



LexisNexis Tax and Accountancy Sector Briefing

# Money Laundering Regulations 2007

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## Tax and accountancy firms targeted in fight against terrorism

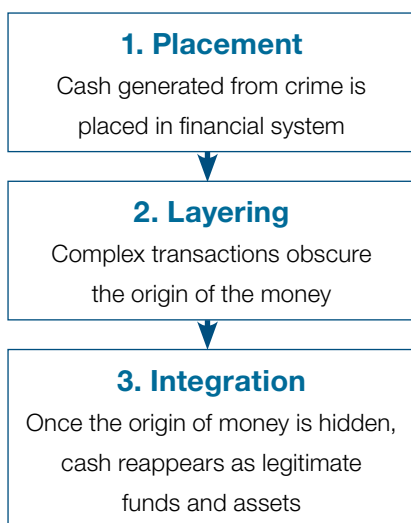
Since the introduction of the Money Laundering Regulations 2007 last December, tax and accountancy firms are now required to adopt rigorous customer screening and due diligence standards. As senior partners and MLROs get to grips with the enhanced compliance measures expected of them, this briefing document sets out the essential background on the new regulations and offers practical guidance to tax and accountancy firms faced with implementing anti-money laundering processes.

## What is money laundering?

Money laundering is the process of creating the appearance that large amounts of money obtained from serious crimes, such as drug trafficking or terrorist activity, originated from a legitimate source.

## How is money laundered?

There are three principle stages involved in the process of money laundering:



## How much money laundering goes on?

Calculating the extent of money laundering is extremely difficult due to the secret nature of the markets involved. A number of approximations can be used in order to measure the scale of the problem. The Financial Services Authority estimates that £25 billion in cash is laundered through British financial institutions every year. HM Treasury estimates that £15 billion is lost annually to organised crime in the UK. Looking at the problem from an international perspective, KPMG estimates that \$590 billion - \$1.5 trillion in funds is laundered annually. This equates to 2-5 percent of global GDP.

## Why is fighting money laundering important?

Drug dealers, people traffickers, burglars, fraudsters, robbers, illegal arms dealers and smugglers are among those who use the financial system to launder money. When one makes money laundering more difficult, one makes it more difficult to live a life of crime. That can only be a benefit to society.

Source: FSA

## Origin of the Money Laundering Regulations 2007

The Money Laundering Regulations 2007 are the result of a series of legislative and other measures implemented over a number of years:

### Timeline

<b>15th December 2007</b>		<p><b>Money Laundering Regulations 2007</b> Implements the EU Third Money Laundering Directive into UK law and repeals and replaces the Money Laundering Regulations 2003. Related measures also update the Proceeds of Crime Act 2002</p>
<b>Dec 2007</b>	●	<p><b>Consultative Committee of Accountancy Bodies AML Guidance for the Accountancy Sector updated</b> Represents core industry guidance for the UK tax and accountancy sector</p>
<b>2006</b>	●	<p><b>Terrorism Act 2006</b> Amends the Terrorism Act 2000 and contains a number of measures designed to ensure that the police, intelligence agencies and courts have all the tools they require to tackle terrorism and bring perpetrators to justice</p>
<b>2005</b>	●	<p><b>EU Third Money Laundering Directive (2005/60/EC)</b> Amends the Second Money Laundering Directive including the implementation of the Financial Action Task Force (FATF) Recommendations on tackling money laundering and terrorist financing across the EU</p>
<b>2005</b>	●	<p><b>Financial Action Task Force (FATF) 40 Recommendations published</b> Provide a complete set of counter-measures against money laundering covering the criminal justice system and law enforcement, the financial system and its regulation, and international co-operation</p>
<b>2004</b>	●	<p><b>Money Laundering Regulations 2003</b> Implements the EU Second Money Laundering Directive into UK law</p>
<b>2003</b>	●	<p><b>Proceeds of Crime Act 2002</b> Applies to the seizure of criminal assets together with the funding of crime and terrorism through money laundering. Places obligation on financial institutions to monitor transactions and to report suspicious activities, failure to report can result in imprisonment.</p>
<b>2001</b>	●	<p><b>EU Second Money Laundering Directive (2001/97/EC)</b> Amends First Money Laundering Directive to tackle wider financial crime and expands scope to include non-financial activities and professions (for example: lawyers, notaries, accountants, estate agents, high value dealers and casinos) and wider financial crime</p>
<b>1991</b>	●	<p><b>EU First Money Laundering Directive (91/308/EEC)</b> Introduced to prevent the financial system from being used for money laundering to combat drug trafficking. Focuses on anti-money laundering measures within the financial services sector</p>

