Technical Digest

March 2023

Edited by Andrew Jarvis

HAT
Group of Accountants

CENTRALPOINT, 45 BEECH STREET, LONDON, EC2Y 8AD

WELCOME

Welcome to your March Technical Digest. Whilst the extent of technical regulation and guidance issued over the past few weeks and summarised in the Technical Update below are relatively small, 2023 is becoming a year of significant change.

Over the next few weeks, HAT will be responding to the FRC's proposals for the future of FRS 102 and FRS 105. These proposals include significant changes for any entity with operating leases. These are explained in our Q1 Accountancy and Audit update. If you missed this update, please contact us to purchase a recording.

The Economic Crime and Corporate Transparency Bill is expected to pass through Parliament and receive Royal Asset within the next few weeks. This will have a fundamental impact on the filing requirements for small companies, which will be required to file a profit and loss account for the first time in more than 40 years. It will also introduce a requirement to verify the identity of individuals linked to Companies at Companies House, including Directors and PSCs. Whilst we don't currently have full details we expect these changes to be implemented relatively quickly – watch out for later Digests and Quarterly CPD updates this year for guidance on these new requirements.

Our popular Effective Supervisor and Managers courses are running over the next couple of months and are vital for the soft skills necessary to develop your career. Full details are here and these are relevant to any supervisors or managers within firms, regardless of their background or specialism.

Andrew Jarvis, Managing Director

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Please contact us before visiting or sending paper files for review as our London office is only open by appointment.

ISQM1

As of 15th December 2022

ISQM 1

became effective. Click below to find out more and how to ACT NOW.

Member firms click here | **Other firms click here**

UPCOMING COURSES AND EVENTS

Please see the HAT website www.hatgroup.co.uk for our full range of courses and further details such as pricing. Bookings can be made via our website or please email hat@hatgroup.co.uk or call 020 7213 9911 for more details.

CPD COURSES

The following courses are scheduled to run online over the next few months:

	COURSE	PRESENTER	VENUE	DATE
	SRA Update 10am – 12pm	Andrew Jarvis	Online	28 March 2023
	Charities Update 2pm – 4pm	Andrew Jarvis	Online	28 March 2023
	Introduction to SRA Assignments 9:30am – 1pm	Andrew Jarvis	Central London	18 April 2023
NEW	Pensions Update 2pm -3:30pm	Andrew Jarvis	Online	19 April 2023
	AML Compliance: A guide for Senior Management 2.00pm – 4.00pm	Andrew Jarvis	Online	16 May 2023
	Anti-Money Laundering – Understanding Your Responsibilities 2pm – 4pm	Andrew Jarvis	Online	2 June 2023
	Introduction to the HAT Audit Methodology 9:30am – 1pm	Simon Kettlewell	Online	6 June 2023
	HAT Quarter 2 Update 9.30am – 11.15am	Andrew Jarvis	Online	8 June 2023
	DPB: Know Your Limits 10.00am – 11.00am	Andrew Jarvis	Online	4 July 2023
	Being an Effective R.I 9.30am – 12.30pm	Andrew Jarvis	Online	5 July 2023

CAREER DEVELOPMENT COURSES

As well as a range of courses for trainees our Career Development Programme has several courses for qualified staff taking place over the next few months. In particular:

COURSE	VENUE
Becoming an Effective Supervisor	9 – 12 May 2023 - (Eastbourne)
Managers Course	4 – 5 May 2022 - (Online option)

HAT RECORDED WEBINARS

In addition to the "live" CPD courses listed above, the following courses are available "on demand". A recording of the material can be provided, along with accompanying material, for attendees to watch at their leisure. For any questions or to purchase a recording please email hat@hatgroup.co.uk or speak to a member of the team.

COURSE	PRESENTER	DURATION
Auditing in 2023: ISA's (UK) 315 and 240	Simon Kettlewell	2.5 hours
ISQM (UK) 1: What does it mean for me?	Andrew Jarvis	2 hours
AML Compliance: A guide for Senior Management (2022 version)	Andrew Jarvis	2 hours
Audit Planning Workshop	Simon Kettlewell	3 hours
Effective Audit Review	Simon Kettlewell	3 hours

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UPDATES TO THE HAT METHODOLOGIES

The following updates have been released this year.

