

Anti-Money Laundering

One of the key pieces of government legislation intended to tackle financial crime is the money laundering rules and regulations. The money laundering rules are designed to protect the UK financial system and put in place certain controls to prevent businesses being used for money laundering by criminals and terrorists.

Failure to comply with the money laundering regulations could result in businesses facing a civil financial penalty or criminal prosecution. Under the governing legislation, regulated entities are required to put in place robust policies and procedures to help protect themselves from becoming knowingly or unknowingly associated with money launderers.

Economic crime in the UK

A recently published briefing by the House of Commons Library examined the issue of economic crime in the UK.

The report stated that: 'The precise scale of economic crime in the UK is unknown, but it could run to tens or hundreds of billions of pounds per year. The extent of these crimes – which include money laundering, fraud and corruption – led the Intelligence and Security Select Committee in its July 2020 report on Russia, to note that London is considered a 'laundromat' for corrupt money.'

The briefing sought to estimate the extent of economic crime in the UK which is loosely estimated to range from tens of billions to hundreds of billions. One figure from a HM Treasury consultation said that economic crime could cost the UK some £37 billion a year whilst another estimate from the National Crime Agency said the figure could be in excess of £100 billion a year. One of the key areas to help tackle economic crime is to ensure that the UK's anti-money laundering supervision rules are robust and strictly adhered to.

Businesses covered by the regulations

The money laundering regulations in the UK apply to a number of different business sectors, including accountants, financial service businesses, estate agents and solicitors. Every business covered by the regulations must be monitored by a supervisory authority.

The Financial Conduct Authority (FCA) regulates the conduct of around 45,000 firms in the UK. The FCA was established on 1 April 2013 and took over conduct and relevant prudential regulation from the Financial Services Authority (FSA). HMRC and the Gambling Commission are also classed as supervisory authorities.



There are also other designated professional bodies that act as supervisory authorities for their members. These are as follows:

- Association of Accounting Technicians
- Association of Chartered Certified Accountants
- Association of International Accountants
- Association of Taxation Technicians
- Chartered Institute of Legal Executives
- Chartered Institute of Management Accountants
- Chartered Institute of Taxation
- Council for Licensed Conveyors
- Faculty of Advocates
- Faculty Office of the Archbishop of Canterbury
- General Council of the Bar
- General Council of the Bar of Northern Ireland
- Insolvency Practitioners Association
- Institute of Certified Bookkeepers
- Institute of Chartered Accountants in England and Wales
- Institute of Chartered Accountants in Ireland
- Institute of Chartered Accountants of Scotland
- Institute of Financial Accountants
- International Association of Bookkeepers
- Law Society
- Law Society of Scotland
- Law Society of Northern Ireland



FCA supervision

The FCA expects senior management to take responsibility for anti-money laundering measures. This includes knowing about the money laundering risks to which the firm is exposed and ensuring that steps are taken to mitigate these risks effectively.

Depending on the size and nature of the business, a firm may be required to appoint an individual as a money laundering Reporting Officer (MLRO). The MLRO is responsible for oversight of the firm's compliance with its anti-money laundering obligations and should act as a focal point for the firm's AML activity. The assessment of money laundering risk is at the core of the firm's AML effort and is essential to the development of effective AML policies and procedures. Firms must regularly review their risk assessment to ensure it remains current.

The FCA lists the following helpful self-assessment questions in their guidance:

1. Who has overall responsibility for establishing and maintaining effective AML controls? Are they sufficiently senior?
2. What are the reporting lines?
3. Do senior management receive informative, objective information that is sufficient to enable them to meet their AML obligations?
4. How regularly do senior management commission reports from the MLRO? (This should be at least annually.) What do they do with the reports they receive? What follow-up is there on any recommendations the MLRO makes?
5. How are senior management involved in approving relationships with high risk customers, including politically exposed persons (PEPs)?



Handling higher risk money laundering situations

AML policies must also be adaptable to higher risk situations where firms must apply enhanced due diligence and ongoing monitoring. For example, the FCA suggests that situations that present a higher money laundering risk might include but are not restricted to:

- customers linked to higher risk countries or business sectors; or
- who have unnecessarily complex or opaque beneficial ownership structures; and
- transactions which are unusual, lack an obvious economic or lawful purpose, are complex or large or might lend themselves to anonymity.

The money laundering Regulations also have some specific scenarios in which specific enhanced due diligence measures should be applied including for:

- politically exposed persons (PEPs), family members and known close associates of a PEP; and
- business relationships or a 'relevant transaction' where either party is established in a high risk third country.

A firm must be able to demonstrate that the extent of the enhanced due diligence measures it applies is commensurate with the money laundering and terrorist financing risks.

Accountancy sector supervision

Various accountancy professional bodies (under the guise of the Consultative Committee of Accountancy Bodies) work together with HM Treasury to agree approved AML rules for their sector. In May 2022, HM Treasury worked with the Consultative Committee of Accountancy Bodies to publish and approve a final version of Anti-Money Laundering guidance for the accountancy sector. HM Treasury also approved an updated Tax Appendix and Insolvency Appendix.

The guidance is intended to be read by anyone who provides audit, accountancy, tax advisory, insolvency, or trust and company services in the UK and has been approved and adopted by the main accountancy supervisory bodies in the UK.

The new guidance introduced some changes over previous guidance for the sector. One of these important changes is that firms that discover discrepancies in the People with Significant Control (PSC) register must now report them to Companies House within 15 working days, instead of the 30 working days period previously allowed. In addition, the wording for a short list of requirements has been strengthened from 'should' to 'must' to improve interpretations of the guidance.



HMRC supervision

Businesses that HMRC is responsible for supervising should be aware of the requirement to register with HMRC and the penalties for not doing so.

HMRC is responsible for supervising the following business sectors:

- Money Service Businesses not supervised by the FCA
- High Value Dealers
- Trust or Company Service Providers not supervised by the FCA or a professional body
- Accountancy Service Providers not supervised by a professional body
- Estate Agency Businesses
- Bill payment service providers not supervised by the FCA
- Telecommunications, digital and IT payment service providers not supervised by the FCA
- Art market participants
- Letting agency businesses

HMRC's guidance is clear that a business needs to register with HMRC if they carry out activities typically associated with these types of organisations by way of business and are not already registered.

HMRC's Supervised Business Register can be used to check if a business has registered with HMRC under the MLR. The register lists the businesses that are registered with HMRC for supervision under the money laundering Regulations.





HMRC's Money laundering supervision fees

There are registration and annual fees that are charged for anti-money laundering supervision by HMRC.

These are as follows:

- a registration fee for each premises, currently £300;
- a fit and proper test fee (for money service businesses or trust or company service providers), currently £150 for each person tested;
- an approval process fee (for accountancy service providers, estate agency businesses, or high value dealers) for each person tested. This is a non-refundable charge of £40 per person being tested; and
- an annual renewal fee of £300 for each of the premises shown on the application at the time of renewal.

There is also a 'small business' reduction for businesses with a turnover of less than £5,000. An application for the reduction can only be made after payment has been made and the refund should be processed within 30 days after the requested information has been submitted. This means you will have to pay the full £300 for registration but will receive a £120 refund if your application or renewal has been accepted.

Summary action list

- Check if your firm is required to be registered under the money laundering regulations and if so by which supervisory body.
- If you are registered under the money laundering regulations, ensure that all the necessary rules are being followed.
- Make sure you keep track of any enhanced due diligence measures that are required and if so, that they are followed correctly.

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