



Anti-money laundering legislation – a brief guide to the requirements

HELPSHEET

This helpsheet has been produced in conjunction with the ICAS Quality Assurance Department (Quality Review and Audit Monitoring)



Practitioner Service

This helpsheet provides the basic legislative background affecting practitioners; highlights the policies and procedures required to be in place; details common weaknesses found by the Institute's Quality Review process; and provides information on where to obtain further detailed information and advice.

Who is within the scope of the legislation?

The legislation applies to those who act in the course of a business as an auditor, external accountant, insolvency practitioner or tax adviser as well as those whose business is that of a trust or company service provider.

What is the legislation?

While there are various pieces of legislation, the principal primary legislation which applies is The Proceeds of Crime Act 2002 (POCA) as amended by The Serious Organised Crime and Police Act 2005.

Secondary legislation which applies is The Money Laundering Regulations 2007 (MLR).

POCA imposes the requirement to report to the Serious Organised Crime Agency any knowledge of suspicions of money laundering. MLR requires the relevant person (i.e. the sole practitioner or firm) to put in place and monitor various policies and procedures.

What policies and procedures are required?

MLR requires firms to have suitable policies and procedures covering the areas of customer due diligence (more usually known as identification); reporting; record keeping; internal control; risk assessment and management; and compliance. MLR stipulates detailed requirements under each of these headings.

MLR also imposes a requirement on the relevant person to take appropriate measures to ensure that all personnel are:

- a. Made aware of the law relating to money laundering and terrorist financing, and
- b. Regularly given training.

Who is responsible for monitoring firms in this area?

There are various supervisory authorities involved in monitoring compliance with the legislation. For members of ICAS who hold a practising certificate, the Institute is the supervisory authority and its responsibilities are fulfilled as part its Quality Review (QR) programme. It may be useful to note that other (non-qualified) accountancy service providers are required to register with HM Customs and Revenue. ICAS practitioners do not have to do this.

What does Quality Review look at?

As part of the review, QR will seek to ensure that each sole practitioner or firm has in place (i.e. documented) and operates suitable policies and procedures under the heads described above and which are appropriate to the entity.

Are there any common problem areas that QR sees?

While there are various matters QR comes across, probably the two most important issues are to do with risk assessment and compliance.

The risk based approach to customer due diligence, both initially and especially on an ongoing basis (as required by the legislation), is not well considered and very often not documented. The requirement to carry out a compliance review is not always met and puts firms in breach of MLR. The frequency of such a compliance review is not specified in MLR but ICAS believes that this should be carried out at least annually.

Are there any manuals or training courses which will help a firm meet the requirements?

There are many products on the market that can assist firms. These come in the form of manuals, training courses including online, and subscription services.

ICAS offers periodic courses in its public course programme. Details of current courses can be found at www.icas.org.uk/custom/courses. In house training is also available and information can be obtained by contacting cabusinesscourses@icas.org.uk.

ICAS also publishes a General Practice Procedures Manual which contains a full chapter on money laundering and includes all the forms and checklists needed. For more information go to www.icas.org.uk/site/cms/contentviewarticle.asp?article=2233.

Where can I get more help and guidance?

As a member of The Consultative Committee of Accountancy Bodies, ICAS has published detailed guidance for the accountancy sector. This can be accessed at www.ccab.org.uk/PDFs/CCAB%20guidance%202008-8-26.pdf.

In addition ICAS has a full section devoted to money laundering on its own website at www.icas.org.uk/site/cms/contentCategoryView.asp?category=4424. This includes all the latest money laundering news and up to date information. There is also a very detailed list of frequently asked questions helpfully categorised across different areas of the subject.

ICAS also offers two help lines to assist members. Those who have questions concerning **specific instances of money laundering** or seek reporting advice should contact the **Legal Services department** on **0131 347 0271**. Members seeking advice on **procedural matters, implementation of MLR** and so on should contact the **Members Services department** on **0131 347 0242** or **0131 347 0246**. Calls to both these services are completely free.

For more information regarding Quality Assurance, i.e. Audit Monitoring or Quality Review, contact Lynne Bannan on 0131 347 0284 or email lbannan@icas.org.uk.

For more information regarding the CA Practitioner Service, contact Lesley Amos on 0131 347 0253 or email caps@icas.org.uk.

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