

Appendix FM7 – Anti Money Laundering policy and procedure

Approach to personalising your anti-money laundering policy and procedure:

- Review the policy to ensure it is compliant with your vision and mission.
- Decide the levels of authority within your organisation depending on your size
- Fill in every square bracket, for example [Staff position] so that it is appropriate to your organisation

Anti – Money Laundering Policy [TEMPLATE]

Reviewed [DD/MM/YY] by [Staff position]

Money laundering in its simplest form is the process by which illegally obtained money (from drug trafficking, terrorist activity or other serious crimes) is given the appearance of having originated from a legitimate source. We <Company¹> endeavour to recognise money laundering and follow our procedure to minimise the risk.

Anti – Money Laundering Procedure

The procedure will outline steps of how <Company> can mitigate against this risk.

¹ Note that 'Company' refers to the responsible finance provider

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What is Money Laundering?

Money laundering is not a single act but is a process that is accomplished in three basic steps. The steps being:

1. Placement
2. Layering
3. Integration

The common factors identified in laundering operations are the need to:

- conceal the origin and the true ownership of the funds
- maintain control of the funds
- change the form of the funds in order to shrink them from the initial large volume of cash generated by the initial criminal activity.

The Steps:

1. **Placement:** This is the first stage of the process and usually involves the placing of large sums of cash into the financial system, the retail economy or out of the country. The aim is to remove the cash from the location of acquisition to avoid detection by the authorities and to transform it into other assets i.e. to buy high value goods, property or business assets.

2. **Layering:** This is the attempt at concealing or disguising the source of the funds by creating complex layers of financial transactions designed to disguise the audit trail. Its aim is to disassociate the illegal monies from the source of the crime by creating a complex web of financial transactions aimed at concealing the source and ownership of the funds i.e. wire transfers abroad often using shell companies or funds disguised as proceeds of legitimate business, cash deposited in overseas banking system and the resale of goods/assets.

3. **Integration:** This final stage is when the money is integrated into the legitimate economic and financial system. This integration is accomplished by the launderer making it appear that the money has been legally earned i.e. false loan repayments or forged invoices, complex web of transfers both domestic and international, so that tracing of original sources is almost impossible and income from property or legitimate business assets appears clean.

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The Most Popular Methods of Money Laundering

1. The establishment of anonymous companies in countries where the right to secrecy is guaranteed. What they do is grant themselves loans from the laundered money in the course of a future legal transaction, and to increase legality, they also claim tax relief on the loan repayments.
2. The sending of false export-import invoices overvaluing the goods allows money to be moved from one company to another and one country to another therefore verifying the origin of the funds placed with a financial institution.
3. Abortive transactions or other means of getting money unnecessarily into the hands of reputable organisations so that when it is returned to the payer it assumes an air of respectability.

Current UK Legislation

The current Anti-Money Laundering regulations have been in force in the UK since 2007. These regulations are in place due to the continuing threat to the UK from crime and terrorism, and finance is the lifeline of both. The strategy is to detect, disrupt and deter crime and terrorism through a range of strategies including measures to restrict criminal access to the financial system.

The Regulations require companies to put preventative measures in place. This requires them to ensure that they know their clients (including conducting customer identification and verification and undertaking monitoring where applicable), keep records of identity and to train staff on the requirements of the regulations. The Proceeds of Crimes Act 2002 and the Terrorism Act 2000 provide the criminal offences of money laundering and terrorist financing, and impose obligations on companies and individuals to report suspicions of money laundering or terrorist financing.

There are five basic money laundering offences in The Proceeds of Crime Act 2002 and, if found guilty of any of these, can carry a maximum prison sentence of 14 years and/or a fine. Offences are as follows, and are explained in more detail below:

1. Assisting another to retain the benefit of crime
2. Acquiring, possessing or using of criminal proceeds
3. Concealing or transferring proceeds to avoid prosecution or a confiscation order (also called Own Funds Money Laundering)
4. Failing to disclose knowledge or suspicion of money laundering
5. Tipping off

1. Assisting another to retain the benefit of crime:

Assistance occurs where a person is knowingly involved in an arrangement with another person and they know or suspect that the other person is or has been involved in or benefited from drug trafficking or criminal activities, and the arrangement helps the person to retain or control directly or indirectly or enables them to use the proceeds or to invest them for his benefit. The penalty for this offence is imprisonment up to 6 months, or a fine not exceeding

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the statutory maximum or both on summary conviction. On conviction of indictment, the penalty is imprisonment of up to 14 years, or a fine, or both.

2. Acquiring, possessing or using of criminal proceeds:

Acquisition is the offence of use or possession of property which you know or suspect to be gained by the proceeds of drug trafficking or criminal activities and that have been acquired at less than full value. The aim of this offence is to try and prevent criminal proceeds being passed on by criminals to be enjoyed by a third party. Reference here is to property rather than cash. The penalty for this offence is the same as assisting another to retain the benefit of crime.

