

Anti-Money Laundering Newsletter - April 2017

Draft Money Laundering Regulations 2017

In mid-March HM Treasury issued the draft [Money Laundering regulations \(MLR\) 2017](#)¹ together with an associated [Consultation](#)². The new regulations are due to come into force on the 26th June 2017 so there is a tight time frame for the consultation and the issue of any subsequent changes to the regulations. The MLR 2007 are being replaced in their entirety and the new regulations include the changes required to UK law arising from the EC 4th directive on Money Laundering.

CIOT/ATT will be responding to this Consultation and the one on the Supervisory Regime detailed below but we are also encouraging our members to respond to both consultations to ensure that their views are considered.

Once we have the results of the Consultation and the final MLR 2017 we will be in a position to provide more detailed guidance but in the meantime the main changes members need to be aware of are in the following areas. However please note these may be subject to change before the final regulations are agreed.

a) Written AML Risk Assessments plus Written Policies and Procedures

The new regulations will require much more compliance to be evidenced by way of **written documents**. Firms are already required to assess the risk of their firm's exposure to money laundering but sometimes firms do not document this. Similarly whilst policies and procedures may be in place to meet the requirements of the regulations they may not be set out in writing. Under MLR 2017 it will be a legal requirement to have an up to date written risk assessment which feeds into the policies and procedures which must also be set out in a written document.

b) Client due diligence (CDD) changes

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/599835/Money_Laundering_Regulations_2017_-_FINAL_CONSULTATION_DRAFT_FINAL.pdf

² <https://www.gov.uk/government/consultations/money-laundering-regulations-2017/money-laundering-regulations-2017>

The new regulations give more detail on what is considered a high risk matter and the extra checks which are needed. The intention is to have a list of high risk countries as identified by the European Commission and if any transactions involve those countries, enhanced CDD and additional risk assessment will be compulsory. Written records will again be a key issue here.

There will no longer be automatic simplified client due diligence for specific types of client. Instead firms will need to assess risk and be able to justify simplified CDD.

c) Reliance on third parties

Changes being introduced here include the requirement to provide copy CDD within two working days.

d) Politically exposed persons (PEPs)

The previous regulations relating to foreign PEPs will be extended to UK PEPs. This is likely to mean that when taking on a UK based client it will be necessary to ask more about their occupation and family and business connections to be sure that all relevant individuals are identified.

From a practical perspective firms may want to reconsider the use of online checks to identify PEPs and should tell the MLRO about any existing clients who have connections with politics or government.

e) Trust Changes

There will be tougher rules on checking the beneficial owners of trusts. The definition of the beneficial owner has been expanded and will include the settlor, trustees, beneficiaries and anyone with control of the trust. Firms must take reasonable measures to verify beneficial ownership. Trustees will have to keep a record of the beneficial owners.

A register of trusts will be maintained by HMRC. Where a trust has a tax liability in respect of income tax, CGT, IHT SDLT or stamp duty reserve tax the trustees will have to supply specified information to HMRC for inclusion in the register. This will be similar to the register of people with significant control (PSC register) recently introduced for companies.

f) Company Changes

The regulations now set out precisely what information must be obtained and verified in relation to an unlisted company and LLP which must include:

Company name and number

Registered office and place of business

Memorandum of association or other governing documents

Names of board members and senior management

This can all be obtained through the online Companies House records.

As before beneficial owners will have to be identified. Reasonable steps must be taken to verify the identity.

g) Additional responsibilities for MLROs and Senior Management

Larger firms will need to appoint a board member responsible for AML matters and there will be additional responsibilities relating to the screening of staff and agents.

Review of the Supervisory Regime and Office for Professional Body AML Supervision (OPBAS)

The Treasury have announced plans to create a new oversight body called the Office for Professional Body AML Supervision (OPBAS) which they see as complementing the new Money Laundering Regulations 2017. OPBAS will be hosted by the Financial Conduct Authority and should be in place by the start of 2018. The oversight body will be funded by a levy on the supervised professional bodies although no figure for the costs of setting up and running OPBAS have been given. The government is consulting on the powers which will be available to OPBAS who will aim to ensure consistency of approach by all the supervisory professional bodies.

Home Office Flag It Up Campaign

We would be very grateful if you could take the time to complete a short survey on the threat to business posed by money-laundering. The research is being conducted by Ipsos MORI, the independent market research organisation, on behalf of the Home Office, the National Crime Agency and the Accountancy Affinity Group, and the results will be used to inform protective communications to reduce the risk to the accountancy sector. All responses will be kept in the strictest confidence, and all the answers you give will remain anonymous.

Please click this link to complete the survey: http://www.ipsos-mori.com/FlagItUp_accountants

The survey should only take 5-10 minutes to complete. This link will be accessible until **28 April**, when the survey closes.