

Money Laundering Regulations 2007 – what they mean for you

Money laundering is the process by which money, or other assets obtained by criminal activities, is exchanged for clean money or assets with no obvious link to their criminal origins.

The Money Laundering Regulations (the Regulations) came into force on 15 December 2007. Their aim is to detect, deter and disrupt financial crime and terrorist financing by reducing the possibility of businesses like yours being used for money laundering and terrorist financing.

Under the Regulations, certain bodies including the Office of Fair Trading (OFT) have an obligation to supervise businesses to monitor whether they are complying with the Regulations. The OFT is the supervisor for consumer credit financial institutions. This includes debt collection companies that purchase debts under regulated consumer credit agreements as they would then carry on a consumer credit business under the Consumer Credit Act 1974 (as amended). There are exceptions, for instance, if you are authorised by the FSA you will be supervised by them or if your business is supervised by HM Revenue and Customs as a money service business - see www.hmrc.gov.uk/mlr/index.htm for more details.

Enforcement of the Regulations

The OFT will operate a risk based supervisory regime. We will identify the highest risk sectors and target our levels of supervision accordingly. We will be publishing further information on this approach later in the year as we plan to consult with industry and others on our supervisory regime.

In order to effectively supervise our businesses we are introducing a registration scheme on the 31 July 2009. The supervisory regime has to pay for itself and OFT has the power to charge fees to cover our reasonable costs. We are endeavouring to keep all our costs to a minimum but we are required to operate an effective supervisory regime. Details of the level of fees to be paid are available on our website at www.offt.gov.uk/mlr.

The OFT makes every effort to support businesses in complying with the Regulations. However, failure of a business to comply with regulatory requirements, or to continue trading without registering as required by OFT, may make it subject to civil financial penalties or prosecution. In the longer term, the OFT is committed to working in partnership with Local Authority Trading Standards Services to develop further the supervisory regime.

Requirements of the Regulations

Businesses need to put in place appropriate risk sensitive systems that will reduce the likelihood of your being used for money laundering or terrorist financing. A risk-based approach allows you to focus efforts where the risk of money laundering is highest and to identify situations where additional measures and controls may be appropriate to reduce that risk.

In general, the requirements cover 7 areas:



- *Customer due diligence (CDD) measures* – When you establish a business relationship or carry out an occasional transaction, these require you to use appropriate means to identify your customers and verify their identity using information or documents from a reliable independent source, and to undertake enhanced due diligence measures for situations considered to be higher risk, such as, for non face-to-face transactions. In certain circumstances the Regulations allow you to rely on the CDD measures carried out by third parties, although you remain liable for any failure to apply such measures. The circumstances are:
 - the third party must consent to being relied upon
 - only certain third parties can be relied upon as detailed in the Regulations.

We aim to provide further guidance on this, and other issues relating to reliance on third party information in the future in consultation with the CSA. You should also note that you must still carry out ongoing monitoring of the business relationship and appropriate CDD information should still be obtained at other appropriate times in line with your risk assessment.

- *Record keeping* – Records you must keep include those relating to
 - CDD checks,
 - business relationships or occasional customer transactions, and
 - any suspicious activity notifications that the Nominated Officer has received from staff whether or not a suspicious activity report (SAR) is made to the Serious Organised Crime Agency (SOCA).

These must be kept for five years from the completion of an occasional transaction or the end of a business relationship. As you remain liable for applying CDD measures (even where you have relied on third party CDD), it would be prudent to be in a position to ensure that you can receive or quickly access relevant information in the event that it is required by, for example, SOCA.

- *Policies and procedures* – You will need to produce policies and procedures in order to comply with the Regulations. These are important as they ensure that your systems are applied consistently and they enable a business to demonstrate its knowledge of, and general compliance with, the Regulations. A policy should detail your commitment to meeting the requirements of the Regulations. You must then put in place meaningful procedures to implement your anti-money laundering policies. These procedures must be sufficiently detailed to allow staff to easily follow and understand them.

- *Suspicious activity reports (SAR)* – It is very important that suspicions of money laundering or terrorist financing are reported to SOCA even if your suspicions do not appear to you to be important. SOCA uses multiple sources to help provide intelligence during investigations and your SAR may contribute to the bigger picture.
- *Nominated Officer* - Every business must appoint a Nominated Officer who is responsible for making SARs. A sole trader who does not employ any staff, or act in association with any other person is, by default, the Nominated Officer. Where the Nominated Officer is not a senior manager there should be in place a system to enable the Nominated Officer to report into the senior management structure for review and assessment of risks in order that they can be effectively managed.
- *Training* - Staff must be trained on the requirements of the Regulations, the anti-money laundering systems the business has in place and update training should be carried out as appropriate.

Further Information

The Money Laundering Regulations 2007 core guidance (OFT954) provides detailed advice on the anti-money laundering controls for the OFT's supervised businesses.

For more detailed information we can be emailed at aml3@oft.gsi.gov.uk or you can ring us on 020 7211 8200.