

Anti Money Laundering Newsletter Issue Three September 2009



Supplementary Anti-Money Laundering Guidance for the Tax Practitioner

We recently received Treasury approval for the anti money laundering guidance for tax practitioners appendix to the CCAB guidance. This means that the courts must take the guidance in to account when considering whether a tax adviser's (or accountant's) conduct gives rise to an offence under the Proceeds of Crime Act 2002 or the Money Laundering Regulations 2007. The approved guidance is now on the website and replaces the earlier version dated 21 April 2008. It is not stand alone guidance and must be read in conjunction with the main body of the CCAB guidance.

<http://www.tax.org.uk>

Other Anti-Money Laundering Guidance available

Although the CCAB guidance is the one you must follow to fulfill your compliance requirements under the Money Laundering Regulations, there is other guidance available that you might also find useful. These include:

- The Joint Money Laundering Steering Group - made up of the leading UK Trade Associations in the Financial Services Industry, its guidance aims to promote good practice in countering money laundering and to give practical assistance in interpreting the UK Money Laundering Regulations.

<http://www.jmlsg.org.uk/bba/jsp/polopoly.jsp;jsessionid=aPtuoq0KxBuf5?d=749>

- The Law Society - their practice note helps solicitors comply with money laundering legislation and also details good practice.

<http://www.lawsociety.org.uk/productsandservices/practicenotes/aml.page>

- HMRC - their guidance (MLR8 - Preventing money laundering and terrorist financing) sets out the obligations on trust and company service providers as well as accountancy service providers

<http://www.hmrc.gov.uk/mlr/mlr8.pdf>

HM Treasury warns businesses of serious threats posed to the international financial system

In February 2009 the Financial Action Task Force (FATF) issued a statement drawing attention to deficiencies in the financial systems of several jurisdictions;

- Iran, Uzbekistan, Turkmenistan, Pakistan, São Tomé and Príncipe.

HM Treasury agrees with the FATF's assessments and warns that regulated businesses are required to apply enhanced customer due diligence and enhanced ongoing monitoring on a risk-sensitive basis in situations which can present a higher risk of money laundering or terrorist financing.

Further information can be found on HM Treasury's website: http://www.hm-treasury.gov.uk/press_26_09.htm

Home Office launches a wide-ranging revision to its counter-terrorism strategy

In March, the Home Office set out a full account of its counter-terrorism policies. The revised strategy provides a detailed account of the history of the terrorist threat to the UK, explaining what led to the emergence of the threat we face today. It also theorises as to how the situation may evolve in the coming years.

<http://www.homeoffice.gov.uk/about-us/news/taking-new-approach-ct>

Shah & Anor v HSBC [2009] EWHC 79

This recent High Court case highlights that firms must comply with their obligations (such as making disclosures) under the Proceeds of Crime Act 2002 ('POCA') even if to do so could be contrary to any contractual duties owed to their clients. Also that any suspicion of money laundering could be based merely on possible facts as long as it was a genuinely held suspicion. Full details of the case can be found at <http://www.bailii.org/ew/cases/EWHC/QB/2009/79.html>

HMRC warning about fraud using tax agent's ID and passwords

HMRC has reported fraudulent claims against the SA repayments system and issued guidance on on-line security systems. Should you become aware of such a claim you should consider your money laundering reporting requirements. Further information can be found at CIOT - IT security message from HMRC.