## Overview of the Money Laundering Regulations 2007

The Money Laundering Regulations require firms to put preventative measures in place. They require firms to ensure that they know their customers (including conducting customer identification and verification and undertaking ongoing monitoring where applicable), to keep records of identity and to train their staff on the requirements of the Regulations.

The Proceeds of Crime Act 2002 and the Terrorism Act 2000 provide the criminal offences of money laundering and terrorist financing and impose obligations on firms and individuals to report suspicions of money laundering or terrorist financing.

Source: HM Treasury

## Which sectors are affected?

The following sectors need to comply with the Money Laundering Regulations:

- Credit institutions
- Financial institutions
- **Auditors, insolvency practitioners, external accountants and tax advisers**
- Independent legal professionals
- Trust or company service providers
- Estate agents
- High value dealers
- Casinos

## Core obligations of the Money Laundering Regulations 2007

### Adopt a risk-based approach to customer due diligence

This principle has been in existence for some time and is essentially a management tool that allows firms to apply greater levels of customer due diligence to those individuals and corporate entities deemed a higher risk to the business.

### Extended customer due diligence requirements

The above measures focus on a more detailed definition of customer due diligence:

- Identifying the customer and verifying the customer's identity
- Identifying, where applicable, the beneficial owner and taking risk-based and adequate measures to verify his or her identity
- Obtaining information on the purpose and intended nature of the business relationship
- Conducting ongoing monitoring of the business relationship

There are also measures outlined that emphasise the need to conduct either Simplified Customer Due Diligence or Enhanced Customer Due Diligence depending on the level of screening required, as determined by a firm's risk-based approach.

### Perform checks for Politically Exposed Persons (PEPs)

PEPs are broadly defined as "individuals who are or have been entrusted with prominent public functions" and their "immediate family members". For example: heads of state, government ministers, members of the judiciary, members of the boards of central banks, ambassadors etc. Essentially, as PEPs are deemed open to influence or corruption, they are considered a higher business risk and must be identified where appropriate.

Conducting due diligence on politically exposed persons or 'PEP checks' has been considered best practice for some time, however the new Money Laundering Regulations 2007 set this procedure in law for the first time.

### Reliance on third parties

Another measure to appear in the Money Laundering Regulations 2007 is the ability for a regulated entity to rely on customer due diligence carried out by another regulated entity. In theory, this measure would enable firms to reduce the amount of due diligence carried out on their clients, however it is emphasised that final responsibility still remains with the original firm and cannot be transferred to the third-party, so in reality how much this measure will be applied by firms is debatable.

### Training

There is also a regulatory obligation to ensure that all relevant employees receive training on changes in anti-money laundering procedures.

