

Anti Money Laundering Newsletter Issue One December 2008



THE
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How to comply with the Money Laundering Regulations 2007

The Money Laundering Regulations 2007 require firms to put preventative measures in place to combat threats from crime and terrorism. In order to comply with these Regulations a firm must:

- 1. Verify the client's identity** – identify not just the client but, where applicable, the beneficial owner of the client. For a list of acceptable identification documents, such as passport and utility bill, see CCAB Anti-money Laundering Guidance for the Accountancy Sector, paragraph 5.49 – 5.51 & JMLSG Guidance for the UK Financial Sector, Part 1, paragraphs 5.3.70 – 5.3.75: <http://www.ccab.org.uk/PDFs/070612%20CCAB%20Guidance%20Clean.pdf>; http://www.jmlsg.org.uk/content/1/c6/01/14/56/Part_I_-_HMT_approved.pdf Electronic verification may be substituted for paper-based checks where clients are considered to be normal risk. HM Treasury has approved the organisations Equifax, Experian and CallCredit for electronic verification of clients.
- 2. Complete Customer Due Diligence** – undertake ongoing monitoring of business relationships and vary customer due diligence and monitoring according to the risk of money laundering or terrorist financing, i.e. take enhanced customer due diligence measures in higher risk situations (such as non face-to-face clients or clients whose operations are based in countries with deficiencies in their anti-money laundering systems).
- 3. Nominate a Money Laundering Reporting Officer (MLRO)** – to be responsible for submitting suspicious activity reports to SOCA. If you are a sole practitioner, you need not nominate a MLRO but must accept the obligations of an MLRO yourself.
- 4. Report any knowledge or suspicion of money laundering** – The MLRO needs to report not just knowledge but also any suspicion of any money laundering. See CCAB Anti-money Laundering Guidance for the Accountancy Sector, Section 7 & Supplementary Anti-Money Laundering Guidance for the Tax Practitioner, Section 6: <http://www.tax.org.uk/aml> For advice on submitting suspicious activity reports, see: <http://www.soca.gov.uk/financialIntel/suspectActivity.html>
- 5. Provide training for all staff that have contact with clients** – including administrators. Training records need to be kept with update training provided, ideally annually.
- 6. Record keeping** – Records of due diligence must be kept for five years after the end of the relevant business relationship or completion of the transactions. CCAB recommend that suspicious activity reports and training records are also retained for five years. See CCAB Anti-money Laundering Guidance for the Accountancy Sector, paragraph 3.9: <http://www.ccab.org.uk/PDFs/070612%20CCAB%20Guidance%20Clean.pdf>
- 7. Supervision** – the Regulations require that all ASP firms are supervised (see overleaf).

Supervision

Any member in practice who has not already registered to be supervised should visit our website <http://www.tax.org.uk/aml> for information on how to apply. If you are a student and therefore not eligible to register with us, you will need to register with HMRC unless you are a member of another supervisory authority. HMRC have extended the deadline for tax practitioners and accountants applications. For HMRC to be able to process your application by the 1 January 2009 deadline, you will need to complete and send your form with the appropriate registration fee to them by 14 November 2008. It is important that you register as this recent case shows that failure to do so can result in HMRC taking action against you: <http://www.bailii.org/uk/cases/UKVAT/2008/V20833.html>

Equivalent jurisdictions

Earlier this year, HM Treasury issued a list of jurisdictions outside of the European Economic Area (EEA) which are considered to have equivalent anti-money laundering legislation to the third EU money laundering directive, such as USA, Australia, Hong Kong. See <http://www.hm-treasury.gov.uk/4772.htm> for full details. This list will be helpful when seeking to rely on another firm's customer due diligence or when applying the simplified due diligence provisions under the Money Laundering Regulations 2007 although remember that reliance on this list does not override the need to continue to operate risk-based procedures when dealing with customers based in an equivalent jurisdiction.

High risk countries

HM Treasury has issued a warning by the Financial Action Task Force (FATF) of increased money laundering risks in some countries. They have stated that in the jurisdictions of Iran and Uzbekistan, there is a higher risk of money laundering posed by deficiencies in their anti-money laundering systems, requiring enhanced due diligence under regulation 14 of the Money Laundering Regulations. In the case of Pakistan, Turkmenistan, São Tomé and the northern part of Cyprus, the Treasury supports the statements by FATF in respect of the risks those jurisdictions continue to present; which firms should consider as part of their overall risk assessment. For further details, see http://www.hm-treasury.gov.uk/press_107_08.htm

ID cards for foreign nationals

A new form of identity document, ID cards for foreign nationals, begin to be introduced on 25 November 2008. Within three years all foreign nationals (from outside the European Economic Area 'EEA' and Switzerland) applying to enter or remain in the UK will be required to have a card. The plastic wallet cards will show the holder's photograph, name, date of birth, nationality and immigration status and may be used to verify someone's identity.

For further guidance, see <http://www.ukba.homeoffice.gov.uk/managing-borders/idcardsforforeignnationals/>