3. Concealing or transferring proceeds to avoid prosecution or a confiscation order:

(also called Own Funds Money Laundering):

Concealing is disguising, removing or transferring proceeds of crimes either directly or indirectly for the purpose of avoiding or helping someone else avoid prosecution. The offence is committed by the person who assisted in the offence if he or she knows or suspects the nature of the property. Concealing or disguising any property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it. The penalty for this offence is the same as assisting another to retain the benefit of crime.

4. Failing to disclose knowledge or suspicion of money laundering:

A person is guilty of an offence if as a result of something he/she learns in the course of trade, profession or employment he/she does not report the suspicion to a police or customs officer. There is a question as to whether disclosure is a waiver of professional privilege or a breach of any express or implied duty of confidentiality owed to a customer or client i.e. legal privilege for solicitors. The penalty of this offence is imprisonment of up to 6 months or a fine not exceeding the statutory maximum or both. On conviction of indictment, the penalty is up to five years imprisonment or a fine or both.

5. Tipping Off:

The requirement to report suspicions is not much use if the suspect is tipped off to the fact that they are under suspicion/investigation. In order to preserve the integrity of an investigation, the offence occurs when information or any other matter which might damage the investigation is disclosed to the suspect by someone who knows or suspects that a police investigation is under way or about to start. The penalty is the same as failure to disclose.

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Duties on Members of the Regulated Sector

Since 2007, those operating in the regulated sector have to implement policies and procedures for:

1. Customer due diligence and ongoing monitoring
2. Reporting Procedures
3. Internal Control
4. Risk assessment and management
5. Staff Training

1. Customer Due Diligence:

Identify your client and your client's business by means of documents, data or information obtained from a reliable and independent source.

Identifying Client:

- Current signed Passport
- EU National ID card
- Current full UK photo card driving licence
- Current full UK driving licence (old paper style version)
- Construction industry - Tax exemption certificate with photograph of holder (forms CIS4, CIS6)
- Student identification / matriculation card (from a recognised university or college), must be valid for the current academic year
- Firearms or shotgun certificate
- Benefits book or original notification letter from the Benefits Agency (including Dept. of Work and Pensions) and/or Job Centre Plus confirming the right to benefit
- UK Armed Forces ID card
- Police warrant card
- Disabled driver's pass
- OAP travel pass
- Original HM Revenue & Customs issued tax notification and correspondence
- Identity card issued by the electoral office for Northern Ireland

For 20 years old and under:

- NHS medical card
- Birth Certificate
- UK provisional photo card driving licence
- PASS Card (Young Scot, Citizen Card, Portman Group, Validate UK Card)

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Address Identification:

- Current signed Passport
- Council Tax bill or payment book (within last 12 months)
- Utility bill - within last 6 months (mobile phone bills, internet access bills are not acceptable)
- Current full UK photo card driving licence
- Current full UK driving licence (old style paper licence)
- Bank / Building society / Credit card statement (within last 6 months)
- Original mortgage statement (no more than 12 months old)
- Benefits book or original notification letter from the Benefits Agency (including Dept. of Work and Pensions) and/or Job Centre Plus confirming the right to benefits at present
- Current home or motor insurance certificate (issued within the last 12 months, can only be used by policy holder)
- Current local council rent card or tenancy agreement (private tenancy agreements are not acceptable)
- Original HM Revenue & Customs issued tax notification and correspondence
- Solicitor's letter confirming recent house purchase or land registry confirmation

For Students:

- Any item from above can be taken to confirm address. Alternatively, one of the following items is also acceptable.
- University / College letter of acceptance / enrolment offer
- Student Loan Company / LEA / SAAS award letter
- UCAS Letter
- Introduction from a recognised UK college / university

2. Reporting Procedures

If you suspect that a client is involved in any activity that amounts to money laundering, you must inform the Money Laundering Officer immediately. If you feel suspicious after a transaction has taken place, you must inform the Money Laundering Officer immediately. You must complete a Money Laundering Proforma and this must be forwarded to SOCA (Serious Organised Crime Agency) and this must be done without 'tipping off' the client.

3. Internal Control

All staff must follow guidelines in terms of documentation for identifying clients and businesses. They must also report any suspicious transaction to the Money Laundering Officer for the relevant report to be completed and filed with the relevant authorities but it is important that they do not make the client aware of this.

4. Risk Assessment and Management

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All files are audited by [Staff position] to ensure that all documentation is compliant, and when any changes happen, we get legal advice to ensure that we are compliant. We are also subject to an annual external audit by [name of external auditors] who undertake random checks on client loan balance and ensure files and debt procedures are up to date. If anything were to be found at these audits this would be reported to the Money Laundering Officer who would complete the appropriate report to the appropriate authorities.

5. Staff Training

On a yearly basis, all staff will undertake the reading of the Money Laundering policy. Further to this, any changes made to the Act will be immediately informed to staff via training days and the policy will be updated with these changes and signed off by the Board of Directors.