## LexisNexis' top ten tips

- 1)** Assess the level of risk posed by the clients you work with. Examples of risk assessment criteria often include:
  - Jurisdiction of origin
  - Industry sector
  - Political prominence of individual
  - Reputational profile of entity
  - Your previous knowledge of client
- 2)** Assess the level of risk posed by the type of work you undertake. Examples of risk assessment criteria often include:
  - Face-to-face or remote customer engagement
  - Nature of transaction being conducted
  - Level and method of financing
- 3)** Tap into both informal and formal peer group networks to benchmark your risk-based approach against those of other firms with a similar business profile. Create a policy document setting out your firm's approach to risk. Share this document via your intranet or company handbook.
- 4)** Put in place a workflow process (paper or online) guiding your staff through the customer due diligence process. Set out:
  - The minimum level of checking to be conducted before any client is accepted
  - The red flags that indicate a higher level of risk and the further checks that are then required
  - The acceptable point at which to stop checking
- 5)** Add anti-money laundering training to your induction process for appropriate members of staff. Two levels of briefing aimed at partners and administrators will often suffice. Cover:
  - The individual's obligation to conduct anti-money laundering checks
  - Where to go for guidance if staff have a money laundering concern
- 6)** Set up a process to update staff on anti-money laundering changes. This could be an annual e-mail or a face-to-face briefing with refresher training, dependent on the level of risk you have identified.
- 7)** Enforce an effective process to record all checks carried out. A comprehensive audit trail is essential to demonstrate compliance. Even nil results must be dated and filed.
- 8)** Remember that the verification process does not end when a client is accepted. Set up an ongoing monitoring routine to highlight any changes in the status of individuals within your customer base.
- 9)** Consider the benefits of electronic identity verification and customer due diligence tools to reduce the paper trail, minimise the compliance burden on clients, speed business take-on and maintain your competitive edge.
- 10)** Look at how you can add value to your firm by identifying new business opportunities when due diligence uncovers more detailed profiles of your clients.

For further anti-money laundering advice based on your own firm's profile, consult your industry association or regulator. Useful links are included at the end of this briefing.

## Focus on the tax and accountancy sector

The Money Laundering Regulations' focus on the tax and accountancy sector relates to specific activities undertaken by auditors and accountants that are deemed at most risk from money laundering and wider financial crime:

- 1) "Auditor" means any firm or individual who is a statutory auditor within the meaning of Part 42 of the Companies Act 2006(e) (statutory auditors), when carrying out statutory audit work within the meaning of section 1210 of that Act.
- 2) Before the entry into force of Part 42 of the Companies Act 2006 the reference in paragraph (4) to—
  - a) a person who is a statutory auditor shall be treated as a reference to a person who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989(f) (eligibility for appointment) or article 28 of the Companies (Northern Ireland) Order 1990(g); and
  - b) the carrying out of statutory audit work shall be treated as a reference to the provision of audit services.
- 3) "Insolvency practitioner" means any person who acts as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986(h) (meaning of "act as insolvency practitioner") or article 3 of the Insolvency (Northern Ireland) Order 1989(i).
- 4) "External accountant" means a firm or sole practitioner who by way of business provides accountancy services to other persons, when providing such services.
- 5) "Tax adviser" means a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services.

Essentially, this covers services like auditing, insolvency and accounting. Some firms may also undertake related activities such as trust and company services which are also covered by the Regulations.

## The CCAB Anti-Money Laundering Guidance for the Accountancy Sector

The Consultative Committee of Accountancy Bodies (CCAB) updated its industry guidance on money laundering and published detailed information in December 2007. This industry guidance represents essential advice for the UK tax and accountancy sector and provides a useful interpretation of key obligations:

- identification and scrutiny of complex or unusually large transactions, unusual patterns of transactions with no apparent economic or lawful purpose and other activities regarded by the regulated person as likely to be of the nature of money laundering or terrorist financing;
- prevention of use of products favouring anonymity;
- determination of whether a client is a PEP;
- customer due diligence, ie procedures designed to acquire knowledge about the firm's clients and prospective clients and to verify their identity as well as monitor business relationships and transactions;
- internal reporting including appointment of an MLRO to receive the money laundering reports required under the Proceeds of Crime Act 2002 (POCA) and the Terrorism Act (TA 2000) and a system for making those reports;
- record keeping, including details of customer due diligence and supporting evidence for business relationships, which need to be kept for five years after the end of a relationship and records of transactions, which also need to be kept for five years;
- internal control, risk assessment and management, compliance monitoring, management and communication; and
- in addition, businesses are required to take measures to make relevant employees aware of the law relating to money laundering and terrorist finance, and to train those employees in how to recognise and deal with transactions which may be related to money laundering or terrorist financing.

