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Anti-money laundering: a securities account may be closed if a client fails to update relevant personal information

Financial institutions are bound by strict Know Your Client (KYC) obligations to comply with their anti-money laundering and combating the financing of terrorism (AML/CFT) requirements. Clients should be extremely vigilant when they receive requests from their banks. As can be seen from this month's case, the bank in question had every right to close the securities account of a client who had repeatedly failed to satisfactorily respond to a request.

Facts

Ms X, a client of Bank Y and holder of a securities account, discovered that all the shares held in her securities account had been sold when she logged in to her personal area in March 2024.

She therefore contacted Bank Y to find out what had happened. She was told that her securities account had been closed as she had not responded to requests to update her client profile.

She challenged the liquidation of her positions on the ground that it was based a unilateral decision by her bank, which had never asked for her authorisation.

The client therefore asked me to mediate a full restoration to the situation she would have been in had the injurious act (the liquidation of her positions) not occurred, and in particular to obtain a reimbursement of all the dividends she should have received in 2024.

Investigation

I contacted Bank Y for its observations.

It explained that Ms X had received an email on 21 March 2022, informing her that her personal information needed to be updated in accordance with its KYC obligations as set out in Article L.561-5-1 of the Monetary and Financial Code, under the anti-money laundering regulations.

A second letter, dated 4 April 2022, had been sent to the client informing her that restrictions had been placed on her securities account, as her data had not been updated.

Bank Y also told me that from 4 April 2022 onwards, the client was informed that she needed to update her personal information each time she logged in to her personal area, via a permanent notice. It also provided me with electronic records proving that Ms X had logged in to her personal area after that date.

As a result, on 7 December 2023, more than one year after the first request to update her personal information, Bank Y sent an email to Ms X informing her that her securities account would be closed.

Recommendation

I carefully examined all the information I had collected.

I found that Bank Y had, repeatedly, over a period of more than one year and using several different channels, informed Ms X that she needed to update her personal information.

It was therefore clear that Ms X could not have been unaware of the various requests sent to her by Bank Y over a period of more than a year, especially as she had logged in to her personal area several times and must therefore have seen the warning banner repeating the request.

Likewise, the email informing Ms X of the forthcoming closure of her securities account shows that Bank Y had given her two months during which to transfer her securities to

another account keeper, failing which her positions would be liquidated as part of the closure of her securities account. However, the client did not give any transfer instructions during the relevant period.

I therefore considered, in this case, that Ms X's positions had been liquidated in accordance with the warning letter she had received two months earlier, without any instructions being given by her to transfer her securities to another bank, and that I could not therefore propose a solution in her favour.

Lessons to be learned

Financial institutions are bound by strict KYC obligations, whether this involves assessing their investor profile in accordance with the markets in financial instruments regulations (MiFID II), or verifying the identity and origin of resources – both at the outset and during the relationship – in order to comply with anti-money laundering requirements. As I have recalled on a previous occasion, the consequences of failing to respond are quite different depending on whether a MiFID questionnaire or an AML/CFT request is involved^[1]: in the first case, professionals cannot provide any advice, while in the second case, they are required to end the relationship with the client.

With regard to this duty to know their clients at the outset of a business relationship, Article L.561-5-1 of the Monetary and Financial Code provides as follows:

"Before entering into a business relationship, the persons referred to in Article L. 561-2 shall collect information relating to the purpose and nature of the relationship and any other relevant information. They shall keep that information up to date throughout the business relationship."

Article L.561-6 of the Monetary and Financial Code provides that, with regard to the duty of due diligence and updated client knowledge during a business relationship:

"Throughout a business relationship and in accordance with the conditions laid down by a decree issued after consulting the Conseil d'Etat, such persons shall, within the limits of their rights and obligations, perform due diligence at all times and carefully examine the transactions carried out, to ensure that they are consistent with their up-to-date knowledge of the business relationship."

Lastly, the obligation to end the relationship with a client is set out in Article L. 561-8, I, of the Monetary and Financial Code, which provides as follows:

*"I. Whenever any of the persons referred to in Article L. 561-2 are unable to fulfil the obligations laid down in Article L. 561-5 or Article L. 561-5-1, they shall not carry out any transaction whatsoever, or enter into **or pursue any business relationship** and may file the suspicious transaction report provided for in Article L. 561-15 in accordance with the conditions laid down in that Article. If a relationship has already been entered into pursuant to Article L. 561-5, IV, they shall end the relationship and the suspicious transaction report provided for in Article L. 561-15 shall be filed in accordance with the conditions laid down in that Article."*

It is therefore within the framework of these obligations that a bank can ask its clients to update their personal information.

If a bank is unable to collect the information it needs to fulfil these legal obligations, it is required by law to suspend or end the business relationship.


Clients should therefore be extremely vigilant when they receive requests from banks under their AML/CFT obligations.

[1]

[Failure to reply to a Know Your Customer questionnaire: different consequences depending on whether the questionnaire is intended to assess the client or to combat money laundering](#)

URL = [https://www.amf-france.org/en/amf-ombudsman/ombudsman-online-diary/latest/failure-reply-know-your-customer-questionnaire-different-consequences-depending-whether], Ombudsman's online diary. December 2023

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