REFERENCE	DATE	CONTENT
TM 03/22	18 August 2022	HAT Academies Methodology – August 2022
TM 04/22	20 September 2022	HAT Corporate Audit Methodology – January 2022
TM 05/22	20 September 2022	HAT LLP Methodology – January 2022
TM 06/22	30 November 2022	HAT Compliance Pack – July 2022 (11/22 Update)
TM 07/22	23 December 2022	HAT Charities Methodology – January 2022
TM 01/23	15 February 2023	HAT Pension Schemes Methodology – January 2022

Our methodologies dated 'January 2022' reflect the requirements of ISA 315 and ISA 240 in full and have now been incorporated into the CaseWare Desktop and MyWorkPapers templates.

Summaries of the changes made are freely here.

A summary of our current methodology and compliance pack including details of effective dates can be obtained by logging into the members' area of the HAT website. Remember, key elements of our audit and non-audit methodology are available from our partners, CaseWare and MyWorkPapers. For full details of availability of our documentation within these platforms please contact us.

MAJOR PROJECTS OVER COMING MONTHS

- A response will be provided to the Financial Reporting Council in respect of the proposed amendments to FRS 102 as set out in FRED 82; and
- The requirements of ISQM (UK) 2 and any additional amendments (for example, derived from the amendment to the Audit Regulations) will be filtered into the HAT Audit Regulatory and ISQM Procedures documentation.

TECHNICAL UPDATE

ANTI-MONEY LAUNDERING

NEW NCA PORTAL FOR MAKING SUSPICIOUS ACTIVITY REPORTS:

The National Crime Agency ("NCA") has created a new portal for the submission of Suspicious Activity Reports ("SAR") and their website includes the following regarding this change:

"For the new SAR Portal, due to go-live shortly, three user guides and a FAQs document have been developed. The guidance materials have been created for SAR reporters, law enforcement agencies, and government departments to familiarise themselves with the changes to the new SAR Portal, including how to submit a SAR, and how to interpret the new SAR fields:

- New SAR Portal Overview (Guide A) - Overview of the new SAR Portal for individuals and organisations that use the Portal to submit SARs;
- New SAR Portal - How to register (Guide B) - Guidance on how to register to the new SAR Portal to submit SARs. All organisations and individuals will need to register;
- New Presentation of SAR data (Guide C) - Overview of the new SAR fields. Aimed at law enforcement agencies and government departments that view and analyse SARs; and
- New SAR Portal FAQs - Frequently asked questions for organisations and individuals that submit SARs."

Alongside these, there is also published an updated guidance note on Submitting a Suspicious Activity Report (SAR) within the Regulated Sector.

ACTION FOR FIRMS
It is important that the firm's MLRO and if relevant, deputy MLRO familiarise themselves with this guidance to allow high quality suspicious activity reports to be made on a timely basis.

FATF HIGH RISK JURISDICTIONS:

At the recent FATF (Financial Action Task Force) Meeting, a number of changes have been made to their list of high risk jurisdictions. New countries subject to increased monitoring are South Africa and Nigeria. Morocco and Cambodia are no longer subject to increased monitoring by the FATF. An amendment will be made to UK legislation to reflect these changes in the next few weeks.

Separately, FATF has made a specific statement regarding the Russian Federation, which states:

"One year after the Russian Federation's illegal, unprovoked and unjustified full-scale military invasion of Ukraine, the FATF reiterates its deepest sympathies for the people of Ukraine and continues to deplore the huge loss of lives and malicious

destruction caused by the Russia Federation's ongoing brutal attack on Ukraine. The FATF acknowledges the United Nations General Assembly Resolution ES-11/1 which demands that the Russian Federation immediately, completely and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.

The FATF strongly condemns the Russian Federation's war of aggression against Ukraine. Over the past year, the Russian Federation has intensified its inhumane and brutal attacks targeting critical public infrastructure. The FATF is also deeply concerned by the reports of arms trade between the Russian Federation and United Nations sanctioned jurisdictions, and malicious cyber-activities emanating from Russia.