In order to ensure compliance is appropriately managed, businesses will need to ensure sufficient senior management oversight, appropriate analysis and assessment of the risks of clients and work/product types, systems for monitoring compliance with procedures and methods of communicating procedures and other information to personnel.

Source: CCAB Anti-Money Laundering Guidance for the Accountancy Sector

## The risk-based approach

A risk-based approach allows businesses to target resource and effort where the risk is greatest and, conversely, reduce requirements where the risk is low.

- Businesses must establish adequate and appropriate policies and procedures relating to risk assessment and management in order to prevent operations related to money laundering or terrorist financing.
- Businesses must—
  - a) determine the extent of customer due diligence measures (section 5) on a risk-sensitive basis depending on the type of client, business relationship, or services to be provided;
  - b) be able to demonstrate to their anti-money laundering supervisory authorities that the extent of customer due diligence measures is appropriate in view of the risks of money laundering and terrorist financing.
- Businesses are required to take a risk-based approach and have adequate measures to verify the identity of beneficial owners so that they are satisfied that they know who the beneficial owner is and what the control structure is in respect of a client who is other than a natural person (Regulation 5(1)(b)).
- Businesses are required to undertake scrutiny of transactions and other activities throughout the course of a business relationship to ensure consistency with businesses' and individuals' knowledge of the client, his business and risk profile.
- Businesses must also keep up-to-date the information collected in applying customer due diligence measures.
- Businesses must apply customer due diligence measures at appropriate times to existing clients on a risk-sensitive basis.

Source: CCAB Anti-Money Laundering Guidance for the Accountancy Sector

## Tax and accountancy market supervision

The Money Laundering Regulations 2007 list the principle industry bodies responsible for supervising the UK tax and accountancy sector:

- Association of Chartered Certified Accountants
- Institute of Chartered Accountants in England and Wales
- Institute of Chartered Accountants in Ireland
- Institute of Chartered Accountants of Scotland
- Association of Accounting Technicians
- Association of International Accountants
- Association of Taxation Technicians
- Chartered Institute of Management Accountants
- Chartered Institute of Public Finance and Accountancy
- Chartered Institute of Taxation
- Insolvency Practitioners Association
- Institute of Certified Bookkeepers
- Institute of Financial Accountants

Auditors, external accountants and tax advisers who are not supervised by one of the bodies listed above are regulated by HM Revenue and Customs.

## Further Information

The following useful links provide further information and guidance

### **The Institute of Chartered Accountants in England and Wales**

Money Laundering page

[http://www.icaew.com/index.cfm?AUB=TB2I\\_28377](http://www.icaew.com/index.cfm?AUB=TB2I_28377)

### **Consultative Committee of Accountancy Bodies**

Anti-Money Laundering Guidance for the Accountancy Sector

<http://www.ccab.org.uk/PDFs/070612%20CCAB%20Guidance%20Clean.pdf>

### **Association of Chartered Certified Accountants (ACCA)**

Money Laundering page

<http://www.accaglobal.com/publicinterest/activities/subjects/moneylaundering/>

### **Joint Money Laundering Steering Group**

JMLSG Notes: guidance for the UK financial service industry

<http://www.jmlsg.org.uk/bba/jsp/polopoly.jsp;jsessionid=aYQUINGCEjn5?d=749>

### **HM Revenue and Customs**

Money Laundering page

<http://www.hmrc.gov.uk/mlr/regs.htm>

### **HM Treasury**

Money Laundering Regulations 2007 page including the full text of the legislation and supporting documents

