

You need to store everything you were sent by the client, everything relied upon, viewed and considered where relevant.



This includes:

- The Customer Due Diligence ***report***,
- Your ***client risk assessment***,
- The ***invoice*** you sent - this is referred to as '***Transactional Evidence***'.

Frequently asked question:

How do we maintain and manage these stored reports?

Answer:

Maintaining your reports will be 3 step process - we will look at what this includes on the next page.



Your 3 step process includes:

- Maintaining customer due diligence records throughout the business relationship and retaining them for at least five years afterwards.
- Monitoring the clients you've deemed a higher risk, or;
- Checking to see if a client's circumstances have changed and therefore starting the Customer Due Diligence process afresh to account for these changes.

Managing your reports will require a reporting system and a process that:

- Can be monitored by all staff members.
- Provides an audit trail of activity and a record of which member of staff processed the information.
- Makes it easy to share due diligence reports securely with another party e.g. an inspector, auditor or another Art Market Participant.

Section 4 – Summary

Summary

In this section we have taken an indepth look at the ***Practical Application*** of customer due diligence and the steps this involves:

- Request
- Verify
- Analyse
- Store and Document

We have taken a closer look at each of these steps, answered some frequently asked questions and covered some examples.

If you are still feeling unsure about any of the subjects we've covered in this section, feel free to return to, and review those areas again.

You have now reached the end of the course.

Thank you for taking the time to complete it, we do hope you enjoyed it and found the information useful.

Please visit your online training dashboard to complete your assessment.

Good Luck!