The Russian Federation's actions unacceptably run counter to the FATF core principles aiming to promote security, safety, and the integrity of the global financial system. They also represent a gross violation of the commitment to international cooperation and mutual respect upon which FATF Members have agreed to implement and support the FATF Standards. Considering the above, the FATF has decided to suspend the membership of the Russian Federation. The Russian Federation remains accountable for its obligation to implement the FATF Standards. The Russian Federation must continue to meet its financial obligations. The Russian Federation will remain a member of the Global Network as an active member of the Eurasian Group on Money Laundering (EAG) and retain its rights as an EAG member. The FATF will monitor the situation and consider at each of its Plenary meetings whether the grounds exist for lifting or modifying these restrictions.

The FATF continues to call upon all jurisdictions to remain vigilant of threats to the integrity, safety and security of the international financial system arising from the Russian Federation's war against Ukraine. The FATF reiterates that all jurisdictions should be alert to possible emerging risks from the circumvention of measures taken in order to protect the international financial system and take the necessary measures to mitigate these risks.

The FATF again expresses its sympathies to the people of Ukraine, who have borne a terrible burden at the hands of the Russian Federation's war of aggression. The FATF reflects the thoughts of the entire international community in hoping that this is the year that returns them to safety, peace, and prosperity."

ACTION FOR FIRMS
All team members should be aware of the countries on FATF's high risk jurisdictions. Where a client has a presence in a high risk jurisdictions the Money Laundering Regulations require you to apply enhanced due diligence measures.

ACTION FOR FIRMS
The Regulations also require firms to consider wider geographic factors when determining the nature and scope of client due diligence measures. Where clients have other links to countries on the FATF list (for example beneficial owners or key sources of financing) HAT recommends that they are subject to enhanced due diligence. The same applies to clients linked to Russia and Belarus due to the extent of sanctions in place in respect of these countries and individuals linked to them.

DRAFT LEGISLATION FOR ECONOMIC CRIME LEVY:

A draft version of the Economic Crime (Anti-Money Laundering) Levy (Amendment) Regulations 2023 has been published, along with an explanatory memorandum.

The purposes of the draft legislation is to set out amendments to the Economic Crime (Anti-Money Laundering) Levy Regulations 2022 (SI 2022 / 269) to make further provision relating to the Economic Crime Levy, including levy enforcement frameworks, appeals, provisions for collection authorities to require information from their population, record preservation obligations, cooperation between collection agencies and information sharing, recovery of overpayments, penalties and a consequential amendment to other legislation.

As a reminder, the Economic Crime Levy is payable by any entity (including accountants) who are supervised under the Money Laundering Regulations (MLR) and whose UK revenue exceeds £10.2 million per year. Further details are provided here.

ICAEW / ACCA / REGULATORY

ICAEW DISCIPLINARY UPDATE:

Included in a recent ICAEW Disciplinary Update is an outcome which was as follows:

"In one of the disciplinary tribunal cases a member was excluded, fined £32,275 and required to pay costs following multiple and ongoing compliance failures:

- Not fulfilling assurances given on quality assurance monitoring visits;
- Failing to notify all clients, in writing, of the name of the principal to be contacted if they wish to make a complaint and their right to complain to ICAEW;
- Failing to notify all clients, in writing, of the basis on which fees would be rendered as required by paragraph 240.2b and / or paragraph R330.5 of The Code of Ethics;
- Failing to comply with paragraph 7 of the Money Laundering Regulations 2007 as he did not apply customer due diligence measures on all clients;
- Failing to comply with paragraph 27 of The Money Laundering, Terrorist Financing and Transfer of Funds (information on the payer) Regulations 2017 as he did not apply customer due diligence measures on all clients;
- Failing to comply with paragraph 8 of the Money Laundering Regulations 2007 as he failed to conduct ongoing monitoring of the business relationships he had with all clients;
- Breaching the Code of Ethics, in that he did not maintain professional knowledge and skill at the level required to ensure that clients receive competent professional service in accordance with section 130.1 and / or R113.1;
- Failing to comply with Regulation 6 governing the use of the description 'Chartered Accountants', as his firm described itself as a firm of Chartered Accountants when not eligible to do so because a principal was not a member or affiliate member of ICAEW;
- Filing dormant accounts for his firm when he knew that the company had been trading. In doing so he breached s150.1 of the Code of Ethics (effective 01 January 2011 to 31 December 2019) in that he knew or should have known that doing so may discredit the profession;
- Failing to file Corporation Tax returns by the due date for his company. In doing so he breached s150.1 of the Code of Ethics (effective 01 January 2011 to 31 December 2019) in that he knew or should have known that doing so may discredit the profession; and
- Failing to ensure that his company had sufficient distributable reserves to declare dividend distributions, contrary to Section 830 of the Companies Act 2006."