[http://www.hm-treasury.gov.uk/consultations\\_and\\_legislation/money\\_laundering\\_directive/consult\\_moneylaundering\\_2007.cfm](http://www.hm-treasury.gov.uk/consultations_and_legislation/money_laundering_directive/consult_moneylaundering_2007.cfm)

### **HM Treasury**

Financial Crime and Sanctions page includes commentary, consultation documents and legislation

[http://www.hm-treasury.gov.uk/Documents/Financial\\_Services/money/fin\\_money\\_index.cfm](http://www.hm-treasury.gov.uk/Documents/Financial_Services/money/fin_money_index.cfm)

### **Financial Services Authority**

Money laundering page

[http://www.fsa.gov.uk/Pages/About/What/financial\\_crime/money\\_laundering/index.shtml](http://www.fsa.gov.uk/Pages/About/What/financial_crime/money_laundering/index.shtml)

## Glossary of Terms

### **AML**

Anti-money laundering

### **CDD**

Customer due diligence

### **CTF**

Counter-terrorist financing

### **EDD**

Enhanced due diligence

### **EU Third Directive**

EU Third Money Laundering Directive

### **FATF**

Financial Action Task-Force

### **FSA**

Financial Services Authority

### **HMRC**

Her Majesty's Revenue and Customs

### **IDV**

Identity verification

### **JMLSG**

Joint Money Laundering Steering Group

### **KYC**

Know your customer

### **MLR**

Money Laundering Regulations 2007

### **MLRO**

Money Laundering Reporting Officer

### **OFAC**

Office of Foreign Assets Control

### **PEPs**

Politically exposed persons

### **POCA**

Proceeds of Crime Act 2002

### **SARs**

Suspicious activity reports

### **SOCA**

Serious Organised Crime Agency

### **STRs**

Suspicious transaction reports

## About LexisNexis Risk & Compliance

LexisNexis offers comprehensive solutions to meet your client screening and ongoing monitoring needs. Combining unrivalled content with the latest technology, our anti-money laundering tools enable you to **safeguard your reputation, reduce financial risk** and **add value to your business**.

### KYC ID

Streamline your identity verification processes with our **KYC ID** application. Designed to **reduce the time** and **effort** needed to undertake due diligence checks and **improve your new client acceptance process**, **KYC ID** is the only risk and compliance tool that gives you the ability to:

- **Verify the identity of your clients instantly online**, saving time and inconvenience chasing and storing paper documents
- Conduct checks on your clients' potential money laundering risk across three key areas - individual, director or company, **all from one place**
- Screen your clients against a **comprehensive database** including Politically Exposed Persons (PEP) lists, company financial reports, sanction lists and individual ID verification sources including passports, utility bills and DVLA data
- Uncover **negative press coverage** about your clients by searching our extensive UK and Irish news archive, enabling you to minimising risk to reputation by accessing the premium content that does not appear on the web

**Small, medium and large tax and accountancy firms use KYC ID to mitigate risk every day.**

### KYC

Developed for firms doing business globally, **KYC** offers all of the above plus the broadest international dataset:

- Over 90 databases of **global public and private company reports** and directories, including 120 million D&B company records, enabling you to **identify beneficial owners in European, US and emerging markets**
- Comprehensive English and non-English news coverage from **15,000 international news sources** giving you the best resources for conducting enhanced due diligence and **minimising risk to reputation**
- Detailed **biographies of high net worth individuals**, political figures and company directors

**Top tier banks already deploy LexisNexis KYC and mitigate risk every day.**

### Contact LexisNexis

For further information on how LexisNexis' international anti-money laundering solutions can help you add value to your organisation, please speak to your account manager or contact us directly on:

Online: **www.lexisnexis.co.uk**

E-mail: **risk@lexisnexis.co.uk**

Tel: **020 7400 2984**

Lines are open from 9am to 5pm Monday to Friday



Let us focus on the risks,  
so you can focus on doing business.

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E-mail: [risk@lexisnexis.co.uk](mailto:risk@lexisnexis.co.uk)

Tel: **020 7400 2984**

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