

WHAT DO YOU NEED TO DO?

In order to comply with the Money Laundering Regulations you must:

1. Appoint a Money Laundering Reporting Officer (MLRO)

This will normally be either the practice owner or a responsible employee.

2. Provide a statement and manual

The Policy Statement will outline the measures taken in your practice to comply with MLR. The manual will provide detailed compliance and reporting procedures, levels of exposure to risk and a confidential list of 'High Risk' clients.

3. Arrange appropriate training for the MLRO and staff

Regular training and examinations must be carried out with all staff that come into contact with clients. Training records must be retained for five years.

4. Verify clients' identity

As part of the 'due diligence' process (which replaces 'Know Your Client'), improved client verification especially for high risk clients is required and should be repeated regularly.

5. Assess the risk of your clients being involved in fraudulent activity

Also part of the due diligence process, you are required to assess the risk of all clients to be involved in any money laundering activity and to keep a record of all such assessments.

6. File reports with the Serious Organised Crime Agency (SOCA)

The MLRO is responsible for reporting suspicious activity and potential money laundering offences to SOCA.

7. Keep records of all the above

Records must be kept of service provision, due diligence regarding clients, staff and MLRO training and all internal and SOCA reports.

8. Ensure you are supervised

The IFA is appointed by H M Treasury and will supervise all members unless alternative agreement has been reached with any other supervisory organisation.

SUMMARY

These eight requirements are a brief summary of the Money Laundering Regulations 2007. To ensure compliance with the regulations you should refer to The Money Laundering Regulations 2007.

The following guidance must also be followed as it has been approved by HM Treasury and compliance with this guidance is therefore obligatory:

- HMRC's document MLR8 Preventing Money Laundering and Terrorist Financing
- HMRC's document MLR9 Registration Notice
- The CCAB Guidance
- ATT/CIoT's Guidance for Tax Practitioners

Reports to SOCA are required in accordance with the provisions of the undernoted Acts (and note that fraud is a crime and therefore reportable):

- The Terrorism Act 2000
- The Anti-terrorism Crime and Security Act 2001
- The Proceeds of Crime Act 2002
- The Serious Crime and Police Act 2005
- The Fraud Act 2006
- The Companies Act 2006
- The Counter Terrorism Act 2008

It is important to remember that you have individual and specific legal obligations under the MLR, and that non-compliance is itself a criminal offence. The maximum penalties range from substantial fines and up to two years imprisonment for failing to comply with procedures, up to five years for failing to report and fourteen years in prison if you are convicted of being involved in a money laundering offence itself.

Advice guidance and FAQ's to put you on the right road to MLR compliance

Money laundering is not restricted to what we usually understand by the term - illegal drug sales and gun running, for example. The Proceeds of Crime Act require a report to be submitted if you are suspicious that a client may have been involved in any criminal activity. The Fraud Act 2006 radically changed the law of criminal fraud so compliance with the Act is required under the MLR and, for example, any attempt to 'adjust' figures on accounts to obtain an increased mortgage or to avoid tax must be reported confidentially to SOCA.

Your first step is to register with IFA as an Accountancy Service Provider and you should be fully conversant with the requirements of MLR. Guidance is available from the IFA's website. You must also appoint a MLRO (you will automatically assume this role if you are a sole practitioner).

What are anti-money laundering controls?

Anti-money laundering controls are policies and procedures that should be in place in your business to detect any money laundering activity on the part of your clients.

These include assessing the risks of a business being used by criminals to launder money; identifying customers and beneficial owners and verifying their identity; monitoring customers' business activities and reporting suspicious activity to the Serious Organised Crime Agency (SOCA); retaining records; and ensuring you have appropriate internal management controls.

The MLRO must manage and monitor your firm's compliance with the regulations so you will need to ensure your staff are aware of the regulations and trained to carry out the necessary customer due diligence measures. Staff submit reports to the MLRO.

What do I need to do?

The regulations specify the circumstances when you must identify and verify the identity of your customers and obtain additional information

about the nature and purpose of your business relationship.

The regulations require you to apply these measures on a risk-sensitive basis, which means you can use your judgement to assess the risks of money laundering by your clients and to decide the level of enquiry and monitoring that is reasonable for their financial activities.

Practices must keep relevant documents relating to financial transactions, customer identity, risk assessment and management procedures and processes for a minimum of five years from the date of ceasing to act for the client.

Remember to keep your risk assessments and procedures up to date. You will be asked to produce details of your policies and procedures should your practice be subject to an assessment.

What is the difference between 'Know Your Customer' and 'Customer Due Diligence'?

You must now undertake customer due diligence whenever you establish a business relationship or carry out a new project or piece of work. It should also be undertaken if you suspect fraud, money laundering or terrorist financing or if you doubt the truth or the documents or information you have previously obtained for the purposes of identification or verification.

Due diligence now includes verification of the client's identity and an assessment of the risk that your client may be involved in money laundering – and remember, this includes any fraudulent activity.

Customer due diligence involves:

- identifying the client and checking their identity against documents, data or information obtained from a reliable and independent source.
- identifying the client's owner. Where the owner is a company, trust or other corporate body, you should understand the appropriate ownership and control structure as well as conducting due diligence on the beneficial owners – for this purpose, someone who owns

or controls more than 25% of the shares or voting rights.

- obtaining information on the purpose and intended nature of the business relationship.

What is 'Client Verification'?

Since MLR2003 you have been seeing a passport and utility bill for most clients but there are increasing problems associated with this method of identification. At the same time everyone with a bank account is developing an 'electronic footprint' and details are available from three 'HM Treasury Approved' credit referencing agencies which is now the recommended method of identifying clients and essential for any client that you have identified as 'High Risk'.

What is 'Risk Assessment'?

Knowing that your client does not associate with drug dealers or gun running hardly scratches the surface for the assessment of risk. You must record the services that the firm provides and check the client's instructions with those services, for example, if you are asked to provide advice on services that are outside of your practice's expertise then the client will be assessed as high risk.

A copy of your risk assessment is required for every client and beneficial owner.

What do I need to do in the future?

All new clients and additional instructions must be subject to due diligence as described above and you should carry out a regular review – we suggest annually – of client due diligence for each of your clients. This requires a higher level of diligence in respect of those clients that you are aware of who could be involved in money laundering as defined in the regulations and guidance.

Who is responsible for training?

You must arrange appropriate training for the MLRO and for any person working in your practice who has contact with your clients - that includes anyone who may answer the telephone.

You should test the persons understanding and regularly update the training (say annually) and records of training and results of tests.

What records do I need to keep?

The practice must keep a copies of the following

- Practice's service provision
- Client verification
- Risk Assessment
- Training records

Do I need a formal manual?

The guidance from CCAB suggests that you must provide a manual that must be accessible by all personnel involved in the practice.

What is a Trust and Company Service Provider?

If you are involved with providing formation or secretarial services then you will need to register additionally as a TCSP. All personnel who are involved in the provision of TCSP services are required to undergo a 'Fit and Proper' test during the registration process and this will be reviewed regularly. The intention is to prevent high risk individuals from directing or controlling Trust and Company Service Providers and anyone not meeting the criteria will fail the test and registration will be refused.

Help from IFA

Affiliates and Members will have access to an expanded area of the IFA and FTA websites that will include abbreviated guidance, an FAQ section and template forms for use in supervised practices.

You can also email amlsupport@ifa.org.uk with any other questions.

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