HAT RESPONSE

Whilst the above is an extreme example of non-compliance over several years it does highlight the potential repercussions of making basic mistakes. HAT can support compliance by conducting a Practice Assurance Compliance Review. Our fees for this start from £1,340 for member firms. Please contact us for further details.

CLIENT MONEY

SRA GUIDANCE ON ACCOUNTANTS' REPORTS:

The Solicitors Regulation Authority ("SRA") has advised the following in respect of Accountants' Reports:

"Solicitors hold positions of great trust as they hold client money, often in large amounts. Our Accounts Rules are there to provide a framework to protect client money and make sure it is not put at risk.

Any firm that has an active client account has an obligation under Rule 12 to:

- Obtain an accountant's report for that accounting period within six months of the end of the period; and
- Deliver it to us within six months of the end of the accounting period if the accountant's report is qualified to show a failure to comply with these rules, such that money belonging to clients or third parties is, or has been, or is likely to be placed, at risk.

We are concerned that some firms are failing to uphold either or both of these rules when there is no reason for a reputable, well-run practice to do so. A breach of these rules could lead to disciplinary action."

It is advisable that when an Accountants' Report is qualified, irrespective of who submits this report to the SRA that the Reporting Accountant obtains a copy of the submission receipt for their file to confirm that the qualified report has been received by the SRA.

ACTION FOR FIRMS
ICAEW guidance recommends that the solicitor and not the accountant submits the qualified report. However, it is vital that whoever submits the report, that the Reporting Accountant retains a copy of the submission receipt.

SRA GUIDANCE ON HANDLING CLIENT MONEY:

The SRA has issued two pieces of guidance in respect of funds held by solicitors on behalf of clients and in each case, their guidance states:

Provision of banking facilities:

"The SRA Accounts Rules include Rule 3.3, which states solicitors 'must not use a client account to provide banking facilities to clients or third parties. Payments into, and transfers or withdrawals … must be in respect of the delivery of regulated services'. This rule was introduced initially in 2004 to specifically address the problem that some law firms were providing clients with banking facilities when they did not have access to one.

We published case studies to help law firms understand the types of instances when paying money into the client account is not acceptable. These have now been updated with additional scenarios to give firms more guidance.

These case studies give firms an idea of the type of issues they might be confronted with. However, we have cautioned firms that any case will turn on its own individual facts.

There are a range of risks of using a client account as a banking facility – it could facilitate money laundering, help someone avoid their obligations in an insolvency situation, or improperly hide assets in a commercial or matrimonial dispute. The SRA has also warned firms about the risks of allowing firms' client accounts to be used to add credibility to questionable investment schemes.

Firms cannot justify processing money through the client account due to having a retainer with a client. Nor should they hold funds to enable them to pay a client's routine outgoings, for instance when based abroad. Online banking developments mean this is no longer justifiable."

Holding money on a client's behalf:

"A number of firms have approached us for guidance where the client has approached them asking them to hold monies on their behalf, but they do not wish to do so. We have therefore added this – and our response – to our client account Q&As."

ACTION FOR FIRMS
The above guidance demonstrates that the SRA is concerned that law firms continue to provide clients with banking facilities. The risk of this should be discussed in SRA assignment briefing meetings and suitable procedures undertaken as part of fieldwork.

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